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# Congressional Record

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## SENATE—*Tuesday, January 20, 2004*

The 20th day of January being the day prescribed by House Joint Resolution 80 for the meeting of the 2d session of the 108th Congress, the Senate assembled in its Chamber at the Capitol at 12 noon.

The Senate was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and Everlasting God, You are the meaning and mystery of all that is, was, and is to be. Thank You for Your constant love and for the opportunities to learn from each other. Thank You also for challenges and difficulties that test and refine us.

Lord, help us to make respect for You our first priority, and give our leaders the wisdom to trust the unfolding of Your will. May we embrace a humility that seeks first to understand instead of striving to be understood. Deliver us from a false patriotism that would render unto Caesar what belongs to You. Guide us with Your powerful hand until the kings of this world acknowledge Your sovereignty and might.

We pray this in Your Holy Name.

Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, first of all, I should welcome everybody back because this is the formal convening of the second session of the 108th Congress. As everyone knows, we have a fairly short legislative session this year. I know in our leadership meeting this morning, and I am sure in the Democrats' leadership meeting this morning, we both began to outline the agenda for the year. When you look at the calendar and you look at the amount that we will be addressing, it is going to be challenging. We all recognize the challenge that is before us. Everybody is returning rested and ready to go, and I am delighted to have everybody back once again.

Under the order entered into on December 9, the Senate will resume consideration of the conference report to accompany H.R. 2673, the Omnibus appropriations measure. A cloture vote will occur today on that conference report at 3 p.m., and that will be the first rollcall vote of this session. The consent agreement allows for equally divided debate until that vote on invoking cloture.

As a reminder, the Senate will be in recess from the hours of 12:30 today to 2:15 for the weekly party conferences to meet.

I also want to remind my colleagues that this evening at 9 p.m. the President will deliver the State of the Union Address and therefore Senators should assemble in the Senate Chamber at 8:35 so that the Senate may proceed at approximately 8:45 this evening to the Hall of the House of Representatives for that address.

I do thank all Members for their attention and I look forward to a productive second session.

### CONSOLIDATED APPROPRIATIONS

Mr. FRIST. Mr. President, we will be having a cloture vote today at 3 o'clock and thus I would like to use my leadership time over the next 10 or 12 minutes, rather than to state the goals and planning for this session, which I will try to do at some point tomorrow, to address the issue before us and that is to finish up the unfinished work of the first session. The question before us, as I mentioned, is the Consolidated Appropriations Act of 2004. It is important legislation, and I think how we handle that legislation will in large part set the tone for the remainder of this Congress. I just want to spend a few minutes on that.

First, I thank the distinguished chairman, who is occupying the Chair, and the ranking member of the Senate Appropriations Committee, and their staff, for the tremendous work, hard work, dedicated work last year. We asked a great deal of that Appropriations Committee. They produced. They delivered. Today it is my hope we will be able to bring an end to that work with the passage of the seven remaining appropriations bills.

As you look back over the last 12 months, you see the committee completed action on 27 regular appropriations bills, completed action on 3 major supplemental bills, completed action on 4 continuing resolutions, and now finally the 7 remaining regular appropriations bills for 2004.

One thing is certain, that people have had sufficient time to review what is in this Omnibus appropriations bill, to review the legislation. It has been available now for 57 days. It was filed on November 25, 2003.

It is obvious that the legislation is not such that everybody is pleased: some people want more projects; some people want more spending; some people want less spending. There are many provisions in there that I personally would have liked to see turn out differently. But it is a product of months of work last fall and last winter, and it is the nature of all legislation, as we in this body know, that compromises are in order—compromises with the House of Representatives, compromises with the administration.

But now, today, at 3 o'clock, is the time to move ahead and complete action on this legislation and thereby start that critical funding. I am sure as we discuss this over the next several hours it will become apparent that every single Senator in this body has a stake in passage of this legislation.

I did write to each of the Senators last week that no Senator should be

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

under any illusion as to what will happen if we were to fail to pass this legislation. It is a clear, it is a stark alternative to a continuing resolution of the seven outstanding appropriations bills. Failure to pass this Omnibus appropriations bill, to approve this legislation, would really shortchange—it would curtail our efforts in fighting terrorism. It would weaken our food security system. It would create hardships for millions of veterans. It would put at risk millions of lives of those who suffer HIV and AIDS overseas. It would shortchange the needs of our schools and of our States and needy Americans.

I do also want to add, in addition to stating the importance of passing this Omnibus bill, that the legislation itself adheres to the agreement, the general agreement between Congress and the executive branch in terms of spending limits. I have set aside the emergency spending for the Iraq war supplemental. As I mentioned, some would wish there was more spending and some would wish that there was less spending. Whatever the arguments that people put forth, what it is important for people to understand, I believe, is that the spending under these appropriations bills is consistent with the budget blueprint that we adopted last April for this fiscal year.

It is a fact that, excluding the expenditures of the major supplementals for the operations in Iraq—one last April and most recently in October—appropriations funding authority between 2003 and 2004 is held to slightly less than a 3-percent increase.

Second, while remaining within this agreed-to spending restraint, the legislation funds important bipartisan priorities. A number of examples will be talked about on the floor, but let me cite just a few.

Education funding for title I programs would be funded at $12.4 billion, and special education—or IDEA—would be funded at $10.1 billion. These two programs combined would increase funding by $2 billion for education over last year. Both increases are necessary to truly see that we leave no child behind. If we had to resort to a full year of a continuing resolution, these education programs would lose $2 billion.

In education, we have a wonderful program—the Pell Grant Program—for needy college students. Under this bill, they would receive $12.1 billion. If we had to take that stark alternative of a continuing resolution, funding would be reduced for these Pell grant recipients by $700 million. That is clearly unacceptable.

Head Start spending in this bill would increase to $6.8 billion—a $150 million increase that would be forgone if we resorted to that stark alternative of a continuing resolution.

In the field of health, if you look at the area of research, NIH would receive $28 billion—an increase in this bill, once it is passed, of over $1 billion. Under a full year of a continuing resolution, this increase would be zero. Veterans' medical care spending would receive $28.6 billion—an increase of over $3 billion over last year—if, and only if, we pass this bill.

The list continues in terms of highway funding, the Millennium Challenge Account, and election reform. Global HIV/AIDS funding—with a strong bipartisan policy in this body—would reach $2.4 billion. But failure to pass this legislation would clearly jeopardize that 5-year commitment of $15 billion in funding to which Congress and the President have agreed.

The Small Business Administration, through the Guaranteed Loan Program, would receive $9.5 billion. These are critical loans to small businesses that create jobs out of this increasingly strong economy.

FBI funding would increase by $423 million once we pass this bill. If we don't pass the bill, the new FBI agents, who we know are needed, would not be funded; AmeriCorps, USDA's Animal Plant and Health Inspection Service—the list goes on.

I address only a few of the critical funding items. People will talk about the others.

There are other provisions in the bill such as providing a 4.1-percent Federal pay increase that is important to all of our Federal workers listening to me now.

There is over $200 million in assistance to Southern California for last winter's disastrous forest fires that will not occur without this bill.

I am sure the chairman of the committee can list many other important funding items in this legislation needed for the basic functioning of government.

But the time has come to pass this legislation and to move forward into next year's budget—the fiscal year 2005 budget, which I remind all of my colleagues will arrive in less than 2 weeks. It is time for us to move ahead in 2004 rather than remain stuck in 2003.

I ask my colleagues to weigh their votes on this legislation very carefully this afternoon.

Again, I thank Chairman STEVENS and Senator BYRD for their tremendous work this past year, and particularly their staff for their dedication and long hours expended.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Thank you, Mr. President.

I join in welcoming back our colleagues and staff, and I wish our majority leader a happy new year. I hope his holidays were as enjoyable as ours.

I express my good wishes to the Presiding Officer and to the distinguished assistant Democratic leader and others with whom I have already had the opportunity to talk personally.

I hope this will be a productive session because there is so much that ought to be done. I believe much can be done if we work in a constructive and bipartisan way for legislation that will create opportunities for all Americans.

## AN OPPORTUNITY SOCIETY

Mr. DASCHLE. Mr. President, Senate Democrats have set as our goal the passage of legislation that we call an "Opportunity Society" for all Americans—not just the privileged few. It includes proposals for more jobs—especially in manufacturing where we have lost nearly 2.5 million jobs just in the past 3 years—8,000 in my State of South Dakota. Nothing could create those jobs faster than early passage of a highway bill. We have already lost 90,000 jobs by the failure to take up the bill last year when the last bill expired. We can create over 800,000 jobs this year if we act expeditiously.

Not only do we believe in the need to create jobs but we want those jobs to pay a decent wage. Nothing can be more critical in that regard than to increase the minimum wage for the first time in 7 years.

Democrats also believe this Senate should address the cost and availability of health care which is fast becoming the preeminent issue in our country. I have vivid recollections of my hundreds of conversations with South Dakotans throughout my State last year, conversations which revealed the anxiety and the physical and financial pain now experienced by so many with and without health insurance. We believe one of the very first steps in reaching this goal should be the passage of legislation which authorizes the Government to negotiate lower prices for all seniors on prescription drugs as we already do for veterans and military retirees.

We will also advocate that this country devote far more attention to education, from preschool to higher education, with more resources and greater priority to fully funding childcare, title I, special education, and the No Child Left Behind Act.

We are determined to see that the Senate addresses retirement security for all Americans by protecting our seniors' pensions and providing them with the confidence that their retirement income will not be squandered or lost because of corporate mismanagement. It is imperative that Social Security be protected, and we will continue to fight this year to see that it is.

We also seek to provide opportunities here at home, and we ask that we not forget we are a nation at war and are asking a great deal of the men and women in our Armed Forces as well as their families. Democrats want to ensure that all of our Nation's reservists have access to quality health care. Democrats will try to make certain that no veteran has to choose between his disability pay and his retirement pay. We will seek to provide additional resources to end the lengthy waits at VA hospitals that are a fact of life for too many of our veterans today.

It is also our hope that this session will allow us the opportunity early on to address a good energy bill. I have said on several occasions, should the MTBE liability immunity provisions be stricken from the provisions in the energy bill, there would be sufficient votes to pass it on the Senate floor. The decision is up to the majority.

It is also our goal this year to pass the Mental Health Parity Act, welfare reform reauthorization, and the legislation to outlaw hate crimes.

As I said, we hope we can do this and much more on a bipartisan basis.

It is with sadness that I note the way the last session ended. The majority didn't seek consensus or cooperation of the Democratic caucus on either the Medicare bill or the energy legislation. It was a process designed to find agreement among those who already agreed not to bridge the differences or broaden support. It was marked by procedural abuses.

Many Americans are still dismayed that the House kept the Medicare vote open for 3 hours while one Member actually admitted he was offered a bribe from another Member on the House floor to support the bill. That isn't how the American people expect us to do their work. We can do better. This year we must.

While I am on matters that cause Democrats very grave concern, I am compelled to note the onerous recess appointment of Judge Charles Pickering. The President could not have started off this session of Congress in a worse way. The Senate has repeatedly rejected this nomination. The timing, during the Martin Luther King, Jr., weekend, also could not have been worse. It was a deplorable decision and one that is deeply regrettable on several levels.

As we begin this session, our first order of business will be the consideration of the Omnibus appropriations bill. The Omnibus appropriations bill was once a good bill. In the Senate we were able to work out compromises. We accomplished many things and the process worked. But the administration intervened at the eleventh hour and demanded changes, laid down an ultimatum, and even forced the conference to take positions in direct conflict with earlier positions taken on rollcall votes in both the House and the Senate.

Its insistence on provisions affecting the mad cow decision, overtime regulations, and media concentration made the bill unsupportable to many Senators. We should take the time to fix the bill's problems because they affect millions of American families. We owe it to them to take the time to do it right.

I take a moment for some additional comments on matters unrelated to our legislative agenda. First, I know I speak for all Senators in expressing praise for our troops in Iraq for their inspiring demonstration of bravery and patriotism. Nearly 500 soldiers have died and 3,000 have been wounded since the war began. Our country owes them our debt of gratitude. I am particularly mindful of the sacrifices made by thousands of South Dakotans, including 800 who departed for Iraq during the recent holiday season.

Recently, I attended a funeral for Chris Soelzer, a young man from Sturgis who lost his life in Iraq on Christmas Eve. He was a remarkable role model, a leader, and soldier. The agony felt by his family, friends, and his community is another poignant reminder of the horrific sacrifice that war demands.

We honor those who are there and express our heartfelt gratitude for the job they continue to do under the most difficult of circumstances. While we praise them for finding Saddam Hussein and for continuing the effort to ensure democracy for the 23 million people of Iraq, we remain concerned that our troops face violent attacks daily and our troops and our taxpayers are bearing a disproportionate share of the burden.

Second, I note the decision made by our colleague, Senator JOHN BREAUX, to retire at the end of this session. I have had the good fortune to work with Senator BREAUX now for 25 years, 17 in the Senate. I am proud to call him a close friend.

He will leave the Senate with many accomplishments, many admirers, and many good friends. He has earned our respect and affection by his manner, his work, and his never-ending desire to seek consensus and bipartisan achievement. For that reason, he will also leave a hole in this institution, one that will be very hard to fill. We thank JOHN BREAUX for his service to his country, his remarkable leadership, and his friendship. I wish Lois and JOHN well in the months and years ahead.

In the spirit of JOHN BREAUX, let me close by reiterating our desire to work in a constructive, bipartisan way for legislation that will truly create an "opportunity society" for all Americans. I look forward to the coming months and the challenges that we will confront as they unfold.

I yield the floor.

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

> A conference report to accompany H.R. 2673 to make appropriations for agriculture, rural development, Food and Drug Administration, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

## RECESS

Mr. REID. Mr. President, with the two leaders having spoken, I ask unanimous consent we recess now for our luncheons.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:24 p.m., recessed until 2:16 p.m and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. Under the previous order, the time between 2:15 p.m. and 2:50 p.m. shall be equally divided for debate only.

Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, the time is equally divided between now and 2:50; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, if the Senator would yield, why 2:50? I have missed something. That is fine. That means we have about 15 minutes.

Mr STEVENS. Seventeen minutes apiece.

Mr. REID. On this side, if it is OK, I will yield 5 minutes to Senator KENNEDY, 5 minutes to Senator JACK REED, and 5 minutes to Senator JOHNSON.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I apologize for my voice. I hope I can keep it long enough to make this statement.

Republicans and Democrats worked together to adopt this omnibus conference report that is before the Senate today. It contains seven appropriations bills. It was my hope that the Senate would pass this bill last December, and it was a great disappointment to me that we did not pass it then.

Now, however, we still have the opportunity to send this report to the President, and I do urge all Senators to vote for cloture now.

The Senate should pass 13 separate appropriations bills each session. Senator BYRD also favors that approach. An omnibus bill is an option of last resort. Unfortunately, once again this fiscal year, this was our only way to do our duty to provide funding for essential services of our national Government.

Throughout his life, Ben Franklin reminded his colleagues that compromise was an essential part of government. He said:

> Both sides must part with some of their demands.

That spirit is important when we must join the work product of several Appropriations subcommittees in an omnibus bill like the one before us now.

Are there provisions in this bill to which either the majority or the minority object? Yes. Does the White House endorse each of the provisions in this bill? Absolutely not. Are there parts of this bill I would rather not support at this time? Yes.

But the conference has concluded. The conference no longer exists, and a majority of the members on the conference agreed to this compromise that is before the Senate now.

The report before the Senate funds critical programs and services. Countless Americans have already been affected adversely because it has been delayed so far.

Already the Department of Housing and Urban Development has had to suspend all activities related to the FHA General Insurance and Special Risk Insurance Funds. Since January 14, HUD has been unable to fund programs related to the construction and rehabilitation of multifamily apartment projects, health care facilities, Hawaiian homelands mortgages under section 247, and home equity conversion loans that benefit elderly homeowners.

Our failure to pass this bill prevented key Government programs and agencies from fully responding to our Nation's crises and challenges. The recent bovine spongiform encephalopathy, BSE—mad cow—diagnosis will require a significant increase in animal health surveillance and food safety inspections. This bill contains $29.5 million over the fiscal year 2003 budget for the Animal and Plant Health Inspection Service and an additional $36.6 million for the safety inspection service.

That funding will go a long way in helping these agencies respond to this recent crisis.

The impact of this delay has been felt throughout the country in a wide range of programs and services. This report includes a $38 million funding increase for the Health and Human Service Department's domestic AIDS drug assistance program and $2.4 billion to combat AIDS, tuberculosis, and malaria around the world. That money is needed right now to purchase medications for people suffering with AIDS, but instead, because this report is stalled here on the Senate floor, many human beings continue to go without our humanitarian aid.

Our veterans have also suffered from the delay because new funding, not previously available, has been withheld. Because we are operating under a continuing resolution the VA was forced to curtail the hiring of new physicians and nurses. It has been unable to open 48 high priority community-based outpatient clinics. As pharmacy costs continued to rise, the VA was forced to strip funds from other priority areas because it could not meet the increasing demand for prescription drugs without new funds.

Several important new education programs do not have the funds needed. This bill includes $1.26 billion in new funding for State programs to help children with learning disabilities and physical and mental challenges, $57 million in new funds for reading programs, $50 million for our Nation's colleges, and $148 million in additional funds to expand and improve Head Start programs. Those funds did not reach our Nation's children because this conference report was delayed.

There are many more programs that remain underfunded while operating under the continuing resolution. The continuing resolution provides funds we believed in fiscal year 2002 were sufficient for fiscal year 2003, but that does not mean they are sufficient for this year—fiscal year 2004. Many Americans will continue to be denied benefits needed in 2004 if we do not support this omnibus bill. I ask the Senate to come together to demonstrate we will respond to these needs now by voting for cloture and in favor of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask to be notified when 4½ minutes are up. I am entitled to 5 minutes.

This bill shows the widening gulf between this administration's words and its deeds.

No doubt tonight, the President will talk about healthy families. But this bill weakens our clean air laws. And it postpones steps we need right now to protect our food supply from mad cow disease.

The President will talk about education. But this bill fails the test when it comes to funding for schools. And it diverts scarce public education dollars to private schools.

The President will talk about the safety of our communities. But this bill weakens our gun laws.

The President will talk about fairness. But there is nothing fair about giving away good jobs of dedicated government workers to the cheapest bidder that may even send those jobs abroad.

So it is a Dr. Jekyll, Mr. Hyde Presidency, where what you see is not what you get.

But the greatest outrage in this bill is that it denies the right to overtime pay to 8 million hard-working Americans.

We may be fighting a war in Iraq, but this President and this administration are also waging a war on workers here at home.

Majorities in both the Senate and the House agreed that the Bush administration was wrong to deny overtime protections to workers. By a vote in the U.S. Senate of 54 to 45 and the U.S. House of Representatives of 221 to 203, we said to the President, "You are wrong."

But here it is, in this bill.

I know who I am fighting for.

I am fighting for the nurse who burns the midnight oil day in and day out caring for our sick and elderly with no extra pay.

I am fighting for the firefighter and first responder, the heroes of homeland security, standing watch and working nights and weekends to protect our liberty. They are our generations Paul Reveres—prepared to act when called to arms. They deserve fair compensation.

I am fighting for our veterans and our men and women serving so bravely now in Iraq and across the world, who return to civilian life only to find that the training they earned in the military is cruelly used to deny them their right to overtime pay.

Under current regulations, workers can be denied overtime protection if they fall within the category of what they call professional employees, workers with a 4-year degree in a professional field. It is changed this year under the Bush administration. The plan would do away with the standard and allow equivalent training in the Armed Forces. You go and serve in Iraq and get the training to serve in Iraq, and come back here and you are ineligible, under these regulations, for overtime pay.

I ask unanimous consent that the relevant statute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBPART D, PROFESSIONAL EMPLOYEES, §§541.300–.304

The current regulations pertaining to the professional exemption contain four separate categories of exempt employees: learned professionals, artistic professionals, teachers, and computer professionals. As with the executive and administrative exemptions, the regulations contain both "short" and "long" duties tests, depending upon the salary level of the employee. The long test contains a separate primary duty requirement for each of the four categories of employees. The long test for learned professionals requires that the primary duty consist of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes. For creative professionals, the primary duty must consist of work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee. For teachers, the primary duty must consist of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge by an employee who is employed and engaged in this activity as a teacher in the school system or educational establishment or institution by which the person is employed. The duties tests for computer employees are discussed in subpart E. The long test also requires that an exempt employee: Perform work requiring the consistent exercise of discretion and judgment; do work that is predominantly intellectual and varied in character, such that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and devote no more than 20 percent of work hours in a week to activities that are not an essential part of and necessarily incident to exempt work. The short test in the current regulations for both learned professionals and teachers contains the specific primary duty requirement discussed above, and requires that the employee perform work requiring the consistent exercise of discretion and judgment. For artistic professionals, the work must require invention, imagination or talent in a recognized field of artistic endeavor.

The proposed regulations pertaining to the professional employee exemption would make changes similar to those we propose for the executive and administrative exemptions. The goal is to clarify and simplify the regulations defining the professional employee exemption, while remaining consistent with the purposes of the FLSA. For ease of reference, and making no substantive changes, we propose to move the provisions pertaining to computer professionals to new subpart E, which will contain all information pertinent to such employees. We also propose to simplify the regulations by eliminating the separate short and long tests for each of the remaining three categories and substituting a single standard duties test for each. This restructuring and simplification would eliminate the percentage limitation on nonexempt work and the consistent exercise of discretion and judgment requirement. As discussed above in connection with similar proposed changes to the executive and administrative exemptions, we are proposing to eliminate these subsections because they have proven difficult standards to apply uniformly.

For learned professionals, the proposed new standard test in §541.301 would provide that employees qualify for exemption as a learned professional if they have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by an equivalent combination of intellectual instruction and work experience. This proposed standard test for learned professionals would focus on the knowledge of the employee and how that knowledge is used in everyday work, not on the educational path followed to obtain that knowledge. Although some flexibility to focus on the worker's knowledge exists in the current regulation, it is very limited and rarely used. The clarified test reflects changes in the 21st century workplace in how some "knowledge workers" acquire specialized learning and skills: in the modern workplace, some employees acquire advanced knowledge through a combination of formal college-level education, training and work experience, even where other employees in that field customarily acquire advanced knowledge by obtaining a baccalaureate or advanced degree. The proposed changes would clarify that, so long as such an employee's level of advanced knowledge is equivalent to the knowledge possessed by an employee with the typical academic degree generally required by the profession, the employee may qualify as an exempt professional. Thus, for example, an employee who obtained advanced knowledge by completing college courses in a field such as engineering, and who worked in that field for a number of years, could qualify for exemption if the knowledge acquired was equivalent to that of an employee with a baccalaureate degree in engineering. We have not proposed any specific formula in the regulations for determining the equivalencies of intellectual instruction and qualifying work experience, although some examples from the current rule have been included and expanded. Public comments are invited on whether the regulations should specify such equivalencies.

The view that several years of specialized training plus intensive on-the-job training for a number of additional years may be equated with a college degree in certain fields has found support in reported judicial decisions. For example, the professional exemption has been applied to employees with a combination of training and academics in *Leslie* v. *Ingalls Shipbuilding, Inc.*, 899 F. Supp. 1578 (D. Miss. 1995). In Leslie, the court concluded that an employee who had completed three years of engineering study at a university and had many years of experience in the field of engineering was properly classified as a professional employee, even though the employee did not satisfy one of the usual minimum qualifications for an engineering position of having a bachelor's degree in an engineering discipline. The court considered the employee's combination of education and experience as satisfying the requirement for a prolonged course of specialized intellectual instruction and study.

For creative professionals, we propose to adopt the current short test, slightly modified, as the new standard test in proposed §541.302. This new standard test would apply the creative professional exemption to any employee with the primary duty of "performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor." This language, although simplified, is not intended to make any material changes from the existing regulations. This standard was applied in the case of *Freeman* v. *National Broadcasting Company, Inc.*, 80 F.3d 78 (2nd Cir. 1996), in which employees who researched facts, developed story elements, interviewed subjects, wrote scripts, and supervised the editing of videotape were deemed to have been correctly classified as artistic professional employees. On the other hand, employees of small news organizations who spent their time gathering facts about routine community events such as municipal, school board, and city council meetings, and gathering information from the police blotter and real estate transaction reports, and then reporting those facts in a standard format were deemed not to be artistic professional employees in *Reich* v. *Newspapers of New England*, 44 F.3d 1060 (1st Cir. 1995) and *Reich* v. *Gateway Press, Inc.*, 13 F.3d 685 (3d Cir. 1994).

The standard test for teachers in proposed section 541.303 would be unchanged from the current short test, with the exception of the deletion of the requirement that the employee's work require the consistent exercise of discretion and judgment, a requirement that, as discussed above, has engendered significant confusion. Provisions on teachers from current §§541.3, 541.301(g), and 541.314 have been consolidated into proposed new §541.303. The minor editorial changes are not intended to cause any substantive changes.

In addition, the proposed regulations utilize objective, plain language that can be easily understood by employees, small business owners and human resource professionals, and eliminate outdated and uninformative examples. The proposed regulations also would address a number of specific occupations that have been the subject of ambiguity and litigation. For example, we propose to update and clarify the circumstances under which employees working as newspaper journalists or as radio or television commentators are exempt, because the case law regarding such employees has been evolving over the years, and the existing regulations discussing such employees are outdated.

Provisions of the current regulations in §§541.3 and 541.314 that provide an exception to the salary or fee requirements for physicians and lawyers have been consolidated and moved to proposed §541.304. Current §541.307 entitled "Essential part of and necessarily incident to" has been combined with current §541.108 ("Work directly and closely related"), 541.202 ("Categories of work"), and §541.208 ("Directly and closely related"), and moved to proposed new §541.702 ("Directly and closely related"), for a streamlined discussion of the principles for distinguishing exempt and nonexempt work. Although these sections have been consolidated and simplified, we do not intend any substantive changes.

Finally, we propose to move sections that pertain to salary issues (§§541.311, 541.312 and 541.313) to subpart G, where all such issues will be consolidated. Other sections relevant to several or all of the exemption categories (such as the definition of primary duty, a section regarding application of the exemption to trainees, and a section discussing nonexempt work generally) would move to the proposed subpart H (Definitions and Miscellaneous Provisions) to eliminate unnecessary repetition. Current §541.305 entitled "Discretion and judgment" and current §541.309 entitled "20-percent nonexempt work limitation" have been deleted from the proposed regulations for the same reasons similar changes are being proposed in the executive and administrative exemptions as discussed above.

Mr. KENNEDY. The Senate should reject this bill and demand that the right to overtime pay be restored; we should demand that our schools be properly funded and that private school vouchers be rejected; we should demand that illegal guns be removed from our streets; and we should demand a food supply safe from mad cow disease.

Finally, Americans work more than workers in any other industrial society in the world. This chart shows that. We are working about 500 hours more than any other society in the world. American workers are working harder, and now this administration is trying to deny them at least the fairness of being compensated for it.

This chart shows what happens if you have overtime protection or if you don't have overtime protection. For all the overtime that is used in this country today, only 19 percent of it is applicable to those who get paid for the overtime while 44 percent for those who don't get the overtime. That is 3 to 1 with regard to individuals who work 50 hours a week. We know what this is all about because the administration has given a guide to employers about how they can avoid paying overtime. I ask that those regulations be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### METHODOLOGY FOR ESTIMATING COSTS

The principal database used in the PRIA is the 2001 Current Population Survey (CPS). A complete description of the methodology used for determining the employees who are potentially exempt and nonexempt from the overtime requirements of the current and proposed rule is contained in the PRIA available by contacting the Wage and Hour Division at the address and telephone number provided above.

The economic impact of the proposed rule includes two components: One-time implementation costs; and recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt.

The implementation costs contain two parts. The first part includes the amount of time employers would take to: (1) Read and understand the proposed rule; (2) update and formulate their overtime policies; (3) notify employees of any changes; and (4) all other time taken to implement the proposed rule. The second part of the implementation costs is the amount of time employers would take to review their job categories to determine (1) whether or not a particular job category is exempt or nonexempt under the proposed rule, and (2) how to adjust to the new salary levels and duties tests. To estimate the implementation costs of the proposed rule, the department contacted six human resource specialists from around the country to obtain information on the amount of time small and large businesses would take for each of these activities. High and low estimates of the implementation costs were estimated by varying the amount of time taken to review job categories and other time taken to implement the proposed rule.

The second component of the economic impact of the proposed rule is the recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt as a result of raising the salary levels and revising the duties tests.

Affected employers would have four choices concerning potential payroll costs: (1) Adhering to a 40-hour work week; (2) paying statutory overtime premiums for affected workers' hours worked beyond 40 per week; (3) raising employees' salaries to levels required for exempt status by the proposed rule; or (4) converting salaried employees' basis of pay to an hourly rate (no less than the federal minimum wage) that results in virtually no (or only a minimal) changes to the total compensation paid to those workers. Employers could also change the duties of currently exempt and nonexempt workers to comply with the proposed rule.

For the second choice above, paying overtime premium pay, employers typically have two options, with differing cost implications, for meeting their statutory overtime obligations. For example, assume an employer paid an employee a fixed salary of $400 per week with no overtime premium pay, for which the employee worked 45 hours per week, and the employer must now begin to pay this employee overtime pay. As one option, the employer could assume that the former weekly salary of $400 represents compensation for a standard 40-hour workweek, and pay this employee in the future time-and-one-half the $10 hourly rate for any overtime hours worked beyond 40 per week. For a 45-hour workweek, total compensation due, including overtime, would equal $475 ((40 hours x $10/hour) + (5 hours x $15/hour) = $475), compared to $400 formerly. As a second option, the employer could pay the fixed salary of $400 per week as total straight time pay for all hours worked in the week (provided it equals or exceeds the federal minimum wage), and pay additional "half-time" for each hour worked beyond 40 in the week. This method of payment is known as a "fixed salary for fluctuating hours" (*see* 29 CFR 778.114). For a 45-hour workweek, total compensation due under this method, including overtime, would equal $422.22 ($400 + (($400 + 45) x ½ x 5) = $422.22).

The third choice above is straightforward—an employer could simply raise the salary level for currently exempt salaried workers earning less than $22,100 to at least the new proposed salary level or more and have them remain exempt salaried workers.

Nothing in the FLSA would prohibit an employer affected by the proposed rule, or under the current rule, from implementing the fourth choice above that results in virtually no (or only a minimal) increase in labor costs. For example, to pay an hourly rate and time and one-half that rate for 5 hours of overtime in a 45-hour workweek and incur approximately the same total costs as the former $400 weekly salary, the regular hourly rate would compute to $8.421 ((40 hours x $8.421) + (5 hours x (1.5 x $8.421)) = $399.99).

Most employers affected by the proposed rule would be expected to choose the most cost-effective compensation adjustment method that maintains the stability of their work force, pay structure, and output levels. Given the range of options available to an employer confronted with paying overtime to employees previously treated as exempt, the actual payroll cost impact for individual employers could range from near zero to up to the maximum cost impacts estimated in the Department's PRIA. However, for the PRIA it is was assumed that, for any nonexempt employee who satisfies the pertinent duties test, the employer will choose to pay the smaller of either the additional weekly salary required to qualify the employee exemption or the usual weekly overtime payment for the employee.

The PRESIDING OFFICER. The Senator has used 4½ minutes.

Mr. KENNEDY. Finally, this is the list of the individuals who will be affected. Who are those individuals? Police officers, nurses, firefighters; those are the home guard personnel. You talk about safety and security in our communities and in our neighborhoods; these are the individuals who stand watch for all Americans. Why is this administration fighting decent fair pay for these hard-working Americans who represent the best of our country and are involved in homeland security? This legislation should be defeated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Omnibus appropriations bill contains elements that contradict the express votes of this body and the other body, bipartisan votes that in fact protected workers against losing their overtime, that insisted upon country-of-origin labeling, that dealt with media ownership. And at the last moment, at the direction of the administration, these provisions were overridden and contradicted. There are other provisions that have been included in this measure that should not stand a fair vote on the Senate floor.

There is a provision, inserted in this bill by the House Republican leadership over the objection of the Republican subcommittee chairman of the Commerce-State-Justice and Judiciary Committee, that would require the FBI to destroy records of gun sales within 24 hours. They have now, under the law, the Brady bill, the authority to keep these records for 90 days to conduct audits of the system of instant checks.

A study analyzing just 6 months' activity conducted by the General Accounting Office showed that the FBI was able to retrieve 235 firearms that had been sold to illegal purchasers, prohibited purchasers, wife beaters, murderers, the whole parade of perpetrators. If this legislation passes and the 24-hour rule stands, then instead of recovering 235 of these weapons, 7,228 firearms will be in the hands of murderers, wife beaters, robbers, those people who endanger the American public.

This provision should not be allowed, without a vote, to become the law of the land. In the words of Los Angeles Police Chief William J. Bratton:

> I'm very opposed to this effort to make the Brady law toothless, and I just don't understand how Members of Congress can even consider it. Obviously, they haven't shown up at the scene of enough officer shootings.

What we hear from the NRA and their allies is "just enforce the laws." How can you enforce the law if you don't have the information on the sale?

This provision should be stricken. In addition to that, there are provisions about vouchers for public schools in the District of Columbia. We don't have enough resources to fix the public schools of this country, and diverting them to private schools is a mistake. It is passing out parachutes; it is not fixing the airplane. We can do better.

Indeed, these vouchers go to schools that don't have to stand up to the rigors of the No Child Left Behind Act. Those people who go about this country saying that critics of the No Child Left Behind Act—those people who will not embrace these provisions—are somehow undermining education reform but they say, let's give money to schools that don't even have to follow the No Child Left Behind Act. That is also wrong.

As my colleague Senator KENNEDY pointed out, this bill strips away overtime protections for Americans who work very hard. These workers depend on overtime to support their families. Costs go up, hours of work are going up, and still families find themselves stretched terribly thin. We are in a position now not only to override both the sense of the House and Senate but the common sense of the American people. They understand that without adequate overtime people cannot support their families.

In addition to this provision that would strip away overtime pay for firefighters, nurses, and police officers, the Department of Labor had the audacity to suggest ways in which overtime can be prevented from applying to everyone. That is not a Department of Labor that is working in the best interest of the American workers.

We understand something else, too, which is that the great economic crisis of this country at this moment is the fact that we cannot produce jobs. Employers are not willing to hire, so they require more overtime. Well, if they have less incentives, less requirements to pay overtime pay, they will make the current workers work even harder, and there will not be the opportunity to hire more Americans for these jobs. This provision goes right to the heart of what we all should be about: getting more work for Americans, not penalizing workers by taking away their overtime pay.

These are just a handful of provisions that are not only contradictory to what we did on a bipartisan basis—Republicans and Democrats in both the House and Senate—but they are fundamentally against the interests of safe streets, opportunities to work, and opportunities to educate the children of this country.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield myself 1 minute, Mr. President.

President Bush is supporting this bill that will be before us. He is going to sign it. I want to speak to my colleagues and any and all who are watching this debate. Understand with that signature 8 million Americans will lose their guarantee to overtime pay. Eight million Americans—those earning roughly over $24,000 a year in my State—just like that, with President Bush's signature, people will lose their overtime pay.

What does that mean? It means that an employer can work you harder and you don't get any more money; you are pulled away from your family and not getting fair pay. You could be spending more time with them, at a minimum.

This is a harmful bill. Not only does it do this, but it turns the clock back in many other areas.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I rise to voice my concern over secret riders that were jammed into the Omnibus appropriations bill behind closed doors, in the dark of night, that are contrary to the bipartisan wishes of the Senate and, in some instances, both the House and Senate. It is an abomination of a process that has taken place. It has very real negative consequences.

The bill, as a whole, does some good things. I commend Chairman STEVENS for his hard work in that regard. But there are these riders that were stuck in the bill that make no sense. Some have been alluded to already, such as the allowance of greater media concentration than this Senate wanted; the privatization of FAA air traffic control personnel; the question of vouchers, at a time when we are $9 billion short of funding No Child Left Behind as it is, and that funding is further undermined by subsidization of private schooling.

The question of overtime pay is perhaps the most outrageous of all. Eight million American workers are going to be denied overtime pay under this rider that was stuck into the bill. There was no conference in a meaningful sense. They were simply done behind closed doors. The deliberations were, frankly, the Republican leadership working with the White House, and they stuck the provisions in and came back to this body and said: Take it or leave it.

I believe we can have the merits of the larger portion of the Omnibus bill and simply have these provisions struck. It would be simple to do.

One of the provisions that is most troubling in my State of South Dakota, and in rural areas, is a provision that would delay country-of-origin meat labeling for 2 years—probably beyond that—at a time when we are struggling with BSE, mad cow disease.

Our consumers should understand that our Nation has the safest, highest quality meat in the world, bar none. Canada has struggled with the BSE issue. One of their cows showed up in the U.S. We need to see to it that we respond aggressively to make sure Americans have confidence in our meat supply, and that the world community also understands the quality product that comes from the United States.

Right now Japan, Korea, and the rest of the buyers of American beef abroad have told the United States: We like your beef, the meat products you produce, but we don't want to buy it if you cannot certify to us that it is, indeed, an American product.

We are one of the few industrialized democracies in the world not to have country-of-origin labeling. We don't have it. It is long overdue that we join the rest of the industrialized world in allowing our consumers to know the origin of the meat products they buy so they can buy an American product if they choose, and when it comes time to exporting our product, that the Japanese, Koreans, and the rest of the world will know it is an American product they are buying, as opposed to being a mingling of U.S., Canadian, and Heaven knows what else that goes through the U.S. into the export market.

So for the sake of our domestic confidence and of our export markets, the time is overdue that we join the rest of the world—the EU and the Canadians—in identifying the origins of these meat products.

What has happened is that this 2-year delay, which would lead to still further delay, ironically at a time when the USDA is telling us they want to implement an electronic tracking system for every animal in the U.S., which is a far more expensive, far-reaching proposal than country-of-origin labeling ever was; every country has been able to do it without expense, without bureaucracy, or any problem for the producers. There is no reason the U.S. cannot do it as well.

So what we have is a convergence of those who are profiting by not allowing American consumers to know the difference in what they are buying, along with those in the White House who have a philosophy of a global agricultural market with no borders whatever, which leads, of course, to that race to the bottom, where whoever can sell the product for the cheapest price wins. American producers deserve better. This Congress deserves a better bill than what we have before us.

I yield the floor.

The PRESIDING OFFICER. The minority's time has expired.

Mr. REID. Mr. President, the President pro tempore of the Senate has agreed to allow Senator HARKIN 3 minutes of his time. I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. HARKIN. Mr. President, 5 months ago the Senate voted in support of my amendment to block the administration's effort to kill overtime pay for millions of American workers. The bipartisan vote of the Senate was 54 to 45. The House followed suit with a 221-to-203 vote.

The Congress spoke up clear as a bell and said: No, the administration must not strip overtime rights from 8 million American workers. But as we all know, the administration refused to accept the clear will of Congress. The administration ordered the conferees to strip this provision from the omnibus bill.

Senator SPECTER and I fought to keep it in, but the administration refused any cooperation or compromise. In the end, with a snap of its fingers, the administration nullified the clear will of both Houses of Congress and the American people.

This is just another example of the brazen abuse of power by the administration. The administration seems to believe in Government by one branch: the executive branch. Time and again, we see this administration running roughshod over the will of Congress.

The administration's new overtime rule is a stealth attack on the 40-hour workweek, pushed by the White House without a single public hearing.

There was one positive part of the proposal that would raise the basic income that guarantees overtime pay for low-income workers from $8,000 to $22,100. My amendment did not touch that part of the proposal. But now we find that the Labor Department is advising employers on how to get around it.

The Labor Department example suggests cutting workers' hourly wages and making them work longer. That means there will be no net gain by the worker. This is disgraceful.

Here is what they have done: "How to Avoid Paying Your Employees Overtime," courtesy of the Department of Labor. Lower existing wages so when workers accrue overtime, their net pay will not grow. In other words, pay them less; work them longer.

Change workers' duties so they are exempt from the overtime rules.

Raise workers' wages to levels required to be exempt, $22,100.

Don't let them work more than 40 hours a week.

This is what is in the Bush proposal. This is like the IRS giving advice to tax cheats on how to avoid paying their taxes. This is a direct violation of the Fair Labor Standards Act of 1938 that established the 40-hour workweek for American workers.

Right now, Americans work longer hours than workers in other industrialized nations. This is a slap in the face to workers who give up their premium time with their families to work overtime, and we are not talking about spare change here. We are talking about taking away some 25 percent of the income of many American workers.

Congress did the right thing in voting to block this new rule.

The PRESIDING OFFICER. The Senator has used his 3 minutes.

Mr. HARKIN. But Congress voice and vote were nullified.

Mr. President, I ask unanimous consent that a New York Times article dated January 20, 2004, and a letter to the President signed by several Senators dated January 16, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 20, 2004]

### GAMING OVERTIME

Some ominous fine print has turned up in the Bush administration's promise to help long-suffering low-wage workers get the overtime pay they have long been denied. As initially presented, the White House estimated that its new rules governing nonunion workers would mean $895 million in guaranteed time-and-a-half pay for 1.3 million of the nation's poorest-paid workers. That inviting proposal was coupled with a far more controversial plan to allow employers greater leeway to close out overtime pay for a midrange of white-collar professionals by designating them as managers.

That part was questionable enough—critics warned that it could cut earnings and force unpaid overtime on millions of workers, and even the Republican-led Congress became leery. But now, in delving into the sweetener half of the plan covering the lowest-paid, The Associated Press has discovered that the Labor Department's advisory includes suggestions to employers about ways they can keep their costs from actually going up.

One tip from those helpful bureaucrats theoretically protecting struggling breadwinners is that an employer could consider "the most cost-effective compensation adjustment method." This translates into cutting a worker's hourly wage so the new overtime requirement will produce the old net salary, not an actual boon.

To be fair, the Labor Department also suggests that employers are free to raise workers' salaries to the new higher threshold of $22,100 a year, the level at which eligibility for time and a half ends. Still, those helpful hints to anxious employers only compound suspicions about the plan.

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U.S. SENATE,
*Washington, DC, January 16, 2004.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: As you know, bipartisan majorities in both the House and Senate voted to oppose the Department of Labor's proposal to deny overtime protections to more than 8 million hard-working men and women—regulations that actually provided instructions on ways for employers to avoid paying overtime to their workers. This is shocking, given that the Department of Labor's mission is to promote "the welfare of the job seekers, wage earners, and retirees of the United States."

Instead of accepting the clear will of bipartisan majorities in the Congress and the American people on this issue, your Administration used its leverage to threaten vital funding for cancer research, fighting AIDS, job training for millions of out-of-work Americans, and financial aid for children to attend college unless the provision protecting workers was removed. We believe that protecting workers' pay should not come at the expense of funding these vital programs.

We call on you to rescind the overtime regulation and instruct your Labor Department to require all employers to meet their obligations to pay workers for the overtime they have earned. At a minimum, we ask you to call on the Republican leadership to reinstate the Senate-passed and House-endorsed provision to protect overtime.

Sincerely,

EDWARD M. KENNEDY.
TOM HARKIN.
TOM DASCHLE.

Ms. COLLINS. Mr. President, I rise today to discuss a provision that was added to the omnibus appropriations bill at my request. The provision is designed to halt temporarily the implementation of amendment 13 to the Northeast groundfish fishery management plan. With this 5-month delay, which will be in effect for the remainder of the fiscal year, a more equitable form of amendment 13 can be developed. Without this delay, amendment 13 would devastate the fishing industry of my home State. Amendment 13 would deny at least a quarter of Maine's fishermen their traditional access to fish stocks, and would jeopardize the ability of many related small businesses to survive financially.

Amendment 13 would impose a series of regulatory changes to New England's groundfish management system. These new regulations would reduce the number of fishing days allocated to most Maine fishermen. The average Maine fishing vessel that received any fishing days would be allocated roughly 52 fishing days each year that they could use off Maine's shores. These, of course, are the most fortunate of Maine's fishermen, as many would receive smaller allocations of fishing days under amendment 13. Imagine trying to make ends meet practicing your profession only 1 day per week.

There are further problems with amendment 13 in its current form. The plan relies on targeting healthy fish stocks in order to mitigate economic impacts while less abundant fish stocks rebuild. This has led to the creation of two classes of fishing days: A and B days. On "A" days, a fisherman may target any fish stock. On "B" days, fishing is restricted to a handful of healthy species in designated areas.

Unfortunately, Maine's small boats will have difficulty using any of their B days due to safety concerns. These B fisheries are restricted to areas far out to sea that small boats cannot fish safely. There is simply no B fishery that Maine's smaller fishing boats can access.

Further, Maine's large boats will be penalized under amendment 13 because they are forced to lose valuable fishing time in transit to fish stocks located far to the south of Maine. Groundfish regulations would count transit time, "steaming time," as fishing time, putting Maine's fishermen at a severe disadvantage to fishermen located in southern New England. Fishermen based in southern New England could operate at a considerable competitive advantage, as they are able to spend more time fishing and less time steaming to and from fertile grounds, such as the Georges Bank. The result could well be the migration of Maine's fishing industry south to Massachusetts. In fact, we have already seen some large boats relocate from Portland to Gloucester.

Under amendment 13, Maine's larger fishing boats will continue to experience problems with steaming time. Fishermen from Portland, ME, who chose to take part in the cod exemption program and fish on stocks located on Georges Bank must travel 18 hours before they can put their nets in the water. In contrast, fishermen leaving from Gloucester, MA, can begin fishing after traveling for only 3 hours. Therefore, it makes perfect economic sense for vessels to relocate to southern ports, and some already have and more will do so. Maine suffers as these landings of fish and the revenues generated from these fish move south.

Furthermore, Maine's small-boat fishermen took drastic cuts in days-at-sea allocations. In fact, amendment 13 would allocate zero days-at-sea to 57 Maine groundfish fishermen; this is over 30 percent of Maine's groundfishing fleet that would be denied access to this resource. Maine's share of the groundfish resource has only diminished in recent years, and denying 30 percent of our fleet access to groundfish will only accelerate this trend. A larger portion of Maine's fleet will be denied access to groundfish than in any other New England State.

Amendment 13 would also harm Maine's fishing-related businesses such as gear manufacturers, ice suppliers, and small boat repair shops. Maine's fishing infrastructure, which already is at a critical minimum, would lose revenue due to restricted access to the resource and due to the southward migration of Maine's groundfish fleet. If the current form of amendment 13 were implemented, Maine's working waterfront could vanish, to be replaced by coastal development. These regulations may well mean that Maine would have neither the fishermen nor the fishing infrastructure needed for a healthy groundfish fishery.

In response to concerns regarding loss of fishing infrastructure, inequities in steaming time, and the immense social and economic costs of amendment 13, the Portland City Council unanimously passed a resolution addressing amendment 13 on September 15, 2003. This resolution called on Maine's congressional delegation to "root out all provisions of regional groundfish management which discriminate against vessels fishing from the State of Maine in general and, in particular, from the Port of Portland." Amendment 13, in its current form, discriminates against Maine's fishermen. The delay in implementation will provide the time needed to "root out" the unfair aspects of amendment 13.

Anyone who has followed the amendment 13 process has been confronted with a litany of bad news; bad for New England, and especially bad for my home State of Maine. Newspapers throughout the State of Maine have detailed how amendment 13 would devastate Maine's fishermen and related businesses.

Maine's groundfishing industry has already suffered in recent years. Since 1995, Maine's groundfishing fleet has shrunk by roughly 40 percent. In the past two decades, Maine has lost nearly 50 processing companies. Amendment 13 would only accelerate this trend. In fact, analysis by the National Marine Fisheries Service shows that amendment 13 would allocate so few days-at-sea to Maine's fishermen, that few, if any, of Maine's boats would be able to break even.

I want the New England groundfish fishery to be sustainable. But that goes for fish and fishermen alike. If fishermen cannot make a living at sea, they will have no choice but to turn to other businesses.

As part of the National Marine Fisheries Service's economic analysis of amendment 13, a break-even analysis is performed. This analysis makes a number of assumptions. First, this break-even analysis assumes a boat owner makes no profit, a grim prospect for any business. Second, this analysis assumes standard overhead and crew costs that must be overcome for a vessel to break even. By paying crew members the bare minimum pay of $25,000, most boats will need well over 60 days-at-sea to break even. Unfortunately, the average Maine fishermen will be allocated only 52 days-at-sea that they can actually use. Only a very small portion of Maine's fleet will be able to break even under amendment 13.

Amendment 13 is fundamentally unfair to Maine's fishing community. Yet, it was scheduled to be implemented by May 1, 2004, which marks the start of the next fishing season. Surely, we need a better, fairer approach. The amendment I included in the omnibus spending bill is meant to halt implementation of amendment 13 in the current fiscal year in order to provide an opportunity for the council to reconvene to find a management plan that is fair to all New England States; not a plan that ties the laboring oar of rebuilding the fisheries to the hands of just one State, Maine.

I have also sought this delay because we need time to make sure we do develop an equitable management plan before one is put into place. The groundfish fishery is recovering. Fish stocks have tripled in recent years; more important, they continue to rebuild under current regulations. This delay is not irresponsible; fish stocks are not declining. The condition of the fishery will continue to improve while a fair set of regulations are developed. The strict regulations that are currently in place, and that will stay in place because of my funding restriction, are undeniably working.

Because this matter is so important to so many people in Maine and throughout New England, I want to take a moment to make my intent in drafting this amendment perfectly clear.

My amendment prohibits funds in the omnibus from being used to implement a fisheries management plan for New England other than the final emergency rule published by the Department of Commerce in the Federal Register on June 27, 2003, at page 38234. According to the Department of Commerce, the final emergency rule was promulgated "to ensure that there exist measures to reduce overfishing until implementation of amendment 13." This is still the goal under my amendment—the timeframe has just been extended.

I intend, through my amendment, to keep the final emergency rule in place through the end of the fiscal year. This is the case in spite of any provisions of law—including, but not limited to, 16 U.S.C. §1855(c)—that might otherwise limit the duration of the provisions of the final emergency rule. Indeed, my amendment is intended to suspend the application of provisions such as 16 U.S.C. §1855(c) to the final emergency rule. And, in any event, my amendment would not prohibit the terms of the final emergency rule from being implemented, again, were they found by the court to have expired.

My amendment restricts the use of funds appropriated in the omnibus. Hence, the restrictions apply only through fiscal year 2004. Practically speaking, this means that no new management plan for New England can be implemented by the Department of Commerce before October 1, 2004. My amendment imposes this delay in order to provide time for the council to develop a plan that, unlike amendment 13, is fair to each of the New England States. The court, of course, is free to set a new implementation date that falls later than October 1, 2004, and might consider setting the new date at May 1, 2005, to coincide with the start of the fishing season.

In addition, my amendment in no way prevents the National Marine Fisheries Service from implementing regulations to allow the east coast scallop fleet and tuna purse seine fleet to access special management areas. I encourage the National Marine Fisheries Service to move forward and address these issues separate from the overfishing and rebuilding requirements in amendment 13.

It is my expectation that the New England Fishery Management Council will use the additional time my amendment will provide to develop a plan that all States can support. It is particularly encouraging that, after I announced that I would be pursuing this amendment, the New England Fishery Management Council's Groundfish Committee agreed to convene an emergency meeting in January to examine the concerns that I have raised. The Groundfish Committee did, indeed, address some of the issues that are important to Maine's fishermen, and I encourage the full council to follow the committee's lead and take positive steps toward resolving these critical issues.

The delay afforded by my amendment is so important because it provides time for the council to correct the inequities of amendment 13. The council was under severe, and in many ways artificial, time pressure to develop a new management plan. Moreover, much of what has been included in amendment 13 was brought to the council at a very late hour.

My amendment will provide time for the council to consider necessary changes that must be made to amendment 13. I do not expect the council to go back to the drawing board entirely. I believe that amendment 13 can be altered so that it is fair to all New England States. Problems with steaming time must be addressed by the council. Also, the council must deal with minimum days-at-sea allocations in a fair manner. There is room to improve the conservation tax on days-at-sea transfer to make this program viable, and the Groundfish Committee has forwarded a recommendation to the council that provides welcome relief. Finally, I believe that the leasing program should be extended to provide a measure of certainty to New England fishermen.

I am very pleased that, just last week, the Groundfish Committee forwarded several positive recommendations to the council for its consideration. The recommendations address many of the issues I have raised on behalf of Maine fishermen; issues that caused me to seek a delay in the implementation of amendment 13 in the first place. The council is scheduled to consider these recommendations next week. If the council makes similar, positive progress, I will happily reconsider the need for my amendment, and act accordingly.

In the end, I believe that the council can come up with a consensus product. That is not to say it will be a product that fishermen applaud. No one appreciates the Government taking away the livelihood families have relied upon for generations. But, until the inadequacies of our fisheries laws are addressed head on, we owe it to our fishermen to administer them, such as they are, with an even hand. That is precisely the goal of my amendment.

Ms. SNOWE. Mr. President, I rise today in opposition to the omnibus. This bill contains several objectionable items that deeply concern me, as chair of the Ocean, Fisheries and Coast Guard Subcommittee, because the language drastically and fundamentally changes U.S. fisheries policy, including authorization language for Individual Processor Quotas, a prohibition on implementing a groundfish management plan, and other new fishing quota authorizations. These provisions have serious consequences for our National fisheries policy and the natural resources upon which America's fishermen depend.

Allow me to explain my concerns in detail. I have many concerns about the language in this bill that would authorize what is being called the "Crab Plan" for the Bering Sea/Aleutian Island crab fishery. This plan contains provisions for establishing a system of Individual Processor Quotas, or IPQs, which would allocate the right to process crab among a group of predetermined processors. IPQs are not allowed under current law—without express authorization IPQs would violate our antitrust laws—and that is why this plan has come before Congress in an appropriations bill.

I must make it perfectly clear, up front, that I have worked consistently and forcefully, to reach an agreement with the advocates for IPQs. Twice I scheduled a markup in June for a comprehensive bill which would have created uniform national standards for fishing quotas. The bill was withdrawn from the first markup the evening before it was scheduled to occur because, regrettably the prior existing agreement on the bill fell through. I withdrew the bill from the second markup after I was not able to reach consensus to preserve the original intent of uniform national standards for fishing quota plans in the hopes of finding a future agreement.

As chair of the Subcommittee on Oceans, Fisheries and Coast Guard, i have worked hard to address fisheries policy in a consistent basis that is national in scope but flexible enough to allow for regional differences, which is the underlying tenet of the Magnuson-Stevens Act. Therefore I am adamantly opposed to another circumvention of the authorization and fishery management process.

This provision circumvents the Magnuson-Stevens Act and provides North Pacific processors and fishermen special treatment under the law. If we allow this provision to proceed, we will set a national precedent that has the potential to further undermine the regional fishery management system established under the Magnuson-Stevens Act. This provision will send us further down the road of having Congress directly managing fisheries—something Congress expressly decided not to do under the landmark 1976 law. Why should we have an established fishery management system if we only follow it in part of the country?

Under existing law, if a Fisheries Management Council wants to create a safer fishery with fishing quotas, they already have the option of doing so. However, it appears this legislation will only allow fishing quotas if processors get a separate quota system. Because of my great interest in encouraging fishermen's safety, I find it deeply disturbing to make a fishing quota plan approval contingent on a processor quota plan. Essentially, these fishermen are being told that they must continue to fish in the current, unsafe, derby-style manner unless Congress approves this processor quota plan.

The processor quota system proposed in the omnibus would work by requiring that crab fishermen deliver 90 percent of all future catch, indefinitely, to predetermined processors. This effectively divides market share so that processors are guaranteed a certain amount of crabs to process, thereby removing competition from the dock-side price setting process. Would we tell any other business that they had to sell 9 out of every 10 products to only one buyer, regardless of what price is offered? Not in this country.

Another effect of the processor quota program is that it would constrain new businesses from entering and competing in the processing sector. Technically, under this plan a new processor could try to start a business by buying another company's share of processing quota, but at what price? What processor would want to sell their guaranteed market share?

The greatest concern I have, however, is that processor quotas do not improve fishermen's safety or conservation. Fishing quotas can help achieve these goals, but the only purpose of processor quotas is to channel market share and bargaining power into processing companies. We must not forget that the whole point of fishery management is to promote a safe and orderly fishery, and processor quotas do nothing to make a fishery safer or better conserve their fishing stocks. It just lets the big processing companies get richer.

Nevertheless, those who want IPQs often claim that my attempts to simply question this plan is preventing a safer plan from ever happening. This could not be further from the truth. To suggest that IPQ opponents are putting fishermen at risk is completely unacceptable and inaccurate. As long as IPQs remain part of the crab plan, however, Congress must properly address the very serious economic and public policy questions they present.

So let's get to the heart of the matter. The Congress is being asked to grant individual companies a guaranteed share of the crab market, in perpetuity. Should Congress also put similar limits on to whom processors can sell their product? Shall we legislate to which fish markets and restaurants this seafood can then go?

Those who want IPQs claim that processors need these quotas to protect their investment if a fishing quota system is allowed. They think that their processing plants would sit unused if a fishing quota system brings fish in at different times, and that they would lose money. The problem is, all these claims are based on speculation. How do we know what economic harm would occur? Even if processors were to lose money, how do we know that IPQs are the best or only answer?

The fact is, the in-depth studies needed to answer these questions have not been done. The sensitive economic data necessary for these studies have not even been released by processors. What has been offered as the "analysis" for this plan is incomplete and its accuracy cannot be verified through independent reviewers. In short, processor quotas are a very broad and costly response to a speculated problem.

Clearly, I have a lot of questions about this plan, as do fishermen around the country, several branches of the Federal Government, and the editorial boards of at least 11 major newspapers. I have been seeking answers for more than a year, and I have yet to receive satisfactory responses. As chair of the Subcommittee on Oceans, Fisheries, and Coast Guard, I take my fisheries oversight and authorization responsibility very seriously. Proper oversight demands answers to these very basic questions.

Make no mistake—the proposed IPQ plan is indeed precedent setting. Because of this, processors and fishermen around the country are watching our actions in the Senate very carefully. Already processors are pursuing an IPQ system for other west coast fisheries, and some are even advocating processor quotas for the entire country.

Fishermen's concerns about IPQs are justified, according to the Department of Justice. As chart I shows, on August 27, 2003, the Assistant Attorney General's Antitrust Division wrote a letter to the Department of Commerce General Counsel, stating that the IPQ plan would, and I quote, "likely reduce beneficial competition among processors with no countervailing efficiency benefit." They also said that the National Oceanic and Atmospheric Administration, which manages our fisheries, should oppose IPQs. This is a very strong condemnation of the proposed IPQ plan and validates many of the fishermen's concerns.

In addition, as two other charts illustrate, the National Research Council and the General Accounting Office studied the impacts of fishing quota systems on the processing sector in other fisheries, and they found that impacts of other fishing quota plans on processors was inconclusive; some processors were adversely impacted while other processors clearly benefited. As such, these studies determined that there is no compelling reason to authorize a processor quota system. They recommend that if a fishing quota system does result in economic damage for processors, then more directed remedial action should be pursued based on what harms actually occur.

Most notably, however, the administration has gone on record as saying that they do not support IPQs as proposed for the crab plan. Dr. Bill Hogarth, NOAA's Assistant Administrator for Fisheries, testified at the October 22 fisheries management hearing which I chaired, and he stated that the administration only supports the idea that processors could buy fishing quota—not processing quota—if a fishery management council deemed it appropriate. It is clear that the administration does not support the IPQ system.

Beyond my grave concerns with this language, I also have many concerns about the language added only days before the House voted on this package, that threatens to send New England groundfish management into a tailspin. This is a fishery that has existed for more than 400 years, and has struggled to survive through years of significant reductions in fishing.

In 2001, several environmental groups sued the administration for not following the rebuilding requirements of the 1996 Sustainable Fisheries Act. They won this suit, and ever since this ruling the U.S. District Court for the District of Columbia has been overseeing the creation of a new groundfish management plan that adheres to the law and will help this fishery—which has already made substantial recovery in the last several years—be further restored. On November 6, 2003, the New England Fishery Management Council proposed a new plan, known as "amendment 13," for this fishery. The Secretary of Commerce is now in the final phases of improving this plan before it is approved and implemented this coming May.

This plan, as proposed, incorporates a great deal of input from fishermen and fishing communities throughout New England, and many members of the industry support the key elements of this plan. It is true that, as originally proposed, the plan would have shifted much of the effort toward Massachusetts and have drastic economic impacts on Maine, and that is why I have secured commitments from the Secretary of Commerce to ameliorate these impacts in the final version of the plan.

For these reasons, New England groundfish managers have made progress in moving fisheries management out of the courtroom. This whole process, however, would likely be derailed by the language in this bill. Instead of allowing the Secretary to complete work on a plan that follows the law and helps fish and fishermen, this language would prevent the administration from spending any money on implementing the new plan.

In fact, this language would outlaw any plan from being implemented, other than a specific set of interim regulations that were put in place while the new plan was being developed. The problem is, these interim regulations do not follow the conservation requirements of the Magnuson-Stevens Act, they unfairly keep the small-boat groundfishing fleet throughout New England at an economic disadvantage, and they expire in a few short months.

If this language passes, it will be illegal for the Secretary of Commerce to follow the very requirements of the Magnuson-Stevens Act. This language does not lift the requirements that this Federal fisheries law be followed, but it simply makes it impossible for the law to be followed and makes it impossible for the Secretary to assist in its implementation even if it is to ensure the law is being followed. If this passes, Secretary Evans could be held in contempt of court, and the future of the New England groundfishery may revert to court order, indefinitely.

Moreover, according to this language, the only regulations that could be implemented maintain crippling cuts on the small boat, inshore groundfishing fleet. This sector of the groundfishery forms the economic backbone of small coastal communities throughout New England, and many of these fishermen have worked diligently to contribute to the new management plan that the Secretary is now refining. The small-boat sector employs thousands of independent fishermen and fishing-related businesses throughout New England, and most of them do not support this language—and for good reason.

Proponents of the rider try to make a compelling case that the Secretary's proposed rebuilding plan is flawed because it relies on unreasonably high fish population rebuilding goals and that the groundfish stocks are already rebuilding, so a new plan is not needed. Both of these statements are true, and that is why I have been working with the administration to refine the council's plan in ways that better take these facts into account and asked it to conduct an independent socioeconomic analysis of the potential impacts of the new regulations. Also, as chair of the subcommittee with oversight of fisheries I am actively working to address the problems with the underlying law and change fisheries management so our nation truly benefits. I will be pushing a reauthorization of the act during this session of Congress that will address the existing problems in fisheries management.

The bill language in question does nothing to change these facts, and it does nothing to factor them into a more reasonable rebuilding plan or change the underlying law. The fishing rules that this language would in fact allow simply try to ignore the reality that rebuilding targets do exist. This language will not lead to any management system that complies with the law, and it will not change the reality facing our small-boat groundfishermen. Let me be clear: this language risks putting the management of the New England groundfish industry back before the court, allowing the judge to make any and all subsequent management decisions.

In short, this language undercuts years of hard work, sacrifice, and compromise that have gotten the New England groundfishery back on track. It forces the Secretary of Commerce to break the law, and it risks further damaging the hardworking men and women who want to continue to move forward on groundfish sustainability. This language risks harming Maine, New England, and our entire Nation's fisheries policy. If this provision becomes law it has the potential to lead to the downfall of the council-based fishery management process, and risks ending a way of life that has sustained New England fishermen for centuries.

The omnibus contains other undesirable fisheries policy changes, such as authorization language for Alaskan rockfish processor quotas and Aleut corporation quotas. These other two quota programs have never been presented to the authorizing committee in any form—nor have they gone through the Fisheries Management Council process—so I must object to fisheries policy authorization language that has circumvented all proper review channels.

Because of these highly objectionable authorizations, I see no other choice than to oppose any bill that contains these provisions. I urge those of my colleagues who have an interest in proper fisheries management and sound economic policy to oppose this as well. We, in Congress, are entrusted with the great responsibility to thoughtfully review such policy matters; we owe no less to our fisheries constituents. Those that support this bill would be responsible for creating a cartel that would effectively control an entire market, and for undermining the basis of council-based fisheries management in the United States as well as the very foundation of our Nation's free market system.

I ask unanimous consent to print the above-referenced charts in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

The Department supports implementation of a new fishery management plan that would end the "race to fish" inherent in the current derby-style management plan. Under the current derby-style program, the season ends as soon as the total allowable catch has been fished, producing an undesirable "race to fish" among harvesters. The race to fish is economically inefficient for both harvesting and processing and likely dangerous to the participants. The Department therefore recommends that NOAA support individual fishing quotas ("IFQ") for harvesters, a reform that will end the race to fish. Provided that IFQ are easily transferable, the gains in efficiency from ending the race to fish—reducing overcapitalization and improving safety—are likely to outweigh the harm of any loss of competition among harvesters. The Department recommends that the plan allow easy transferability of IFQ shares; otherwise the incentive for market participants to make efficient investment decisions will be reduced.

The Department further recommends that NOAA oppose individual processor quotas ("IPQ"), because IPQ will likely reduce beneficial competition among processors with no countervailing efficiency benefit. This lost competition could deter the development of new processed crab products, reduce the incentives for processors to make efficient investment decisions and reduce welfare for consumers of processed crab products. While harvester quotas should eliminate the harmful race to fish, processor quotas are not justified by any such beneficial competitive purpose.

If the goal of using IPQ is to compensate processors for overcapitalization, we urge NOAA to consider advocating more direct solutions, such as a program to buy excess processor equipment. We also understand that there are concerns with social goals such as preserving jobs in historic fishing villages. To the extent NOAA agrees with these goals, we recommend it consider advocating more direct solutions.

The Department also urges NOAA to oppose any form of sanctioned price arbitration. Allowing an arbitrator, rather than the market, to set price may distort the incentive of processors and harvesters to make efficient investments. Further, processors and harvesters must be cautious not to use the arbitration program as a way to agree on price with their competitors, which could violate the antitrust laws.

Mr. FEINGOLD. Mr. President, I will oppose the omnibus appropriations bill that the Senate is voting on today. It is the latest example of the annual breakdown in the congressional appropriations process. Once again, instead of considering appropriations bills individually, the Senate today is voting on a massive spending bill that includes many—in this case, seven—of the annual appropriations bills.

This process just invites the kind of problems—unauthorized spending, special interest provisions and legislative riders that go against the will of a majority in Congress—that we see in this Omnibus bill. Take, for example, the Bush administration's proposed sweeping changes to regulations governing overtime pay for white-collar workers. These proposed changes would weaken overtime protections for these workers by changing the way that eligibility for overtime is determined. Both the House and the Senate are on record in favor of a provision that would block these changes from going into effect. Nonetheless, that provision was dropped in conference after the administration exerted tremendous pressure on those negotiating the final bill.

Similarly, language that would have prevented the Federal Communications Commission from moving forward with its plan to loosen the national cap on television ownership was badly weakened. And, of course, there are numerous bad provisions in the bill, including one that would create a voucher program in Washington, DC, public schools and another that would prevent country of origin labeling on many agricultural products.

I wish I could support this bill as there are a few worthy things in it, such as funding for global AIDS programs and for the rural AED Act, a program I created with Senator SUSAN COLLINS to increase access to defibrillators in rural areas. I am pleased that the bill contains language I fought for that would require Federal agencies to report on their purchases of foreign-made goods. As manufacturing jobs continue to disappear across the country, particularly in my home State of Wisconsin, the Federal Government should be doing everything it can to support American manufacturers. I am also pleased that the bill includes a provision I fought for to prohibit the Department of Veterans Affairs from enforcing its policy of prohibiting VA employees from taking proactive steps to let veterans know about the health care benefits for which they may be eligible.

Those provisions do not outweigh the many bad ones in this bill, however. This is simply no way to fund the Federal Government. I regret that this "must-pass" bill is being used as a platform for bad funding decisions and for bad policy decisions, many of which override the will of a bipartisan majority of Congress. We need to go back to taking up and passing appropriations bills one by one, rather than throwing everything but the kitchen sink into a single, bloated piece of legislation.

I am deeply disturbed that the Omnibus appropriations bill that is before the Senate today does not include a provision previously approved by the Senate that would have prevented the Bush administration from rewriting Federal labor law to roll back regulations that guarantee millions of workers overtime pay.

I am dismayed that a small number of Members of Congress and the administration were able to run roughshod over the will of a bipartisan majority of the Senate and the House to resuscitate the administration's ill-conceived overtime proposal. And I regret that the administration resorted to veto threats and backroom negotiations to save a proposal that will rob millions of workers of badly needed overtime pay.

This is the latest in a series of assaults on working Americans that have been perpetrated by this administration. Right out of the gate, the President made it his first legislative priority to overturn a Federal ergonomics standard that was more than 10 years in the making. In addition, this administration has launched a campaign to aggressively contract out Federal jobs, systematically dismantle the Federal civil service system, gut worker protections, and undermine collective bargaining rights.

In March of last year, the Bush administration proposed a regulation that builds upon these efforts to tear down worker protections by denying millions of Americans vital overtime pay.

This proposed rule would change the process by which a worker can be declared to be exempt from the wage and hour protections of the Fair Labor Standards Act—FLSA, thus opening the door to denial of overtime benefits to more than 8 million workers who currently are entitled to this extra pay for working more than 40 hours per week.

In essence, this rule, that apparently will move forward despite broad opposition from the Senate and the House, will create a larger force of employees who can be required to work longer hours for less pay. This could also mean fewer opportunities for paid overtime for the workers who would remain eligible for it, and fewer new jobs for those looking for employment.

I am deeply disturbed that, in its attempts to sell its new rule, the administration actually provided tips to employers who wanted to get around paying overtime to 1.3 million employees who would become eligible for benefits under the new rule. The administration advised employers to require employees to strictly adhere to a 40-hour work week, to raise employees' salaries to the $22,100 annual threshold to make them ineligible for overtime pay, or to decrease hourly wages so that those plus overtime wages equal the employee's original salary.

Time and again, the administration has said that this rule is about modernizing overtime regulations and not about taking overtime away from workers. But the administration's actions run counter to their words. The administration has fought tooth and nail to block the Harkin language, which simply states that any new overtime rule cannot take overtime away from workers who are currently eligible for it. And the Administration is offering advice to employers on how to avoid paying overtime. From these actions, it is pretty clear to me, and to millions of workers, that the goal of this proposed rule is to make fewer workers eligible for overtime benefits and to require more employees to work longer hours for less pay.

Who are the 8 million workers who will be affected by this rule change? According to the Economic Policy Institute—EPI, 257 "white collar" occupational groups could be impacted. EPI did a detailed analysis of the effect of this rule on 78 of those occupational groups, and found that 2.5 million salaried employees and 5.5 million hourly workers would lose their overtime protections under the proposed rule. That is less than half of the occupational groups that will be covered by this rule change.

By broadening the FLSA wage and hour exemptions, the administration is seeking to deny overtime benefits to a wide range of workers, including police officers, fire fighters, and other first responders, nurses and other health care workers, postmasters, preschool teachers, and social workers, just to name a few.

I am deeply troubled that the administration would propose a rule that would deny overtime benefits to the people who put their lives on the line each and every day to protect our communities and to those who work in health care professions, which already face severe staffing shortages.

I am also troubled that the administration has pulled out all of the stops to make this rule a reality, despite broad opposition from members of both parties. I regret that the Omnibus appropriations bill—and the process in which it was drafted—has been used as a vehicle to move this rule forward. With so many long-term unemployed workers and with others working more than one job and depending on overtime just to make ends meet, it is unfortunate that the administration dug in its heels on a proposal to deny overtime to many of those who need it most.

Mr. AKAKA. Mr. President, I rise to speak on the conference report to the Omnibus appropriations bill that the Senate has been considering. Without question, we have a duty to ensure the continuing operations of our Government, and the package before us would enable this for a majority of the agencies and programs of the U.S. Government. I thank the appropriators on both sides of the aisle, including the senior Senator from Hawaii, Mr. INOUYE, for their efforts in crafting this massive funding package, and particularly for their agreement on several provisions significant to the people of Hawaii that will meet urgent needs in transportation, education, agriculture, and juvenile justice. For example, funds included for the Juvenile Justice Information System will significantly enhance efforts by law enforcement officials and child-serving agencies in Hawaii to address the root causes of juvenile criminal behavior. This promises to have a tremendous impact on Hawaii's efforts to address juvenile crime.

I am also pleased that this package includes $1.5 million to initiate programs under the Excellence in Economic Education Act, to increase financial and economic literacy in our country. I also am a strong proponent of the $100 million in funding for the Mentoring and Mentoring Children of Prisoners programs, to ensure that young people in Hawaii and the Nation have access to the support, guidance, and assistance they need to help them through life's difficult and varied situations. These are a couple of the many initiatives that I feel very strongly about and worked on with my colleagues during the fiscal year 2004 appropriations process.

However, on balance, the flaws in this Omnibus package overshadow its favorable provisions. It is important to remember that we are here to serve in the best interest of our Nation. While differences in philosophy will always exist, as Members of Congress, we still have an obligation to work together, to look beyond those differences and find solutions. I do not believe that the Omnibus contains solutions that best serve all who live in our great Nation.

For example, as the ranking member of the Senate Governmental Affairs Financial Management Subcommittee, and the Armed Services Readiness and Management Support Subcommittee, I object to the elimination of two key measures from the Senate-passed Transportation-Treasury-General Government appropriations bill that would have improved fairness and cost-efficiency in Federal contracting. The Omnibus deletes a provision which would promote equity by granting Federal workers the same rights as private contractors to appeal decisions to contract out Government jobs. The Omnibus also strikes a requirement for minimal cost savings before decisions are made to contract out Federal work. To ensure accountability and transparency, Government contracting policies must achieve the best return on the dollar and be fair to Federal workers. These two goals are complementary.

The measure before us today fails to ensure diversity of our airwaves and deprives millions of workers of their right to overtime pay. In both cases, the other body and the Senate were in agreement on how to rectify these matters. However, the conferees, in working with the administration, determined that there should be a limit on the Federal Communications Commission's ability to grant licenses to only those stations that reach more than 39 percent instead of 35 percent of a market. In addition, the package before us will allow the U.S. Department of Labor to continue working on and finalizing its proposed rule to modernize and redefine exemptions from the Fair Labor Standards Act, which many employees have said will take away their right to be fairly compensated for work performed above their normal work schedule. The majority in Congress rejected the DOL proposal and urged the leadership to maintain the Senate approved provision that would have prohibited the DOL from using funds to promulgate or implement its proposed rule.

The conference report fails not only in the case of worker's rights and consumer rights, but also in consumer safety. During consideration of the Agriculture appropriations bill, I offered an amendment that would have prohibited the U.S. Department of Agriculture from using any funds to approve for human consumption any meat products from downed animals. This amendment was agreed to in the Senate. While the other body defeated a similar amendment offered by Representative GARY ACKERMAN of New York, many of his colleagues later indicated that they were unable to vote that day and would have supported his amendment. The support would have been enough to accept the amendment. It is unfortunate that Congress, in earlier legislative vehicles, and the conferees in this package, chose not to be proactive in protecting our food supply. For more than 12 years, I have been working to address this matter, and my amendment was the most recent example of that. While the USDA is making some strides to now address mad cow disease in cattle, we need to codify their efforts and expand the ban to all downer livestock that may pose a risk to human health, the importance of which was highlighted recently with the discovery of a diseased downer cow in the Pacific northwest.

Related to the Commerce Department, the provisions funding ocean exploration activities, marine aquaculture development, and coral reef research are disappointing. At the proposed levels, our country will not be able to promote an economically viable and environmentally feasible aquaculture industry to address the $7 billion seafood trade deficit. Activities exploring the deep ocean, one of the last scientific frontiers on Earth, need to be a greater priority in order for us to properly manage and protect these fragile marine communities. I am also concerned that an estimated 25 percent of the world's coral reefs have been lost and at least 30 percent are threatened by human activities. Funding levels in this conference report are insufficient to support research and monitoring activities for coral reefs, one of the most biologically diverse ecosystems on Earth that is worth hundreds of billions of dollars in marine services for our country and is certainly very important for Hawaii.

Although important education priorities are provided for, this conference report continues to fall short on major programs, particularly those that help disadvantaged and special education students. Public schools in every State are struggling to comply with the No Child Left Behind Act. However, budget shortfalls at the State level resulting from a fragile economy have restricted the resources available to our classrooms. Our failure to fully fund the Federal commitment Congress made when it enacted the No Child Left Behind Act further strains the situation and sets even more schools up for "failure" and more teachers unable to become "highly qualified." The same goes for the commitment that we made even earlier in our history to fund the Federal portion of the Individuals with Disabilities Education Act. It may have been many years since I led a classroom as a teacher or a school as its principal, but I remember the support that we needed to ensure that all of our children receive a top-notch education.

Everything that I have recounted here—sentiments echoed by several of my colleagues—leads me to conclude that I am unable to support the package before us, in its current form. I urge the appropriators in both bodies of Congress to improve this package so that it can be something that all of us can support.

Mr. BIDEN. Mr. President, Americans believe in fair play: the right for everyone to have his say, the opportunity to get a job and make your own way in the world, a fair wage for a day's work.

This is not just idealism—we figure we are all better off if the system we live in is open and fair.

That belief in fair play is the foundation of this Senate and indeed of our constitutional system itself.

My father worked hard and he taught me that fairness is our most fundamental value. He taught me that we always have to stand up against the abuse of power at every level. Whenever someone uses their advantage, be it wealth, education, size, strength, whatever it may be, against someone else, it is wrong, and it goes against everything we stand for, everything we are as a nation and a people.

Not just the process is flawed. The product of that process, the Omnibus appropriations bill before us today, is flawed, too. It is unfair.

That back-room, unrepresentative process has produced legislation that deserves to be defeated, not just because of the way it was cobbled together, but because of what will happen if it becomes law.

Here is one result of that process: millions of men and women who will lose their right to time and a half overtime pay, a cornerstone of our workers' rights for over half a century.

Both the House and the Senate, with bipartisan majorities, voted last year to block new Labor Department rules that weaken overtime protections. But this bill cancels out that decision, allowing those rules to go forward.

The latest news from the jobs front—that hundreds of thousands of Americans have given up looking for work after we have gone through 3 years of job losses—sent a shock through financial markets. It should worry us all.

Now is not the time to be cutting the pay of those Americans who have jobs. But that is just what weakening overtime pay will do.

While recent economic news has been positive, there is little hope for sustained, healthy economic growth without solid, good-paying jobs. Consumer confidence and consumer spending—the keys to our economy—ultimately depend on Americans' confidence that they have a secure job, a job that pays a fair wage for a fair day's work.

For over half a century, American workers have known what that meant—a 40-hour workweek, and time and a half if you worked overtime. You could count on that extra pay in exchange for the extra burden of working more than 40 hours a week.

Many workers often have no choice about working overtime—it is up to their boss. But if they have to work those extra hours, their employer is required to pay them time and a half. This has been a cornerstone of the social contract between labor and management, between workers and employers.

But despite the key role of the 40-hour workweek, despite the widespread reliance on time and a half pay for work past those 40 hours, this administration has proposed radical changes in the regulations governing overtime pay.

When I spoke here as a cosponsor of Senator HARKIN's amendment here on the floor of the Senate back in September, we heard from some supporters of the rule changes that they would not decrease the number of workers eligible for overtime pay.

But if there was any doubt about the real motivation behind these regulations, just look at the regulations themselves. They provide explicit instructions to employers on methods they could use to avoid increasing the pay of employees who, we are told, will become eligible for overtime pay.

So all of those workers we were told would benefit, who would "automatically" qualify for time-and-a-half overtime pay, if their pay is under $425 a week, could easily see not one dime of new pay.

Employers are coached on ways to avoid any new costs and still comply with the regulations. So don't tell me this is going to add to workers wages—that claim is refuted in the regulations themselves.

And for other workers, with pay over that threshold, the regulations clearly threaten to take away overtime protections. They want to make it easier for employers to reclassify as many as eight million hourly workers who now get overtime pay, to make them ineligible for overtime pay.

Right now, if you are not "white collar"—working in management, essentially—your boss has to pay you time and a half for all the work you do over 40 hours a week. The idea is that more highly educated workers, who participate in management, who have significant authority over the workplace, are more properly classified as salaried, not hourly workers. They get a fixed amount of pay, no matter how many hours they may put in a week.

Hourly workers, on the other hand, who do not manage the conditions under which they work, who have less to say about how the workweek is organized, must be compensated if they work more than the basic 40 hours. That has been the definition of a fair day's work for a fair day's pay for more than half a century, and its basic fairness still makes sense today.

But the administration's new regulations would make it easier—would actually create an incentive—for employers to classify workers who have little advanced education and little or no authority, to classify those workers as white-collar workers.

Overnight, under these new regulations, millions of workers could lose the right to overtime pay. These rules are designed not only to make it easier to reclassify workers, but to make it pay for employers who do so. They will save money, since they will no longer be required to pay workers the time and a half rate that they are now guaranteed.

No change in the number of hours they could be required to do, no change in their education, no change in their responsibilities—just a change in the regulations in Washington, and they are out overtime pay.

That is one of the many reasons this legislation should be defeated, but it is not the only one.

Right now we have a law on the books that makes sure everyone who buys a gun is checked to see if they have a criminal record—or if they are on our terrorist watch list.

Those records are kept for 90 days—long enough to find out if a gun was sold to a criminal or terrorist, someone who initially may have appeared to have no criminal record or other "red flag" that would signal he is a bad guy.

Ninety-seven percent of the times that the reporting system discovered that a bad guy—a terrorist, a wife-beater, whatever—had mistakenly been sold—a weapon, it took more than 24 hours to figure it out. Destroying those records in 24 hours will destroy our chances of catching bad guys.

The change in this legislation will mean that 97 percent of the criminals or others who are mistakenly sold a weapon will go undetected by a system that was supposed to make us safer. Does the public know about this? I don't think so. That is because of the closed-door, backroom deal making that cobbled this massive bill together. This provision has never previously been considered by the House or the Senate.

Bad process, bad product.

And that is true for what the leadership did with the issue of media ownership.

Last year, the FCC decided to abandon its long-standing limitation that said no company or person could own television stations reaching more than 35 percent of the Nation's viewing audience. The FCC raised that limit to 45 percent, threatening harmful consolidation among media outlets that could undermine competition and diversity among broadcast voices.

The FCC's actions were met with consternation from all sides of the political spectrum, and both the House and Senate voted with bipartisan majorities to forestall this change. But the will of the Congress was cast aside.

The leadership of the Congress—mind you, not the Members of the House and Senate—under pressure from an administration eager to take care of large corporate interests, removed the 1-year restriction on the FCC's changes and replaced it with a new permanent 39 percent cap.

The list of bad provisions goes on. When we wrote the farm bill in the last Congress, with the support of both parties, we included a requirement that when we shop at the grocery store, we know what country our produce and meats come from.

That rule—requiring labeling that indicates the country of origin—was to go into effect this year. But this legislation delays that rule for 2 years.

It rewrites the farm bill to delay that rule—something neither the House nor the Senate voted to do.

Since that change was put into this bill, we have now found out that mad cow disease made its way into our country from Canada. Not a major cause for alarm, but certainly a lot of folks would now want to know where their beef comes from. But it will be 2 years before they get that information, if this bill passes.

There is one other thing that has to be mentioned here today. We have come through the last 3 years, including several months of strong economic growth, but we are still not creating new jobs.

For the first time since the Great Depression, we have gone 3 straight years without creating a single new job. Not one. The unemployment rate has come down recently, but that is because the job picture is so bleak that over 300,000 people just stopped looking.

Long-term unemployment is a much bigger problem these days, especially in our hard-hit manufacturing sector.

The kinds of changes we have gone through in recent years means that many of those jobs just won't be coming back. Those that will come back will return slowly. That leaves hundreds of thousands of Americans running out of their long-term unemployment benefits.

But we went out of session last fall and let the extended unemployment compensation program just expire, at the worst possible time. And we come back today with this appropriations bill, leaving that program expired and those Americans without benefits.

There are now 2.4 million fewer jobs overall than there were when the last recession began. Every month, about 100,000 more workers exhaust their existing benefits. The most recent report of people dropping out of the job hunt altogether is all the proof we need that long-term unemployment is a key feature of this economy right now.

This is not the time to let the program expire, but this bill, which covers so many programs and so many policies in so many parts of our Government, fails to address this problem.

That is unacceptable.

For the bad policies that are in it, and for the good policies that have been dropped from it or simply ignored, I urge my colleagues to join me in voting against cloture on this bill.

This conference report continues the administration's attempt to undo the equation we put in place when I wrote the 1994 Crime Bill: more police equals less crime. The conference report cuts COPS by 24 percent, and cuts the Local Law Enforcement Block Grant program almost in half. These are proven programs that help local police departments beef up their staffs and modernize their equipment, and the cuts couldn't be coming at a worse time.

There is only $756 million for COPS in the conference report, a drastic cut from the fiscal year 2003 level of $978 million. COPS' core program—the initiative that helps local police departments hire new community police officers—is funded at just $120 million, a 30-percent cut from last year and a far cry from the late nineties when the hiring program regularly received over a billion dollars per year.

These cuts are shortsighted, ill-conceived, and I fear they will significantly hurt local law enforcement's ability to fight crime. In a time of color-coded alerts, a rising murder rate, and an FBI increasingly focused on counterterrorism and away from violent crime, we are inexplicably asking the men and women of law enforcement to do much more with much less.

When asked to justify this approach, the administration responds that Federal resources for "first responders" are way up. Respectfully, that simply is not an adequate answer, and it reflects a fundamental misunderstanding of the needs of local law enforcement. Defending the homeland against a terrorist attack and preventing a woman from being raped are simply two different problems that require different solutions and different sets of contributions from the Federal Government.

I think Massachusetts Public Safety Secretary Edward Flynn is on the right track when he says, "terrorism is the monster that ate criminal justice".

We need to dedicate sufficient resources to fight international terrorism and local crime at the same time, but this conference report falls far short in this regard.

I recently received a letter from the International Association of Chiefs of Police where they express "grave concern" over the funding levels for COPS and the Local Law Enforcement Block Grant contained in this conference report. In their letter, the IACP states their "belief that at this crucial time in our history, we cannot afford to reduce the effectiveness of our nation's state and local law enforcement agencies by cutting vital federal assistance programs."

The Nation's police chiefs are not alone in their concern. According to the U.S. Conference of Mayors:

> too many families are still being ravaged by illegal drugs, too many citizens and law enforcement officers are put in danger due to drug and gun related crimes, and property and violent crimes are still a major issue in too many communities.

They also strongly oppose the cuts in this conference report.

The National Association of Police Organizations wrote me to say that this conference report "does not sufficiently address the needs of America's police officers in their dual fight against terrorist threats and domestic crime." I cannot support the cuts this conference report proposes, and I encourage my colleagues to listen to their mayors and police officers before casting their vote.

Mr. MCCAIN. Mr. President, because of time constraints, my comments will be brief. I will, however, make extensive remarks about the omnibus bill at a later time.

We are nearly 4 full months into fiscal year 2004 and we are still without 7 of the 13 annual appropriations bills. For the second time in less than a year, we are considering a massive omnibus appropriations bill, with this one totaling a whopping $820 billion. Sadly, this conference report is loaded with over $11 billion in special interest pork-barrel projects and legislative riders that have no business in this or any other spending bill.

This omnibus appropriations bill has received considerable and justifiable criticism in the press and it should serve as an alarming wake up call. We are facing a $500 billion deficit. That's half of a trillion dollars—the largest ever. And what do we do when faced with such a problem? We spend even more. An article in Sunday's Washington Post pointed out what really drives the agenda here on Capitol Hill. The article states:

> Today, the country still faces serious problems—oil dependence, child poverty, new gaps in health care coverage, deteriorating rural communities and failing public schools. One doesn't have to be an advocate of big government to believe Congress has a role in crafting pragmatic solutions to these problems. Yet as Congress returns this week, none of these issues is on the agenda. What is on the agenda? Why, things Congress has always excelled in: dispensing pork barrel projects and using taxpayer's money to reward supportive lobbies.

Additionally, an editorial in today's Wall Street Journal states:

> The bottom line is truly shocking. Passage of the omnibus would raise total discretionary spending to more than $900 billion in 2004. The editorial goes on to note that this increase should not be blamed on the war. It states that, At 18.6 percent, the increase in non-defense discretionary spending under the 107th Congress, 2002–2003, is far and away the biggest in decades. In 2003, total Federal spending topped an inflation-adjusted $20,000 per household for the first time since World War II. Let me point out just a few of the things that are included in this bill: $450,000 for the Johnny Appleseed Heritage Center in Ohio; $200,000 to the Rock and Roll Hall of Fame and Museum in Cleveland, OH for the Rockin' the Schools education program; $175,000 to paint a mural on a flood wall in a city in Missouri; $325,000 for construction of a swimming pool in Salinas, CA.

In addition to literally thousands of earmarks, this conference report contains major policy changes. Some of these provisions include legislative language authorizing the Bering Sea and Aleutian Islands crab fisheries rationalization plan, which would divide 90 percent of that crab market among just a small group of processors. Fishermen could only sell to those processors and only those processors would sell to consumers. This proposal has not been considered by the authorizing committees of jurisdiction, nor requested by the Administration.

Another legislative item included in this bill include media ownership provisions to undo a June 2 FCC regulation. Further, language is included mandating that the background check approval records issued after the purchase of a firearm be destroyed within 24 hours instead of the current policy of 90 days. This omnibus legislation also contains an environmental rider meant to benefit Briggs and Stratton, a major manufacturer of small engines. There is also language that redirects $40 million for construction of a cargo terminal at the Port of Philadelphia that is designed to support high speed cargo vessels for a private venture. Today, not only do the vessels not exit, but their design is based on unproven technology.

We have to change the way we do business around here. Through our wasteful spending practices, we have succeeded in tying a millstone of debt around the necks of future generations of Americans. Today, we have an opportunity to make serious and substantial change in the way we treat the American taxpayer. Let's rise to the challenge. Let's not squander this opportunity. I urge my colleagues to vote against cloture on this horrendous piece of legislation.

### CONSTRUCTION OF A PORT OF PHILADELPHIA MARINE CARGO TERMINAL

Mr. SPECTER. Mr. President, I rise today to engage in a brief colloquy with the distinguished chairman of the Appropriations Committee regarding the designation and use of funds from the National Defense Sealift Fund for the construction of a marine cargo terminal in the Port of Philadelphia. These funds were previously made available through prior appropriations bills. Specifically, these funds are to be used to complement funds being made available by State and local authorities in Pennsylvania and New Jersey for the construction of a new, dedicated, state-of-the-art marine cargo terminal for use by FastShip, Inc., in Philadelphia.

These funds were originally designed to provide for vessel loan guarantees for the construction of high-speed vessels capable of providing additional sealift capacity consistent with the existing vessel Title XI loan guarantee program of the Maritime Administration. As part of this program, certain equipment and infrastructure items can also be included in the scope of the loan guarantee that would enhance and facilitate the use of the vessels to be constructed. Some of the funds were to be used for equipment needed to load and unload the vessels and for state-of-the-art information technology and container and terminal security at FastShip's marine cargo terminal.

Specifically, these funds were intended to be used to support guarantees for the construction in a U.S. shipyard of vessels for FastShip to establish a high-speed cargo service operating out of a new, state-of-the-art terminal in the Port of Philadelphia. These vessels will now be constructed without the benefit of this loan guarantee program, leaving a funding shortfall for infrastructure improvements. Since the amounts to be made available through the vessel loan guarantee program for infrastructure improvements needed to complement state and local funding for the terminal are now not forthcoming, the reallocation of these previously appropriated funds specifically for infrastructure at the FastShip marine cargo terminal is consistent with, and is a replacement for, the source of funding that is no longer available. The Department of Defense should direct these funds through the Philadelphia Regional Port Authority to ensure that these funds are made available for this purpose.

Mr. SANTORUM. Mr. President, I rise to join the senior Senator from Pennsylvania, Mr. SPECTER, to reinforce the importance of this program. The development of high-speed sealift capacity is critical to national security and efforts like the one you have described are key to attaining this important objective.

I would inquire of the Senator if my understanding of the use of these funds is correct and that the reallocation of these previously appropriated funds specifically for infrastructure at the FastShip marine cargo terminal is to be directed through the Philadelphia Regional Port Authority to ensure that these funds are made available for this purpose.

Mr. SPECTER. I thank my colleague for his inquiry and would respond that his understanding is correct. Further, I thank my distinguished colleague for his support of this important project for the Port of Philadelphia and indeed for the development of enhanced sealift capability that will provide the necessary support for our service personnel who serve our country overseas.

Mr. SANTORUM. Mr. President, thank you for the clarification regarding the purpose and use of these funds for a state-of-the-art marine cargo terminal in Philadelphia. I reiterate, this is an important project not only for the economic activity that will be generated for the Port of Philadelphia but also for the advancements in fast sealift in support of our national security interests.

Mrs. MURRAY. Mr. President, today I am voting to help Washington State restart our economy, create new jobs, and invest in our future by voting to move this Omnibus appropriations bill forward.

I am deeply angry that the White House and the Congressional Majority are trying to use this must-pass bill to sneak through some atrocious policies that the Senate has already rejected, but I know that this bill is not the last word.

Since the first days of this administration, I have fought attempts to threaten workers, undermine our environment and weaken consumer protections, and I'm not going to stop now.

While I continue my fight against the bad things that are in this bill, I will not let my State lose out on the many good things I worked to include. In fact, my experiences over the past few weeks have shown me just how big a difference these investments will make throughout my State.

I have spent the past month meeting with people in every corner of Washington—from teachers and students in Pasco, to farmers in the Skagit Valley, veterans in North Central Washington, and seniors in Aberdeen and Ballard. I sat down with the people who grow our produce, run our ports and operate our public utility districts. Together we celebrated our victory in landing the Boeing 7E7 and in opening new centers for research and tourism.

No matter where I went or with whom I met, one thing was clear. In every corner of Washington, neighbors are coming together to create jobs, rebuild our economy and create a better future. They are working to help our children, assist our seniors, and support our veterans and military families. They are working hard to turn things around, and they need the investments this bill will make in our schools, our infrastructure, our economy, and our people.

Washington State is talking about moving forward. We have been hit hard by the recession and lost 75,000 jobs over the last 3 years, but we are making progress. We had some great news in December when Boeing decided that Washington workers would build the 7E7, the next generation airliner. We are moving forward on transportation investments that will create jobs and improve our productivity, economy and quality of life. And we're moving forward with new growth industries from biotechnology to wine.

All across my State, I heard the message loud and clear. Washingtonians want to get our economy moving again and create new jobs. They're concerned about our men and women serving in the Armed Forces in Iraq and Afghanistan and throughout the world, and want to make sure we provide for our veterans and military families. So, as we begin the second session of the 108th Congress, I'm working here in the Senate to help us move forward, and it starts with our economy.

I am not satisfied with the economy and particularly job creation in my State. I am disappointed that this administration's economic policy created just 1,000 jobs in the month of December while hundreds of thousands of unemployed workers abandoned job searches altogether.

I am outraged that the majority in Congress and the administration allowed 85,000 unemployed workers, including 7,500 in Washington State, to lose unemployment compensation just before the holidays. Over the next few weeks, an additional 37,000 unemployed workers in Washington State will lose their extended unemployment benefits.

I am not satisfied with the Omnibus Appropriations measure now before the Senate. The fiscal year started more than 3 months ago, and we still haven't finished the important business of passing appropriations bills to fund some of the most important functions of our Government.

We are unanimous in support of our troops fighting the war on terrorism, yet we haven't passed the VA-HUD bill with its critical increase in funding for veterans' health care.

The President travels the country celebrating the second anniversary of the No Child Left Behind legislation, but the funding we fought so hard to secure is still not at work on behalf of our kids. The money contained in this bill is not nearly enough to allow schools to make the reforms needed for our students to succeed.

Important transportation projects are stuck in neutral—jeopardizing their ability to move forward and create construction jobs now and to support long-term economic recovery. We should be talking about reauthorizing the 6-year highway bill rather than finally approving the long overdue funding measure for one fiscal year.

As a member of the Appropriations Committee, I am outraged that the hard work of the committee has been delayed and compromised by the Majority and the administration who are jamming Senators to force through bad policies.

I want to commend Chairman STEVENS and Senator BYRD for their hard work to pass the appropriations bill. We are here to debate an omnibus appropriations bill that the Appropriations Committee worked so hard to avoid.

I understand why many of my Democratic colleagues have chosen to oppose this bill. I share their anger at the administration's role in this process and our Republican colleagues' willingness to abandon issues like overtime protections that they voted for right here on the Senate floor. I seriously considered voting against this measure.

But I am a realist, and I am passionate about the needs of Washington State. People need jobs, transportation improvements need to move forward, veterans need health care, our students need support, and that is what I am voting for today.

As awful as some of the administration-backed provisions in this bill are, defeating the Omnibus appropriations bill will put our economy, our schools and our health care system at even greater risk.

It is a horrible choice the majority is forcing us to make. But today, I am voting for the jobs, security and growth that this bill will bring to the people of Washington State. I will vote for cloture and final passage of the Omnibus because I know my State needs the investments in this bill, and I do not want to deny or delay important Federal assistance to my State.

Before I close, I want to talk about some of the harmful and hurtful provisions that Republicans have inserted into this bill—particularly those targeting workers and consumers.

The only reason they attached them to this must-pass bill is because they know these horrible policies cannot stand on their own. In fact, with my support the Senate has defeated the administration's plans to erode overtime pay for workers and to increase media concentration. And we led the fight in the last Farm Bill to give consumers important country of origin information about our food supply. Despite the Republicans' maneuvers, this bill is not the last word on these policies. The fight is not over.

I am particularly outraged that the administration and the Republican leadership ignored the will of the majority of Members in both Chambers by removing the Harkin overtime amendment from the Labor/HHS Appropriations bill.

The Harkin amendment would have protected hard-working Americans who rely on overtime pay, like our first responders—our police, firefighters and nurses. One international police association estimates that 200,000 midlevel police officers will lose about $150 million in overtime pay if the new draft overtime regulations are implemented. The Bush administration will also prevent more than 230,000 licensed practical nurses from getting overtime pay.

According to the Economic Policy Institute, the Bush overtime rule will mean a pay cut for up to 10 million working Americans.

Even more astounding, the Bush administration had the gall to actually give employers detailed suggestions on how they could cut workers' pay. To me it is unbelievable that our Government would proactively look for ways to hurt American workers.

These families are working hard, they are playing by the rules, they are trying to make ends meet, but the Bush administration and the Republican majority in this Congress are squeezing them once again.

Apparently, it wasn't enough for this administration to preside over a dramatic loss of manufacturing jobs. It wasn't enough for this administration to let out-of-work Americans lose their unemployment benefits before the holidays. Now this White House is attacking the take-home pay of those Americans who are lucky enough to even have jobs. It's appalling, it's wrong, and I'm going to keep fighting this administration's attacks on working families.

I am deeply disappointed that this bill diverts taxpayer dollars away from struggling public schools and spends them on a vouchers scheme in the District of Columbia. I will continue my fight against vouchers and my efforts to give our public schools the resources our students need.

In the end, I am confident that we will win because these awful Republican policies cannot stand up to public scrutiny. We will have more votes on the overtime issue. We will have more votes on the country of origin labeling and important food safety issues, and we will have more votes on vouchers and media concentration.

I vote for this bill today because of the many programs funded in this Omnibus bill.

Throughout my State, people are working hard to get our economy moving, and I am voting for this bill to give them the Federal support they deserve.

Mr. KOHL. Mr. President, I rise today in strong opposition to cloture on the Omnibus appropriations bill. I cannot fathom why the Senate would agree today to cut off debate on a measure that is fundamentally flawed precisely because it was put together without the input of the full House and Senate. We have before us a bill that allocates billions of dollars through a plan clabbered together behind closed doors by the White House a very few Republican Members. It was a partisan, undemocratic process and the result is a bill that both thwarts the will of our constituents and makes a mockery of Congress's obligation to control this Nation's purse strings.

A vote for cloture today is a vote to rubberstamp the administration's wish list of policies and spending they couldn't get passed through the regular legislative process. And when you take a good look at what is in this bill—or what was forced out by the White House—you can understand why they had to put it together in a back room and why they want to push it through the Senate with little opportunity for debate.

The issues of concern in this massive bill are numerous—let me just highlight a few of the worst.

This Omnibus bill drops a provision to block a change in the rules that determine which workers are eligible for overtime pay. Both the House and the Senate voted in favor of maintaining the current rules. Both Houses agreed on a policy that would protect overtime for millions of working families—but White House insisted on going ahead with their changes regardless of the bipartisan will of Congress.

Overtime is crucial to helping families make ends meet. In an economy that has lost 3 million jobs, those that have managed to hold onto their livelihood need the extra money that overtime provides more than ever. On average, workers who receive overtime receive almost 25 percent of their pay that way. And the President pushed for, and won, a policy of cutting that vital income for 8 million workers. Lowering wages for working people is not the way to stimulate this economy. Sending as many as 8 million people home with less money in their pocket is not going to spur investment and boost productivity.

And while the backroom negotiators chose to ignore the needs and concerns of workers with their overtime policy, they turned their backs on countless more consumers when they scuttled the country-of-origin labeling provisions passed by the Senate. If one thing comes through loud and clear from the BSE/mad cow experience, it's that consumers want basic information about the food they eat. To deny them such information takes from them a fundamental right to make decisions about their purchases, and their families' health.

I had hoped that we might discuss country-of-origin labeling—along with several other issues—during the conference on the Agriculture appropriations bill. Unfortunately, the conference didn't work that way. Rather than bridge the difference between the House and the Senate on labeling, the conference went behind closed doors and chose another direction entirely. It dismissed the Senate resolution in support of labeling, then went on to embrace and even expand on the House's ill-advised rider. The result, a public kept in the dark by the Government about where and how the food they eat is made.

The Omnibus also inappropriately compromises what Congress enacted regarding broadcast ownership rules. Both the House and Senate passed measures that would have reimposed the 35 percent national TV ownership cap, undoing a misguided FCC regulation that raised the cap to 45 percent. However, a deal with White House negotiators flouts Congressional intent and instead establishes a 39 percent limit—which seems less like a compromise and more like a favor to certain networks that currently own close to 39 percent of the Nation's broadcast stations.

Overtime pay, FCC rules, country-of-origin labeling—all policies inserted into this bill by the administration and against the will of Congress and numerous constituencies we were sent here to represent. Beyond these glaring flaws, there are many—too many—funding and policy decisions that are just plain wrong—and need further debate, further votes, further negotiation.

One obvious example is the administration's decision to slash funding for the Manufacturing Extension Partnership to a fraction of its past level. The Manufacturing Extension Partnership is one of the most successful Federal/State partnerships in Government. This program targets small and medium sized manufacturing firms, boosting productivity and increasing competitiveness as these firms face increasing pressure from global markets. The manufacturing sector has suffered devastating job losses during this past term, and the recent upturn in the economy left the manufacturing sector lagging far behind the rest of the country. MEP is a sound investment: MEP clients reported sales of $2.2 billion, nearly 24,500 new or retained workers during fiscal year 2001.

Manufacturing is vital to building a strong economy, creating good jobs that contribute to a better standard of living for American families and a critical rung on the ladder of opportunity for those working toward a better life. The MEP has a proven record of preserving jobs and stimulating productivity in those firms utilizing MEP services. This vital program will be unable to maintain its public mission to serve small manufacturers without adequate Federal support. MEP has enjoyed wide bipartisan support due to the effectiveness of its programs and fine record of achievement, and failure to adequately fund this program is a disservice to our struggling manufacturing industry.

I am also very disappointed that this bill includes inadequate funding for education. When we passed the No Child Left Behind Act, we made a deal with our State and local partners in education. We insisted on real reform and accountability for results from States, school districts and teachers. And we authorized large increases in Federal funding to help them succeed. This was a bipartisan bargain that acknowledged that reform and resources must go hand in hand if we expect our Nation's public schools to improve.

But once again the appropriations bill before us falls far short of Congress' commitment. It is $8 billion short of the authorized funding levels in No Child Left Behind. It provides only $12.4 billion for title I, which serves disadvantaged, low-income students and was authorized at $18.5 billion for fiscal year 2004. It provides only level funding for afterschool programs, which give students a safe and educational place to go during afterschool hours. The list goes on and on; this bill provides inadequate or reduced funding for many other programs under No Child Left Behind, leaving our schools—which are already struggling with budget shortfalls at the State and local level—with even greater challenges. In addition, while this bill provides an increase for Special Education, it is far short of meeting the Federal Government's promise to fund 40 percent of the costs.

This bill also shortchanges our most vulnerable youth by inadequately funding juvenile justice programs for the second straight year. The title V At-Risk Children's Program, which provides juvenile crime prevention funding to local communities, will only net $25 million in this bill—this program should be funded about three or four times that amount. Overall, juvenile justice funding will receive more than $100 million less in fiscal year 2004 than last year. This is unacceptable and we must do better.

If we are serious about our youth in this country, this bill certainly doesn't show it. We need to make their education and their well-being a top priority. Instead this bill cuts corners.

We can and should do better than this. We have done better than this in the bills and policies we put together on a bipartisan basis last year. I cannot support this bill or any motion to speed its passage. Not when it—against the will of Congress—steals necessary overtime income from over 8 million workers. Not when it—against the advice of the Senate—trashes a program that lets consumers make informed decision about the safety of the food they eat. Not when it overturns the clear decision of Congress to limit concentration in the media industry. Not when it violates common sense, common decency and the common good by slashing funding for programs that educate our children and nurture our manufacturing industries. I will vote against cloture today and against the bill if it comes to a vote. I urge my colleagues to do the same.

Mr. ENZI. Mr. President, I rise to speak about a specific provision in the Omnibus Appropriations bill. The bill before the Senate includes a 2-year delay in the implementation of country of origin labeling for all products except fish. I am highly frustrated with this delay because the conference committee went beyond the scope of its conference. The House bill only had a 1-year delay for implementation of country of origin labeling for meat and meat products. The Senate bill included an amendment indicating the strong support that country of origin labeling had in the Senate. The discovery of bovine spongiform encephalopathy, BSE, within our borders this holiday season was a wake-up call to the urgency of country of origin labeling implementation and the detriments of further delays.

After the announcement of a "presumptive positive" BSE cow in the U.S. domestic herd, the national and international response was immediate. Domestic markets plunged and our international trading partners slammed their doors shut to our meat products. Exports account for almost 10 percent of total U.S. beef production. Our largest export markets are refusing our product and bloating the domestic market. We've already lost a majority of our export market, a void that other beef exporting countries are eager to fill. Unless we act now to restore the confidence of those markets, the relationships we have built for many years will be lost for good. In this situation, our trading partners need to be reassured that meat they purchase is "born, raised, and slaughtered" in the U.S. American consumers deserve this assurance, too. Country of origin labeling does this.

We have already paid for this lack of country of origin labeling. Exhaustive traceback and research by the U.S. Department of Agriculture has shown that the cow infected with BSE was imported from Canada. The rules that govern whether a country maintains "BSE Free" status are found in the Terrestrial Animal Health Code of 2003 generated by the Office of International Epizootics, OIE. The code says that a country can maintain its BSE-free status despite the discovery of a diseased animal if the animal was imported and all progency—calves—of the diseased animal are disposed of. With country or origin labeling in place, the United States could have begun the fight for "BSE-free" status immediately. Instead, we were forced to wait weeks until it was confirmed beyond doubt that the diseased cow was born in Canada.

I understand that some people say that we don't need to have country of origin labeling when the USDA is already pursuing a national animal identification program. This is simply not the case. A national ID program will be useful for health safety reasons. It will help pinpoint and track the spread of disease, but this information will not be passed on to the consumer. Tracking disease is not the only concern. Rebuilding consumer confidence should also be a high priority, and the only consumer-focused program is country of origin labeling.

Clearly, the answer to bolstering consumer confidence is country of origin labeling. We would do a great disservice to American consumers if the Senate suppressed country of origin labeling when the need for labeling is heightened.

The regulations for country of origin labeling were intended to be completed and implemented this year. I urge my colleagues to take the necessary steps to make sure this is the case. Now more than ever, we must stabilize the confidence of our consumers and let them enjoy the privilege of knowing that they are eating from the safest food supply in the world.

The PRESIDING OFFICER. Who yields time? The remaining time is controlled by the Senator from Alaska.

Mr. STEVENS. Mr. President, I say to my friends, I have no request for time, and there are 6 minutes remaining.

Mr. REID. Mr. President, we have no more requests for time. So for 5 minutes, I suggest the Senate be in a quorum call.

Mr. STEVENS. We will notify the two leaders. They still have reserved time, Mr. President.

Mr. REID. Until 10 till.

Mr. STEVENS. I suggest the absence of a quorum with the time coming out of our time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will use my leader time to comment on the pending legislation.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, we are all eager to hear the President's agenda for the year. Before we move on, the Senate has some unfinished business from last year. This time last year Republicans promised a smooth appropriations process. In fact, it broke down to an unprecedented degree. It didn't have to be this way. Chairman STEVENS and Senator BYRD steered this process in an open, bipartisan fashion. Working together, they produced 12 appropriations bills that passed with broad, bipartisan support. As the majority leader noted this morning, we owe both of them a debt of thanks.

I am confident, had they been able to conclude the process they began, this debate would not have been needed. But because of the hubris of the White House and House Republican leadership, bipartisanship ended at the door to the conference negotiations. Hidden from the light of day, the White House hijacked the appropriations process, excluded Democrats, and wrote a bill to satisfy little more than special interest wish lists.

Today we are already 4 months into the fiscal year. We cannot undo the entire process, nor do we seek to. Democrats are united in our support for the vast majority of what is contained in this bill. But we should fix this bill before we finish it.

We want to give the majority a few days to work with the administration and the House to fix the most egregious provisions in this bill, provisions that have already been rejected by both Houses of Congress and bipartisan majorities. I have discussed our plans with Chairman STEVENS and the majority leader, and I believe they understand that we have no intention to block this bill. There is no reason to consider a full year continuing resolution and absolutely no risk of any interruption to the operation of the Government. The existing CR does not expire until January 31.

We could fix this bill with a simple correcting resolution and pass the Omnibus bill with broad, bipartisan support this very day. If we fail to do so today, all we ask is a few days to reconsider their actions. In doing so, we hope to salvage this process and begin this year on a note of bipartisanship, openness, and cooperation.

Three provisions demand particular attention.

American ranchers and farmers meet the highest safety standards in the world. But the discovery of mad cow disease in one imported Canadian cow has cast an unfair shadow of uncertainty over the American food industry.

There is a simple fix—implement the country of origin labeling law Congress has already passed.

This rule would put a "100% American Beef" sticker only on meat that was born, raised, and slaughtered in the United States.

Consumers want and deserve the right to make informed choices. In a recent poll, 85 percent said they would be more likely to buy food if it's American.

At a time when the rural community is struggling, the economic benefit of COOL to farmers and ranchers could be pivotal. That is why COOL is supported by 167 farm organizations representing 50 million Americans.

The Senate passed the rule on two occasions with strong bipartisan support, in May 2002 as part of the farm bill, as well as in November.

It is time to enforce the will of the Senate and respond to the wishes of the American people.

The second issue is overtime. This bill would allow the White House to end overtime protection for American workers. This plan has already been rejected by the Senate by 54–45 and the House 221–203.

There is a simple reason why: It is bad for working families, bad for the economy. It would deliver a pay cut to 8 million workers, including emergency medical personnel, criminal investigators, nurses, physician assistants, teachers, agriculture inspectors, and more. Overtime pay accounts for nearly a quarter of take-home pay. For millions of families, it represents college savings, down payment for a house, medical bills.

At a time when manufacturing jobs continue to be shipped overseas and families are anxious about their finances, it would be cruel to end this vital protection that workers have depended upon for 70 years.

Finally, as to media ownership, when a few companies control the vast majority of media outlets in our country, our national discourse suffers and the vitality of our democracy is undermined.

There has been broad bipartisan support for maintaining limits. Last year, these limits won wide majorities in both the House and the Senate.

After first agreeing to retain language passed by the House and Senate to limit the number of stations a network can own, conferees bowed to White House pressure and included language that helps media conglomerates consolidate control over the airwaves.

This is special interest giveaway that directly harms the national interest, and it should be stopped.

There is more in this bill that could be improved. Provisions hidden within this 1,200 page bill would also threaten the education of Washington D.C. children through an untested vouchers scheme, undermine gun enforcement laws and allow more dangerous criminals to get their hands on guns, and contract out Federal jobs in key areas of government, leaving both Federal workers and citizens less safe and secure.

There are many more shortcomings. My colleagues could certainly point to other issues that deserve attention.

The Senate should not look the other way while a small minority overrides the will of the majority merely in order to reward one special interest after another.

We ask just a few days to improve this legislation. Let us fix this bill before we finish it. A few extra days of debate could prevent this bill from causing enduring damage to the Senate, our government, and our Nation.

Last year, with the White House and House Republican leadership at the controls, the appropriations process jumped the tracks. We have a chance to set things right and establish a tone of bipartisanship and cooperation for the coming year. I urge the Senate to make the most of this opportunity.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The majority leader is recognized.

Mr. FRIST. Mr. President, on leader time, I would like to make some closing statements on the importance of this bill, especially in light of the fact that although we have had 57 days for people to study the particular bill and what is in this bill, I want to put in a larger perspective why it is important to vote for cloture today and for us to bring to closure the unfinished business from several months ago so we can move ahead with the Nation's business this year.

I think first and foremost, every Senator has a real stake in passage of this legislation. Indeed, not just every Senator but the country has a stake in passage of this legislation. If we don't invoke cloture and subsequently pass this legislation, we will be shortchanging our diligent efforts and dedicated efforts in the fight against terrorism. We will be weakening funding for our food security and for our food safety system. We will be directly impacting in this vote millions of veterans. Those people who suffer from HIV/AIDS all over the world—our vote both today and subsequently for or against this appropriations package will affect them, whether it is in the prevention phase or in the treatment phase of HIV/AIDS. If we don't vote for cloture, if we don't vote for passage of this Omnibus bill—this collection of seven bills that addresses so many of the needs—we will be shortchanging the needs of schools in terms of Pell grants and in terms of Head Start. We will be shortchanging the lives of millions of Americans.

Many people have argued for a lot more spending in these bills, and many people have argued for a lot less spending. Whatever the merits of these arguments, again the whole process is a part of negotiations and, yes, compromise with the Senate, within the Senate, the House of Representatives, and the administration. But this is the product before us. Whatever the merits of those arguments for spending more or spending less, it is important that everyone understand the bill does abide by those spending limits that were agreed on between Congress and the executive branch, once you include the two emergency supplemental bills enacted last year, the ones enacted for the conflict in Iraq.

The appropriations spending authority will increase slightly—barely over 3 percent from 2003–2004—once this bill is enacted.

I spelled out briefly this morning the alternative to the bill. It is important for people to understand the alternative to passing this Omnibus appropriations bill. No Senator should be under any illusion, especially with regard to the fact that we are already one-quarter of the way through the fiscal year. One-quarter of it has already been completed. The alternative to a defeat of this appropriations package—this Omnibus package—is a full year of continuing resolution for the seven remaining appropriations bills.

I have to remind Senators because it has been a while since we have come back on the floor, and we haven't spent all day today going through all of the programs and what is in this bill in terms of education, title I, and special education programs, if we don't pass this package, will be cut by $2 billion. The National Institutes of Health, if we don't pass this bill, would be cut by $1 billion. Veterans health care—the health care for our veterans—would be reduced by $3.1 billion if we don't pass this bill; highway funding by $2.2 billion.

I mentioned global HIV/AIDS funding—people right now who are looking to America for that leadership—which would be reduced by nearly $1 billion.

States would not receive the $1.5 billion for the Help America Vote Act so we can increase funding for our election system.

The FBI's domestic terrorism fight would be curtailed by over $400 million.

AmeriCorps would not be fully funded at the $313 million level in this bill.

Agencies within the Department of Agriculture charged with animal health and food security would be reduced by $80 million.

I just close by showing this chart. I know it can't be read clearly by my colleagues. Here you see scores and scores of organizations that have let us know over the last 48 hours of their strong support for this Omnibus bill. Again, I will not go through the list, but in the list you will find everything from the Public Lands Council, to the Veterans of Foreign Wars of the United States, to the Disabled American Veterans, who say let's pass this bill, and let's pass this bill now. You see the Alzheimers Foundation, the American Foundation for AIDS Research, and you see the National Association for Biomedical Research. You see the International Association of Bridge, Structural, Incremental and Reinforcing Iron Works—again, scores of organizations that say pass this bill now.

What we all know is there is no perfect bill on this floor. All bills come as a product of compromise. That is a requirement of the legislative process.

It is now time to invoke cloture, to pass this bill, and to move on. I urge Senators to vote for cloture now—to vote for this bill and give children, veterans, schools, States, and needy Americans what they deserve.

### CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk reads as follows:

### Cloture Motion

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and Related Agencies for fiscal year 2004, and for other purposes:

Bill Frist, Rick Santorum, George Allen, Robert F. Bennett, Jon Kyl, Ted Stevens, Kay Bailey Hutchison, Ben Nighthorse Campbell, Mitch McConnell, Judd Gregg, Orrin G. Hatch, John Cornyn, Christopher Bond, Saxby Chambliss, Sam Brownback, Larry E. Craig, Richard Shelby.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and related agencies for fiscal year 2004, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—48

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Enzi
Fitzgerald
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Murray
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—45

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Campbell
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham (FL)
Harkin
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
McCain
Mikulski
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NOT VOTING—7

Baucus
Chambliss
Dayton
Edwards
Inouye
Kerry
Lieberman

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FRIST. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there be a period for morning business until the hour of 4:30 today, with the time equally divided between both sides, and that Senators be limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SCHEDULE

Mr. FRIST. Mr. President, for the information of Senators, it is my intent to close the Senate at about 4:30 today to allow for us to prepare for the events surrounding tonight's State of the Union Address. I will be talking to the Democratic leader about tomorrow's schedule. I will return in about 40 minutes to announce tomorrow's agenda.

## PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 349, which is at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 349) providing for a joint session of Congress to receive the message from the President on the state of the Union.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 349) was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

## COMMEMORATING THE LIFE OF FORMER SENATOR WILLIAM V. ROTH, JR.

Mr. BIDEN. Mr. President, TOM CARPER and I have a resolution at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 284) commemorating the life of William V. Roth, Jr., former Member of the United States Senate from the State of Delaware:

### S. RES. 284

Whereas William V. Roth, Jr. was born on July 22, 1921 in Great Falls, Montana, was raised in Helena, Montana, graduated from the University of Oregon, and earned law and business degrees from Harvard University;

Whereas William V. Roth, Jr. was decorated with a Bronze Star for meritorious service with Army military intelligence in the South Pacific during World War II;

Whereas William V. Roth, Jr. moved to Delaware in 1955 and resided in Delaware until his death;

Whereas William V. Roth, Jr. was elected to the House of Representatives in 1966, and served the State of Delaware with distinction until his election to the United States Senate in 1970;

Whereas William V. Roth, Jr. continued to serve the State of Delaware and the United States in the Senate from 1971 to 2001, where he personified the title "Honorable";

Whereas William V. Roth, Jr. championed tax and savings reforms and deficit reduction as Chairman and a member of the Senate Committee on Finance;

Whereas William V. Roth, Jr. worked tirelessly to control government spending as Chairman and a member of the Senate Committee on Governmental Affairs and to shape foreign policy as president of the North Atlantic Treaty Organization (NATO) Parliament Assembly and chairman of the Senate NATO Observer Group;

Whereas William V. Roth, Jr. was a man of integrity, decency, and character who was committed to his family and to the people of Delaware; and

Whereas William V. Roth, Jr. was a trusted friend and colleague and a dedicated public servant: Now, therefore, be it

*Resolved*, That—

(1) the Senate has learned with profound sorrow and deep regret of the death of the Honorable William V. Roth, Jr., formerly a Senator from the State of Delaware;

(2) the Secretary of the Senate shall communicate this resolution to the House of Representatives and transmit an enrolled copy of this resolution to the family of William V. Roth, Jr.; and

(3) upon adjournment today, the Senate shall stand adjourned as a further mark of respect to the memory of William V. Roth, Jr.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank the Chair. I thank the clerk for reading the resolution in its entirety.

Mr. President, my friend, our colleague, Bill Roth, died while the Senate was out of session. Otherwise, I am certain there would have been a profuse outpouring of sentiment on the floor, as when any person of consequence dies.

Bill Roth was a man of the Senate and a man of consequence. He was also, even though we were on opposite sides of the aisle, one of my closest friends in the Senate. We had the honor, as my friend and colleague, Senator CARPER, and I do, of riding Amtrak together. In Bill's case and my case, we rode the train together almost every day for 28 years. Literally, for the first 24 years probably every day the Senate was in session.

You can't have that kind of proximity with a man or a woman without getting to know them pretty darn well. I got to know Bill very well. I got to know his family. I got to know his hopes, his dreams, his fears, and his concerns, as he did mine, my family, my hopes, dreams, and concerns.

An unusual thing developed: a bond of trust. I can and will say for the record that there is no person in public life I came to trust more than Bill Roth. I trusted him with my concerns. I trusted him with family issues. I trusted him with personal issues. And I trusted his judgment on political issues, even when he and I disagreed.

We would ask each other questions: What do you think would happen if I do the following? What do you think the consequence would be? Even though we were in opposing parties, neither hesitated to give our friend the best advice we could.

I once said that running against Bill Roth was like running against a wheat thrasher: big, gobbles up everything in his way, and he was very silent. Before it was all over, everything was harvested.

Bill Roth, I think, was the most underestimated man with whom I have served going into my sixth term as a Senator.

I might note for the record that Bill Roth's family is incredibly talented. His wife, Jane Roth, is one step away from the Supreme Court as a Third Circuit Court of Appeals judge. None of us who know her ever hesitated to support her. We pushed her. She is highly regarded and, as my friend from Pennsylvania, Senator SPECTER, knows and no one knows the Third Circuit better than he does; literally no one knows it better than he does—is one of the most respected jurists on that venerable circuit.

His son, Bud, is a lawyer who is an extremely talented young man, and his daughter, Katie, is a doctor. I might note that Bill finally had a namesake. Just shortly before he died, he got to see his daughter's son who they named William. Bill actually died here in Washington visiting Katie.

This is a man who lived a full life, raised a great family, and will be missed not just by his family, but by our entire State and all those who knew Bill.

I can say without equivocation that I would have been honored, quite frankly, to have any one of his senior staff members work on my staff. One of the ways I think you measure the mark of a national leader is to look at the people with whom he or she surrounds himself or herself. Look at the people who they pick to represent them. Look at the people who they choose to be their alter ego.

Without exception, Bill Roth chose administrative assistants and senior staff members out of the same mold as himself: always totally honorable, balanced, straightforward, not at all ideological.

I have close friendships, personal friendships, with Bill's former staff directors, people who still live in Delaware and, I might add—I don't want to ruin their reputations—support me politically, support me in my races. It is hard, as I said, in a State as small as ours—I see my friend from Utah, which has grown to be a very large State relative to us, but when I first arrived here, when his dad was here, with whom I served, I think we were a little bit bigger than Utah at the time.

In small States, everyone knows everyone. Everyone has a sense of who everyone else is. It is hard in a State as small as ours, when you are in close proximity to people you respect, not to let it show, and that is exactly what happened in Delaware.

We went through 28 years of serving together, and I cannot think of one single solitary time—not one single occasion—where Bill Roth had or I ever had even a negative inference asserted about the other guy. We have a tradition in Delaware of not being very negative and partisan. I can tell you with the single exception of one highly contested political race, you never heard TOM CARPER, you never heard our sole Congressman and former Governor, MIKE CASTLE, you never heard in my State any of us criticizing the other. It has been a wonderful State to represent.

Bill Roth set the pattern. He surrounded himself with people of character such as himself, and that is something that should be strived for.

Bill, as I said, was known on the Senate floor, known in the country like few of us will be for the Fulbright scholarships, for the Roth IRAs. Everybody knows that Bill Roth was a man who promoted savings. He was a man who was tight with the taxpayers' money, which is a great asset. We used to kid. Every once in a while we would go to a function here in Washington and we would take a cab together. I remember once Bill leaning in to talk to the cab driver.

I said: What are you doing?

He said: I gave him a dime tip and told him to vote Democrat.

He also had a sense of humor, which most people on the floor never got a chance to see.

I don't know anybody who worked with Bill Roth who ever suggested that you could not work with Bill Roth; that he would not weigh in.

One of the things I want to mention about Senator Roth, though—and I am trying to move through this in the interests of time because I know we have the State of the Union and I know matters are going to be brought up today—is that one of the hallmarks of his career is he had a real sense of proportion, a sense of proportion that is missing today in much of public life. He fully understood that the Federal Government was both dangerous and necessary, that it is of value and sometimes part of the problem. He never had any trouble distinguishing between when it should be proactive and when it should not be active at all. He was not driven by ideology that blinded him to the needs of the people of my State, the Nation, or blinded him to civil liberties and civil rights.

He used to always surprise many of my Democratic colleagues because Bill was always so conservative on tax policy. I hope I don't get my friend from Utah in trouble, but one of the things about him is he is a man of independence. I think it surprised some of my colleagues when he voted against the constitutional amendment on the flag.

They said: Wait a minute, this guy is a conservative. It is because he is a conservative, I might add, that he did vote against it. But it would always surprise my colleagues on the Democratic caucus. They would say: Wait a minute, Bill Roth is a strong proponent of Title IX. That is the title that says you have to spread a proportionate amount of money on women in sports and colleges and universities. Bill Roth was very strong on women's rights.

To the chagrin of his colleagues and some of mine, he is in large part a reason there is no drilling in ANWR. Bill Roth is a Republican leader of the effort to see there was no drilling in ANWR. We have the Tongass Forest in Alaska, which is multiple times the size of my State, because of Bill Roth. Bill Roth had an environmental record that could easily have been associated with a liberal Democrat. Bill Roth's views on women's rights, civil rights, was moderate to liberal.

It always used to surprise people on this side of the aisle when they would say, whoa, was that Bill Roth who just voted on this, that, or the other thing?

Bill Roth was a complex man, a man who could not be pigeonholed or characterized by a single label. But he was ultimately a practical guy, a man who knew what he thought, what he believed, and very quietly and unhesitatingly never, never ceased or backed off from what he thought was a right thing to do.

On a personal note, like all of you in these cynical times—I would like you all to know that Bill Roth was anything but cynical. Bill Roth was not only an honorable man, Bill Roth was a noble man. The word "nobility" comes to mind, to me. When I learned of his death—and I was caught off guard as I was asked by the press about it—the first thing that came to mind was: He's a noble man. He's a noble man.

Let me explain what I mean by that. It is the way he dealt with people. It is the way he acted. Name someone for me in contemporary politics who was a winner of the Bronze Star and never once mentioned it. You cannot find a single piece of campaign literature that I am aware of. I never heard him speak of it. I never heard his campaign use it. Who, today, would not be out there talking about having been the recipient of a Bronze Star—to prove their patriotism, to prove their bravery? Bill Roth never, never mentioned it.

This is a politician who was not afraid to use gimmicks. This is a guy who rode an elephant to make a point, out here in front of the Capitol. This is a guy who talked about the $3,000 toilet seats and would hoist up toilet seats. He was a bit of a showman in that regard. But when it came to talking about himself, Bill Roth never did. He had this sense of nobility about him.

The other thing I loved about Bill Roth, in an environment where—I guess it has always been this case in politics—where money is king, campaigns cost so much money—Bill Roth was the chairman of the Finance Committee. Bill Roth could have raised more money than the Lord Almighty. But he always used to drive his chiefs of staff crazy when he wouldn't do what other people legally would do. He wouldn't call in the heads of the corporation and the business community and others who had great interest in what went on before the Finance Committee. He wouldn't do it. Bill Roth had trouble raising money. He was uncomfortable. I loved him for it. I loved the fact that he was uncomfortable doing it.

The other thing that used to drive me crazy sometimes, to show you how he was, I remember we had a little fight on the floor here about a thing most people don't know much about but in Delaware it is a big ticket item financially for the State—escheatment. Escheatment means when somebody dies and leaves no heir and owns a security, under the rules that exist now, that money reverts to the State of incorporation.

So let's say you owned 1,000 shares of stock of General Motors and you passed away, you had no heirs, the estate was left—the State gets the estate. But which State gets it? Historically it has been the State where you are incorporated. So if General Motors is incorporated in Delaware, even though its business is in Michigan, the money goes to Delaware. That is a big amount in their budget.

There was a suit filed in the Supreme Court but the Supreme Court said, no, it is OK to do it that way, but it is up to the Congress to change it if they wanted to.

Mr. President, 78 Senators said let's change that, and 370-some Congressmen said let's change that. I didn't think it was a good idea to change it. I have a simple rule. I say it straightforward. I think I never take personally the competition for highway funds or bridges or programs. We all compete, each of our States, for that. I take it very personally when my colleague or a colleague in the Senate decides to take an action that would benefit his State only marginally, but would do great damage to my State. I take that very personally.

Changing law on escheatment would have been marginally beneficial to 47 other States but a gigantic detriment to my State. So I went to Daniel Patrick Moynihan; New York was affected by this. I went to my friend, my friend who is no longer here, Al D'Amato—affectionately referred to as pothole Al. And I went to my friend Senator KENNEDY from Massachusetts, and we said we are going to do what we can to see this doesn't change.

I will tell you the end of the story. We ended up winning. Even though over three-quarters of the Senate cosponsored the change and more than that in the House, we ended up winning in the end of the day. That was because our colleagues realized we took it personally, it didn't affect their States very positively, and they in fact saw the better part of valor here and were willing to help us.

I remember standing in the well of the Senate saying to Bill: Bill, you are chairman of the Finance Committee. Let your colleagues know this is important to you.

He said: I don't know. You tell them. You tell them.

He was even uncomfortable saying that. He was one of the most powerful men in the Senate and he wouldn't say: Hey, look, Bennett, this is important to me. Please help me. He wouldn't even do that.

Although he had all this power, the thing that was so beautiful about him, he was uncomfortable with power. I think it is always healthy when people are uncomfortable with wielding power. But he never hesitated to wield it when he thought it was absolutely clear cut.

So this was a guy who was a noble man. I just watched him. I watched him operate for over 28 years.

Mr. President, I ask unanimous consent to proceed for 3 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, there is a quotation engraved on the wall at Union Station. It goes like this:

> Be noble, and the nobleness that lies in other men sleeping but never dead will rise in majesty to meet thine own.

Bill Roth also brought out the humility in those who worked with him and those who were around him.

There is much more to say about him. I have said too much.

I apologize. I did not realize that time was controlled. My colleague from Delaware, a cosponsor of this resolution, Senator CARPER, would like to speak. I ask whether my colleagues would object if Senator CARPER is able to proceed.

Mr. SPECTER. Mr. President, I have already talked to the Senator from Delaware. The junior Senator expects to speak 5 minutes, and I would like to be recognized to speak very briefly about Senator Roth and then introduce a bill. May I put that in the form of a unanimous consent request?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I would like to be allowed to speak very briefly about Senator Roth as well. I don't have a prepared statement. Could I go for 1 minute between Senator CARPER and Senator SPECTER?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. CARPER. Mr. President, I am pleased to join my colleague, Senator BIDEN, in offering this resolution commemorating Senator Roth. I thank Senator SPECTER for his willingness to let me slip in ahead of him.

I recall any number of times visiting the Senate when I was Governor. I have had the privilege of testifying before the Senate Finance Committee that Senator Roth chaired. I remember revisiting him in his office in the Hart Building from time to time.

It is not uncommon when you walk into the office of Senators that you see their pictures on the wall. There were, I am sure, a few pictures of Senator Roth and his family and others on the wall of his office. It is less common to walk into a Senate office today as a person who succeeded in a case where you ran against an incumbent, as I did against Senator Roth, and find the photograph of the Senator who was defeated, in this case in my race against Bill Roth.

We have a tradition in Delaware called "Return Day." Every Thursday a few days after the election of even numbered years, winners and losers gather in our county seat in southern Delaware, Georgetown, DE, and have a great breakfast at the Delaware Technical Community College. Then the winners and losers ride together in a horse-drawn carriage throughout the streets of Georgetown. Thousands of people come from all over the State to cheer those who won. The town crier comes out on the balcony of the White House in Georgetown in the circle and calls out the results from the election 2 days earlier.

On that Thursday after the election in November of 2000, I rode in a horse-drawn carriage with Senator Roth and members of his family, and some members of my own family. It was an open-air carriage. It was a beautiful day. I asked if he would like to stand. We stood. The driver and the horses were ahead of us as we started down the parade route sitting there with our hands on the seat behind the driver.

I said to him: Why don't we do something else? Let me hold your hand. I held his hand up in the air as one does at the end of a prizefight holding up the hand of a winner. We went through the entire parade that day holding up the hand of the winner who won so many elections during 34 years as if there really wasn't a loser but only a winner in this situation—a real winner. That picture of us holding hands is still in my office today. It is a great picture. It tells a lot about the spirit of politics in Delaware and about the respect for Senator Roth as well.

Senator BIDEN talked about some of the legislative accomplishments and the work that Senator Roth did with respect to NATO and the reorganization of the Federal Government.

While those issues are important and what he did legislatively with respect to NATO and others is important, in Delaware, a State with about 800,000 people, you also have an extraordinary opportunity to help people with problems in their lives. For folks who are trying to grapple with the IRS on issues that need to be resolved or on Social Security issues and veterans issues, you can quite literally every year change the course of about 1,000 or 2,000 families who come to your office for help.

That day as we went through Georgetown, DE, on "Return Day" in the parade, I am sure Senator Roth got bigger cheers than I did. They were from Democrats and Republicans and Independents. In part, those cheers were the result of the kind of staff he put around him. He hired excellent people. They set the gold standard for constituent service in our State. If you were a Democrat or Republican or Independent and you called his office for help, you got it. They did a terrific job.

Bill Roth understood that we are servants of the people. They pay our salaries. We have an obligation to give our very best effort. He made sure that was what his staff provided—and he provided it during the 34 years he served in the Congress.

I said to him after the election: You set the gold standard. The challenge for me and my staff is to try very hard to match that standard. Maybe eventually, through new technology and training and services experience, we can even exceed it.

I have won statewide in Delaware 11 times. I have been fortunate 11 times. I have run against very good people but none more decent than Bill Roth.

At his memorial service at the University of Delaware a week after his death, we were joined by Senator SPECTER and others. Hundreds of thousands of people came from all over our State. One of the speakers said Bill Roth was a gentleman and a gentle man—a gentleman and a gentle man. He treated his staff, the folks who work in the cafeteria here, and the folks who run the elevators here with the same kind of respect as with his colleagues and his peers. I doubt that you can every day find that in a person who rises to the kind of power he enjoyed in this city and in this country. It says a whole lot about the man he was.

One of the persons who spoke at Senator Roth's memorial service was his former chief of staff, John Duncan, who is now Assistant Secretary of Legislative Affairs at the Department of the Treasury. I ask unanimous consent that excerpts of the very eloquent comments of John Duncan be printed in the RECORD. He said it certainly better than I could. It is the kind of tribute that belongs in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SENATOR WILLIAM V. ROTH, JR., MEMORIAL SERVICE, CLAYTON HALL, DECEMBER 21, 2003

Today we celebrate a unique man whose legacy will live on for us, our children and our grandchildren.

As the representative of the Roth staff, I appreciate this opportunity to honor the man who had such a significant impact on our country and the lives of so many people.

Just a few weeks ago, the Senator was in Washington and some of us got together for lunch. After an hour or so of laughter and story telling we all returned to our jobs.

On my way back to the office, I couldn't help but reflect on what a big influence Bill Roth has had on those of us who worked with him over the years.

Some had started working for him as interns, others as subject matter experts. Some were form Delaware and knew about the Senator before they went to work for him. Others were from outside Delaware and came to know the uniqueness of this man only after they came within his orbit. All, in their subsequent careers, had gone on to great success in business, government and academia.

One participant at lunch that day was a very high ranking official in the Commerce Department who had been the Senator's top trade advisor. He had the best of jobs. He traveled the world working on trade agreements that would shape the future of our country in the world economy.

For twenty minutes in great animation he regaled us with stories about the exciting thing he was doing. Listening, you couldn't help but be envious that any job should be so important and so much fun.

But at the end he paused and, in serious vein, told the Senator "This job is great. But the best job I ever had was working for you."

The reason I tell this story is that Bill Roth is known for many accomplishments. But his biggest impact was on the lives of the people who did things with him, many of whom are in this hall today.

Whenever we reflect on the nature of a person's life we experience an interesting problem. We want, in our reflections, to capture "who" they were. But with every effort to describe "who" they were we inevitably end up describing "what" they were and the uniqueness we experienced and are trying to express escapes us.

This difficulty in no way lessens the importance of what we are doing here as we remember the life of Senator Roth. For it is at the end of a person's life that the uniqueness that God gave each of us becomes most apparent.

Though the uniqueness of individual personality will always escape being captured in words, I am pleased to join with the others on this stage to add my contribution to the appreciation of this highly unusual man.

I'd like to start my remarks by focusing on some of the ideas the Senator brought to his work and how they led to the achievements we so much associate with him.

Though those ideas were many and varied they all focused on the concerns and worries of regular people—the people, from all walks of life, who work hard, pay their taxes, and care for their families.

Senator Roth believed that government exists to serve the people. He started first with his own office.

Over the years he employed a number of fine and talented caseworkers that citizens could turn to when the bureaucracy became overwhelming. It's difficult to travel very far in Delaware without meeting a person assisted by his office or seeing something he helped fund, from Amtrak, to the Dover Air Force Base to land set aside for conservation.

One of his first legislative accomplishments was the creation of a source book for citizens that catalogued available grant and assistance programs. How could the government serve the people, he reasoned, if the people had no idea what was available to them?

Years later he authored the Government Performance and Results Act which set performance standards for government agencies and held managers accountable for results. It was this program, you may remember, that Al Gore adopted as his central task as Vice President.

Evidence that the IRS had slipped beyond the control of the Congress and was in danger of becoming a rogue bureaucracy was what prompted the Senator to conduct hearings on the IRS.

To understand the importance of what he did you need to know, that at the time of his hearings, a congressional commission to modernize the IRS had finished its work and legislation implementing its recommendations had been introduced.

That legislation, though, was going nowhere. The IRS opposed it. The Treasury Department opposed it. President Clinton opposed it. But within months of Senator Roth's dramatic hearings the Congress passed the restructuring bill and the President swiftly signed it. Reform that normally takes years was accomplished in months—all because of the determination and timely leadership of Bill Roth.

It was as Chairman of the Governmental Affairs Committee that the Senator first disclosed his thinking that competition, so much a force for good in the private sector, might be useful in government administration.

The principle that competition ensures innovation and lowest cost operations was first applied by the Senator to government procurement where he was an ardent opponent of the practice of sole-source contracting.

Later, in interesting and artful ways, the Senator would apply this principle to other areas of government.

He teamed-up with his friend and colleague Joe Biden to expand NATO's membership and mission. Because of their successful work, there are choices available for dealing with international hot-spots and freedom and security are more than just a dream for millions of people.

In the area of transportation, the Senator's vigorous support of Amtrak, the Wilmington Trolley, and alternative fuels was based on his belief that we are better off with alternative modes of transportation and energy.

The Senator was best known for his work on tax policy. He though that every person who wanted a job should have one.

While he never thought we would ever be free from the business cycle, it upset him that the tax code—something we did control—discouraged the creation of jobs. The best thing to do, he reasoned, was to change the tax code in a way that encouraged people to work, save and invest.

That was the principle behind the Roth-Kemp tax cuts. Radical at the time, today the connection between low marginal tax rates and jobs is conventional wisdom, not only in America, but a good part of the world.

With tax policy moving in the direction of lower rates, the Senator turned his attention to changing retirement policy from income maintenance to asset ownership. He used his committee leadership positions to develop savings accounts as part of the Civil Service Retirement system and then created the highly popular Roth IRA.

As you can tell from the variety of things I've mentioned, Bill Roth was driven by big ideas and left a legacy of big accomplishments.

Success in Washington, though, doesn't just happen on its own. Anyone who knows the nature of public life can tell you that having a vision of a preferred future is not enough for success.

Abraham Lincoln, in one of his State of the Union Messages to the Congress, summarized it best when he wrote, "it is not 'can any of us imagine better?' but, 'can we all do better?' "

There are as many visions of the future as there are Members of Congress. The central task and art of political leadership is gaining the consent of a majority of Members to do the things that need to be done.

You can't get that consent, though, if don't know how to work with your colleagues. Just as Bill Roth had a core set of beliefs that guided him in what he did, the Senator had a firm set of ideas about the conduct of business.

The Congress can be a complicated and difficult place in which to act. The rules are complex. People are unpredictable, emotions run high and the best of human nature is often absent.

The legislative process can too easily become a game in which each political party tries to score points at the expense of the other. Relationships can too easily descend into acrimony and bitterness.

Senator Roth avoided all that. To him, the conduct of politics came down to a set of straightforward activities: Express . . . Discuss . . . Persuade . . . Negotiate . . . Compromise. It was primarily through these activities that he gained consent and advanced his goals.

His basic technique was to carefully craft an initial proposal that reflected common interests. He'd then bring the Committee together and would not let anyone leave the room until they reached agreement. His goal was agreement by consent. And nobody knew how to build consensus like Bill Roth.

He preferred persuasion to voting. But if the Senator needed votes, he knew how to get them. He knew when to negotiate. He knew how to compromise while remaining true to his principles. And, most importantly from the standpoint of his colleagues, he could be counted on to defend the products of joint decision.

I learned a secret from Bill Roth. In politics, as in life itself, means and ends are the same. To the Senator, how things were done was as important as what was done.

To him political power flowed from treating each colleague in a way that, as a group, they would never lose the ability to do things together. That understanding served him well and, in large measure, accounted for his success.

To the Senator the purpose of our political institutions is to move us forward as a nation, and keep us together as individuals.

Though he was a Republican and proud of his party's heritage, Bill Roth did not see the world in partisan terms. There is a nice irony here, because the ideas Bill Roth worked for have transformed the Republican Party.

Bill Roth felt that any important undertaking had to be done in a bipartisan manner. He had many friends on the other side of the aisle.

One of his closest friends was Joe Biden. The attentiveness and courtesies they showed each other convinced me that there was, in reality, a third political party that might best be called the Delaware Party.

As Senator Biden has often observed, Bill Roth led, but he led quietly. He didn't hog the spotlight, intimidate or run roughshod over his colleagues. In advancing his interests, Bill Roth rarely played hard ball. It was not in his personality to do so.

But if he had to, he could. I remember one time when he did.

The Senate was considering an extension of unemployment benefits. The legislation had been written in a way that excluded Delaware and some other states under the notion that their economies weren't suffering enough and didn't need the help.

Senator Roth's view was that Delaware's unemployed deserved to be treated just as well as the unemployed in other states. The states that benefited from the legislation had the votes to get it passed, but it was unclear whether they would break a filibuster.

I remember Senator Roth calling me from the Senate floor with a fire in his voice that I had never heard before and would never have occasion to hear again. He instructed me to locate a multi-volume history of the state of Delaware. I knew immediately that he and Senator Biden were prepared to read the entire history of Delaware to the U.S. Senate, if they had to, in order to stop this unfair treatment.

After a short but tense period of time the leadership backed off. The legislation was altered to include the unemployed from all states and passed by unanimous consent.

When the standoff was over, the Senator returned from the floor. The history of Delaware went back to the library. And I developed a new appreciation for the use of history in the development of public policy.

The Senator's personality was creative and fun-loving. He was always game for the unusual. He had a live elephant at a press conference when he was fighting to get attention for his tax cut proposals.

He hung spare parts from a Christmas tree to dramatize military procurement practices that were over-charging the taxpayer.

And on the first anniversary of the Roth-Kemp tax cuts, he wanted to celebrate everyone getting a bigger piece of the economic pie. So he had prepared and served a giant baked apple pie—a pie so large that it qualified for the Guinness Book of World Records.

And as everyone in Delaware knew, the Senator campaigned with a Saint Bernard. He told me about the Saint Bernard once. He said it was his secret weapon.

People might resist a politician he told me, but nobody could resist a dog—especially if that dog was a big and happy Saint Bernard.

But even if parents could resist the dog, children couldn't. When the children came so did their parents. And there he'd be with his "HI, I'm Bill Roth" button ready to greet and converse.

Hokey by some people's standards, but, when he told me that story, I knew why he became Delaware's longest-serving statewide lawmaker.

The Senator's love of his dogs was legendary in Delaware. But it wasn't as well known in Washington until a prominent local magazine did a profile on the Senator in which he listed his dog Sweet Pea as his closest advisor.

When people talk about Bill Roth as an individual one hears words like "kind . . . shy . . . gracious . . . thoughtful . . . considerate . . . humble . . . respectful."

These words accurately reflect Bill Roth's personality. But they need to be leavened with some additional qualities. Bill Roth was a demanding leader. You couldn't do what he did in Washington without focused drive and ambition.

Bill Roth came to Washington with grand purposes. As with all big efforts there were setbacks, disappointments and failures. But they never stopped him or even slowed him down.

Senator Roth had great expectations and desired to do well. They were expectations he put on himself and the organization. And they came, I think, at least to some degree from Delaware's special role in America's founding and its long history of quality political leadership.

No matter what he was working on or where he was in the world, Delaware was never far from his mind. When crafting important trade and tax legislation, he always considered its effects on Delaware products and businesses. When traveling abroad he pressed his hosts to open their borders to products from Delaware.

Poultry was always prominent in those discussions. The efficiency of the industry was astonishing to him. That Delaware poultry could be grown, processed and shipped to markets in foreign lands at prices competitive with local producers had a big impact on his thinking about trade and his confidence in America's ability to compete in a global economy.

It was important to the Senator that he employ the best talent. He insisted that everyone who worked for him have a clear understanding of what was expected at work and that they have the resources to do their jobs.

But the important element that stood out in Bill Roth's office was the way he treated his employees. He did not use and discard people. He cared about each of us as individuals. His interest went beyond the workplace to family and career.

Though he was a very busy man pursuing important objectives, he always had time—time to counsel, time to celebrate and time to console.

He brought out the best in his employees and launched them on their careers and took great satisfaction in everyone's achievements.

This is very unusual. It is in our families that we expect to be cared about for who we are. By treating his employees as individuals and caring about their personal success, Senator Roth made each of us a part of his family.

I'd like to close my remarks by relating a small incident that I think says a lot about Bill Roth and his chosen profession of politics.

One day Neil Messick, the person who preceded me in my job, drove the Senator to a meeting. They parked in a large garage and went to their destination. When they returned to the garage Neil realized he had forgotten where he had parked the car.

He took a guess at the right floor but he chose wrong. Neil was new to the job and worried about the kind of impression he must be making on his new employer.

After some initial wandering around Neil turned to the Senator and said "You wait here and I'll go find the car."

The Senator, who had already sized-up the situation, said "Neil you've already lost the car, you're not going to lose me, too." And off they went in laughter to find the car.

This little incident says a lot about the Senator's quick humor and his desire to put people at ease. But it also says something about the nature of the political experience itself.

Politicians enter the public realism alone but they never travel it alone. They travel it with the family who supports them at home, the voters and friends who support them in the state, and the staff who support them at work.

Bill Roth made the journey with the support of all of you. He was a good man doing a tough job—a job he loved. You were the source of his energy.

The Senator confided in me one time that he viewed himself as a plodder. That self-assessment was accurate. But he was a plodder with a vision.

As your Congressional delegation can attest, success, as a legislator, requires the sustained and focused activity of small steps over a long period of time. And, with each step, elected representatives face unique and difficult challenges.

But, as Bill Roth's life has shown, if you have a vision, stay on course, and are attentive to relationships, then small steps lead to big accomplishments.

Last January, during a graduation ceremony at the University of Delaware, the Senator was described as a dedicated public servant, an esteemed leader on foreign policy, an acknowledged leader of reform, and a respected environmentalist. This is "what" Bill Roth was.

Later, in that same ceremony, a former employee and long time political advisor, Pete Hayward, used a different terminology to describe the Senator: "caring employer, patient teacher, supportive mentor, and trusted friend." This is "who" Bill Roth was.

Today we bring both together—what he did and who he was—and can appreciate the full measure of the man.

Thank you.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I will not take a great deal of time. I don't need to because all that needs to be said about Bill Roth has been said.

My wife and I had the privilege of going with Bill and his wife to Romania. We traveled with them to other countries throughout Europe talking about NATO and other issues. In that process, we became well acquainted with two of America's finest public servants. But on that occasion, they became two of our best friends.

I join with all of the people from Delaware and all of the colleagues in the Senate in paying tribute to Bill Roth, saying goodbye to him for his service, and extending my warmest sympathy and condolences to Jane for the loss of her husband as well as recognition of her service to this country. What a remarkable couple. America, as well as the State of Delaware, has been very well served for their willingness to participate in the public arena.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President. I join my colleagues in paying tribute to Senator Roth. I had the privilege of working with Bill Roth in the Senate for some 20 years.

On the route from Washington to Philadelphia I frequently road with Bill Roth as far as Wilmington. Frequently when I would catch the train in Philadelphia, I would see him board in Wilmington. During the course of 20 years, we had very many long and fascinating discussions.

Bill Roth was an outstanding Senator. He served in the House of Representatives in advance of coming to the Senate and was a native of the State of Montana. He was Harvard Law School educated. He was chairman of the Finance Committee. He had very deep insight into finances and taxes. He was a coauthor of the famous Roth-Kemp bill or Kemp-Roth bill—it depends on whether you accentuate the House or the Senate—with very substantial tax cuts in the early days of the Reagan administration. He later served as chairman of the Finance Committee, known for the Roth IRAs, so people could set aside funds and make a real contribution to the Nation.

My wife and I had the occasion to attend the memorial service for Senator Roth in Wilmington recently. As noted, his wife Jane is a very distinguished judge of the Court of Appeals for the Third Circuit, the circuit which covers Pennsylvania as well as Delaware and also New Jersey.

When Senator Roth finished his term at about his 80th birthday, it marked a very outstanding contribution to the Senate.

The PRESIDING OFFICER. Is there further debate on the pending resolution?

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. I ask unanimous consent the next remarks be in morning business under the introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2008 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOTICE OF PROPOSED RULEMAKING

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA") (2 U.S.C. 1316a(4)), and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
*Washington, DC, December 8, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER:

WITHDRAWAL OF NOTICE OF PROPOSED SUBSTANTIVE RULE MAKING, AND ADVANCE NOTICE OF PROPOSED RULE MAKING

On November 13, 2001, the Board of Directors of the Office of Compliance submitted proposed substantive rules for comment, pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA") (2 U.S.C. 1316a(4)), and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)). The proposed substantive rules would implement section 4(c) of the VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law. The Notice of Proposed Rule Making was printed in the Congressional Record on December 6, 2001 at H9065, et seq., and S12539 et seq.

In response to that Notice, the Board of Directors received comments which addressed the difficulty in promulgating regulations applying substantive veterans' preference rights in the absence of formal civil service merit personnel systems in the legislative branch. In view of the comments, and upon further consideration, the Board has decided to withdraw the notice of proposed rule making of November 13, 2001, printed in the Congressional Record of December 6, 2001.

The Board of Directors has initiated a new process of drafting proposed substantive regulations which would implement section 4(c) of the VEOA. The Board invites the informal input of interested parties in advance of the Board's completion of new draft regulations and publication of a new Notice of Proposed Rule Making in the future. Interested parties are invited to contact the Executive Director of the Office of Compliance, Room LA-200, 110 2nd Street, SE., Washington, DC 20540; 202-724-9250, TDD 202-426-1912.

We request that this notice be published in the Congressional Record. Any inquiries regarding this notice should be addressed to the Office of Compliance at our address above, or by telephone or TDD.

Sincerely,

SUSAN S. ROBFOGEL,
*Chair.*

## TRIBUTE TO LEE LEIGHTON

Mr. REID. Mr. President, I rise today to congratulate a man who is a husband, a father, a grandfather, a friend, and a hero.

Chief Lee Leighton is retiring after a remarkable career of 34 years with the fire department of Sparks, NV.

From the time Lee was born in Lynn, MA, he can never remember a time when he did not want to follow in his father's footsteps as a public servant. After the family moved to Nevada, his father joined the Washoe County Sheriff's office, and he showed Lee through example how important a job and a life's work can be.

Lee looked up to his dad. And as he looked toward his own future, he hoped to become either a policeman or a firefighter. As fate would have it, the fire department called him first, so he became a fireman.

Being the oldest of four children, Lee has always been a leader. He began his career in the fire department in August of 1969, and a few years later became the pump operator driver. The department, recognizing his ambition, promoted him to Captain in 1977. Over the years, Lee's dedication to the fire department was acknowledged and he was appointed battalion chief and then department chief. For the past 3½ years he has been the fire chief of the Sparks Fire Department.

When Lee joined the department, it had about 30 people. Now there are almost 100. He is leaving the department in good shape, with response times that are as good as any in the Nation.

His commitment to Nevada is evident not only through the years he spent working for the Sparks Fire Department, but through his passion and love for his job and life. This passion has also inspired his four sons to become firemen. They are serving Nevada through the Reno Fire Department, Storey County Fire Department, and Nevada Division of Forestry.

Lee's life as a public servant went beyond the Fire Department. He served 6 years in the Marine Corps Reserve, and Nevada Governor Kenny Guinn appointed him as a member of the Board of Fire Services. In addition, Lee participated as a member of the Department's Honor Guard, former chairman of the Sparks Fire Department Commendation Review Committee, and chairman of the Sparks Fire Department History Book Committee.

Sixteen years ago he met his future wife, Roberta Leighton. Roberta, or "Bobbi," was working as a police and fire dispatcher. Lee with his four sons, and Bobbi with two daughters and one son, became good friends. Over 8 years, that friendship evolved into love, and they married in March of 1996. This March they will celebrate their eighth anniversary.

Lee and Bobbi plan to spend a few well-deserved months in Mexico, relaxing and enjoying the life they have established together. Of course, they will spend a lot of time with their seven children and six grandchildren. And Lee will now have more time to ride his Harley, possibly in the upcoming Street Vibrations festival, an annual celebration for motorcycle enthusiasts in Sparks and nearby Reno.

As they look forward to retirement, Lee and Bobbi can also look back on a job well done, a life well lived, and the important role they played in Sparks, NV.

So today, on behalf of all Nevadans, I offer congratulations and gratitude to Lee and Bobbi Leighton.

## HONORING OUR ARMED FORCES

Mr. JOHNSON. Mr. President, I rise today to pay tribute to CPT Chris Soelzer, a resident of Sturgis, SD who died on December 24, 2003, while serving in Operation Iraqi Freedom.

Captain Soelzer was a member of the Headquarters Company of the 5th Engineer Battalion, which was based out of Fort Leonard Wood, MO. He was among three soldiers killed when a roadside bomb hit a military convoy near Samarra.

Answering America's call to the military, Captain Soelzer wasn't sure he was going to make a career out of the Army. However, according to his brother, "he was a soldier, that is what he lived for." A born soldier, he had attended Kemper Military School and College after graduating from Sturgis High School. A member of the school band, chorus group, and the track team, friends remember him as a quiet and gentle person. Captain Soelzer's former principal recalls that "he was a real gentleman, a real nice kid who was involved in a lot of things." Dave Mueller, a friend from high school remembers Captain Soelzer as a bright individual and remarked that "Academics was his big thing. I think he was close to straight A's."

Captain Soelzer served our country and, as a hero, died fighting for it. He served as a model example of the loyalty and dedication in the preservation of freedom. The thoughts and prayers of my family as well as the rest of the country's are with his family during this time of mourning. Our thoughts continue to be with all those families with children, spouses, and loved ones serving overseas.

Captain Soelzer led a full life, committed to his family, his Nation, and his community. It was his incredible dedication to helping others that will serve as his greatest legacy. Our Nation is a far better place because of Captain Soelzer's contributions, and, while his family, friends, and Nation will miss him very much, the best way to honor his life is to emulate his commitment to service and community. In the words of Dave Mueller, "He was also a person who you'd barely have to know him and he would do everything for you."

I join with all South Dakotans in expressing my sympathies to the family of Captain Soelzer. I know that he will always be missed, but his service to our Nation will never be forgotten.

### SERGEANT DENNIS A. CORRAL

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Dennis A. Corral, a fellow Nebraskan and Sergeant in the U.S. Army. Sergeant Corral was killed on January 1 in Baghdad, Iraq. He was 33 years old.

Sergeant Corral served as a supply sergeant in Company C, 1st Engineer Battalion, 1st Brigade, 1st Infantry Division, based in Fort Riley, KS.

A resident of Kearney, NE, Sergeant Corral was a dedicated soldier who was committed to his family and country. Sergeant Corral volunteered to deploy early so that another soldier with a wife and children could spend more time at home, his mother, Yolanda, said. She described her son as always willing to "step forward if they need help."

In addition to his mother, Sergeant Corral is survived by his father, Victor, and brothers, Peter, Christopher, and Rodney. Our thoughts and prayers are with each of them at this difficult time.

Sergeant Corral and thousands of brave American service men and women confront danger every day in Iraq and their tremendous sacrifices must never be taken for granted or forgotten. For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Sergeant Dennis Corral.

## DR. MARTIN LUTHER KING, JR. DAY, 2004

Mrs. BOXER. Mr. President, throughout California and across America, millions of people gathered yesterday to celebrate the 75th anniversary of Dr. Martin Luther King, Jr.'s birth. Each year, thanks to a 1983 Federal law that I was proud to vote for, we take the third Monday of January to commemorate Dr. King's birthday.

In his immortal "I Have a Dream" speech, Dr. King shared his vision of a land where people of every religion, race, and creed could realize the American dream of freedom and opportunity. In the words of his wife, Coretta Scott King, we honor Dr. King's dream of "a vibrant, multiracial nation that has a place at the table for children of every race and room at the inn for every needy child." On Martin Luther King Day, we take this opportunity to reflect on the dream of an inclusive society in which all people are truly created equal.

On this day and all year long, Americans share in Dr. King's extraordinary commitment to improving the lives of others. We remember his dream and take an active role in making it a reality. Throughout our Nation, people help those in need: they feed the hungry, house the poor, heal the sick, and offer a guiding hand to at-risk youth.

This week, as we mark the national celebration of Dr. King's birthday, let us not merely reflect on his work, let us live his legacy. On this Martin Luther King, Jr. Day, I ask you to join me in vowing to make Dr. King's dream a reality. Let us come together to take positive—yes, affirmative—action to give every American a real shot at the dream.

Mr. SMITH. Mr. President, yesterday, we celebrated Martin Luther King Day. For many of us, this day was a time to reflect on the progress we have made in protecting civil rights and the work that remains. Dr. King once said:

> Injustice anywhere is a threat to justice everywhere.

No matter how far our Nation has come, we must never rest contented with the mistaken notion that we have done enough to protect our fellow citizens.

In 1998, a young man named Matthew Shepard was brutally beaten and left for dead simply because he was gay. He lived for 6 days in the hospital, just long enough for his family to gather and say goodbye. Matthew's story, and the heinous dragging murder of James Byrd 6 months earlier, brought hate crimes to the forefront of the national discourse. It taught us a profound lesson about the hatred that still lives in some of our citizens.

Hate crimes are violent acts intended by their perpetrators to send a message of animus and intimidation towards those whose religion, race, or sexual orientation might differ from their own. They are a violation of everything our country stands for. As Attorney General Ashcroft has said:

> Criminal acts of hate run counter to what is best in America—our belief in equality and freedom.

Sadly, the number of reported hate crimes continues to grow at an alarming rate. The FBI catalogued over 9,700 hate crimes in 2001. That is an average of 26 hate crimes a day. At that pace, in the last 5 years, more than 47,000 hate crimes have been committed.

The current hate crimes law was enacted after the assassination of Dr. King, and it is woefully outdated. It does not apply to hate crimes based on sexual orientation, gender, or disability. Even in cases of crimes based on race, religion, or ethnic background, the law only protects victims who were attacked when engaged in "federally protected activities" such as jury service, interstate travel, or voting.

It is time to update this law, and I believe we have finally developed compromise legislation that can pass Congress. The Local Law Enforcement Enhancement Act, LLEEA, is a bipartisan bill that will provide support to local authorities investigating and prosecuting hate violence.

LLEEA requires the Attorney General to appoint a Federal prosecutor to promote cooperation between Federal and local law enforcement. In addition, the bill recognizes that not all violence constitutes a hate crime, and provides that only those motivated by bias, with the intent to terrorize the victim, may be prosecuted as hate crimes.

LLEEA has been endorsed by more than 175 law enforcement, civil rights, and religious organizations, including attorneys general for 22 States, the National Sheriffs' Association, the International Association of Chiefs of Police; and the U.S. Conference of Mayors.

Nobody should live in fear because of who they are. Congress cannot continue to sit silently by while hatred spreads. And as Americans, it is time for us to send a message that we are prepared to confront this national plague and take another step closer to making Dr. King's dream a reality.

Mr. PRYOR. Mr. President, yesterday we celebrated the life and legacy of a great man, a bold leader who inspired courage, unity and compassion. He changed the path of America's conscience, and he left his mark on Arkansas in so many ways. Dr. King time and time again came to the aid of Arkansans and supported others who were making significant sacrifices for civil rights.

In May of 1958, Dr. King stood in the audience at Central High School to witness the graduation ceremony of Ernest Green from Little Rock Central High. Ernest was the first of the nine black teenagers who integrated Central High School in 1957. Ernest, along with Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls LaNier, Minnijean Brown Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair and Melba Pattillo Beals shaped history by valiantly attending a previously all-white school.

Of her experience, Melba Pattillo Beals recalls:

> I had to become a warrior. I had to learn not how to dress the best but how to get from that door to the end of the hall without dying.

These students' selfless act of courage changed history for all Americans in a tale that continues to have immediacy today.

As a student of Central High, I can tell you the impact of the Little Rock Nine is felt in the halls and in the hearts of its student body and teachers today.

Central High was designated as a unit of the national park system in 1998. In 2002, over 24,000 people visited the historic site with estimates of a potential 60,000 visitors by 2007. Incidentally, 2007 will be the 50th anniversary of the 1957-1958 Little Rock desegregation crises.

Dr. King was a man of eloquent and powerful words, and he exemplified his principles of love, tolerance, reconciliation and equality. As we all know, he sacrificed his life to usher in opportunity and freedom for all individuals. I remind my colleagues that we must do more than quote the empowering words of Dr. King. We must do more walking and less talking. As we honor Dr. King, I must approach a subject that has been so heavy on my mind.

I am disappointed to learn that the $267,000 that I requested for planning the National Park Service's Little Rock Central High School Visitors Center was not funded in the Interior Appropriations bill, as I and other members of the Arkansas congressional delegation had hoped it would be.

The conference report notes that Central High was authorized in 1998 and that the general management plan was completed in 2002 and recommended a visitor facility. But then it goes on to say generally that this project is not a construction priority.

I am putting my colleagues on notice that I am going to fight for funds for not only planning but building this visitors center in this year's budget, and I urge my colleagues to join me in supporting a proposal that will complete the Little Rock Central High Visitors Center in time for the 50th anniversary in 2007.

The Little Rock Nine brought us closer to realizing Dr. King's dream of "the promised land," but we are not there yet. The visitors center will remind us where we once were, but also how much farther we need to go if we are to truly open the doors of opportunity for all individuals. Join me in supporting a message that is as important today as it was in 1957. Join me in supporting Dr. King's teachings and the bravery of nine black children.

## HONORING THE LIFE OF FORMER SENATOR PAUL SIMON

Mr. FEINGOLD. Mr. President, today I wish to commemorate the distinguished life and career of my friend and former colleague, Senator Paul Simon.

Paul will forever be remembered for the great respect he earned during his 40 years of public service, thanks to his sharp intellect and tremendous leadership. These traits were as much a signature for him as his famous bow tie.

Paul's life is a testament to the fact that public service truly can be a noble calling. His service to his constituents was an inspiration. His office often handled more cases than any other Senate office. During his tenure he held over 600 town meetings in his home State of Illinois. Senator Simon's dedication to those he represented made him a role model to many, including myself. That is why I am proud to have campaigned for Senator Simon during his 1988 run for the Democratic nomination for the presidency.

Paul Simon was dedicated to education. He played a vital role in improving literacy and supporting adult education. His hard work on making student loans more affordable allowed many Americans the chance to go to college. He was also committed to helping working Americans and, throughout his long career, he never lost touch with their concerns.

Senator Simon's dedication to public service and the education of others continued after his retirement when he founded the Southern Illinois University Public Policy Institute.

I was fortunate enough to serve with Senator Simon on both the Judiciary and Foreign Relations Committees. We worked together on many issues, but I will especially remember him for his commitment to campaign finance reform. His support during the early days of campaign finance reform was invaluable. I truly regret that he passed just 1 day before the Supreme Court's historic decision to uphold the Bipartisan Campaign Finance Reform Act.

During a time when many feel that political partisanship is on the rise, Paul Simon remains an example of decency and integrity. He was a mentor to me and so many others who were fortunate enough to have known and worked with him. He will be deeply missed. I will remain forever grateful for the work he did, for the example he set, and for his friendship, which I will always treasure.

## BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through December 9, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is below the budget resolution by $2.1 billion in budget authority and by $7.2 billion in outlays in 2004. Current level for revenues is $227 million below the budget resolution in 2004.

Since my last report, dated November 21, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2004: Fourth continuing resolution, 2004.

P.L. 108-135; An act to authorize salary adjustments for justices and judges of the United States, P.L. 108-167; Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173; Flight 100—Century of Aviation Reauthorization Act, P.L. 108-176; Hometown Heroes Survivors Benefits Act of 2003, P.L. 108-182; Veterans Benefits Act of 2003, P.L. 108-183; Fifth continuing resolution, 2004, P.L. 108-185; Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, P.L. 108-187; Compact of Free Association Amendments of 2003, P.L. 108-188; and, Mental Health Parity Reauthorization Act of 2003, P.L. 10-197.

I ask unanimous consent to print the following information in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, January 15, 2003.*
Hon. DON NICKLES,
*Chairman, Committee on the Budget, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The enclosed table show the effects of Congressional action on the 2004 budget and are current through December 9, 2003 (the last day that the Senate was in session). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last letter dated November 20, 2003, the Congress has cleared and the President has signed the following acts which changed budget authority, outlays, and revenues for 2004:

The fourth continuing resolution (Public Law 108-135);

An act to authorize salary adjustments for justices and judges of the United States (Public Law 108-167);

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173);

The Flight 100—Century of Aviation Reauthorization Act (Public Law 108-176);

The Hometown Heroes Survivors Benefits Act of 2003 (Public Law 108-182);

The Veterans Benefits Act of 2003 (Public Law 108-183);

The fifth continuing resolution (Public Law 108-185);

The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (Public Law 108-187);

The Compact of Free Association Amendments of 2003 (Public Law 108-188); and

The Mental Health Parity Reauthorization Act of 2003 (Public Law 108-197).

In addition, a correction was made to the final scoring of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136). The estimates of budget authority and outlays were each decreased by $14 million for fiscal year 2004.

The effects of these actions are detailed in table 2.

Sincerely,
ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosures.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF DECEMBER 9, 2003

[In billions of dollars]

| | Budget resolution | Current level[1] | Current level over/under (−) resolution |
|---|---|---|---|
| On-budget: | | | |
| Budget Authority | 1,873.5 | 1,871.3 | 2.1 |
| Outlays | 1,897.0 | 1,889.7 | 7.2 |
| Revenues | 1,331.0 | 1,330.8 | 0.2 |
| Off-budget: | | | |
| Social Security Outlays | 380.4 | 380.4 | 0 |
| Social Security Revenues | 557.8 | 557.8 | * |

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Note.—* = less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF DECEMBER 9, 2003

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in previous sessions: | | | |
| Revenues | n.a. | n.a. | 1,466,370 |
| Permanents and other spending legislation[1] | 1,081,649 | 1,054,550 | n.a. |
| Appropriation legislation | 0 | 345,754 | n.a. |
| Offsetting receipts | −366,436 | −366,436 | n.a. |
| Total, enacted in previous sessions | 715,213 | 1,033,868 | 1,466,370 |
| Enacted this session: | | | |
| Authorizing Legislation: | | | |
| American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108-15) | −1 | −1 | 0 |
| Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108-18) | 2,746 | 2,746 | 0 |
| Clean Diamond Trade Act (P.L. 108-19) | 0 | 0 | * |
| Prosecutorial Remedies and Other Tools To End Exploitation of Children Today Act (P.L. 108-21) | 0 | 0 | * |
| Unemployment Compensation Amendments of 2003 (P.L. 108-26) | 4,730 | 4,730 | 145 |
| Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27) | 13,312 | 13,312 | 135,370 |
| Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108-29) | 0 | 0 | * |
| Welfare Reform Extension Act of 2003 (P.L. 108-40) | 99 | 108 | 0 |
| Burmese Freedom and Democracy Act (P.L. 108-61) | 0 | 0 | 10 |
| Smithsonian Facilities Authorization Act (P.L. 108-72) | 1 | 1 | 0 |
| Family Farmer Bankruptcy Relief Act of 2003 (P.L. 108-73) | 0 | 0 | * |
| An act to amend Title XXI of the Social Security Act (P.L. 108-74) | 1,325 | 100 | 0 |
| Chile Free Trade Agreement Implementation Act (P.L. 108-77) | 0 | 0 | 5 |
| Singapore Free Trade Agreement Implementation Act (P.L. 108-78) | 0 | 0 | −55 |
| First continuing resolution, 2004 (P.L. 108-84) | −2,222 | 1 | −2 |
| Surface Transportation Extension Act of 2003 (P.L. 108-88) | 6,405 | 0 | 0 |
| An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108-89) | 15 | −36 | 33 |
| An act to amend chapter 84 of title 5 of the United States Code (P.L. 108-92) | 1 | 1 | 0 |
| An act to amend the Immigration and Nationality Act (P.L. 108-99) | 0 | 0 | 2 |
| Check Clearing Act for the 21st Century (P.L. 108-100) | 0 | 0 | * |
| An act to amend Title 44 of the United States Code (P.L. 108-102) | 0 | 0 | * |
| Second continuing resolution, 2004 (P.L. 108-104) | 1 | 0 | * |
| Partial-Birth Abortion Act of 2003 (P.L. 108-105) | 0 | 0 | * |
| Third continuing resolution, 2004 (P.L. 108-107) | 0 | 0 | −1 |
| Military Family Tax Relief Act of 2003 (P.L. 108-121) | −599 | −599 | −169 |
| An act to amend Title XXI of the Social Security Act (P.L. 108-127) | 0 | 9 | 0 |
| District of Columbia Military Retirement Equity Act of 2003 (P.L. 108-133) | 1 | 1 | 1 |
| An act to reauthorize certain school lunch and child nutrition programs (P.L. 108-134) | 7 | 7 | 0 |
| Fourth continuing resolution, 2004 (P.L. 108-135) | 0 | 0 | 5 |
| National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136) | 4,404 | 946 | 4 |
| An act to authorize salary adjustments for justices and judges of the United States (P.L. 108-167) | 3 | 3 | 0 |
| Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173) | 4,800 | 3,800 | −167 |
| Flight 100—Century of Aviation Reauthorization Act (P.L. 108-176) | 19 | −2 | 1 |

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF DECEMBER 9, 2003—Continued

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Hometown Heroes Survivors Benefits Act of 2003 (P.L. 108–182) | 10 | 10 | 0 |
| Veterans Benefits Act of 2003 (P.L. 108–183) | −77 | −77 | 0 |
| Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (P.L. 108–187) | 0 | 0 | 3 |
| Compact of Free Association Amendments Act of 2003 (P.L. 108–188) | 28 | 28 | 0 |
| Mental Health Parity Reauthorization Act of 2003 (P.L. 108–197) | 0 | 0 | −2 |
| Total, authorizing legislation | 35,008 | 25,088 | −135,597 |
| Appropriation Acts: | | | |
| Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11) | 215 | 27,349 | 0 |
| Legislative Branch Appropriations (P.L. 108–83) | 3,539 | 3,066 | 0 |
| Defense Appropriations (P.L. 108–87) | 368,694 | 251,486 | 0 |
| Homeland Security Appropriations (P.L. 108–90) | 30,216 | 18,192 | 0 |
| Emergency Supplemental Appropriations Act for Defense and Reconstruction of Iraq and Afghanistan (P.L. 108–106) | 3,555 | 1,133 | 0 |
| Interior Appropriations (P.L. 108–108) | 19,673 | 13,202 | 0 |
| Military Construction Appropriations (P.L. 108–132) | 9,316 | 12,567 | 0 |
| Energy and Water Appropriations (P.L. 108–137) | 27,328 | 18,143 | 0 |
| Total, appropriation acts | 462,536 | 335,138 | 0 |
| Continuing Resolution Authority: | | | |
| Continuing Resolution, 2004 (P.L. 108–185) | 300,166 | 157,548 | 0 |
| Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs | 358,395 | 338,102 | n.a. |
| Total Current Level[1, 2] | 1,871,318 | 1,889,744 | 1,330,773 |
| Total Budget Resolution | 1,873,459 | 1,896,973 | 1,331,000 |
| Current Level Over Budget Resolution | n.a. | n.a. | n.a. |
| Current Level Under Budget Resolution | 2,141 | 7,229 | 227 |

[1] Per section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes the following items: outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–69); outlays of $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83); budget authority of $400 million and outlays of $67 million provided in the Interior Appropriations Act, 2004 (P.L. 108–108); and budget authority of $83,992 million and outlays of $35,970 million provided in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (P.L. 108–106).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Notes:—n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

SOURCE: Congressional Budget Office.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In early May 2003, Jessica Mercado, a Latina transgender woman was found dead in her apartment. According to police reports, Mercado was stabbed twice in the neck in her New Haven, CT apartment which was then set on fire in a possible attempt to cover up the crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## TROUBLING PRE-ELECTION DEVELOPMENTS IN UKRAINE

Mr. CAMPBELL. Mr. President, as co-chairman of the Helsinki Commission and the sponsor of the 2002 Senate-passed resolution urging the Ukrainian Government to ensure a democratic, transparent and fair election process in advance of their parliamentary elections, I find recent developments relating to upcoming presidential elections in Ukraine deeply troubling.

Ten months before these critical elections, a constitutional amendment is making its way through the Ukrainian parliament designed to ensure that the current, corruption riddled powers-that-be retain their grip on power, neutralizing the leader of the biggest democratic fraction in parliament and Ukraine's most popular politician, Victor Yushchenko. The amendment calls for abbreviating the presidential term for the October 2004 elections to 2 years, with the election of a president by the parliament in 2006, notwithstanding opinion pools indicating that the overwhelming majority of Ukrainians support preserving direct presidential elections. This amendment had been approved by Ukraine's Constitutional Court in a decision which has led many observers both within and outside of Ukraine to question the independence of the court. The court's decision a few weeks ago to allow President Kuchma to run for a third term, despite the 1996 constitution's 2-term limit, has only raised more questions.

Media repression continues, including the issuance of directives sent to media by the presidential administration on what and how issues and events should be covered, especially in the electronic media. A recent Freedom House report concludes that:

> The current state of affairs of Ukraine's media raises serious questions as to whether a fair and balanced electoral contest can be held.

Newspapers critical of the authorities are subjected to various methods of repression, including attacks against journalists, arrests of publishers, "special attention" via tax inspections, administrative controls over distribution and pressure on advertisers.

At the same time, administrative measures are being taken to prevent lawful political activity, the most stark example of which was the disruption—instigated by the authorities—of a national congress of the Yushchenko-led Our Ukraine bloc in Donetsk last November. Most recently, a presidential decree dismissed the elected Our Ukraine mayor of Mukachevo, despite a ruling by the Supreme Court which confirmed that he had been elected in a legitimate way. In a telling twist, an acting mayor from the political party led by the head of the presidential administration, Victor Medvedchuk, has been installed.

As co-chairman of the Helsinki Commission, I share the concern of colleagues on both sides of the aisle that the presidential elections in Ukraine scheduled for October be free, fair, open and transparent and conducted in a manner consistent with Ukraine's freely undertaken commitments as a member of the Organization for Security and Cooperation in Europe—OSCE. The Helsinki Commission, consistent with our mandate to monitor and encourage compliance with OSCE agreements by all participating states, will continue to follow the situation in Ukraine closely.

I ask unanimous consent that the text of a recent Washington Post editorial on troubling pre-election developments in Ukraine be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 12, 2004]

### A RESOLUTION FOR UKRAINE

According to Secretary of State Colin L. Powell, the Bush administration's first foreign policy resolution for 2004 is "to expand freedom." And not only in Iraq and the Middle East: In an op-ed article published in the New York Times, Mr. Powell promised to support "the consolidation of freedom in many new but often fragile democracies . . . in Latin America, Europe, Asia and Africa." We hope that support will extend beyond the rhetoric that too often has substituted for genuine democratic advocacy during President Bush's first three years—and that it will be applied even where the United States has interests that make toleration of autocracy tempting.

One region where such U.S. engagement, or its absence, might prove decisive is the band of former Soviet republics to the west and south of Russia. Several are struggling democracies; others are ruled by autocrats. Almost all are under threat from Moscow's resurgent imperialism. As the tiny state of Georgia recently demonstrated, democracy is the best defense against Russian President Vladimir Putin's attempts to create a Kremlin-dominated sphere of influence. Countries that have held free and fair elections have tended to gravitate toward strengthening their independence and seeking good relations with the West, while unstable autocrats are more likely to yield to Mr. Putin.

The country closes to a tipping point may be Ukraine. Like Russia, Ukraine has an electoral democracy tainted by corruption and strong-arm tactics and an economy warped by clans of oligarchs. Much of its population, however, aspires to integration with the West. President Leonid Kuchma has been linked to corruption and serious human rights violations. In recent months he has been moving steadily closer to Mr. Putin, allowing a Russian takeover of much of Ukraine's energy industry and signing an economic integration treaty.

Now Mr. Kuchma appears to be looking for ways to curtail Ukraine's democracy so that he can prolong his own hold on power when his term expires this year. Last month his allies in Parliament pushed through the first draft of a constitutional amendment that would cut short the term of the president due to be elected in October and provide that future presidents be chosen by Parliament—where Mr. Kuchma's forces retain control. Then the judges he appointed to the supreme court ruled that the constitution's two-term limit does not prevent Mr. Kuchma from serving again. The president's cronies protest that they are only moving the country toward a more parliament-centered system, and Mr. Kuchma coyly says he has not "yet" decided to seek another term. But the effect of his moves would be to neutralize the country's most popular leader, Viktor Yushchenko, who, polls say, would win the next presidential election if it were fairly held.

More than Mr. Kuchma's quest for continued power is at stake. Mr. Yushchenkjo is popular precisely because he is associated with those Ukrainians who seek to consolidate an independent democracy and move the country toward integration with Europe. Mr. Putin surely will be sympathetic to Mr. Kuchma's subversion of the system. The question is whether the Bush administration will work with Western Europe to mount an effective counter. Freedom could be consolidated this year in Ukraine or slip away. The outcome may just depend on how well Mr. Powell keeps his resolution.

## ADDITIONAL STATEMENTS

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## POEMS FROM RUSTON ELEMENTARY SCHOOL

● Ms. LANDRIEU. Mr. President, each year I try and take advantage of the opportunity to visit some of the high performing schools in my State. This past year, I had the privilege of spending time with the students of Ruston Elementary School in Ruston, LA. I was very impressed by them and their level of achievement. The fifth grade students had just spent the semester studying the U.S. Senate and its role in American democracy. They were eager to learn about our work and the many traditions that make the Senate one of the most deliberative bodies in the world. I asked some of the students if they would mind sharing some of their work with me so that I may bring it back to Washington and enter it into the RECORD. I would like to thank their teacher, Sonja Walker, for all of her good work. In these poems, the children tell us that they are proud to be an American. I, for one, think America should be proud of them.

I ask that the following poems be printed in the RECORD.

The poems follow:

### I'M PROUD TO BE AMERICAN POEM

(By Alhira)

I'm proud to be an American today.
We have rules here in the USA.
Rules that we love, rules that we hate.
I'm proud to be an American in the USA.
We have nice, kind, and sweet in the USA.
I love to be an American.

### FLOWERS

(By Sabrina Bowden)

Some flowers are red,
Some flowers are blue,
Some are yellow, green, and purple,
Like Mardi Gras masks
Worn on children's smiling faces,
While others are orange or white.
But one thing they all have in common
Are the big green stems
And leaves that support the petals
And carry fresh, clean water to the leaves.

### BUTTERFLIES

(By Pymir Brown)

They swirl around in my stomach.
It feels like I'm going dizzy.
They're playing volleyball.
Hitting the ball over the net,
Back and forth
To each other.
Don't you just love butterflies?

### BUSY

(By Jasmine Calloway)

Busy.
Busy yesterday,
Busy today.
Busy tomorrow,
Busy everyday.
Busy and work,
Must be the same.
Work today,
Busy tomorrow.
If you think about it,
It's all the same.

### REMEMBERING ABE

(By Travis Carter)

America seems so beautiful,
When I see the flag wave,
But the most thing I think
Of is when Abe freed the slaves.
He brought everyone freedom
And stopped segregation.
He let everybody work together
To form a nation.
Abe helped us greatly
Through our troubled days,
So now we have love
In all sorts of ways.

### LOVE

(By Crystal Harris)

Love,
Love is something you can't make or take.
It just comes on a regular basis.
But sometimes your love could be taken away.
It might be the one you never even cared for, your love.
You just tricked your love.
Its hard to say goodbye to your love and it never comes back.
Don't just dangle over a haystack, go find another love,
And love him like you never loved any one before.
Love,
Love,
Love.

### I'M PROUD TO BE AN AMERICAN

(By Jamakia Hatter)

I'm proud to be an American,
I'm proud to do what I do, aren't you?
I'm proud to stand for what I stand for.
Especially when you're number one.
I'm proud of what I believe,
I'm proud to be in a country that's free.
My country tis of thee and its sweet land of liberty.
This is why I'm proud to be an American.

### FEELINGS

(By Judy Huynh)

Feelings, hopes, dreams
Treasured so beautifully
Like a butterfly flying across the meadow.
Feelings, sorrows, madness
Swirling so painfully
Like a tornado.
Your hopes and dreams sink
Your heart is so cold and pure of darkness
Like a vacuum feeding on your sorrows and madness.
Feelings, feelings, feelings.

### IF I WERE PRESIDENT

(By Kevin Jackson)

If I were President, it would be fun. I could do all kinds of things.
I know I would have to do a lot of work, but in my free time, I would do this.
First, I would go and meet Michael Jackson.
He is my favorite singer and he would teach me how to do the moon walk.
Next, I would go meet my favorite actor, Chris Tucker.
He was in my favorite movie, Rush Hour 2.
I would ask him about the movie.
Last, but not least, I would get my groove on by going to China.
I would do all kinds of things. I would eat Chinese Food everyday.
This is what I would do.

### IF I WERE THE SENATOR

(By Randall Loyd)

If I were the Senator,
I would make a law about recess,
Or even school.
I would make a law of pizza.
There would be free pizza.

### AMERICA THE VACUUM CLEANER

(By Ben McFatridge)

Like a giant vacuum
America
Sucking all of the evil and terrorists
Out of the world,
Until it is clean,
And rid of terrorists.

### FROM CHAOS TO COURAGE

(By Matthew Rich)

We watched them fall,
With unbelieving eyes.
We saw it burn,
With staring eyes.
We saw the rubble,
With teary eyes.
Then we saw the flag,
With its brilliance,
Shining through the dust.
Now we see it
With courage in our eyes.

### PLEASE REMEMBER

(By Samantha Rich)

Remember when time was ours to enjoy.
Sometimes you wish you could turn around,
And live it again,
But you can't.
So remember,
Remember what happened.
How we were there for each other,
Singing Christmas music,
Cheering for each other,
Hoping for each other to win.
So remember all that happened,
Back when things were the same,
And I'll always remember you and smile.
Though memories last, time goes on.
Although it is hard,
We always have to say goodbye.
So please remember,
Please remember me.

### WHY

(By Shane Rich)

Sometimes I wish I could just ask why, and
that why would be answered.
If I had that opportunity this is what I'd ask.
Why can't we have world peace, where terrorists
didn't exist, and bombs, and
guns, and wars were unheard of?
Why can't we come together to join and be a
nation?
And why can't it be that no one was prejudice
or racist?
And why can't we take out all the bad and
use truth and kindness to fill it in?
But if I could change it I wouldn't, because
I'm going to leave that to God!•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

## DECISION TO LEAVE SENATE

• Mr. BREAUX. Mr. President, 35 years ago Lois and I, along with John Jr. and Bill Breaux, rented a U-Haul truck and headed north to Washington, D.C.

Lois tells the story about Bill the night before we left saying his prayers and concluding with "Good-bye God, we are moving to Washington." And, we had to pull John Jr. from under the house.

Well, today, John Jr. is 38 years old. Bill is 37, and Beth is married to Jeff Shepherdson and has three children—Anna Kate, 6, Campbell, 4, and C.J., 2 years old, and Julie, our youngest is now 28, works in New Orleans, and is here with us today.

I'll always remember that trip. My mother, who is deceased, and my father, followed us to D.C. We got there at night. I had never even visited Washington, so we drove right to the Capitol, and that evening the Marine Corps band was in concert on the Capitol steps. It was beautiful, and I thought they were playing just for us.

It's been a great 35 years—a few years as a staff person, 14 years as a Member of the Congress, representing southwest Louisiana, and it will be 18 years as a U.S. Senator, representing our State of Louisiana. I had the privilege of serving with five Governors and seven Presidents.

I have said for a year now that I would announce my decision whether to seek another term as U.S. Senator after the governor's election this year. I further said that I would make that announcement between November 15 and December 15. The difficulty of that decision is shown by the fact that today is December 15.

Lois and I have spent a lot of time discussing this decision—not formally, but, "what do you think?" type discussions. Although one time she actually sat up in bed, drew a line down the middle of a page, and listed the pros and cons of running—not surprisingly, they came out just about even.

We have received lots of advice—from my staff, from family and supporters here in Louisiana, and from around the country. Some of the letters from total strangers were so touching and heartfelt that we will forever treasure them.

My colleagues in the Congress, especially in the Senate, spoke to both Lois and me frequently with their thoughts and suggestions. Colleagues, actually from both sides of the aisle, urged me to run again, and for their encouragement and friendship I cannot begin to say how much Lois and I appreciate them. My special appreciation also goes to TOM DASCHLE, HARRY REID and MARY LANDRIEU.

The citizens of Louisiana have greatly honored my family and me by allowing me to serve these 30-plus years as their Congressman and U.S. Senator. I can honestly say I enjoyed every moment and appreciated the opportunity that I have had to serve.

But there comes a time in every career when it is time to step aside, and let others step up and serve. And for my family and me that time has arrived. I will not seek re-election to the U.S. Senate.

Throughout my years in Congress I have been guided by a simple philosophy to make government work for everyone. I did not go to Washington to get nothing done other than argue about whose fault it was when we failed to make government work.

My sincere hope is that future Congresses will be able to pursue the center-out coalitions that I have advocated. It is my hope that cooperation and legitimate compromise between our political parties will not be seen as political failure, but rather as a means of building a stronger democracy that better serves our Nation.

To my wife Lois, we started this journey together many years ago and you have been there every step of the way—through the good times, and there were many, and through the not so good times, and there a were a few. I could not have asked for a more helpful and supportive partner and friend. No one has been more lucky and fortunate than me in finding you.

To my staff here in Louisiana and in Washington, let me say I could not have accomplished anything without you. Our office has the greatest of reputations and all of you are truly part of our family—and will always be.

To my father Ezra and to Lois' mom, Doris, I say thank you for putting up with all the things we dragged you through, whether you wanted to be there or not. And to our children, John, Bill, Beth and Jeff, and Julia, I say thank you for being there—you have made us very proud every step of the way.

I am not leaving today. There is still a lot to get done this Congress. We have to get the energy bill passed, and I want to get started on legislation for the 40 million Americans who have no health insurance. I look forward to co-chairing with Governor-elect Kathleen Blanco the very important summit meeting on healthcare in Louisiana.

So this is not goodbye. After working more than half my life on issues important to Louisiana, I intend to continue that involvement in the future, but in a different capacity. But for now, thank you for the privilege and honor of serving Louisiana and our country.•

## HONORING MARCIA COGGS

• Mr. FEINGOLD. Mr. President, today I want to remember Marcia Coggs, a trailblazer in Wisconsin politics and a dear friend, who passed away in December.

Words cannot fully express the impact Marcia Coggs had on the lives of the people of Wisconsin. She was the first African-American woman elected to the State's legislature and was widely known as "the Conscience of the State of Wisconsin." Marcia also became the first African-American to sit on the State legislature's joint finance committee. Better housing, the best in public education, integration and human rights were just some of the causes Marcia championed during her 16 years in the Wisconsin Legislature.

First elected to the State assembly from Milwaukee in 1976, she forced the State to listen and pay attention to the troubling issues people in her district often faced. Civil rights, both in

Wisconsin and throughout the world, were always at the forefront of her mind. Those who knew her were not surprised when she protested against apartheid in South Africa, even joining a demonstration outside that nation's Washington, DC. embassy in 1985.

I had the honor and privilege of working with Marcia on several issues, including a successful effort to make Martin Luther King Jr. Day a legal holiday in Wisconsin. We also joined together in fighting to establish a private cause of action for civil rights violations.

I am honored to have been associated with her and proud to have called her both a mentor and a friend. Marcia made an outstanding contribution to the lives of countless Wisconsinites and left a legacy that the people of my State will honor for many years to come.●

## RETIREMENT OF PETTY OFFICER FIRST CLASS FREDERICA MONIQUE WILLIAMS

● Mr. SESSIONS. Mr. President, I rise today to recognize a great American a true patriot: Hospital Corpsman, First Class Petty Officer Frederica Monique Williams, a resident of Selma, AL. Petty Officer Williams began her career as a deck Seaman Recruit at Naval Hospital Great Lakes as an administrative clerk. There she was selected for Hospital Corpsman "A" School at Great Lakes in October 1984, and upon graduation, she was assigned to Naval Hospital Camp Lejeune as a general duty corpsman where she refined her exceptional patient care and organizations skills, and developed into a strong leader and manager.

Petty Officer Williams served overseas on numerous occasions to include a tour at Naval Hospital Rota, Spain. While in Rota, she worked on a busy Labor and Delivery Unit. Once again her proven clinical experience, caring demeanor, organizational ability and "can-do" leadership style allowed her to excel. While assigned to National Naval Medical Center Bethesda, Maryland, Petty Officer Williams deployed on the Hospital Ship USNS *Comfort*, T-AH-20, during Desert Shield/Desert Storm as member of the Surgical Directorate. There she cared for hundreds of reservists that sustained orthopaedic injuries. For her final assignment, she was assigned as the Administrative Department Head at the TRICARE Mid-Atlantic, Lead Agent Office Norfolk, VA.

In every assignment, First Class Petty Officer Williams met the challenge, and was rewarded with greater responsibilities and opportunities. Her talent for teaching and mentoring junior personnel about the delivery of quality patient care, customer service, and administrative attention to detail was instrumental in providing Navy Medicine, the fine cadre of hospital corpsman serving today. She is a hospital corpsman and leader who always put the welfare of her staff and patients first. Petty Officer William's performance reflects greatly on herself, the United States Navy, and our country. I extend my deepest appreciation to Hospital Corpsman First Class Petty Officer Frederica Monique Williams for her 20 years of dedicated military service and wish her and her family all the best in the years to follow. I am glad to hear that she expects to be returning to Selma. Our State will greatly benefit from her return.●

## CONGRATULATIONS TO MR. LEON OWENS

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Leon Owens of Paducah, KY, on his dedication and leadership as president of Local 5-550 of Paper, Allied-Industrial, Chemical and Energy, PACE, Workers International at the Paducah Gaseous Diffusion Plant during the past 2 years.

Mr. Owens works at the Paducah Gaseous Diffusion Plant in Paducah, KY, where he has demonstrated his caring and leadership for years. He was chosen by the more than 500 union members who work at that plant to be their voice. During his tenure as president, Mr. Owens fought for his fellow workers and led them through an important, but difficult, 5-month strike in 2003. His leadership on this issue helped to protect the jobs and interests of the people of Paducah.

Aside from this highly publicized event, Mr. Owens worked tirelessly on plant cleanup, worker health and economic development issues. He shared his expertise and time with me and my colleagues in Congress, testifying most recently at the Energy Committee field hearing in Paducah in December and at a hearing here in November.

Mr. Owens also serves on the Advisory Board on Radiation and Worker Health which advises the Secretary of Health and Human Services on the implementation of NIOSH's responsibilities under the Energy Employees Occupational Illness Compensation Program Act. This important and complicated issue is just another example of Mr. Owens's dedication to the workers in Paducah.

The working people of Kentucky are fortunate to have had the leadership of Mr. Owens. His example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

Thank you, Leon, for your leadership during a difficult period of history for the Paducah Plant. You have shown fortitude and compassion and I have sincere appreciation for your work. I wish you and your family the best.●

## THE STATE BANK OF LINCOLN CELEBRATES 100 YEARS OF SERVICE

● Mr. DURBIN. Mr. President, as the Senate convenes for its first session of the new year, I would like to call attention to a milestone reached 4 days ago by a financial institution with a long history in Lincoln, IL: the State Bank of Lincoln.

On Friday, January 16, 2004, the State Bank of Lincoln celebrated the completion of 100 years of financial service to the community of Lincoln and the people of Logan County. The bank first opened its doors for business on January 16, 1904, and it has operated as an independent bank ever since.

When the bank began to serve the people of Lincoln, it had $50,000 in starting capital. By the end of its first year, the bank's assets had nearly doubled to $93,000. That growth has continued through the years. Today, the bank has total assets in excess of $170 million, serves the community in four locations, and has received an A+ rating from the Weiss Rating Service.

The State Bank of Lincoln has more than $140 million in local deposits, and has provided more than $100 million in loans to businesses, farmers, and other individuals, to help them achieve their goals and dreams. The bank also has invested in the bonds of local school districts, colleges, and public entities.

As the State Bank of Lincoln passes this important milestone in its history, I would like to extend my congratulations to all who have helped this financial institution serve the community for so many years, along with my best wishes for another 100 years of committed service to the people of Lincoln and Logan County.●

## HONORING SPRING LAKE HEIGHTS, NJ MAYOR FRANK ADAMS

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Frank Adams who has served the Borough of Spring Lake Heights, NJ, for the past 32 years. Mayor Adams served as councilman with distinction for 12 years and has spent the last 20 years as the borough's mayor.

Besides admirably serving Spring Lake Heights for more than 30 years, Frank served as a member of the United States Naval Reserves and was called to active duty during the Korean War.

Mayor Adams is about to retire and he leaves behind an enviable legacy of public service to the community he loves, including accomplishments such as the construction of Ocean Road Park, the construction of the current Borough Hall, and the installation of the borough sewer system.

I ask my colleagues to join me in paying tribute to Mayor Frank Adams, a man who has led by example, worked tirelessly for the benefit of all the residents of Spring Lake Heights, and will leave office having made an indelible mark on the borough.•

## NOTICE: REGISTRATION OF MASS MAILINGS

The filing date for 2003 fourth quarter mass mailings is Monday, January 26, 2004. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 9 a.m. to 5:30 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON THE STATE OF THE UNION DELIVERED TO A JOINT SESSION OF CONGRESS ON JANUARY 20, 2004—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was ordered to lie on the table:

*To the Congress of the United States:*

Mr. Speaker, Vice President Cheney, Members of Congress, distinguished guests, and fellow citizens:

America this evening is a Nation called to great responsibilities. And we are rising to meet them.

As we gather tonight, hundreds of thousands of American service men and women are deployed across the world in the war on terror. By bringing hope to the oppressed, and delivering justice to the violent, they are making America more secure.

Each day, law enforcement personnel and intelligence officers are tracking terrorist threats; analysts are examining airline passenger lists; the men and women of our new Homeland Security Department are patrolling our coasts and borders. And their vigilance is protecting America.

Americans are proving once again to be the hardest working people in the world. The American economy is growing stronger. The tax relief you passed is working.

Tonight, Members of Congress can take pride in great works of compassion and reform that skeptics had thought impossible. You are raising the standards of our public schools; and you are giving our senior citizens prescription drug coverage under Medicare.

We have faced serious challenges together—and now we face a choice. We can go forward with confidence and resolve—or we can turn back to the dangerous illusion that terrorists are not plotting and outlaw regimes are no threat to us. We can press on with economic growth, and reforms in education and Medicare—or we can turn back to the old policies and old divisions.

We have not come all this way—through tragedy, and trial, and war—only to falter and leave our work unfinished. Americans are rising to the tasks of history, and they expect the same of us. In their efforts, their enterprise, and their character, the American people are showing that the state of our Union is confident and strong.

Our greatest responsibility is the active defense of the American people. Twenty-eight months have passed since September 11, 2001—over 2 years without an attack on American soil—and it is tempting to believe that the danger is behind us. That hope is understandable, comforting—and false. The killing has continued in Bali, Jakarta, Casablanca, Riyadh, Mombassa, Jerusalem, Istanbul, and Baghdad. The terrorists continue to plot against America and the civilized world. And by our will and courage, this danger will be defeated.

Inside the United States, where the war began, we must continue to give homeland security and law enforcement personnel every tool they need to defend us. And one of those essential tools is the PATRIOT Act, which allows Federal law enforcement to better share information, to track terrorists, to disrupt their cells, and to seize their assets. For years, we have used similar provisions to catch embezzlers and drug traffickers. If these methods are good for hunting criminals, they are even more important for hunting terrorists. Key provisions of the PATRIOT Act are set to expire next year. The terrorist threat will not expire on that schedule. Our law enforcement needs this vital legislation to protect our citizens—you need to renew the PATRIOT Act.

America is on the offensive against the terrorists who started this war. Last March, Khalid Shaikh Mohammed, a mastermind of September 11th, awoke to find himself in the custody of U.S. and Pakistani authorities. Last August 11th brought the capture of the terrorist Hambali, who was a key player in the attack in Indonesia that killed over 200 people. We are tracking al-Qaida around the world—and nearly two-thirds of their known leaders have now been captured or killed. Thousands of very skilled and determined military personnel are on a manhunt, going after the remaining killers who hide in cities and caves—and, one by one, we will bring the terrorists to justice.

As part of the offensive against terror, we are also confronting the regimes that harbor and support terrorists, and could supply them with nuclear, chemical, or biological weapons. The United States and our allies are determined: We refuse to live in the shadow of this ultimate danger.

The first to see our determination were the Taliban, who made Afghanistan the primary training base of al-Qaida killers. As of this month, that country has a new constitution, guaranteeing free elections and full participation by women. Businesses are opening, healthcare centers are being established, and the boys and girls of Afghanistan are back in school. With help from the new Afghan Army, our coalition is leading aggressive raids against surviving members of the Taliban and al-Qaida. The men and women of Afghanistan are building a nation that is free, and proud, and fighting terror—and America is honored to be their friend.

Since we last met in this chamber, combat forces of the United States, Great Britain, Australia, Poland, and other countries enforced the demands of the United Nations, ended the rule of Saddam Hussein—and the people of Iraq are free. Having broken the Baathist regime, we face a remnant of violent Saddam supporters. Men who ran away from our troops in battle are now dispersed and attack from the shadows.

These killers, joined by foreign terrorists, are a serious, continuing danger. Yet we are making progress against them. The once all-powerful ruler of Iraq was found in a hole, and now sits in a prison cell. Of the top 55 officials of the former regime, we have captured or killed 45. Our forces are on the offensive, leading over 1,600 patrols a day, and conducting an average of 180 raids every week. We are dealing with these thugs in Iraq, just as surely as we dealt with Saddam Hussein's evil regime.

The work of building a new Iraq is hard, and it is right. And America has always been willing to do what it takes for what is right. Last January, Iraq's only law was the whim of one brutal man. Today our coalition is working with the Iraqi Governing Council to draft a basic law, with a bill of rights. We are working with Iraqis and the United Nations to prepare for a transition to full Iraqi sovereignty by the end of June. As democracy takes hold in Iraq, the enemies of freedom will do all in their power to spread violence and fear. They are trying to shake the will of our country and our friends—but the United States of America will never be intimidated by thugs and assassins. The killers will fail, and the Iraqi people will live in freedom.

Month by month, Iraqis are assuming more responsibility for their own security and their own future. And tonight we are honored to welcome one of Iraq's most respected leaders: the current President of the Iraqi Governing Council, Adnan Pachachi. Sir, America stands with you and the Iraqi people as you build a free and peaceful nation.

Because of American leadership and resolve, the world is changing for the better. Last month, the leader of Libya voluntarily pledged to disclose and dismantle all of his regime's weapons of mass destruction programs, including a uranium enrichment project for nuclear weapons. Colonel Qadhafi correctly judged that his country would be better off, and far more secure, without weapons of mass murder. Nine months of intense negotiations involving the United States and Great Britain succeeded with Libya, while 12 years of diplomacy with Iraq did not. And one reason is clear: for diplomacy to be effective, words must be credible—and no one can now doubt the word of America.

Different threats require different strategies. Along with nations in the region, we are insisting that North Korea eliminate its nuclear program. America and the international community are demanding that Iran meet its commitments and not develop nuclear weapons. America is committed to keeping the world's most dangerous weapons out of the hands of the world's most dangerous regimes.

When I came to this rostrum on September 20, 2001, I brought the police shield of a fallen officer, my reminder of lives that ended, and a task that does not end. I gave to you and to all Americans my complete commitment to securing our country and defeating our enemies. And this pledge, given by one, has been kept by many. You in the Congress have provided the resources for our defense, and cast the difficult votes of war and peace. Our closest allies have been unwavering. America's intelligence personnel and diplomats have been skilled and tireless.

And the men and women of the American military—they have taken the hardest duty. We have seen their skill and courage in armored charges, and midnight raids, and lonely hours on faithful watch. We have seen the joy when they return, and felt the sorrow when one is lost. I have had the honor of meeting our service men and women at many posts, from the deck of a carrier in the Pacific, to a mess hall in Baghdad. Many of our troops are listening tonight. And I want you and your families to know: America is proud of you. And my Administration, and this Congress, will give you the resources you need to fight and win the war on terror.

I know that some people question if America is really in a war at all. They view terrorism more as a crime—a problem to be solved mainly with law enforcement and indictments. After the World Trade Center was first attacked in 1993, some of the guilty were indicted, tried, convicted, and sent to prison. But the matter was not settled. The terrorists were still training and plotting in other nations, and drawing up more ambitious plans. After the chaos and carnage of September 11th, it is not enough to serve our enemies with legal papers. The terrorists and their supporters declared war on the United States—and war is what they got.

Some in this chamber, and in our country, did not support the liberation of Iraq. Objections to war often come from principled motives. But let us be candid about the consequences of leaving Saddam Hussein in power. We are seeking all the facts—already the Kay Report identified dozens of weapons of mass destruction-related program activities and significant amounts of equipment that Iraq concealed from the United Nations. Had we failed to act, the dictator's weapons of mass destruction programs would continue to this day. Had we failed to act, Security Council resolutions on Iraq would have been revealed as empty threats, weakening the United Nations and encouraging defiance by dictators around the world. Iraq's torture chambers would still be filled with victims—terrified and innocent. The killing fields of Iraq—where hundreds of thousands of men, women, and children vanished into the sands—would still be known only to the killers. For all who love freedom and peace, the world without Saddam Hussein's regime is a better and safer place.

Some critics have said our duties in Iraq must be internationalized. This particular criticism is hard to explain to our partners in Britain, Australia, Japan, South Korea, the Philippines, Thailand, Italy, Spain, Poland, Denmark, Hungary, Bulgaria, Ukraine, Romania, the Netherlands, Norway, El Salvador, and the 17 other countries that have committed troops to Iraq. As we debate at home, we must never ignore the vital contributions of our international partners, or dismiss their sacrifices. From the beginning, America has sought international support for operations in Afghanistan and Iraq, and we have gained much support. There is a difference, however, between leading a coalition of many nations, and submitting to the objections of a few. America will never seek a permission slip to defend the security of our people.

We also hear doubts that democracy is a realistic goal for the greater Middle East, where freedom is rare. Yet it is mistaken, and condescending, to assume that whole cultures and great religions are incompatible with liberty and self-government. I believe that God has planted in every heart the desire to live in freedom. And even when that desire is crushed by tyranny for decades, it will rise again.

As long as the Middle East remains a place of tyranny, despair, and anger, it will continue to produce men and movements that threaten the safety of America and our friends. So America is pursuing a forward strategy of freedom in the greater Middle East. We will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friends. To cut through the barriers of hateful propaganda, the Voice of America and other broadcast services are expanding their programming in Arabic and Persian—and soon, a new television service will begin providing reliable news and information across the region. I will send you a proposal to double the budget of the National Endowment for Democracy, and to focus its new work on the development of free elections, free markets, free press, and free labor unions in the Middle East. And above all, we will finish the historic work of democracy in Afghanistan and Iraq, so those nations can light the way for others, and help transform a troubled part of the world.

America is a Nation with a mission—and that mission comes from our most basic beliefs. We have no desire to dominate, no ambitions of empire. Our aim is a democratic peace—a peace founded upon the dignity and rights of every man and woman. America acts in this cause with friends and allies at our side, yet we understand our special calling: This great Republic will lead the cause of freedom.

In these last 3 years, adversity has also revealed the fundamental strengths of the American economy. We have come through recession, and terrorist attack, and corporate scandals, and the uncertainties of war. And because you acted to stimulate our economy with tax relief, this economy is strong, and growing stronger.

You have doubled the child tax credit from $500 to $1,000, reduced the marriage penalty, begun to phase out the death tax, reduced taxes on capital gains and stock dividends, cut taxes on small businesses, and you have lowered taxes for every American who pays income taxes.

Americans took those dollars and put them to work, driving this economy forward. The pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years. New home construction: the highest in almost 20 years. Home ownership rates: the highest ever. Manufacturing activity is increasing. Inflation is low. Interest rates are low. Exports are growing. Productivity is high. And jobs are on the rise.

These numbers confirm that the American people are using their money far better than Government would have—and you were right to return it.

America's growing economy is also a changing economy. As technology transforms the way almost every job is done, America becomes more productive, and workers need new skills. Much of our job growth will be found in high-skilled fields like health care and biotechnology. So we must respond by helping more Americans gain the skills to find good jobs in our new economy.

All skills begin with the basics of reading and math, which are supposed to be learned in the early grades of our schools. Yet for too long, for too many children, those skills were never mastered. By passing the No Child Left Behind Act, you have made the expectation of literacy the law of our country. We are providing more funding for our schools—a 36 percent increase since 2001. We are requiring higher standards. We are regularly testing every child on the fundamentals. We are reporting results to parents, and making sure they have better options when schools are not performing. We are making progress toward excellence for every child.

But the status quo always has defenders. Some want to undermine the No Child Left Behind Act by weakening standards and accountability. Yet the results we require are really a matter of common sense: We expect third graders to read and do math at third grade level—and that is not asking too much. Testing is the only way to identify and help students who are falling behind.

This Nation will not go back to the days of simply shuffling children along from grade to grade without them learning the basics. I refuse to give up on any child—and the No Child Left Behind Act is opening the door of opportunity to all of America's children.

At the same time, we must ensure that older students and adults can gain the skills they need to find work now. Many of the fastest-growing occupations require strong math and science preparation, and training beyond the high school level. So tonight I propose a series of measures called Jobs for the 21st Century. This program will provide extra help to middle- and high school students who fall behind in reading and math, expand Advanced Placement programs in low-income schools, and invite math and science professionals from the private sector to teach part-time in our high schools. I propose larger Pell Grants for students who prepare for college with demanding courses in high school. I propose increasing our support for America's fine community colleges, so they can train workers for the industries that are creating the most new jobs. By all these actions, we will help more and more Americans to join in the growing prosperity of our country.

Job training is important, and so is job creation. We must continue to pursue an aggressive, pro-growth economic agenda.

Congress has some unfinished business on the issue of taxes. The tax reductions you passed are set to expire. Unless you act, the unfair tax on marriage will go back up. Unless you act, millions of families will be charged $300 more in Federal taxes for every child. Unless you act, small businesses will pay higher taxes. Unless you act, the death tax will eventually come back to life. Unless you act, Americans face a tax increase. What the Congress has given, the Congress should not take away: For the sake of job growth, the tax cuts you passed should be permanent.

Our agenda for jobs and growth must help small business owners and employees with relief from needless Federal regulation, and protect them from junk and frivolous lawsuits. Consumers and businesses need reliable supplies of energy to make our economy run—so I urge you to pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy. My Administration is promoting free and fair trade, to open up new markets for America's entrepreneurs, and manufacturers, and farmers, and to create jobs for America's workers. Younger workers should have the opportunity to build a nest egg by saving part of their Social Security taxes in a personal retirement account. We should make the Social Security system a source of ownership for the American people.

And we should limit the burden of Government on this economy by acting as good stewards of taxpayer dollars. In 2 weeks, I will send you a budget that funds the war, protects the homeland, and meets important domestic needs, while limiting the growth in discretionary spending to less than 4 percent. This will require that Congress focus on priorities, cut wasteful spending, and be wise with the people's money. By doing so, we can cut the deficit in half over the next 5 years.

Tonight I also ask you to reform our immigration laws, so they reflect our values and benefit our economy. I propose a new temporary worker program to match willing foreign workers with willing employers, when no Americans can be found to fill the job. This reform will be good for our economy—because employers will find needed workers in an honest and orderly system. A temporary worker program will help protect our homeland—allowing border patrol and law enforcement to focus on true threats to our national security. I oppose amnesty, because it would encourage further illegal immigration, and unfairly reward those who break our laws. My temporary worker program will preserve the citizenship path for those who respect the law, while bringing millions of hardworking men and women out from the shadows of American life.

Our Nation's healthcare system, like our economy, is also in a time of change. Amazing medical technologies are improving and saving lives. This dramatic progress has brought its own challenge, in the rising costs of medical care and health insurance. Members of Congress, we must work together to help control those costs and extend the benefits of modern medicine throughout our country.

Meeting these goals requires bipartisan effort—and 2 months ago, you showed the way. By strengthening Medicare and adding a prescription drug benefit, you kept a basic commitment to our seniors: You are giving them the modern medicine they deserve.

Starting this year, under the law you passed, seniors can choose to receive a drug discount card, saving them 10 to 25 percent off the retail price of most prescription drugs—and millions of low-income seniors can get an additional $600 to buy medicine. Beginning next year, seniors will have new coverage for preventive screenings against diabetes and heart disease, and seniors just entering Medicare can receive wellness exams.

In January of 2006, seniors can get prescription drug coverage under Medicare. For a monthly premium of about $35, most seniors who do not have that coverage today can expect to see their drug bills cut roughly in half. Under this reform, senior citizens will be able to keep their Medicare just as it is, or they can choose a Medicare plan that fits them best—just as you, as Members of Congress, can choose an insurance plan that meets your needs. And starting this year, millions of Americans will be able to save money tax-free for their medical expenses, in a health savings account.

I signed this measure proudly, and any attempt to limit the choices of our seniors, or to take away their prescription drug coverage under Medicare, will meet my veto.

On the critical issue of health care, our goal is to ensure that Americans can choose and afford private healthcare coverage that best fits their individual needs. To make insurance more affordable, Congress must act to address rapidly rising healthcare costs. Small businesses should be able to band together and negotiate for lower insurance rates, so they can cover more workers with health insurance—I urge you to pass Association Health Plans. I ask you to give lower-income Americans a refundable tax credit that would allow millions to buy their own basic health insurance. By computerizing health records, we can avoid dangerous medical mistakes, reduce costs, and improve care. To protect the doctor-patient relationship, and keep good doctors doing good work, we must eliminate wasteful and frivolous medical lawsuits. And tonight I propose that individuals who buy catastrophic healthcare coverage, as part of our new health savings accounts, be allowed to deduct 100 percent of the premiums from their taxes.

A Government-run healthcare system is the wrong prescription. By keeping costs under control, expanding access, and helping more Americans afford coverage, we will preserve the system of private medicine that makes America's health care the best in the world.

We are living in a time of great change—in our world, in our economy, and in science and medicine. Yet some things endure—courage and compassion, reverence and integrity, respect for differences of faith and race. The values we try to live by never change. And they are instilled in us by fundamental institutions, such as families, and schools, and religious congregations. These institutions—the unseen pillars of civilization—must remain strong in America, and we will defend them.

We must stand with our families to help them raise healthy, responsible children. And when it comes to helping children make right choices, there is work for all of us to do.

One of the worst decisions our children can make is to gamble their lives and futures on drugs. Our Government is helping parents confront this problem, with aggressive education, treatment, and law enforcement. Drug use in high school has declined by 11 percent over the past 2 years. Four hundred thousand fewer young people are using illegal drugs than in the year 2001. In my budget, I have proposed new funding to continue our aggressive, community-based strategy to reduce demand for illegal drugs. Drug testing in our schools has proven to be an effective part of this effort. So tonight I propose an additional $23 million for schools that want to use drug testing as a tool to save children's lives. The aim here is not to punish children, but to send them this message: We love you, and we don't want to lose you.

To help children make right choices, they need good examples. Athletics play such an important role in our society, but, unfortunately, some in professional sports are not setting much of an example. The use of performance-enhancing drugs like steroids in baseball, football, and other sports is dangerous, and it sends the wrong message—that there are shortcuts to accomplishment, and that performance is more important than character. So tonight I call on team owners, union representatives, coaches, and players to take the lead, to send the right signal, to get tough, and to get rid of steroids now.

To encourage right choices, we must be willing to confront the dangers young people face—even when they are difficult to talk about. Each year, about three million teenagers contract sexually transmitted diseases that can harm them, or kill them, or prevent them from ever becoming parents. In my budget, I propose a grassroots campaign to help inform families about these medical risks. We will double Federal funding for abstinence programs, so schools can teach this fact of life: Abstinence for young people is the only certain way to avoid sexually transmitted diseases. Decisions children make now can affect their health and character for the rest of their lives. All of us—parents, schools, government—must work together to counter the negative influence of the culture, and to send the right messages to our children.

A strong America must also value the institution of marriage. I believe we should respect individuals as we take a principled stand for one of the most fundamental, enduring institutions of our civilization. Congress has already taken a stand on this issue by passing the Defense of Marriage Act, signed in 1996 by President Clinton. That statute protects marriage under Federal law as the union of a man and a woman, and declares that one State may not redefine marriage for other States. Activist judges, however, have begun redefining marriage by court order, without regard for the will of the people and their elected representatives. On an issue of such great consequence, the people's voice must be heard. If judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. Our Nation must defend the sanctity of marriage.

The outcome of this debate is important—and so is the way we conduct it. The same moral tradition that defines marriage also teaches that each individual has dignity and value in God's sight.

It is also important to strengthen our communities by unleashing the compassion of America's religious institutions. Religious charities of every creed are doing some of the most vital work in our country—mentoring children, feeding the hungry, taking the hand of the lonely. Yet government has often denied social service grants and contracts to these groups, just because they have a cross or Star of David or crescent on the wall. By Executive Order, I have opened billions of dollars in grant money to competition that includes faith-based charities. Tonight I ask you to codify this into law, so people of faith can know that the law will never discriminate against them again.

In the past, we have worked together to bring mentors to the children of prisoners, and provide treatment for the addicted, and help for the homeless. Tonight I ask you to consider another group of Americans in need of help. This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work, or a home, or help, they are much more likely to commit more crimes and return to prison. So tonight, I propose a 4-year, $300 million Prisoner Re-Entry Initiative to expand job training and placement services, to provide transitional housing, and to help newly released prisoners get mentoring, including from faith-based groups. America is the land of the second chance—and when the gates of the prison open, the path ahead should lead to a better life.

For all Americans, the last 3 years have brought tests we did not ask for, and achievements shared by all. By our actions, we have shown what kind of Nation we are. In grief, we found the grace to go on. In challenge, we rediscovered the courage and daring of a free people. In victory, we have shown the noble aims and good heart of America. And having come this far, we sense that we live in a time set apart.

I have been a witness to the character of the American people, who have shown calm in times of danger, compassion for one another, and toughness for the long haul. All of us have been partners in a great enterprise. And even some of the youngest understand that we are living in historic times. Last month a girl in Lincoln, Rhode Island, sent me a letter. It began, "Dear George W. Bush." "If there is anything you know, I Ashley Pearson age 10 can do to help anyone, please send me a letter and tell me what I can do to save our country." She added this P.S.: "If you can send a letter to the troops . . . please put, 'Ashley Pearson believes in you.'"

Tonight, Ashley, your message to our troops has just been conveyed. And yes, you have some duties yourself. Study hard in school, listen to your mom and dad, help someone in need, and when you and your friends see a man or woman in uniform, say "thank you." And while you do your part, all of us here in this great chamber will do our best to keep you and the rest of America safe and free.

My fellow citizens, we now move forward, with confidence and faith. Our Nation is strong and steadfast. The cause we serve is right, because it is the cause of all mankind. The momentum of freedom in our world is unmistakable—and it is not carried forward by our power alone. We can trust in that greater power Who guides the unfolding of the years. And in all that is to come, we can know that His purposes are just and true.

May God bless the United States of America. Thank you.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 20, 2004.*

## MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests that concurrence of the Senate:

H. Con. Res. 349. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

The message also announced that the House of Representatives has agreed to (H. Res. 487) that the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

## MESSAGES FROM THE HOUSE DURING ADJOURNMENT

### ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of December 9, 2003, the Secretary of the Senate, on December 9, 2003, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 811. An act to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes;

S. 877. An act to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet;

S. 1680. An act to reauthorize the Defense Production Act of 1950, and for other purposes;

S. 1683. An act to provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees;

S. 1929. An act to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year;

S. 1947. An act to prohibit the offer of credit by a financial institution to a financial institution examiner, and for other purposes;

H.R. 622. An act to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes;

H.R. 1006. An act to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species; and

H.R. 1012. An act to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

Under the authority of the order of December 9, 2003, the enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

Under the authority of the order of December 9, 2003, the Secretary of the Senate, on December 10, 2003, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

S. 686. An act to provide assistance for poison prevention and stabilize the funding of regional poison control centers;

H.R. 100. An act to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940;

H.R. 2620. An act to authorize appropriations for fiscal years 2004 and 2005 for Trafficking Victims Protection Act of 2000, and for other purposes; and

H.J. Res. 82. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

Under the authority of the order of December 9, 2003, the enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2006. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5353. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-100, 200, and 200C Series Airplanes Doc. No. 2002–NM–150" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5354. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospace Technologies of Australia Pty Ltd. Models N22B and N24A Airplanes Doc. No. 2003–CE–21" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5355. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Deutschland Ltd & Co KG Models Tay 650-15 and Tay 651-54 Turbofan Engines Doc. No 98–ANE–68" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5356. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Model 560 Airplanes Doc. No. 2003–NM–225" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5357. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Restricted Area R23iE Ajo East, AZ; and R–2304, and 2305 Gila Bend, AZ Doc. No. 03–AWP–4" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5358. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Boeing and McDonnell Transport Category Airplanes Doc. No. 2003–NM–91" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5359. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Rocky Mount, NC Doc. No. 03–ASO–15" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5360. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Smithfield, NC Doc. No. 03–ASO–14" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5361. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200 Series Airplanes Doc. No. 2002–NM–95" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5362. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Titeflex Corporation Doc. No. 2002–NE–22" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5363. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-400, 400D, and 400F Series Airplanes Doc. No. 2003–NM–173" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5364. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Kotlik, AZ Doc. No. 03–AAL–08" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5365. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Akiak, AK Doc. No. 03–AAL–13" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5366. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E4 Airspace and Modification of Class E5 Airspace; Goodland, KS Doc. No. 03–ACE–71" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5367. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Kivalina, AK Doc. No. 03–AAL–17" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5368. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E5 Airspace; Johnson, KS Doc. No. 03–ACE–77" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5369. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (36) Amendment No. 3082" (RIN2120–AA65) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5370. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Chevak, AK Doc. No. 03–AAL–112" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5371. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (1) Amendment No. 3083" (RIN2120–AA65) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5372. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Jacksonville, NC Doc. No. 03–ASO–12" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5373. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc Rb211 Series Turbofan Engines Doc. No. 2003–NE–33" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5374. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1–600–1A11 (CL–600), CL–600–2A12 (CL–601) and C1–600–2B16 (CL–601–3A, CL–6013R, and CL–604) Series Airplanes Doc. No. 2002–NM–157)" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5375. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Charlottesville, VA Doc. No. 03–AEA–09" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5376. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Viroqua, WI Doc. No. 03–AGL–06" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5377. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace and Modification of Class E Airspace; St. Joseph, MO Doc. No. 03–ACE–70" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5378. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace and Modification of Class E Airspace; Topeka, Phillip Billard Municipal Airport, KS" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5379. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerostar Aircraft Corporation Models PA–60–600, PA–60–601P, PA–60–602P, and PA–60–700P Airplanes Doc. No. 2003–CE–44" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5380. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Correction McDonnell Douglas Model DC–10–10F, 15, 30, 30F (KC–10A and KDC–10), 40, and 40F Airplanes and Model MD 10–10F, and 30F Airplanes Doc. No. 2002–NM–164" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5381. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Recission Cessna Model 750 Citation X Series Airplanes Doc. No. 99–NM–229" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5382. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11, and 11F Airplanes Doc. No. 2001–NM–52" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5383. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Maxton, NC Doc. No. 03–ASO–13" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5384. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135, and –145 Airplanes Doc. No. 2002–NM–88" (RIN2120 64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5385. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes Doc. No. 2001–NM–52" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5386. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS335E, F, F1, F2, and N Helicopters Doc. No. 2003–SW–10" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5387. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS332C, AS332L, AS332L1, and AS332L2 Helicopters Doc. No. 2002–SW–58" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5388. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Model 525 Airplanes Doc. No. 2003–CE–46" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5389. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc RB211–524 Series Turbofan Engines Doc. No. 2003–NE–36" (RIN2120–AA64) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5390. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (4) Amendment No. 3080" (RIN2120–AA65) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5391. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chariton, IA Doc. No. 03–ACE–67" (RIN2120–AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5392. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Ramona, CA Doc. No. 03-AWP-11" (RIN2120-A66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5393. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Corning, IA Doc. No. 03-AC-69" (RIN2120-AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5394. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Raleigh, NC Doc. No. 03-ASO-11" (RIN2120-AA66) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5395. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Digital Flight Data Recorder Requirements Changes to Recording Specifications and Additional Exceptions; CORRECTION; Doc. No. FAA-2003-15682" (RIN2120-AH89) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5396. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Flightdeck Security on Large Cargo Airplanes; Request for Comments; CORRECTION Doc. No. FAA-2003-15653" (RIN2120-AH96) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5397. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Lower Deck Service Compartments on Transport Category Airplanes; CORRECTION Doc. No. FAA-2002-11346" (RIN2120-AH38) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5398. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Part 145 Review: Repair Stations; Final Rule; Delay of Effective Date; Doc. No. FAA-1999-5836" (RIN2120-AC38) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5399. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "DOD Commercial Air Carrier Evaluators; Request for Comments; Correction Doc. No. FAA-2003-15571" (RIN2120-AI00) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5400. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Digital Flight Data Recorder Requirements Changes to Recording Specifications and Additional Exceptions; Correction; CORRECTION TO CORRECTION Doc. No. FAA-2003-15682" (RIN2120-AH89) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5401. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Air Tour Operators in the State of Hawaii; Doc. No. FAA-2003-14830" (RIN2120-AH02) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5402. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reduced Vertical Separation Minimum in Domestic United States Airspace; Doc. No. FAA-2002-12261" (RIN2120-AH68) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5403. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fractional Aircraft Ownership Programs and On Demand Operations; Doc. No. FAA-2001-10047" (RIN2120-AH06) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5404. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Digital Broadcast Content Protection" (MB Doc. No. 02-230) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5405. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Wickenburg, Bagdad, and Aguila, AZ)" (MM Doc. No. 00-166) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5406. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.2-2(b), Table of Allotments, FM Broadcast Stations (Alamo Community, New Mexico)" (MM Doc. No. 01-158) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5407. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Fort Walton Beach, FL" (MM Doc. No. 00-233) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5408. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Apopka, Maitland, and Homosassa Springs, FL)" (MB Doc. No. 03-24) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5409. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Encino, TX)" (MB Doc. No. 02-341) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5410. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Marathon and Mertzon, TX)" (MB Doc. No. 02-243) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5411. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Tallapoosa, GA)" (MB Doc. No. 03-161) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5412. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Mount Pleasant and Bogata, TX)" (MM Doc. No. 00-54) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5413. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations (Corpus Christi, TX)" (MM Doc. No. 99-277) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5414. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Conformance with Federal Acquisition Circulars 2001-15 and 2001-14" (RIN2700-AC92) received on December 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5415. A communication from the Director for Acquisition Management, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (grants)" (RIN0605-AA16) received on December 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5416. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: (Including 3 Regulations); [CGD08-03-180], [CGD08-03-046]" (RIN1625-AA09) received on December 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5417. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Allowing Alternatives to Incandescent Lights, and Establishing Standards for New Lights, in Private Aids to Navigation" (RIN1625-AA55) received on December 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC-5418. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary for Budget and Programs/CFO, Department of Transportation, received on December 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5419. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards: Tire Pressure Monitoring Systems" (RIN2127–AJ22) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5420. A communication from the Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NOAA Office of Ocean Exploration Announcement of Funding Opportunity, Fiscal Year 2004" received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5421. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments" (ID100303B) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5422. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of the Fishery for Pacific Sardine North of Pt. Arena, California" (ID102003A) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5423. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders" (ID101603B) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5424. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards: Child Restraint Systems; Interim Final Rule on Seat Mounted Vests" (RIN2127–AI88) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5425. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Improved Flammability Standards for Theral/Acoustic Insulation Materials Used in Transport Category Airplanes; CORRECTION Doc. No. FAA–200–7909" (RIN2120–AG91) received on December 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5426. A communication from the Senior Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Allocations and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands; Loea Communications Corporation Petition for Rule Making" (FCC03–248) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5427. A communication from the Legal Advisor and Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets" (FCC03–113) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5428. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service" (FCC03–280) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5429. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 5 of the Commission's Rules to Require Electronic Filing Applications for Experimental Radio Licenses and Authorizations" (FCC03–207) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5430. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions to Broadcast Auxiliary Service Rules in Part 74 and Conforming Technical Rules for Broadcast Auxiliary Service, Cable Television Relay Service and Fixed Services in Parts 74, 78, and 101 of the Commission's Rules" (FCC03–246) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5431. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2, 25, and 87 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Between 28 MHz and 36 GHz and to Otherwise Update the Rules in this Frequency Range" (FCC03–269) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5432. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Rural Health Care Support Mechanism in WC Docket No. 02–60" (FCC03–288) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5433. A communication from the Senior Procurement Executive, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants); Department of Transportation Implementation" (RIN2105–AD07) received on December 4, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5434. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designations; California" (Doc. No. 03–005–2) received on December 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5435. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designations; New Mexico" (Doc. 03–044–2) received on December 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5436. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5437. A communication from the Principal Deputy, Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the Annual Report of the Armed Forces Retirement Home for Fiscal Year 2002; to the Committee on Armed Services.

EC–5438. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's Semiannual Report to Congress for the six-month period ending September 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5439. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, a report relative to plutonium storage at the Department of Energy's Savanna River Site; to the Committee on Armed Services.

EC–5440. A communication from the Assistant Director, Executive and Political Personnel, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of Assistant Secretary of the Army for Civil Works, Department of the Army, received on December 3, 2003; to the Committee on Armed Services.

EC–5441. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Changes Included in the National Defense Authorization Act for Fiscal Year 2003" (RIN0720–AA85) received on December 3, 2003; to the Committee on Armed Services.

EC–5442. A communication from the Assistant Director, Executive and Political Personnel, transmitting, pursuant to law, the report of a nomination for the position of Secretary of the Navy, received on December 3, 2003; to the Committee on Armed Services.

EC–5443. A communication from the Assistant Director, Executive and Political Personnel, transmitting, pursuant to law, the report of Under Secretary of Defense for Acquisition, Technology, and Logistics, received on December 3, 2003; to the Committee on Armed Services.

EC–5444. A communication from the Chairman and President of the Export-Import Bank of the United States, a report relative to a transaction involving U.S. exports to Azerbaijan, Georgia, and Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–5445. A communication from the Chairman and President of the Export-Import Bank of the United States, a report relative to a transaction involving U.S. exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–5446. A communication from the Assistant Secretary, Divisions of Corporate Finance and Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Disclosure Regarding Nominating Committee Functions and Communications Between Security Holders and Boards of Directors" (RIN3235–AI90) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5447. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, the semi annual report of the Board for the period from April 1, 2003 to September 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5448. A communication from the Secretary of the Treasury, transmitting, pursuant to the National Emergencies Act, a six-month periodic report on the national emergency with respect to the Development Fund for Iraq; to the Committee on Banking, Housing, and Urban Affairs.

EC–5449. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "List of Communities Eligible for the Sale of Flood Insurance" (48 CFR 64) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5450. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR 67) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5451. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR 67) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5452. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR 65) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5453. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR 65) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5454. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (44 CFR 64) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5455. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Rescission of Final Flood Elevation Determination" (Doc. No. FEMA-7772) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5456. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on December 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5457. A communication from the Secretary of the Treasury, transmitting, pursuant to the National Emergencies Act, a report relative to the national emergency declared with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5458. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (WV-091-FOR) received on December 1, 2003; to the Committee on Energy and Natural Resources.

EC–5459. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "North Dakota Regulatory Program" (ND-044-FOR) received on December 1, 2003; to the Committee on Energy and Natural Resources.

EC–5460. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (WV-095-FOR) received on December 1, 2003; to the Committee on Energy and Natural Resources.

EC–5461. A communication from the Acting General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Update of the Federal Energy Regulatory Commission's Fee Schedule for Annual Charges for the Use of Government Lands" received on December 3, 2003; to the Committee on Energy and Natural Resources.

EC–5462. A communication from the Assistant Secretary, Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, the Department's annual report to Congress on streamlining and standardization; to the Committee on Energy and Natural Resources.

EC–5463. A communication from the Assistant Secretary, Land and Minerals Management, Minerals Management Service, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Civil Penalties" (RIN1010–AD07) received on December 1, 2003; to the Committee on Energy and Natural Resources.

EC–5464. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Revisions to Delaware's Motor Vehicle Emissions Inspection Program and Low Enhanced Inspection and Maintenance Program" (FRL#7590–9) received on December 1, 2003; to the Committee on Environment and Public Works.

EC–5465. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Nebraska Update to Materials Incorporated by Reference" (FRL#7592–1) received on December 1, 2003; to the Committee on Environment and Public Works.

EC–5466. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; State of Missouri" (FRL#7591–4) received on December 1, 2003; to the Committee on Environment and Public Works.

EC–5467. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval of Revision to Operating Permits Program in Ohio" (FRL#7588-9) received on December 1, 2003; to the Committee on Environment and Public Works.

EC–5468. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, the Commission's latest monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–5469. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Marine Mammals; Incidental Take During Specific Activities" (RIN1018–AH92) received on December 4, 2003; to the Committee on Environment and Public Works.

EC–5470. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Joint Counterpart Endangered Species Act Section 7 Consultation Regulations" (RIN1018-AJ02) received on December 4, 2003; to the Committee on Environment and Public Works.

EC–5471. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Coverage and Payment of Ambulance Services; Inflation Update for CY 2004" (RIN0938-AM44) received on December 3, 2003; to the Committee on Finance.

EC–5472. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare and Medicaid Programs; Religious Nonmedical Health Care Institutions and Advance Directives" (RIN0938–AI93) received on December 3, 2003; to the Committee on Finance.

EC–5473. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2003-80) received on December 4, 2003; to the Committee on Finance.

EC–5474. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting for Distributions with Respect to Securities Issued by Foreign Corporations" (Notice 2003–79) received on December 4, 2003; to the Committee on Finance.

EC–5475. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to Medicare payment policies for medical education; to the Committee on Finance.

EC–5476. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report relative to the Agency's compliance with the Inspector General Act of 1978; to the Committee on Governmental Affairs.

EC–5477. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug–Free Workplace (Grants)" (RIN3095–AB04) received on December 1, 2003; to the Committee on Governmental Affairs.

EC–5478. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5479. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5480. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5481. A communication from the Auditor of the District of Columbia, transmitting, a report entitled "Fiscal Year Annual Report On Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC–5482. A communication from the Director, Management and Chief Financial Officer, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Reflect Change of Address of the Interior Board of Contract Appeals" (RIN3206–AK07) received on December 1, 2003; to the Committee on Governmental Affairs.

EC–5483. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5484. A communication from the Special Assistant to the President and Director, Office of Administration, Executive Office of the President, transmitting, pursuant to law, a report relative to personnel employed in the White House, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development, and the Office of Administration; to the Committee on Governmental Affairs.

EC–5485. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, a report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5486. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5487. A communication from the Deputy Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, copies of the inventories of commercial and inherently governmental positions in the Department of Transportation; to the Committee on Governmental Affairs.

EC–5488. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Part A Premium for 2004 for the Uninsured, Aged, and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN0938–AM33) received on December 1, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5489. A communication from the Director, Regulations and Forms Services, Immigration and Customs Enforcement, transmitting, pursuant to law, the report of a rule entitled "Suspending the 30-Day and Annual Interview Requirements From the Special Registration Process for Certain Nonimmigrants" (RIN1653–AA29) received on December 4, 2003; to the Committee on the Judiciary.

EC–5490. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2004" (RIN0938–AM31) received on December 1, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5491. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Debarment and Suspension (Nonprocurement) and Drug-Free Workplace (Grants)" (RIN0991–AB12) received on December 1, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5492. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Reduction in Medicare Part B Premiums As Additional Benefits Under Medicare Plus Choice Plans" (RIN0938–AL49) received on December 1, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5493. A communication from the Division of Acquisition Management Services, Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug–Free Workplace" (RIN1291–AA33) received on December 3, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5494. A communication from the Assistant General Counsel for Regulatory Services, Office of the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Requirements for Drug–Free Workplace (Financial Assistance); Governmentwide Debarment and Suspension (Nonprocurement); Student Assistance General Provisions; and Federal Family Education Loan Program" (RIN1890–AA07) received on December 4, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5495. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single–Employer Plans; Allocation of Assets in Single–Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on December 3, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5496. A communication from the Assistant Secretary for Indian Affairs, Division of Transportation, Bureau of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled "Partial Distribution of Fiscal Year 2004 Indian Reservation Roads Funds" (RIN1076–AE50) received on December 3, 2003; to the Committee on Indian Affairs.

EC–5497. A communication from the Secretary of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of the Pueblo of Isleta judgment funds; to the Committee on Indian Affairs.

EC–5498. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Beginning January 1, 2004" (RIN0938–AM91) received on December 1, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5499. A communication from the Vice Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Leadership PACs" (Notice 2003–22) received on December 1, 2003; to the Committee on Rules and Administration.

EC–5500. A communication from the Vice Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Leadership PACs" (Notice 2003–22) received on December 1, 2003; to the Committee on Rules and Administration.

EC–5501. A communication from the Director, Regulations Management, Veterans Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Veterans Education: Increased Allowances for the Educational Assistance Test Program" (RIN2900–AL52) received on December 1, 2003; to the Committee on Veterans' Affairs.

EC–5502. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Inflation-Adjusted Items for 2004" (Rev. Proc. 2003–85) received on December 1, 2003; to the Committee on Finance.

EC–5503. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "General Electric Co. and Subs. V. Commissioner, T.C. Memo. 1995 306 Rev'd in Part Vacated in Part and Remanded 245 f.3. 149 (2d Cir.200100" received on December 1, 2003; to the Committee on Finance.

EC–5504. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "2004 Annual Covered Compensation Tables" (Rev. Rule 2003–124) received on December 1, 2003; to the Committee on Finance.

EC–5505. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Tenant Income Certifications for Acquisition/Rehabilitation" (Rev. Proc. 2003–82) received on December 1, 2003; to the Committee on Finance.

EC–5506. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Professional Employer Organizations" (Rev. Proc. 2003–86) received on December 1, 2003; to the Committee on Finance.

EC–5507. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Photocopying Reimbursement Methodology" (RIN0938–AK68) received on December 3, 2003; to the Committee on Finance.

EC–5508. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A330, 301, 321, 322, 341, and 342 Airplanes; Doc. No. 2001–NM–353” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5509. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Mitsubishi Heady Industries, Ltd MU–2B Series Airplanes; Doc. No. 2003–CE–22” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5510. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Hartzell Propeller Inc. Model HC A6A 3 Series Propellers; Doc. No. 2003–NE–47” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5511. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, BA, C, D, D1, and AS355E, F, F1, F2 and N Helicopters; Doc. No. 2000–SW–12” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5512. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Rolls Royce plc Tent 768–60 Turbofan Engines; Doc. No. 2003–NE–37” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5513. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Rolls Royce plc Trent 556–61 Turbofan Engines; Doc. No. 2003–NE–42” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5514. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, D1, and F1, F2, and N Helicopters; Doc. No. 2003–SW–18” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5515. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Pratt and Whitney PW4074, 4074D, 4077, 4077D, 4084, 4084D, 4090, 4090D, 4090–3, and PW 4098 Turbofan Engines; Doc. No. 2003–NE–40” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5516. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: MD Helicopters Inc. Model 369A, H, HE, HS, D, and E Helicopters; Doc. No. 2003–SW–16” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5517. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model EC120B Helicopters; Doc. No. 2003–SW–07” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5518. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: The New Poper Aircraft Models PA 31, 31–300, 31–325, 31–350, 31P, 31T, 31T1, 31T2, 31T3, and 31P–350 Airplanes; Doc. No. 2003–CE–03” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5519. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Pratt and Whitney JT9D–3A, 7, 7A, 7F, 7H, and 7J Turbofan Engines; Doc. No. 2003–NE–52” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5520. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (83); Amdt. No. 3079” (RIN2120–AA65) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5521. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (83); Amdt. No. 3079” (RIN2120–AA65) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5522. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (50); Amdt. No. 3081” (RIN2120–AA65) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5523. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Clarion, IA; Doc. No. 03–ACE–68” (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5524. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; New Richmond, WI; Doc. No. 03–AGL–08” (RIN2120–AA608) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5525. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class D Airspace; Minot, ND; Doc. No. 03–AGL–07” (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5526. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Kingman, KS; Doc. No. 03–ACE–73” (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5527. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Winterset, IA; Doc. No. 03–ACE–87” (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5528. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD–11 Airplanes; Doc. No. 2003–NM–68” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5529. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas MD–11 and 11F Airplanes; Doc. No. 2003–NM–70” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5530. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC–9–81 (MD–81), DC–9–87 (MD–87), and MD–88 Airplanes; Doc. No. 2000–NM–150” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5531. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes; Doc. No. 2003–CE–28” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5532. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC–10–10, –10F , –15, –30, –30F, –40, –40F, MD–10–40F, –10F, –30F, MD–11, and MD–11F Airplanes; Doc. No. 2001–NM0297” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5533. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model AS332C, Ci, L, L1, AS350B, BA, B1, B3, and D, and AS355E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–15” (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5534. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Corporation (Formerly Allison Engine Company) AE3007A1/1, -A1/3, -A3, -A1E, and -A1P Turbofan Engines; Doc. No. 2003–NE–19" (RIN2120–AA64) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5535. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Great Bend, KS; Doc. No. 03–ACE–72" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5536. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Gettysburg, PA; Doc. No. 03–AEA–04" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5537. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Oskalloas, IA; Doc. No. 03–ACE–84" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5538. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Osceola, IA; Doc. No. 03–ACE–83" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5539. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Waverly, IA; Doc. No. 03–ACE–86" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5540. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mount Pleasant, IA; Doc. No. 03–ACE–82" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5541. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Tipton, IA; Doc. No. 03–ACE–85" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5542. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Mentasta Lake Mountains Area, AK; AK Doc. No. 03–AAL–18" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5543. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; York, PA; Doc. No. 03–AEA–08" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5544. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Gettysburg, PA; Correction Doc. No. 03–AEA–04" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5545. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Manokotak, AK; Doc. No. 03–AAL–19" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5546. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Ormond Beach, FL; Doc. No. 03–ASO–9" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5547. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E4 Airspace; and Modification of Class E5 Airspace; Goodland, KS; Doc. No. 03–ACE–71" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5548. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Buckhannon, WV; Doc. No. 03–AEA–05" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5549. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cherokee, IA; Doc. No. 03–ACE–89" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5550. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Greenfield, IA; Doc. No. 03–ACE–88" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5551. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments 3085 Doc. No. 30399" (RIN2120–AA65) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5552. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Charlottesville, VA; Correction Doc. No. 03–AEA–09" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5553. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; New York, NY; Doc. No. 03–AEA–14" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5554. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; New York and New Jersey; Doc. No. 03–AEA–17" (RIN2120–AA66) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5555. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments 3084 Doc. No. 30398" (RIN2120–AA65) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5556. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aging Aircraft Safety Doc. No. 1999–5401" (RIN2120–AA6) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5557. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation: Special Local Reg" (RIN1625–AA08) received on December 8, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5558. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations" (RIN1625–AA00) received on December 8, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5559. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area" (RIN1625–AA11) received on December 8, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5560. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ravenswood and Racine, Ohio)" (MB Doc. No. 03–22) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5561. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Conway and Vilonia, AK)" (MB Doc. No. 03–23) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5562. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Worcester and Westborough, Massachusetts)" (MB Doc. No. 02–49) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5563. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Marble Falls and Dripping Springs, TX)" (MB Doc. No. 03–195) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5564. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ash Fork, Chino Valley, Dolan Springs, Fredonia, Gilbert, Peach Springs, Seligman, and Tusayan, AZ; Moapa Valley, NV; Beaver and Cedar City, UT)" (MM Doc. No. 02–12) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5565. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Corpus Christi, TX)" (MM Doc. No. 00–198) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5566. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Elimination of Experimental Broadcast Ownership Restrictions" (FCC01–99) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5567. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Oak Grove and Trenton, KY; Springfield, TN)" (MB Doc. No. 03–132) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5568. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Juneau, Alaska" (MB Doc. No. 03–97) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5569. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Bluefin Tuna Fisheries, Quota Transfer; Fishery Closure" (ID#111303B) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5570. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments" (ID#111903C) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5571. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Reallocation of Projected Unused Amounts of Bering Sea Subarea Pollock from the Inicidental Catch Account to the Directed Fisheries" received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5572. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Trip Limit Reduction for the Commercial Fishery for Gulf Group King Mackerel in the Northern Florida West Coast Subzone" received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5573. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implelemt Approved Measures Contained in the Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan" (RIN0648–AR43) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5574. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Interim 2004 Total Allowable Catch (TAC) Amounts for Each Category of Groundfish, Community Development Quota (CDQ) Reserve Amounts, American Fisheries Act (AFA) Pollock Allocations and Sideboard Amounts, and Prohibited Species Catch (PSC) Allowances and Prohibited Species Quota (PSQ) Reserves for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI)" received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5575. A communication from the Attorney Advisor, CFO, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Budget and Programs, CFO, received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5576. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Public Acknowledgments" (RIN2700–AC75) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5577. A communication from the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Requirements for Bicycles—Tests and Test Procedures; Correction" (68 FR 52690) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5578. A communication from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Parts 2 and 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure Devices in the 5 GHz Band" (FCC03–287) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5579. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Use of Locomotive Horns at Highway-Rail Grade Crossings" (RIN2130–AA71) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5580. A communication from the Office of the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report of a violation of the Antideficiency Act relative to the scoring analysis described in Appendix B of OMB Circular A–11; to the Committee on Commerce, Science, and Transportation.

EC–5581. A communication from the Fishery Biologist, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Endangered and threatened Species; Final Rule Governing Take of Four Threatened Evolutionary Significant Units of West Coast Salmonids" (RIN0648–AP17) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5582. A communication from the Secretary of Transportation, transmitting, a report from the Federal Transit Administration relative to maximum axle weight limitations; to the Committee on Commerce, Science, and Transportation.

EC–5583. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Deputy Secretary, Department of Transportation, received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5584. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Rates for Pilotage on the Great Lakes" (RIN1625–AA38) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5585. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Civil Monetary Penalties—Adjustments for Inflation" (RIN1625–AA01) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5586. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Inner Harbor Navigation" (RIN1625–AA09) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5587. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Charleston Harbor, Cooper River, SC; San Francisco Bay, Morgan City" (RIN1625–AA00) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5588. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Los Angeles Beach" (RIN1625–AA00) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5589. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Technical Amendment to Update and Correct Office of Management and Budget Control Numbers and Related Regulatory Citations for NMFS Information Collection" (RIN0648–AR71) received on December 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5590. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the National Emergency declared in Executive Order 13313 of July 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5591. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Herring Fishery; Closure of Directed Fishery for Management Area 1A" (ID110703B) received on December 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5592. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Notice of Closure of the 2003 Fall Gulf of Mexico Commercial Red Snapper Fishery" received on December 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5593. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "December 2002 Wassenaar Arrangement Plenary Agreement Implementation: Categories 1–7 of the Commerce Control List and Reporting Requirements" (RIN0694–AC85) received on December 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5594. A communication from the Secretary of the Commission, Bureau of Economics, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Annual Adjustment of Ceiling on Allowable Charge for Certain Disclosures under the Fair Credit Reporting Act Section 612(f)" received on December 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5595. A communication from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Interstate Highway System" (RIN2125–AF00) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5596. A communication from the Senior Attorney Advisor, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report" (RIN2137–AD21) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5597. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Upgrade Fuel Integrity Performance Requirements" (RIN2127–AF36) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5598. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Delaware Bay and River" (RIN1625–AA00) received on January 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5599. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipeline Operations)" (RIN2137–AD54) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5600. A communication from the Secretary of Transportation, transmitting, the Department of Transportation's Annual Report of the Maritime Administration for Fiscal Year 2002; to the Committee on Commerce, Science, and Transportation.

EC–5601. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Vessel Monitoring Systems and Incidental Catch Measures" (RIN0648–AQ58) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5602. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, a report entitled "Government Property—Instructions for Preparing NASA Form 1018" (RIN2700–AC73) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5603. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Exempted Fishing Activities" (RIN0648–AO79) received on December 18, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5604. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Closure of the Commercial Fishery for Gulf Group King Mackerel in the Northern Florida West Coast Subzone" received on December 18, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5605. A communication from the Assistant Chief Counsel, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices for Streets and Highways; Revision" (RIN2125–AE93) received on December 8, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5606. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Notice of Intent to Prepare an Environmental Impact Statement for the Construction of an Office/Laboratory/Classroom Facility for the Canaan Valley Institute" (Doc.#031110276–3276–01) received on December 18, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5607. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Secretary of Defense (International Security Policy), Department of Defense, received on December 30, 2003; to the Committee on Armed Services.

EC–5608. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to the F/A–18 E/F and EA–18G aircraft multiyear program; to the Committee on Armed Services.

EC–5609. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Cooperation Account; to the Committee on Armed Services.

EC–5610. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the International Traffic in Arms Regulations; to the Committee on Armed Services.

EC–5611. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the removal of an item from the United States Munitions List; to the Committee on Armed Services.

EC–5612. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Armed Services.

EC–5613. A communication from the Acting Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to corrosion and its effects on the military infrastructure of the Department; to the Committee on Armed Services.

EC–5614. A communication from the Deputy Secretary of Defense, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–5615. A communication from the Deputy Secretary of Defense, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–5616. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Central Contractor Registration" (DFARS Case 2003–D040) received on December 8, 2003; to the Committee on Armed Services.

EC–5617. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "DoD Activity Address Codes in Contract Numbers" (DFARS Case 2003–D0005) received on December 8, 2003; to the Committee on Armed Services.

EC–5618. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Competition Requirements for Purchases from a Required Source" (DFARS Case 202–D0003) received on December 8, 2003; to the Committee on Armed Services.

EC–5619. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Provisional Award Fee Programs" (DFARS Case 2001–D013) received on December 8, 2003; to the Committee on Armed Services.

EC–5620. A communication from the Acting Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to research and development programs approved as spiral development programs; to the Committee on Armed Services.

EC–5621. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled "Walnuts Grown in California; Deceased Assessment Rate" (Doc. No. FV04–984–1) received on December 15, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5623. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled "Oranges in Grapefruit Grown in Lower Rio Grande Valley in Texas; Increased Assessment Rate" (Doc. No. FV04–906–1) received on December 15, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5624. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled "National Organic Program; Amendments to the National List of Allowed and Prohibited Substances" (Doc. No. TM–03–02) received on December 15, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5625. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Vinclozolin; Time-Limited Pesticide Tolerances Technical Correction" (FRL#7337–7) received on December 10, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5626. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyprodinil; Time-Limited Pesticide Tolerance" (FRL#7337–5) received on December 10, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5627. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Furoxypyr; Pesticide Tolerance" (FRL#7304–5) received on December 10, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5628. A communication from the Administrator, Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Direct Final Rule—Fire and Rescue and Other Community Facilities" (RIN0575–AC53) received on December 10, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5629. A communication from the Acting Staff Director, Office of Regulatory and Management Services, Forest Service, transmitting, pursuant to law, the report of a rule entitled "Special Areas: Roadless Area Conservation; Applicability to the Tongass National Forest, Alaska" (RIN0596–AC42) received on January 5, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5630. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to providing financial assistance to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under the Cooperative Forestry Assistance Act of 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5631. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Ports of Entry for Certain Plants and Plant Products" (Doc. No. 03–067–1) received on December 18, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5632. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Libya declared in Executive Order 12543; to the Committee on Banking, Housing, and Urban Affairs.

EC–5633. A communication from the President of the United States, transmitting, pursuant to law, a report on appointments during a National Emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–5634. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a six-periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938; to the Committee on Banking, Housing, and Urban Affairs.

EC–5635. A communication from the Deputy Secretary, Division of Corporate Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations" (RIN3235–AH37) received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5636. A communication from the Deputy Secretary, Division of Corporate Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "New Rule 17Ad–19, Amendments to Rules 17f–1, 17Ad–7, and 17Ad–12 under the Securities Exchange Act" (RIN3235–AH94) received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5637. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 64817" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5638. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 64819" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5639. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility; 68 FR 62748" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5640. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 68 FR 64809" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5641. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 68 FR 64812" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5642. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 66023" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5643. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 68 FR 66020" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5644. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 66024" received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5645. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "FHA TOTAL Mortgage Scorecard" (RIN2502–AI00) received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5646. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Housing Assistance for Native Hawaiians: Native Hawaiian Housing Block Grant Program and Loan Guarantees for Native Hawaiian Housing Program; Final Rule" (RIN2577–AC27) received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5647. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Mixed-Finance Development for Supportive Housing for the Elderly or Persons with Disabilities and Other Changes to 24 CFR Part 891" (RIN2502–AH83) received on December 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5648. A communication from the Assistant to the Board, Board of the Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation Y—Bank Holding Companies and Change in Bank Control; Rule Expanding the Ability of Bank Holding Companies to Engage in Nonfinancial Data Processing Activities" (Doc. No. R–1092) received on December 15, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5649. A communication from the Director, Benefit Design and Compliance, AgriBank Corporation, transmitting, a report relative to retirement plans for several farm credit districts; to the Committee on Banking, Housing, and Urban Affairs.

EC-5650. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to U.S. exports to Thailand, dated December 17, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-5651. A communication from the Secretary of the Treasury, transmitting, the Department of the Treasury's Performance and Accountability Report for FY 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-5652. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, a report relative to the Financial Managers' Integrity Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-5653. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report with respect to the national emergency with respect to the Western Balkans that was declared in Executive Order 13219; to the Committee on Banking, Housing, and Urban Affairs.

EC-5654. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report with respect to the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159; to the Committee on Banking, Housing, and Urban Affairs.

EC-5655. A communication from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "Reporting and Disclosure Requirements for National Banks with Securities Registered Under the Securities Exchange Act of 1934; Securities Offering Disclosure Rules" received on January 5, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-5656. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report with respect to the national emergency with respect to Libya that was declared in Executive Order 12543; to the Committee on Banking, Housing, and Urban Affairs.

EC-5657. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" (KY-245-FOR) received on January 5, 2004; to the Committee on Energy and Natural Resources.

EC-5658. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indiana Regulatory Program" (IN-153-FOR) received on January 5, 2004; to the Committee on Energy and Natural Resources.

EC-5659. A communication from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, a report relative to activities and expenditures of the Office; to the Committee on Energy and Natural Resources.

EC-5660. A communication from the Deputy Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Determination of Endangered Status for the Dugong (Dugong dugon) in the Republic of Palau" (RIN1018-AI81) received on December 15, 2003; to the Committee on Energy and Natural Resources.

EC-5661. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement), and Requirements for Drug-Free Workplace (Grants); Rules" (RIN1991-AB56) received on December 30, 2003; to the Committee on Energy and Natural Resources.

EC-5662. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Consumer Products: Test Procedure for Clothes Washers" (RIN1904-AB43) received on December 30, 2003; to the Committee on Energy and Natural Resources.

EC-5663. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Special Rules Applicable to Surface Coal Mining Hearings and Appeals" (RIN1090-AA92) received on December 30, 2003; to the Committee on Energy and Natural Resources.

EC-5664. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Blanket Sales Certificates" received on December 30, 2003; to the Committee on Energy and Natural Resources.

EC-5665. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Order Amending Market-Based Rate Tariffs and Authorizations" received on December 30, 2003; to the Committee on Energy and Natural Resources.

EC-5666. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the application of "Other Transactions Authority" within the Department of Energy; to the Committee on Energy and Natural Resources.

EC-5667. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, a report relative to the Comprehensive Environmental Response, Compensation, and Liability Act; to the Committee on Energy and Natural Resources.

EC-5668. A communication from the Manager, Oak Ridge Operations Office, Department of Energy, transmitting, pursuant to law, the Oak Ridge Reservation Annual Site Environmental Report for Calendar Year 2000; to the Committee on Energy and Natural Resources.

EC-5669. A communication from the Office of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer, Department of Energy, received on December 8, 2003; to the Committee on Energy and Natural Resources.

EC-5670. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to law, the report of an extension of Presidential Determination 2003-04 dated September 24, 2003; to the Committee on Foreign Relations.

EC-5671. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Danger Pay Allowances for Saudi Arabia; to the Committee on Foreign Relations.

EC-5672. A communication from the Chief of Protocol, Department of State, transmitting a report relative to listings of foreign gifts of more than minimal value reported to employing agencies in calendar year 2001; to the Committee on Foreign Relations.

EC-5673. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a waiver authority with regard to the prohibition on military assistance provided for in the American Servicemembers' Act for Bulgaria, Estonia, Latvia, Lithuania, Slovakia, Slovenia; to the Committee on Foreign Relations.

EC-5675. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Deputy Administrator, U.S. Agency for International Development, received on December 18, 2003; to the Committee on Foreign Relations.

EC-5676. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a discontinuation of service in acting role and nomination for the position of Assistant Administrator, U.S. Agency for International Development, received on December 18, 2003; to the Committee on Foreign Relations.

EC-5677. A communication from the President of the United States, transmitting, pursuant to law, a report relative to post-liberation Iraq; to the Committee on Foreign Relations.

EC-5678. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-5679. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of an amendment to Part 89 of Volume 22 of the Code of Federal Regulations; to the Committee on Foreign Relations.

EC-5680. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to The Republic of Korea, The United Kingdom, and The Netherlands; to the Committee on Foreign Relations.

EC-5681. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC-5682. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles in the amount of $1,000,000 or more to United Kingdom, Germany, Spain, Turkey, and The Netherlands; to the Committee on Foreign Relations.

EC-5683. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to the Republic of Korea and Germany; to the Committee on Foreign Relations.

EC–5684. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–5685. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of two proposed licenses for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to the United Arab Emirates; to the Committee on Foreign Relations.

EC–5686. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Pacific Ocean/International Waters; to the Committee on Foreign Relations.

EC–5687. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of two proposed manufacturing license agreements for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Italy and Belgium; to the Committee on Foreign Relations.

EC–5688. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of two proposed licenses for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to Greece; to the Committee on Foreign Relations.

EC–5689. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–5690. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles in the amount of $50,000,000 or more to Saudi Arabia; to the Committee on Foreign Relations.

EC–5691. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles or defense services sold commercially in the amount of $50,000,000 or more to Saudi Arabia; to the Committee on Foreign Relations.

EC–5692. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Canada; to the Committee on Foreign Relations.

EC–5693. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report entitled "Integrating Natural Resource Management and Agriculture"; to the Committee on Foreign Relations.

EC–5694. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Benjamin A. Oilman International Scholarship Program; to the Committee on Foreign Relations.

EC–5695. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a notification of the Department's intent to obligate funds for purposes of Nonproliferation and Disarmament Fund activities; to the Committee on Foreign Relations.

EC–5696. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed manufacturing license agreement for the manufacture of significant military equipment abroad to the United Kingdom; to the Committee on Foreign Relations.

EC–5697. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of proposed license for the export of defense articles and to provide defense services in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–5698. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–5699. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5700. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Determination of Interest Rates" (Rev. Rul. 2003–126) received on December 15, 2003; to the Committee on Finance.

EC–5701. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 2004–2) received on December 15, 2003; to the Committee on Finance.

EC–5702. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 165 Worthless Stock Deduction of a Subsidiary" (Rev. Rule 2003–125) received on December 15, 2003; to the Committee on Finance.

EC–5703. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Arbitrage Restrictions Applicable to Tax-Exempt Bonds Issued by State and Local Governments" (RIN1545–AX22) received on December 15, 2003; to the Committee on Finance.

EC–5704. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Hedge Identification" (Rev. Rule 2003–127) received on December 15, 2003; to the Committee on Finance.

EC–5705. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group" (TD9098) received on December 15, 2003; to the Committee on Finance.

EC–5706. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Interpretation of Section 301.6109–1(d)(3)(ii) of the Procedure and Administration Regulations" (Notice 2004–1) received on December 15, 2003; to the Committee on Finance.

EC–5707. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Necessary to Facilitate Business Electronic Filing" (TD9100) received on December 15, 2003; to the Committee on Finance.

EC–5708. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 846 Discount Factors for 2003" (Rev. Proc. 2004–9) received on December 15, 2003; to the Committee on Finance.

EC–5709. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 832 Discount Factors for 2003" (Rev. Proc. 2004–10) received on December 15, 2003; to the Committee on Finance.

EC–5710. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Qualified Offer Regulations" (RIN1545–AW99) received on December 29, 2003; to the Committee on Finance.

EC–5711. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Statements for Certain Substitute Payments" (RIN1545–BC97) received on December 29, 2003; to the Committee on Finance.

EC–5712. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Confidential Transactions" (TD9108) received on December 29, 2003; to the Committee on Finance.

EC–5713. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting Relating to Taxable Stock Transactions" (RIN1545–BC80) received on December 29, 2003; to the Committee on Finance.

EC–5714. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Establishing Defenses to the Imposition of the Accuracy-Related Penalty" (RIN1545–AY97) received on December 29, 2003; to the Committee on Finance.

EC–5715. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled

"Public Advocacy Activities Conducted by Certain Tax-Exempt Organizations" (Rev. Rule 2004-6) received on December 29, 2003; to the Committee on Finance.

EC–5716. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Heath Savings Accounts" (Notice 2004-2) received on December 29, 2003; to the Committee on Finance.

EC–5717. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Request for Comments Concerning the Application of Sections 162 and 263 to Tangible Property" (Notice 2004-6) received on December 29, 2003; to the Committee on Finance.

EC–5718. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Charitable Contributions of Patents and Other Intellectual Property" (Notice 2004-7) received on December 29, 2003; to the Committee on Finance.

EC–5719. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—January 2004" (Rev. Rul. 2004-2) received on December 29, 2003; to the Committee on Finance.

EC–5720. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Disclosure of Relative Value of Optional Forms of Benefit" (TD9099) received on December 29, 2003; to the Committee on Finance.

EC–5721. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income; Collection of Overdue Program and Administrative Debts Using Administrative Wage Garnishment" (RIN9060-AE92) received on December 18, 2003; to the Committee on Finance.

EC–5722. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)" (RIN9060-AE27) received on December 18, 2003; to the Committee on Finance.

EC–5723. A communication from the Regulations Coordinator, Center for Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Prescription Drug Discount Card" (RIN0938-AM71) received on December 15, 2003; to the Committee on Finance.

EC–5724. A communication from the Regulations Coordinator, Center for Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Hospital Outpatient Prospective Payment System Payment Reform for Calendar Year 2004" (RIN9038-AM96) received on December 15, 2003; to the Committee on Finance.

EC–5725. A communication from the Regulations Coordinator, Center for Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Notice of One Time Appeal Process for Hospital Wage Calendar Classification" (RIN0938-AN00) received on December 15, 2003; to the Committee on Finance.

EC–5726. A communication from the Regulations Coordinator, Center for Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Programs; Time Limitation on Recordkeeping Requirements Under the Drug Rebate Program" (RIN0938-AM20) received on December 15, 2003; to the Committee on Finance.

EC–5727. A communication from the Regulations Coordinator, Center for Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Changes to the Medicare Payment for Drugs and Physician Fee Schedule Payments for Calendar Year 2004" (RIN0938-AM97) received on December 15, 2003; to the Committee on Finance.

EC–5728. A communication from the Director, Financial Management, General Accounting Office, transmitting, pursuant to law, the Fiscal Year 2003 Annual Report of the Comptrollers' General Retirement System; to the Committee on Governmental Affairs.

EC–5729. A communication from the Chief Operating Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Chief Executive Officer, Corporation for National and Community Service, received on January 5, 2004; to the Committee on Governmental Affairs.

EC–5730. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the two reports of the Office of Inspector General, for period ending September 30, 2003, relative to the Internal Revenue Service and the rest the Treasury organization; to the Committee on Governmental Affairs.

EC–5731. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, the Board's Fiscal Year 2003 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–5732. A communication from the Chief Operating Officer, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, the Board's annual inventory of activities; to the Committee on Governmental Affairs.

EC–5733. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report of the Office of the Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5734. A communication from the Administrator, General Services Administration, the report of the Office of Inspector General relative to auditing activity; to the Committee on Governmental Affairs.

EC–5735. A communication from the Acting Special Counsel, Office of Special Counsel, transmitting, pursuant to law, the report of a rule entitled "5 CFR Part 1800: 1800.1—Filing Complaints of Prohibited Personnel Practices or Other Prohibited Activity; 1800.3—Filing Disclosures of Information; 1800.3—Advisory Opinions" received on January 5, 2004; to the Committee on Governmental Affairs.

EC–5736. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5737. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003 relative to the Department of the Interior; to the Committee on Governmental Affairs.

EC–5738. A communication from the Chairman and General Counsel, National Labor Relations Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5739. A communication from the Director, Panama Canal Commission, transmitting, pursuant to law, an annual report relative to the Federal Managers' Financial Integrity Act of 1982; to the Committee on Governmental Affairs.

EC–5740. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5741. A communication from the Chairman, Merit Systems Protection Board, transmitting a report entitled "The Federal Workforce for the 21st Century: Results of the Merit Principles Survey 2000"; to the Committee on Governmental Affairs.

EC–5742. A communication from the Executive Director, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of the annual report of the Office of Inspector General; to the Committee on Governmental Affairs.

EC–5743. A communication from the Independent Counsel, Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5744. A communication from the Director, Trade and Development Agency, transmitting, pursuant to law, a report relative to the Agency's audit and internal management activities; to the Committee on Governmental Affairs.

EC–5745. A communication from the Secretary, American Battle Monuments Commission, transmitting, pursuant to law, the Commission's Annual Report; to the Committee on Governmental Affairs.

EC–5746. A communication from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Agency for International Development, Bureau for Asia and the Near East, received on December 30, 2003; to the Committee on Governmental Affairs.

EC–5747. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5748. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Office's Annual Report to Congress on Veterans' Employment in the Federal Government for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–5749. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–5750. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC-5751. A communication from the Office of Personnel Management, The President's Pay Agent, transmitting, pursuant to law, a report relative to justifying the reasons for the extension of locality-based comparability payments to categories of positions that are in more than one executive agency; to the Committee on Governmental Affairs.

EC-5752. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the Board's report for the period from April 1, 2003 through September 30, 2003; to the Committee on Governmental Affairs.

EC–5753. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–5754. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC-5755. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Redefinition of the San Francisco, CA, Nonappropriated Fund Wage Area" (RIN3206–AK26) received on December 8, 2003; to the Committee on Governmental Affairs.

EC–5756. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report relative to the Audit of the Advisory Neighborhood Commission; to the Committee on Governmental Affairs.

EC-5757. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program" (RIN0938–AJ17) received on January 5, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5758. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects" received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–5759. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "National Institutes of Health Center Grants" (RIN0925–AA24) received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5760. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Smallpox Vaccine Injury Compensation Program: Administrative Implementation" (RIN0906–AA60) received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5761. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Tax Refund Offset" received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5762. A communication from the Human Resources Specialist, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Deputy Secretary of Labor, received on December 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-5763. A communication from the Deputy White House Liaison, Department of Education, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary, Office of Vocational and Adult Education, Department of Education, received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–5764. A communication from the Deputy White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Office of Vocational and Adult Education, Department of Education, received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–5765. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the first report on Theft, Loss, or Release of Select Agents and Toxins; to the Committee on Health, Education, Labor, and Pensions.

EC–5766. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted in Feed and Drinking Water of Animals; Formaldehyde" (Doc. No. 1998F–0522) received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5767. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5768. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Rules for Filings, Issuances, Computation of Time, and Electronic Means of Record Retention" received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-5769. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Public Information Regulations; Correction" (Doc. No. 1999N–2637) received on January 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–5770. A communication from the Director, Office of Workers' Compensation Programs, Employment Standards Administration, transmitting, pursuant to law, the report of a rule entitled "Regulations Implementing the Federal Coal Mine Health and Safety Act of 1969" (RIN1215–AB40) received on December 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5771. A communication from the Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, transmitting, pursuant to law, the report of a designation of an acting officer for the position of Assistant Secretary, Veterans' Employment and Training Service, received on December 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5772. A communication from the Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary, Disablility Employment Policy, received on December 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-5773. A communication from the Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Disablility Employment Policy, received on December 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-5774. A communication from the Assistant Secretary, Veterans' Employment and Training Service, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer, Department of Labor, received on December 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5775. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the National Advisory Committee on Institutional Quality and Integrity for Fiscal Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5776. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to the President's Commission on Excellence in Special Education; to the Committee on Health, Education, Labor, and Pensions.

EC-5777. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, two reports entitled "The National Healthcare Quality Report" and "The National Healthcare Disabilities Report"; to the Committee on Health, Education, Labor, and Pensions.

EC-5778. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary for Public Health and Science, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-5779. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Public Health and Science, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-5780. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Budget, Technology, and Finance, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5781. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination rejected, withdrawn, or returned for the position of Assistant Secretary for Budget, Technology, and Finance, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5782. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary for Public Health and Science, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5783. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Legislation, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5784. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5785. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5786. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, received on December 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5787. A communication from the Principal Deputy Assistant Secretary, Office of the Secretary, Department of the Interior, transmitting, pursuant to law, a report relative to Indian Tribal Judgment Funds to be distributed to the Mescalero Apache Tribe; to the Committee on Indian Affairs.

EC–5788. A communication from the Chairman, National Indian Gaming Commission, transmitting, a draft bill relative to the Indian Gaming Regulatory Act of 1988; to the Committee on Indian Affairs.

EC–5789. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Occupational Education Programs Final Rule" (68 FR 65169) received on January 5, 2004; to the Committee on the Judiciary.

EC–5790. A communication from the Secretary, Judicial Conference of the United States, transmitting, a draft bill entitled the "Judicial Reporting Improvement Act"; to the Committee on the Judiciary.

EC–5791. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting, pursuant to law, the report of a rule entitled "Sale by Federal Departments or Agencies of Chemicals Which Could Be Used in the Illicit Manufacture of Controlled Substances" (RIN1117–AA47) received on December 8, 2003; to the Committee on the Judiciary.

EC–5792. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the 2002 Annual Report of the National Institute of Justice; to the Committee on the Judiciary.

EC–5793. A communication from the Deputy General Counsel, Small Business Administration, Office of Size Standards, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Facilities Support Services (Including Base Maintenance)" (RIN3245–AF03) received on December 8, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5794. A communication from the Deputy General Counsel, Office of Government Contracting and Business Development, transmitting, pursuant to law, the report of a rule entitled "Small Business Government Contracting Programs" (RIN3245–AF07) received on December 8, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5795. A communication from the Deputy General Counsel, Office of Hearings and Appeals, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Disclosure of Information Regulations" (RIN3245–AE94) received on December 8, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5796. A communication from the Director, Regulations Management, Office of Regulation Policy and Management, Veterans' Health Administration, transmitting, pursuant to law, the report of a rule entitled "Reasonable Charges for Medical Care or Services 2003 Methodology Changes" (RIN2900–AL06) received on December 15, 2003; to the Committee on Veterans' Affairs.

EC–5797. A communication from the Director, Regulations Management, Office of Regulation Policy and Management, Veterans' Health Administration, transmitting, pursuant to law, the report of a rule entitled "Charges Used for Recovery from Tortiously Liable Third Parties for Medical Care or Services Provided by the Department of Veterans' Affairs" (RIN2900–AL48) received on December 15, 2003; to the Committee on Veterans' Affairs.

EC–5798. A communication from the Director, Regulations Management, Office of Regulation Policy and Management, Veterans' Health Administration, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Rules of Practice: Use of Supplemental Statement of the Case" (RIN2900–AL42) received on December 15, 2003; to the Committee on Veterans' Affairs.

EC–5799. A communication from the Chair, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Travel on Behalf of Candidates and Political Committees" received on December 10, 2003; to the Committee on Rules and Administration.

EC–5800. A communication from the Chair, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Travel on Behalf of Candidates and Political Committees" received on December 10, 2003; to the Committee on Rules and Administration.

EC–5801. A communication from the Chair, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files" (Notice 2003–25) received on December 10, 2003; to the Committee on Rules and Administration.

EC–5802. A communication from the Chair, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files" (Notice 2003–25) received on December 10, 2003; to the Committee on Rules and Administration.

EC–5803. A communication from the Public Printer, Government Printing Office, transmitting, pursuant to law, the Annual Report of the Government Printing Office for Fiscal Year 2003; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of December 9, 2003, the following reports of committees were submitted on January 9, 2004:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 2005. An original bill to temporarily replace the use by pension plans of the 30-year treasury bond rate with a composite corporate rate, and to establish a commission on defined benefit plans (Rept. No. 108–221).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1072. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. No. 108–222).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mrs. CLINTON, Mrs. MURRAY, Ms. CANTWELL, Mr. DURBIN, Mr. SARBANES, Mr. LEVIN, Mr. BINGAMAN, Mr. DODD, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. SCHUMER, Mr. HARKIN, Mr. REED, Mr. LEAHY, and Mr. DAYTON):

S. 2006. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes; read the first time.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2007. A bill to provide better protection against bovine spongiform encephalopathy and other prion diseases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER (for himself and Mr. LEAHY):

S. 2008. A bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to establish an electronic nationwide livestock identification system, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH:

S. 2009. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. CARPER, Mr. FRIST, Mr. DASCHLE, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL , Ms. CANTWELL, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 284. A resolution commemorating the life of William V. Roth, Jr., former member of the United States Senate from the State of Delaware; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 253

At the request of Mr. LEAHY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

### S. 384

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 384, a bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes.

### S. 423

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 423, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

### S. 623

At the request of Mr. WARNER, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

### S. 640

At the request of Mr. LEAHY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

### S. 683

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

### S. 698

At the request of Mr. BUNNING, the names of the Senator from Utah (Mr. HATCH) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 698, a bill to clarify the status of the Young Men's Christian Association Retirement Fund for purposes of the Internal Revenue Code of 1986.

### S. 806

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 806, a bill to improve the benefits and protections provided for regular and reserve members of the Armed Forces deployed or mobilized in the interests of the national security of the United States.

### S. 857

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 857, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes.

### S. 874

At the request of Mr. TALENT, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

### S. 976

At the request of Mr. WARNER, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Louisiana (Mr. BREAUX) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

### S. 983

At the request of Mr. CHAFEE, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

### S. 1035

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

### S. 1086

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1086, a bill to repeal provisions of the PROTECT Act that do not specifically deal with the prevention of the exploitation of children.

### S. 1105

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1105, a bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes.

### S. 1120

At the request of Mr. BAUCUS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

### S. 1217

At the request of Mr. ENZI, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1217, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

### S. 1218

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1218, a bill to provide for

Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program.

S. 1298

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1333

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1333, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1398

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1398, a bill to provide for the environmental restoration of the Great Lakes.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1762

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1762, a bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes.

S. 1801

At the request of Mrs. MURRAY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1801, a bill to promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

S. 1851

At the request of Ms. MURKOWSKI, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1851, a bill to raise the minimum state allocation under section 217(b)(2) of the Cranston-Gonzalez National Affordable Housing Act.

S. 1891

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1891, a bill to amend title 11, United States Code, to establish a priority for the payment of claims for duties paid to the United States by licensed Customs brokers and sureties on behalf of a debtor.

S. 1998

At the request of Mr. BINGAMAN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 1999

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1999, a bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Res. 202, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2007. A bill to provide better protection against bovine spongiform encephalopathy and other prion diseases; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that would strengthen consumer confidence in the safety of our nation's beef supply while expanding our understanding of the many prion diseases that affect both humans and animals. This bill, known as the BSE and Other Prion Disease Prevention and Public Health Protection Act codifies some of USDA's recent steps, requires more aggressive testing of older cattle and expands surveillance for Chronic Wasting Disease (CWD) in deer and elk and Creutzfeldt-Jacob disease (CJD) in people.

Our country has been blessed with the safest and most abundant food supply in the world, but we can do better. The events surrounding the diagnosis of the first Mad Cow case in Washington State demonstrate that improvements are possible. Had the provisions of my bill been in place in early December, the animal would never have been allowed to enter both the human food supply and the consumer product system and contaminate 2.8 million pounds of products.

Currently, only 20,000 out of 35 million cattle presented for processing are tested for BSE. How many cattle in America have BSE? We are hopeful that there was only this one isolated case but the truth is that we don't know because we test so few animals. Answering that question today is similar to trying to estimate the prevalence of HIV infection in people by only testing individuals who have symptoms of AIDS. At the current level of testing, we have no real estimate of the true prevalence rate of BSE in our country.

A similar situation exists with respect to CWD, in deer and elk, or CJD in humans. The bill that I am introducing provides for more testing of all ruminants intended for human consumption as well as expanded surveillance for the human prion diseases.

Better surveillance: The bill requires the use of rapid BSE tests for all cattle and bison over 30 months of age and for all sheep, goats, deer and elk over 12 months of age. Rapid tests can provide results the same day that they are taken instead of the current five to seven days. Although most sampling and testing for BSE will occur through USDA inspectors at slaughterhouses, the bill also provides for on-farm sampling of non-ambulatory animals. In addition, all ruminants of any age exhibiting neurological symptoms would be tested.

All tested animals would be held until the results of the test are known rather than being released into the food supply and consumer product system, as was the case in Washington. An expensive and time-consuming recall of products would be avoided.

The bill also requires the development of a mandatory ruminant identification program to allow for trace back of diseased animals to their farm of origin within 48 hrs. after diagnosis. This is significant not only for BSE but for other reportable illnesses such as brucellosis, tuberculosis and foot and mouth disease.

There are also provisions that require expanded coordination of testing for CWD in farm-raised and wild deer and elk. To support expanded ruminant testing for prion diseases, the bill calls for the expansion of the national animal health laboratory network to include state and university veterinary diagnostic laboratories.

Similarly, the bill expands the sampling of suspected cases of human CJD through the National Prion Disease Pathology Research Center at Case Western Reserve University.

Targeting Risk Materials: The bill updates and expands the definition of BSE specified risk materials and bans the use of such materials from cattle over 30 months of age for any use.

Importation of ruminant-based products: The bill expands the list of ruminant derived products that must be labeled for contents and country of origin and bans imported products containing ruminant-derived materials from countries identified as at-risk for BSE transmission.

Feed Ban: The bill closes loopholes in the USDA rules on recycling pet food and poultry litter back into ruminant feed. The legislation requires FDA to develop a database for handlers of livestock, renderers and feed mills and feed blenders.

We currently have only a limited understanding of prions and the diseases that they cause. To understand how these significant and challenging misfolded bits of protein can affect us, we need better data. We need data on which to base sound policy for our public health, for our animal health and for the safety of our food supply.

While we are accumulating that data, we need to take every reasonable step to ensure that we do not introduce infective material through importation or through feeding our ruminant animals contaminated feed. An expanded testing program will demonstrate to our trading partners that they have nothing to fear in buying our meat products.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of our food supply. The BSE and Other Prion Disease Prevention and Public Health Protection Act can provide the public with the confidence that our beef and venison is safe to eat and can assure our trading partners that we are aggressively addressing BSE surveillance in the United States.

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By Mr. SPECTER (for himself and Mr. LEAHY):

S. 2008. A bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to establish an electronic nationwide livestock identification system, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I am now introducing legislation identified as the National Farm Animal Identification Records Act on behalf of Senator LEAHY and myself.

Less than a month ago, on December 25, a case of mad cow disease was diagnosed in a single nonambulatory dairy cow that was slaughtered in Washington State. This cow belonged to a herd of some 82 dairy cows which were cleared for clearance in the United States in 2002. This case of mad cow disease has caused quite an alarm, with enormous impact on the industry for providing meats in the United States. It has caused a lot of concern throughout the country.

This legislation is directed to having an identification system, an electronic nationwide livestock identification system which will enable the Federal Government, the Department of Agriculture, to identify animals. There is a chip in the animal's ear and it will be possible to identify the animals and where they came from so that in the event there is any diagnosis of mad cow disease, there will be a way to deal with it and to prevent its spread and provide public confidence that the meat is not infected with mad cow disease.

This disease has had a very major impact on the livestock industry, touching Pennsylvania, my State, as well as many other States in the country. This is a salutary, preventive legislation.

I ask unanimous consent a full copy of the text be printed in the CONGRESSIONAL RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2008

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Farm Animal Identification and Records Act".

**SEC. 2. NATIONWIDE LIVESTOCK IDENTIFICATION SYSTEM; REVIEW OF USDA RESPONSES TO OUTBREAKS OF DISEASE IN LIVESTOCK.**

Section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) is amended by adding at the end the following:

"(f) NATIONWIDE LIVESTOCK IDENTIFICATION SYSTEM.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish an electronic nationwide livestock identification system for the identification of individual animals to enhance the speed and accuracy of the response of the Department of Agriculture to outbreaks of disease in livestock.

"(2) CAPABILITIES.—The livestock identification system shall be capable of tracing, within 48 hours, an individual animal from birth to slaughter.

"(3) PARTICIPATION BY STATES.—The States shall provide information for inclusion in, and shall have access to, the livestock identification system.

"(4) USE OF EXISTING TECHNOLOGY.—The Secretary may use technology developed by private entities before the date of enactment of this subsection to operate the livestock identification system.

"(5) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to producers to assist the producers in complying with the livestock identification system.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection for fiscal year 2004 $50,000,000, of which $25,000,000 shall be available to carry out paragraph (5).

"(g) REVIEW OF RESPONSES TO OUTBREAKS OF DISEASE.—The Secretary may appoint an international panel of scientific experts to provide an objective review of a response by the Department of Agriculture to an outbreak of disease in livestock and identify areas for improvements in such responses.".

Mr. LEAHY. Mr. President, I am pleased to introduce the National Farm Animal Identification and Records Act or the FAIR Act, with my friend and colleague Senator SPECTER. This legislation would establish a uniform national electronic animal identification program to trace animals from birth to slaughter, within 48 hours, in order to combat animal disease outbreaks.

As the recent discovery of a cow infected with bovine spongiform encephalopathy, BSE, or mad cow disease, in Washington State demonstrated, a verifiable nationwide animal identification system is urgently needed to enhance the speed and accuracy of USDA's response to disease outbreaks. Unfortunately to date only, 23 of the 81 cows that came from Canada with the infected mad cow have been able to be located because of inadequate records. The National Farm

Animal Identification and Records Act FAIR Act would require the Department of Agriculture to establish a national animal identification program for individual animals that could trace an animal's history within 48 hours.

As a senior member of the Senate Agriculture, Nutrition and Forestry Committee, I have long advocated for the establishment of a national animal identification system. For the last 5 years I have worked with the Holstein Association in Brattleboro, Vermont to begin the process of creating a national animal identification program. The Holstein Association's pilot program, a precursor to this national animal identification program legislation, electronically identifies individual animals and tracks their movements from birth to slaughter within 48 hours. To date Holstein's pilot program has close to a million bovines enrolled from over 7000 farms in 42 States and has proven its electronic animal tracking capabilities.

The Holstein project demonstrates electronically tracing individual animals immediately is achievable. The technology and expertise developed by the Holstein Association is a prime example of how the Department could immediately begin tracking individual newborn animals electronically with a system similar to National FAIR. The Holstein Association could be an important partner with USDA in reducing the impact of future animal diseases.

I would also like to applaud Secretary Veneman's announcement last month of additional mad cow safeguards, including moving toward a national animal identification system. I believe this was a positive step toward protecting American farmers and consumers. Unfortunately USDA's current plans do not call for individual animal identification to be completed until mid 2006. The FAIR Act would require the Department to begin implementation of a national system within months of passage. In addition, it is clear USDA will need additional resources to carry out a national animal identification program, thus our legislation will provide additional funding for USDA to begin this work immediately. Furthermore to ensure producers are not hurt by the potential costs of a national system, our bill will provide financial assistance for producers to carry out a national identification system.

It is time for the United States to take serious steps to combat animal diseases, like BSE, that have broad public health implications for our Nation. A national animal identification program is long overdue. I urge my colleagues to support this important legislation.

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By Mr. SMITH:

S. 2009. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Environment and Public Works.

Mr. SMITH. Mr. President, today as my first legislative action of the new session, I am introducing important legislation that would require a higher standard for the science used in administering the Endangered Species Act. The Sound Science for Endangered Species Act Planning Act of 2004 would require independent scientific peer review of certain actions taken by the regulatory agencies under the Endangered Species Act. In addition, it would require the Secretary of the Interior and the Secretary of Commerce to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed.

In recent years, we in the northwest have experienced a number of situations in which Federal agency scientists either demanded actions not supported by scientific data, or actually fabricated the data itself. In December 2001, it was revealed that Federal employees had submitted hairs from a captive Canada lynx as though they had been recovered during field surveys in several national forests to determine the range and habitat of this threatened species.

It was also revealed in an Oregon newspaper that a Forest Service biologist criticized his own agency for shoddy work. This employee called into question much of the information collected over 18 years on one national forest, claiming that determinations for projects were based on sketchy information that was not accomplished according to protocol, or not collected at all. Rather than denying these charges, the Forest Service acknowledged that they had some validity, and launched an investigation.

The most egregious example of decisions not based on scientific evidence, however, occurred in the Klamath Basin in 2001. As many of you may recall, I have come to the floor of the Senate on many occasions over the last several years to plead the case of the farmers and ranchers in the Klamath Basin. In 2001, field-level biologists with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service developed two separate biological opinions on the operation of the Klamath Project, as it related to suckers and coho salmon, respectively.

Taken together, these two biological opinions sought to both raise the lake of level of Upper Klamath Lake and increase flows in the Klamath River, at the time the basin was experiencing a severe drought. On April 6, 2001, the Bureau of Reclamation announced that the agency would deliver no water to most of the agricultural lands that had received irrigation water from the Federal project for almost 100 years.

I cannot begin to describe the human toll that these biological opinions exacted on the farmers and ranchers in the Klamath Basin. Those who still have their farms lost most of their farm income that year. Many depleted their life savings just to hold onto their land. Ranchers were forced to sell off livestock herds that year. Stable farm worker communities were decimated as families moved to find work.

The real tragedy is that none of this had to occur. Late last year, scientists with the National Research Council found that the two key decisions regarding the operation of the Klamath Project that deprived farmers of their water lacked "substantial scientific support."

This situation should never be repeated. Decisions of this magnitude under the Endangered Species Act must be peer reviewed, and some standard for the science used in these decisions must be established.

I was in Klamath Falls the day after the decision was made to cut off water to the farmers. I will never forget the anguish on the faces of the people I met with that day. Many were World War II veterans who received homesteads in this Basin after the war or their children, none of whom could believe that this action was being taken by a government "of the people, for the people, and by the people."

Our constituents deserve better from their Government. They will get it if this bill is enacted. There is an identical bill in the House that has bipartisan support, and 63 cosponsors. I urge my colleagues to join me in cosponsoring this reasonable bill to help restore sound science to agency decisionmaking.

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## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 284—COMMEMORATING THE LIFE OF WILLIAM V. ROTH, JR., FORMER MEMBER OF THE UNITED STATES SENATE FROM THE STATE OF DELAWARE

Mr. BIDEN (for himself, Mr. Carper, Mr. Frist, Mr. Daschle, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bayh, Mr. Bennett, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Breaux, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Byrd, Mr. Campbell, Ms. Cantwell, Mr. Chafee, Mr. Chambliss, Mrs. Clinton, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Conrad, Mr. Cornyn, Mr. Corzine, Mr. Craig, Mr. Crapo, Mr. Dayton, Mr. DeWine, Mr. Dodd, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Edwards, Mr. Ensign, Mr. Enzi, Mr. Feingold, Mrs. Feinstein, Mr. Fitzgerald, Mr. Graham of Florida, Mr. Graham of South Carolina, Mr.

GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

### S. RES. 284

Whereas William V. Roth, Jr. was born on July 22, 1921 in Great Falls, Montana, was raised in Helena, Montana, graduated from the University of Oregon, and earned law and business degrees from Harvard University;

Whereas William V. Roth, Jr. was decorated with a Bronze Star for meritorious service with Army military intelligence in the South Pacific during World War II;

Whereas William V. Roth, Jr. moved to Delaware in 1955 and resided in Delaware until his death;

Whereas William V. Roth, Jr. was elected to the House of Representatives in 1966, and served the State of Delaware with distinction until his election to the United States Senate in 1970;

Whereas William V. Roth, Jr. continued to serve the State of Delaware and the United States in the Senate from 1971 to 2001, where he personified the title "Honorable";

Whereas William V. Roth, Jr. championed tax and savings reforms and deficit reduction as Chairman and a member of the Senate Committee on Finance;

Whereas William V. Roth, Jr. worked tirelessly to control government spending as Chairman and a member of the Senate Committee on Governmental Affairs and to shape foreign policy as president of the North Atlantic Treaty Organization (NATO) Parliament Assembly and chairman of the Senate NATO Observer Group;

Whereas William V. Roth, Jr. was a man of integrity, decency, and character who was committed to his family and to the people of Delaware; and

Whereas William V. Roth, Jr. was a trusted friend and colleague and a dedicated public servant: Now, therefore, be it

*Resolved*, That—

(1) the Senate has learned with profound sorrow and deep regret of the death of the Honorable William V. Roth, Jr., formerly a Senator from the State of Delaware;

(2) the Secretary of the Senate shall communicate this resolution to the House of Representatives and transmit an enrolled copy of this resolution to the family of William V. Roth, Jr.; and

(3) upon adjournment today, the Senate shall stand adjourned as a further mark of respect to the memory of William V. Roth, Jr.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2232. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. LUGAR, Mr. MILLER, and Mr. SPECTER) submitted an amendment intended to be proposed by him to the bill S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; which was ordered to lie on the table.

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## TEXT OF AMENDMENTS

**SA 2232.** Mr. GRASSLEY (for himself, Mr. HATCH, Mr. LUGAR, Mr. MILLER, and Mr. SPECTER) submitted an amendment intended to be proposed by him to the bill S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
Sec. 7. Enactment of Judicial Conference recommendations.
Sec. 8. Rulemaking authority of Supreme Court and Judicial Conference.
Sec. 9. Effective date.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where—

(A) counsel are awarded large fees, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(b) PURPOSES.—The purposes of this Act are to—

(1) assure fair and prompt recoveries for class members with legitimate claims;

(2) restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3) benefit society by encouraging innovation and lowering consumer prices.

**SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.**

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

### "CHAPTER 114—CLASS ACTIONS

"Sec.
"1711. Definitions.
"1712. Coupon settlements.
"1713. Protection against loss by class members.
"1714. Protection against discrimination based on geographic location.
"1715. Notifications to appropriate Federal and State officials.

**"§ 1711. Definitions**

"In this chapter:

"(1) CLASS.—The term 'class' means all of the class members in a class action.

"(2) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representatives as a class action.

"(3) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

"(4) CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(5) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.

"(6) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement regarding a class action that is subject to court approval and that, if approved, would be binding on some or all class members.

**"§ 1712. Coupon Settlements.**

"(a) CONTINGENT FEES IN COUPON SETTLEMENTS.—If a proposed settlement in a class action provides for a recovery of coupons to a class member, the portion of any attorney's fee award to class counsel that is attributable to the award of the coupons shall be based on the value to class members of the coupons that are redeemed.

"(b) Other Attorney's Fee Awards in Coupon Settlements.—

"(1) In general.—If a proposed settlement in a class action provides for a recovery of coupons to class members, and a portion of the recovery of the coupons is not used to determine the attorney's fee to be paid to class counsel, any attorney's fee award shall be based upon the amount of time class counsel reasonably expended working on the action.

"(2) Court approval.—Any attorney's fee under this subsection shall be subject to approval by the court and shall include an appropriate attorney's fee, if any, for obtaining equitable relief, including an injunction, if applicable. Nothing in this subsection shall be construed to prohibit application of a lodestar with a multiplier method of determining attorney's fees.

"(c) Attorney's Fee Awards Calculated on a Mixed Basis in Coupon Settlements.—If a proposed settlement in a class action provides for an award of coupons to class members and also provides for equitable relief, including injunctive relief—

"(1) that portion of the attorney's fee to be paid to class counsel that is based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (a); and

"(2) that portion of the attorney's fee to be paid to class counsel that is not based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (b).

"(d) Settlement Valuation Expertise.—In a class action involving the awarding of coupons, the court may, in its discretion upon the motion of a party, receive expert testimony from a witness qualified to provide information on the actual value to the class members of the coupons that are redeemed.

"(e) Judicial Scrutiny of Coupon Settlements.—In a proposed settlement under which class members would be awarded coupons, the court may approve the proposed settlement only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members. The court, in its discretion, may also require that a proposed settlement agreement provide for the distribution of a portion of the value of unclaimed coupons to 1 or more charitable or governmental organizations, as agreed to by the parties. The distribution and redemption of any proceeds under this subsection shall not be used to calculate attorneys' fees under this section.

### "§ 1713. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

### "§ 1714. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

### "§ 1715. Notifications to appropriate Federal and State officials

"(a) Definitions.—

"(1) Appropriate Federal official.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) Appropriate State official.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) In General.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) Depository Institutions Notification.—

"(1) Federal and other depository institutions.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) State depository institutions.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) Final Approval.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) Noncompliance if Notice Not Provided.—

"(1) In general.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) Limitation.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) Application of rights.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) Rule of Construction.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) Technical and Conforming Amendment.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

**"114. Class Actions ............................ 1711".**

### SEC. 4. FEDERAL DISTRICT COURT JURISDICTION FOR INTERSTATE CLASS ACTIONS.

(a) Application of Federal Diversity Jurisdiction.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action;

“(C) the term ‘class certification order’ means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

“(D) the term ‘class members’ means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

“(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs, and is a class action in which—

“(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

“(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

“(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

“(3) A district court may, in the interests of justice and looking at the totality of the circumstances, decline to exercise jurisdiction under paragraph (2) over a class action in which greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed based on consideration of—

“(A) whether the claims asserted involve matters of national or interstate interest;

“(B) whether the claims asserted will be governed by laws of the State in which the action was originally filed or by the laws of other States;

“(C) whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction;

“(D) whether the action was brought in a forum with a distinct nexus with the class members, the alleged harm, or the defendants;

“(E) whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States; and

“(F) whether, during the 3-year period preceding the filing of that class action, 1 or more other class actions asserting the same or similar claims on behalf of the same or other persons have been filed.

“(4) A district court shall decline to exercise jurisdiction under paragraph (2)—

“(A)(i) over a class action in which—

“(I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed;

“(II) at least 1 defendant is a defendant—

“(aa) from whom significant relief is sought by members of the plaintiff class;

“(bb) whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and

“(cc) who is a citizen of the State in which the action was originally filed; and

“(III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed; and

“(ii) during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons; or

“(B) two-thirds or more of the members of all proposed plaintiff classes in the aggregate, and the primary defendants, are citizens of the State in which the action was originally filed.

“(5) Paragraphs (2) through (4) shall not apply to any class action in which—

“(A) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

“(B) the number of members of all proposed plaintiff classes in the aggregate is less than 100.

“(6) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs.

“(7) Citizenship of the members of the proposed plaintiff classes shall be determined for purposes of paragraphs (2) through (6) as of the date of filing of the complaint or amended complaint, or, if the case stated by the initial pleading is not subject to Federal jurisdiction, as of the date of service by plaintiffs of an amended pleading, motion, or other paper, indicating the existence of Federal jurisdiction.

“(8) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

“(9) Paragraph (2) shall not apply to any class action that solely involves a claim—

“(A) concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

“(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

“(10) For purposes of this subsection and section 1453, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

“(11)(A) For purposes of this subsection and section 1453, a mass action shall be deemed to be a class action removable under paragraphs (2) through (10) if it otherwise meets the provisions of those paragraphs.

“(B)(i) As used in subparagraph (A), the term ‘mass action’ means any civil action (except a civil action within the scope of section 1711(2)) in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs’ claims involve common questions of law or fact, except that jurisdiction shall exist only over those plaintiffs whose claims in a mass action satisfy the jurisdictional amount requirements under subsection (a).

“(ii) As used in subparagraph (A), the term ‘mass action’ shall not include any civil action in which—

“(I) all of the claims in the action arise from an event or occurrence in the State in which the action was filed, and that allegedly resulted in injuries in that State or in States contiguous to that State;

“(II) the claims are joined upon motion of a defendant;

“(III) all of the claims in the action are asserted on behalf of the general public (and not on behalf of individual claimants or members of a purported class) pursuant to a State statute specifically authorizing such action; or

“(IV) the claims have been consolidated or coordinated solely for pretrial proceedings.

“(C)(i) Any action(s) removed to Federal court pursuant to this subsection shall not thereafter be transferred to any other court pursuant to section 1407, or the rules promulgated thereunder, unless a majority of the plaintiffs in the action request transfer pursuant to section 1407.

“(ii) This subparagraph will not apply—

“(I) to cases certified pursuant to rule 23 of the Federal Rules of Civil Procedure; or

“(II) if plaintiffs propose that the action proceed as a class action pursuant to rule 23 of the Federal Rules of Civil Procedure.

“(D) The limitations periods on any claims asserted in a mass action that is removed to Federal court pursuant to this subsection shall be deemed tolled during the period that the action is pending in Federal court.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting “(a) or (d)” after “1332”.

(2) Section 1603(b)(3) is amended by striking “(d)” and inserting “(e)”.

### SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

**“§ 1453. Removal of class actions**

“(a) DEFINITIONS.—In this section, the terms ‘class’, ‘class action’, ‘class certification order’, and ‘class member’ shall have the meanings given such terms under section 1332(d)(1).

“(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with section 1446 (except that the 1-year limitation under section 1446(b) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

“(c) REVIEW OF REMAND ORDERS.—

“(1) IN GENERAL.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

“(2) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension in granted under paragraph (3).

“(3) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

“(A) all parties to the proceeding agree to such extension, for any period of time; or

“(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

“(4) DENIAL OF APPEAL.—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

"(d) EXCEPTION.—This section shall not apply to any class action that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

"1453. Removal of class actions.".

### SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

### SEC. 7. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.

Notwithstanding any other provision of law, the amendments to rule 23 of the Federal Rules of Civil Procedure, which are set forth in the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

### SEC. 8. RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE.

Nothing in this Act shall restrict in any way the authority of the Judicial Conference and the Supreme Court to propose and prescribe general rules of practice and procedure under chapter 131 of title 28, United States Code.

### SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108-7, in accordance with the qualifications specified under section 1237(E) of Public Law 106-398, and upon the recommendation of the Democratic Leader, in consultation with the ranking members of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individual to the United States-China Economic Security Review Commission:

William A. Reinsch, of Maryland, for a term expiring Dec. 31, 2005.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 4355(a), appoints the Senator from Rhode Island, Mr. REED, from the Armed Services Committee, to the Board of Visitors of the U.S. Military Academy.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 6968(a), appoints the Senator from Arizona, Mr. MCCAIN, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 9355(a), appoints the Senator from Colorado, Mr. ALLARD, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy.

## ORDER FOR RECESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess until 8:40 p.m., at which time the Senate will proceed as a body to the House Chamber for the President's State of the Union Address.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR TOMORROW

Mr. FRIST. Mr. President, I further ask unanimous consent that upon conclusion of the joint session, the Senate adjourn until 10 a.m., Wednesday, January 21. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the conference report to accompany H.R. 2673, the Omnibus Appropriations measure, for debate only, with the time until 6 p.m. equally divided between the chairman and ranking member of the Appropriations Committee or their designees.

I further ask that Senator BYRD be recognized at noon for up to 2 hours, that Senator MCCAIN be recognized at 2 p.m. for up to 1 hour, and his remarks be charged against the chairman's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the conference report to accompany H.R. 2673, the Omnibus Appropriations measure.

I was disappointed by the outcome of today's cloture vote, but we will continue to push forward in our efforts to get a vote on final passage for this vital piece of legislation, this funding measure.

As a reminder, I entered a motion to reconsider the failed cloture vote. I will alert Senators as to when that vote will occur this week. In the meantime, I will continue to work with my Democratic colleagues in an effort to bring this final appropriations package to a close.

Mr. REID. Mr. President, I indicated to the leader that I had nothing, but I have been given a rule XIV matter.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

## MEASURE READ THE FIRST TIME—S. 2006

Mr. REID. Mr. President, it is my understanding that S. 2006, which was introduced earlier today by Senators KENNEDY and others, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2006) to extend and expand the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

Mr. REID. Mr. President, I ask for its second reading, but I object to my own request on behalf of a number of Senators.

The PRESIDING OFFICER. Objection is heard.

## RECESS

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess until 8:40 this evening; I further ask that when the Senate adjourns later this evening, it do so under the provisions of S. Res. 284 as a mark of further respect for our former colleague, Senator Bill Roth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 4:53 p.m., recessed until 8:40 p.m. and reassembled when called to order by the Presiding Officer (Mr. SESSIONS).

## JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 144)

The PRESIDING OFFICER. The Senate will now proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Assistant Sergeant at Arms, Keith J. Kennedy, and the Vice President of the United States, DICK CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George W. Bush.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Representatives in today's RECORD.)

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:13 p.m., the Senate adjourned until Wednesday, January 21, 2004, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 20, 2004:

### THE JUDICIARY

CLAUDE A. ALLEN, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE FRANCIS D. MURNAGHAN, JR., DECEASED.

PAUL S. DIAMOND, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE HERBERT J. HUTTON, RETIRED.

ROBERT BRYAN HARWELL, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE C. WESTON HOUCK, RETIRING.

GEORGE P. SCHIAVELLI, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE LOURDES G. BAIRD, RETIRING.

# HOUSE OF REPRESENTATIVES—*Tuesday, January 20, 2004*

The House met at noon.

The SPEAKER. This being the day fixed by Public Law 108-181, 108th Congress, enacted pursuant to the 20th amendment to the Constitution for the meeting of the second session of the 108th Congress, the House will be in order.

The prayer will be offered by the Chaplain.

## PRAYER

The Chaplain, Reverend Daniel P. Coughlin, offered the following prayer:

Almighty God, I present to You today the rightful stewards of a sacred trust given them by the people, those duly elected to serve as their representatives in the 108th Congress of the United States of America.

Lord, be present to them now and every day of the second session of this assembly, the largest and most integral part of Federal Government. Make of them leaders fashioned in Your own image who will guide the rich diversity of this Nation into an evermore perfect Union.

In the face of the awesome responsibilities they are to shoulder in protecting the Constitution and defending the security of this Nation, knowing the troublesome times in which we live, grant them humility in Your service and freedom from fear or hesitation.

By Your holy wisdom and as masters in the art of politics, may they enact laws that will foster the rights and guide the creativity of the greatest and the least in this Nation.

Today, I ask every American to join with me in praying daily for the Members of this House that they may "establish Justice, ensure lasting Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty" for all Americans and become again a beacon of hope to other nations. This we pray now and forever.

Amen.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(c) of rule XX, the Chair announces to the House that, in light of the resignation of the gentleman from Kentucky (Mr. FLETCHER), as indicated in the RECORD of December 15, 2003, the whole number of the House is adjusted to 434.

## CALL OF THE HOUSE

The SPEAKER. The Clerk will utilize the electronic system to ascertain the presence of a quorum.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 1]

Ackerman
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Graves
Green (WI)
Greenwood
Grijalva
Hall
Harman
Harris
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Obey
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Sabo
Sánchez, Linda T.
Sánchez, Loretta
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shays
Sherwood
Shimkus
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Watt
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

□ 1232

The SPEAKER. On this rollcall, 321 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri (Mr. BLUNT) come forward and lead the House in the Pledge of Allegiance.

Mr. BLUNT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 743. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

H.R. 2264. An act to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1172. An act to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1177. An act to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1267. An act to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes.

S. 2000. An act to extend the special postage stamp for breast cancer research for 2 years.

The message also announced that pursuant to Public Law 108-132, the Chair, on behalf of the Democratic Leader, appoints the following individuals to the Commission on Review of Overseas Military Facility Structure of the United States—

Al Cornella, of South Dakota, and

James A. Thompson, of California.

The message also announced that pursuant to Public Law 108-79, the Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, appoints Gustavus Aldolphus Puryear, IV, of Tennessee to the National Prison Rape Reduction Commission for a term of two years.

The message also announced that pursuant to Public Law 108-79, the Chair, on behalf of the Democratic Leader, after consultation with the Majority Leader, appoints the following individuals to the National Prison Rape Reduction Commission—

James Evan Aiken, of North Carolina, and

Cindy Struckman-Johnson, of South Dakota.

## RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 14, 2004.*

Hon. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Capitol Building, Washington, DC.*

DEAR MR. SPEAKER: Enclosed is a copy of my official resignation letter that was sent to the Governor of South Dakota and the SD Secretary of State.

I will be resigning from the House of Representatives effective 11:59 p.m. on January 20, 2004.

Please let me know if there are any further formalities which I must perform or accomplish to effectuate this resignation.

Thank you for all the courtesies you have extended to me and the people of South Dakota.

Sincerely,

WILLIAM J. JANKLOW.

Enclosure.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 14, 2004.*

Hon. MIKE ROUNDS,
*Governor of South Dakota,*
*Pierre, SD.*
Hon. CHRIS NELSON,
*Secretary of State,*
*Pierre, SD.*

DEAR GOVERNOR ROUNDS AND SECRETARY OF STATE NELSON: I wish to inform you that because of present circumstances, I am and will be unable to perform the duties incumbent upon me in representing the people of South Dakota as their US Representative.

Therefore, I wish to inform you that I will resign from the House of Representatives effective 11:59 p.m. on January 20, 2004.

Representing the people of South Dakota in all the capacities that I have over the years has brought a treasure of memories and friends. This includes the year I have spent in the US House.

I am thankful to the people of South Dakota for the courtesies they have shown me.

Sincerely,

WILLIAM J. JANKLOW.

## COMMUNICATION FROM HON. ROBERT MENENDEZ, CHAIRMAN, DEMOCRATIC CAUCUS

The SPEAKER laid before the House the following communication from the Honorable ROBERT MENENDEZ, Chairman, Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
*January 5, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: This is to notify you that the Honorable Ralph Hall of Texas has resigned as a Member of the Democratic Caucus effective immediately.

Sincerely,

ROBERT MENENDEZ,
*Chairman.*

## COMMUNICATION FROM THE SPEAKER

The SPEAKER laid before the House the following communication from the Speaker:

OFFICE OF THE SPEAKER,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 20, 2004.*

Hon. SHERWOOD BOEHLERT,
*Chairman, Committee on Science, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: This is to advise you that Representative Ralph M. Hall's election to the Committee on Science has been automatically vacated pursuant to clause 5(b) of rule X effective January 5, 2004.

Sincerely,

J. DENNIS HASTERT,
*Speaker of the House.*

## COMMUNICATION FROM THE SPEAKER

The SPEAKER laid before the House the following communication from the Speaker:

OFFICE OF THE SPEAKER,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 20, 2004.*

Hon. W.J. (BILLY) TAUZIN,
*Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: This is to advise you that Representative Ralph M. Hall's election to the Committee on Energy and Commerce has been automatically vacated pursuant to clause 5(b) of rule X effective January 5, 2004.

Sincerely,

J. DENNIS HASTERT,
*Speaker of the House.*

## COMMITTEE TO NOTIFY THE PRESIDENT

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 486) providing for a committee to notify the President of the assembly of the Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 486

*Resolved,* That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO HOUSE RESOLUTION 486

The SPEAKER. Pursuant to House Resolution 486, the Chair announces his appointment of the following Members to the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and that Congress is ready to receive any communication that he may be pleased to make:

The gentleman from Texas (Mr. DELAY) and

The gentlewoman from California (Ms. PELOSI).

## NOTIFICATION TO THE SENATE

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 487) to inform the Senate that a quorum of the House has assembled, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 487

*Resolved,* That the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## DAILY HOUR OF MEETING

Mr. DELAY. Mr. Speaker, I offer a privileged resolution (H. Res. 488) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 488

*Resolved*, That unless otherwise ordered, before Monday, May 31, 2004, the hour of daily meeting of the House shall be 2 p.m. on Mondays; noon on Tuesdays; and 10 a.m. on all other days of the week; and from Monday, May 31, 2004, and for the remainder of the 108th Congress, the hour of daily meeting of the House shall be noon on Mondays, 10 a.m. on Tuesdays, Wednesdays and Thursdays; and 9 a.m. on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## JOINT SESSION OF THE CONGRESS—STATE OF THE UNION MESSAGE

Mr. DELAY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 349) and ask for its immediate consideration.

The SPEAKER. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 349

*Resolved by the House of Representatives (the Senate concurring)*, That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 20, 2004, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## MAKING IN ORDER MORNING HOURS DEBATE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that during the remainder of the 108th Congress:

(1) on legislative days of Monday when the House convenes pursuant to House Resolution 488, the House shall convene 90 minutes earlier than the time otherwise established by that resolution solely for the purpose of conducting morning-hour debate;

(2) on legislative days of Tuesday when the House convenes pursuant to House Resolution 488:

(a) before May 31, 2004, the House shall convene for morning-hour debate 90 minutes earlier than the time otherwise established by that resolution; and (b) after May 31, 2004, the House shall convene for morning-hour debate 1 hour earlier than the time otherwise established by that resolution;

(3) on legislative days of Tuesday after May 31, 2004, when the House convenes for morning-hour debate pursuant to a separate order of the House, the House shall resume its session 90 minutes after such convening;

(4) the time for morning-hour debate shall be limited to 30 minutes allocated to each party (except that on Tuesdays after May 31, 2004, a 1-hour period shall be limited to 25 minutes allocated to each party and may not continue beyond 10 minutes before the hour appointed for the resumption of the session of the House); and

(5) the form of proceeding to morning-hour debate shall be as follows:

the prayer by the Chaplain, the approval of the Journal, and the Pledge of Allegiance to the Flag shall be postponed until resumption of the session of the House; initial and subsequent recognitions for debate shall alternate between the parties; recognition shall be conferred by the Speaker only pursuant to lists submitted by the Majority leader and by the Minority leader; no Member may address the House for longer than 5 minutes, except the Majority leader, the Minority leader, or the Minority whip; and following morning-hour debate, the Chair shall declare a recess pursuant to clause 12(a) of rule I until the time appointed for the resumption of the session of the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND REMARKS AND INCLUDE EXTRANEOUS MATERIAL IN THE CONGRESSIONAL RECORD FOR THE SECOND SESSION OF THE 108TH CONGRESS

Mr. DELAY. Mr. Speaker, I ask unanimous consent that for the remainder of the 108th Congress, all Members be permitted to extend their remarks and to include extraneous material within the permitted limit in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TOMORROW

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
*Washington, DC, December 16, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House,*
*House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (P.L. 106-398), I hereby reappoint Ms. Carolyn Bartholomew of the District of Columbia, for a two-year term that expires December 31, 2005, to the United States-China Review Commission. Her current one-year term expires December 31, 2003.

Best regards,

NANCY PELOSI.

## COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
*December 16, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), I hereby appoint Willie L. Brown, Jr. of San Francisco, California to the Election Assistance Commission Board of Advisors. Mr. Brown is appointed for a 2 year term.

Best Regards,

NANCY PELOSI.

## COMMUNICATION FROM CHIEF OF STAFF OF HON. THOMAS ALLEN, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Jacqueline Potter, Chief of Staff of the Honorable THOMAS ALLEN, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, December 11, 2003.*

Hon. DENNIS J. HASTERT,
*Speaker, U.S. House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for deposition testimony issued by the Superior Court for Cumberland County, Maine.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

JACQUELINE POTTER,
*Chief of Staff.*

## COMMUNICATION FROM SENIOR FIELD REPRESENTATIVE OF HON. THOMAS ALLEN, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from John McLaughlin, Senior Field Representative of the Honorable THOMAS ALLEN, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, December 11, 2003.*
Hon. DENNIS J. HASTERT,
*Speaker, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for deposition testimony issued by the Superior Court for Cumberland County, Maine.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,
JOHN MCLAUGHLIN,
*Senior Field Representative.*

## COMMUNICATION FROM CHIEF OF STAFF OF HON. THOMAS ALLEN, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Jacqueline Potter, Chief of Staff of the Honorable THOMAS ALLEN, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, December 17, 2003.*
Hon. DENNIS J. HASTERT,
*Speaker, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for documents issued by the Superior Court for Cumberland County, Maine.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,
JACQUELINE POTTER,
*Chief of Staff.*

## COMMUNICATION FROM DISTRICT DIRECTOR OF HON. JOE BARTON OF TEXAS, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Ron Wright, District Director of the Honorable JOE BARTON of Texas, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, December 31, 2003.*
Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the U.S. District Court for the Northern District of Texas.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely yours,
RON WRIGHT,
*District Director.*

## COMMUNICATION FROM LEGISLATIVE DIRECTOR OF THE HON. J. DENNIS HASTERT, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Anthony Reed, Legislative Director of the Honorable J. DENNIS HASTERT, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, January 9, 2004.*
Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
ANTHONY REED,
*Legislative Director.*

## REPORT OF COMMITTEE TO NOTIFY PRESIDENT

Mr. DELAY. Mr. Speaker, your committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty.

The President asked us to report that he will be pleased to deliver his message at 9 p.m. tonight to a joint session of the two Houses.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair desires to make an announcement.

After consultation with the Majority and Minority leaders, and with their consent and approval, the Chair announces that tonight when the two Houses meet in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance that is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint session by placard will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute speech requests.

□ 1245

## SUCCESSES OF 2003

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, over the last year, our Nation has experienced extraordinary successes. The American military has fought a victorious battle in Iraq to overthrow one of history's most despotic regimes and are continuing today to protect the American people in the war on terror. Thanks to their valor, the world is safer knowing that Saddam Hussein is no longer a threat.

In the last year, as our economy struggled to work its way back out of recession, Congress brought tax relief to American families and businesses at the right time to get this economy moving again. In the past few months, stock markets are up, jobs have increased and our GDP has soared.

We were also successful in bringing prescription drug coverage to our seniors, health savings plans to restore hope in the future of Medicare, and we brought further reforms to education to ensure our children receive the best chance for success.

Tonight we will hear our President's State of the Union address, and while we face challenges ahead, the President has many successes to celebrate over the last year.

In conclusion, God bless our troops, and we will never forget September 11.

## EXTENSION OF UNEMPLOYMENT BENEFITS

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, a constituent in my district named Virginia received something very special this Christmas. The gift, if we could call it that, came directly from the Bush White House and the Republican leadership. Pretty impressive. It arrived on December 23 and stayed through the holidays. It was a notice saying her extended unemployment benefits would end soon. Merry Christmas, Virginia. Eighty-two thousand other Washington residents face the same fate in the first 6 months of this year.

It does not matter whether there is money in the account or there is a jobless recovery underway. we realize last month we got 20 jobs in the State of Washington, 1.000 in the whole country. Virginia and thousands of other average Americans will remember this Christmas for a long time as the Christmas when she was forgotten by the Republican leadership and the White House.

Tonight, the President will be upbeat. I just gave my colleagues the State of the Union in one household in my district. Virginia is anything but upbeat. She is frightened, she is angry. She calls it unconscionable. We ought to call it disgraceful.

I call upon the President and the Republican leadership to recognize the ordinary Americans and support them by immediately passing an extension of unemployment benefits. Eighty-two thousand people in my State will remember.

## THE PRESIDENT'S POLICIES

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, tonight President Bush will offer his optimistic vision for our great Nation.

President Bush has been a remarkably strong leader in trying times. He inherited an economy headed into recession and took very bold action. He cut taxes for every American and softened the blow of tough economic times. He extended prescription drug benefits and coverage to our Nation's seniors who depend on Medicare. He was faced with unprecedented terrorist attacks that threatened our freedom. He did not sit back. He did not appease, as some have advocated. Instead, he took the fight to the terrorists, and America now has the initiative in the war on terror.

The President's policies are getting America back to work. His policies will further grow our economy and create jobs. His policies will expand educational opportunities for our children. His policies will work to ensure that quality health care is available to every American.

Mr. Speaker, I am proud of our great President and look forward to hearing his positive views for our Nation this evening.

## EXTENDING UNEMPLOYMENT BENEFITS

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, I could care less about the moon. I want a job. That was said to me by an electrician during our recess. He is one of 1,200 members of the International Brotherhood of Electrical Workers in the metropolitan Detroit area out of work. He is one of 8.9 million Americans, and there are another 4 million Americans not classified as unemployed but who are out of work.

The long-term unemployed in this country reached a 20-year high in November, but this House and the President have refused to extend Federal benefits. They expired December 20.

Ninety thousand people run out of State benefits every week. In this country, America, Americans deserve more than continued silence from the President of the United States. Let us hope he speaks to this issue tonight.

## KASHMIR

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I recently returned from a trip to Pakistan and India.

I would like to commend Prime Minister Vajpayee of India and President Musharraf of Pakistan for the ceasefire in Kashmir and for their courageous leadership and peaceful dialogue in addressing an issue of deep importance to both nations.

During my visit, I had the privilege of visiting a camp for internally displaced people in Azad Kashmir. The suffering that the people on both sides of the Line of Control have endured is horrific: land mines, bombings, deliberate rape of women and other human rights violations, all this in the midst of a land of great beauty.

It is time for the tragic suffering to end. All sides in the conflict need to immediately cease using rape as a weapon of war. All sides need to allow children to receive an education. Until the issue of Kashmir is resolved peacefully, the stability, security and economic viability of South Asia and the international community are at risk.

I urge the U.S. government to fully support the current positive steps between Pakistan and India to bring a peaceful end to this long-running conflict.

## THE PRESIDENT'S BIG IDEA

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good afternoon Happy New Year. Welcome back.

Last year, the President's advisers decided that in 2004 the President was going to talk about big ideas. Good, that is what Presidents are supposed to do, but then the President decided what we ought to do is go to the moon and Mars and cost the taxpayers $1 trillion. We have explored the moon in 1969 and 1970. It is a rock. We have seen pictures of Mars. It is also a rock.

It seems to me the big idea is to help the working families in America. This economy has lost 3 million jobs under President George Bush. Two million workers have been unemployed for more than 6 months; 1.4 million workers have exhausted their unemployment benefits but still have not found work.

A big idea would be to put people to work like Franklin Roosevelt did. Another big idea would be to provide health insurance for all 41 million Americans who do not have health insurance. Health insurance costs for those who have it are rising, and pretty soon more people will not have it. That would be a big idea. Health insurance. Funding medical research to fight cancer and AIDS and ending poverty and hunger would be big ideas that we ought to be pursuing in the 21st century.

Instead, when the President's big idea is to go to Mars, it seems to me he has lost contact with the American people. Democrats have big ideas, making America a better place in which to live.

## THE PRIORITIES OF AMERICA

(Mr. BELL asked and was given permission to address the House for 1 minute.)

Mr. BELL. Mr. Speaker, I rise today because I am deeply concerned with the state of our Union. I share the concern of many that we are heading in the wrong direction in this country.

We need to focus on creating jobs, but tonight we will hear about extending tax cuts for the rich in a mythical economic recovery that has created no new jobs. We need to focus on protecting Social Security and Medicare for a new generation, but tonight we will only hear about a thinly disguised plan to dismantle those vital programs and place our sacred covenant with America into the hands of corporations and pharmaceutical companies seeking profit at the expense of working men and women.

Tonight, we will hear more empty promises on education and literacy when we should focus on the President's own No Child Left Behind program which he and the Republican Congress continue to refuse to fully fund. As a result, we are leaving millions of children behind every day.

It is all about priorities, Mr. Speaker. Creating more jobs, access to affordable health care and better education for our children, those are the priorities of America, and they should be our priorities here in Congress.

## HONORING U.S. ARMY NATIONAL GUARD SPECIALIST MICHAEL G. MIHALAKIS

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, as I rise today, over 500 Americans have lost their lives in the war in Iraq. Each loss is a wrenching tragedy to a family somewhere in America, and this tragic loss has now come to the Mihalakis family in San Jose, California.

U.S. Army National Guard Specialist Michael G. Mihalakis of San Jose, California, was killed the day after Christmas when his Humvee overturned near the Baghdad International Airport. He was assigned to the 270th Military Police Company and was one of the youngest casualties of the Iraq conflict. Michael was proud to be a soldier, with a strong commitment to service, an unflinching bravery, a dedication to family, and a deep love of country.

America remains strong and free because, for generations, Americans like Michael have been willing to put the well-being of their community and country ahead of their personal comfort and safety. From towns and cities all over America, ordinary citizens have become transformed into heroes through their service.

There is aching loss and pain when such heroism means the hero is not coming home. This wrenching loss can never really be healed for the mothers and fathers who have given what is most precious to them for their country. We want to thank the Mihalakis family and let them know they are in our hearts and prayers and that his grateful country will always remember their son.

On behalf of the House of Representatives, I want to thank Michael for his service to the United States and offer heartfelt condolences to his parents and entire family.

## REAL IMMIGRATION REFORM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, the State of the Union will be an opportunity for the President to push his issues and to explain to the American people how we can work together.

I think there is no doubt that there are those of us who understand that this Nation was first built on the opportunities for immigrants to come and to seek, if you will, a better life.

We do need real immigration reform in this Nation, but I am disappointed and saddened by the offering of the President of which I have said this is not an amnesty plan, and so I defend him from the perspective that this is a first step of recognizing the needs for immigration reform, but we really need to focus on earned access to legalization for those millions of immigrants who are here paying taxes, working every day and wanting to provide for their family and to get in line to be able to earn their right to be a citizen of the United States of America.

What happens to a guest worker program? It literally disappears into the night because when the program ends after 3 years, there is some suggestion that these individuals will go home. They will not.

Mr. President, work with this Congress, work with the Democrats in a bipartisan way to lift up the values of this Nation, that we are a land of immigrants, to allow the immigrants that are here to get into the system of earned access to legalization.

## THE DRUG COVERAGE BILL

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, President Bush, in his State of the Union a year ago, said, "Medicare is the binding commitment of a caring society." He then promised a prescription drug/Medicare reform bill.

The gentleman from California (Mr. THOMAS), the Republican chairman of the House Committee on Ways and Means, one of the authors of the bill with the Bush administration, said, "to those who say this bill would end Medicare as we know it, our answer is we certainly hope so."

☐ 1300

I wish President Bush tonight would explain what happened to the Medicare bill that he signed in December. I wish he would explain that this legislation will mean $139 billion, that is with a "B," $139 billion additional profits for the drug industry. I wish he would explain tonight to the American people why this Medicare privatization bill means $14 billion in extra payouts to the HMOs and to the insurance companies. And I wish he would explain to the American people why he let in to write this bill the drug industry and the insurance industry, which sat down with the administration, with Republican leadership and actually wrote the Medicare prescription drug privatization bill. We need answers tonight, Mr. Speaker.

## DISTRICT OF COLUMBIA VOTING RIGHTS RESTORATION ACT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. ROHRABACHER. Mr. Speaker, I have just introduced the District of Columbia Voting Rights Restoration Act, a bill to restore full and equal congressional voting rights, including representation in the United States Senate, for the residents of the District of Columbia.

My bill would restore the Federal rights of Maryland citizenship that were taken away from the District of Columbia residents over 200 years ago by an Act of Congress, the Organic Act of 1801. Enactment of my bill would mean that D.C. residents would once again have the full Federal voting rights they enjoyed as Maryland citizens prior to Congress' assumption of exclusive legislative authority over the District of Columbia. Those rights included the right to vote for and to be elected as and to serve as U.S. senators, U.S. representatives and presidential electors from Maryland.

Mr. Speaker, I ask my colleagues on both sides of the aisle not to let small national political considerations stop us from restoring these rights, and I would also insert the questions and answers about my bill that I am putting on the desk today as part of the RECORD.

Mr. Speaker, it is time for all Members of Congress, whether Republican or Democrat, conservative or liberal, to heed the legitimate complaints of "taxation without representation." We must correct this 200-year-old injustice to the U.S. citizens who live in our nation's capital. The debate must no longer be about whether D.C. residents should have full voting rights in Congress, but how to accomplish a goal that we all share.

*Question.* Since the VRRA includes D.C. as part of the Maryland delegation in the U.S. House, what is to keep the Maryland legislature from splitting D.C. and joining it with two or more Maryland congressional districts?

Answer. The VRRA would require that whenever D.C. has fewer people than the average Maryland congressional district, D.C. be kept intact in a single congressional district, with contiguous territory from adjacent Maryland counties added as necessary to produce a district equal in population to the other Maryland districts. The VRRA also provides that whenever D.C.'s population is equal to or larger than the average Maryland district, then there must be at lease one district that is 100% D.C.

The controlling Supreme Court opinion in Oregon v. Mitchell (the 18-year-old vote case) made clear that Congress has the power to regulate congressional redistricting by state legislatures. Congress has exercised this power in prohibiting at-large districts in states with more than one House member. In this case, Congress would protect D.C. from unfair treatment because D.C. residents would have no voice in the Maryland legislature.

*Question.* Does the Constitution allow D.C. residents who do not actually live in Maryland to choose the representatives of that state? If it were constitutional to treat D.C. residents as if they were residents of the state of Maryland for the purposes of voting, would D.C. residents be constitutionally precluded from representing the new Maryland district, given the language of Article I specifically requiring that representatives be inhabitants of the state in which they are chosen?

Answer. In addition to restoring congressional voting rights, the VRRA also restores Maryland citizenship rights to be a candidate for, and to serve as, U.S. Representative, U.S. Senator, and presidential elector from Maryland.

D.C. is one of several federal enclaves in which the residents were not considered to be "inhabitants" of the states that ceded such enclaves to the federal government. There is no reason why Congress is any more powerless to restore the right of D.C. residents to be considered inhabitants of Maryland for federal electoral purposes than it was powerless to restore the rights of residents of other federal enclaves to be considered an inhabitant of the states, including Maryland, that ceded their place of residence to the federal government.

*Question.* Because representation in the Electoral College is based on the number of Senators and Representatives in the states, wouldn't Maryland receive only one more electoral vote to correspond with the new district? If so, and the District's three reliably Democratic electoral votes were eliminated, wouldn't the result be to tilt the votes in the Electoral College in favor of a Republican presidential candidate?

Answer. The VRRA add one electoral vote to Mayland's total, and would eliminate D.C.'s current three electoral votes to eliminate double counting. Depending on how Maryland and D.C. vote, that would result in either a net pickup of 8 or a net loss of 2 electoral votes for Democrats, with a small possibility of changing the result one way or the other. It's also possible that the D.C. votes for Members of Congress provided by VRRA could swing control of the House and Senate to the Democrats. The small risks involved for each political party are a reasonable tradeoff for correcting the 200-year-old injustice of depriving D.C. residents of congressional representation.

*Question.* Shouldn't a bill creating two new House seats for D.C. and Utah have a clause that the bill is not severable, meaning if the D.C. portion of the bill were found to be unconstitutional, the Utah portion also would fall?

Answer. Yes; the VRRA has such a nonseverability clause.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will recognize Members for Special Orders until 5 p.m., at which time the Chair will declare the House in recess.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## JOBS AND ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in April 2003, the Bush administration pledged that its jobs and growth package, its Leave No Millionaire Behind Tax Cut Plan, would create 1,836,000 new jobs by the end of 2003, last month. The administration pledged to create 5.5 million new jobs this year in 2004; but as the Bureau of Labor Statistics reported this month, the economy had a grand total of 1,000 jobs in December. To begin reversing unemployment trends, there would need to be 250,000 new jobs each month.

More than 2.3 million jobs have been lost since President Bush took office, Mr. Speaker. More than 2.3 million jobs. In my State of Ohio, one out of six manufacturing jobs has disappeared, one out of six, and most of them permanently. Despite recent good news for corporate profits and the trumpeting of the Bush administration on economic growth statistics, the labor market is still in crisis; and we have seen the worst job loss in a recovery since Herbert Hoover in the Great Depression. But for some reason, I guess political reasons, the administration calls the economy strong.

Long-term unemployment is close to a 20-year high. Currently, the average length of unemployment is 5 months. While the administration has touted macroeconomic GDP growth numbers, indicators most important to middle class Americans just simply are not so bright. Simply put, high-paying jobs, industrial, manufacturing jobs are being replaced by low-paying jobs like Wal-Mart. New jobs created are forecast to pay an average of $35,000, much lower than the $43,000 average pay of jobs lost in the last 3 years.

The Bush administration now is deploying an executive agency to shortchange average workers, this time on overtime pay. The Department of Labor's publishing documents "suggest ways that employers can avoid paying overtime to some of the $1.3 million low-income workers who would become eligible this year." Think about that, a Federal agency is giving advice to employers on how to avoid paying overtime to some of its lowest-paid workers. Think about that. Among the options for employers would be to cut workers' hourly wages and add the overtime to equal the original salary.

This is part of an emerging pattern of using U.S. taxpayer resources to help big business, to help them cut corners at the expense of American jobs and American workers. The Labor Department's corporate assistance documents, as we call them, come just as the administration plans to eliminate overtime pay protection to 8 million American workers. The overtime plan was opposed by both conservative and progressive lawmakers on Capitol Hill. The Department of Labor's mission statement describes itself as the primary agency to "promote the welfare of job seekers and wage earners."

The Department of Labor was established to represent the interest of average workers, not the interest of corporate contributors to the President. Not Enron. Not Halliburton. The Department of Labor is there to represent average everyday salaried and hourly workers. The Department of Labor now seems to represent corporations at the expense of American workers.

The consequences of the Bush administration's policies for hardworking Americans are clear: first, the greatest job loss in a recovery since the Great Depression; 2.5 million jobs have been lost in the past 2½ years. Second, massive deficits to pass on to our children. The administration came into office with a huge budget surplus. It has been squandered. We now have an annual deficit of $500 billion. That means that every day of the year about $1.5 billion more is paid out by the government than is brought in. The President has added $1.5 billion every day to the national debt that our children will pay. This collapse of fiscal discipline will lead to a $5 trillion debt over the next decade. That is $5 trillion more for our children and our grandchildren to pay.

The third result of the Bush administration's policy for working Americans is the rising numbers of uninsured and increasing health care costs for working Americans. There are 43 million Americans lacking basic health insurance today, with 4 million more Americans who do not have health insurance than those that had it when he took office. There were 39 million uninsured when President Bush took office; now it is up to 43 million, and it is climbing as we lose more industrial jobs, jobs replaced by low-benefit, low-wage jobs instead.

This administration is steering the country down the path of fiscal ruin for the benefit of a wealthy few. It is time to right our course. When we see the statistics over Christmas that the high-end stores like Neiman Marcus stores did very well, and regular stores catering to ordinary average Americans did not do so very well, that tells the story. The wealthier in this country are getting wealthier and wealthier, while the middle class is shrinking. Poor people are doing worse than ever. It is time to redirect this country.

## HONORING AARON WEAVER, A FALLEN HERO IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized for 5 minutes.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, it is with a very heavy heart that I rise today to express the condolences of a grateful Nation. I rise today so that this Nation will not forget the service and sacrifice of those fallen heroes who fight to keep us free. I rise today because a Black Hawk helicopter was shot down over Iraq: and

Chief Warrant Officer Aaron Weaver, one of our Nation's finest, died in the crash.

Aaron Weaver was a husband, a father, a brother, and a son; but he was also a fighter. In Iraq, Aaron was fighting to protect our country's way of life while fighting for his own life as well. You see, Aaron Weaver was a cancer survivor. He was still being treated when his unit was called to duty in Iraq. Aaron had a choice to stay, but he elected to fight for the country that he loved. Aaron was on the way to have his blood tested for cancer when the Black Hawk he was riding in was shot down, killing all on board.

We know well our freedom could not have been won nor our liberty maintained without those willing to make this ultimate sacrifice. But I know these are weak words to the grieving family left behind. I pray the Lord will maintain their memory of Aaron and assuage their pain. Aaron survived the battles in Mogadishu, he fought cancer, and was engaged in a great and noble cause in Iraq. Mr. Speaker, please join me in honoring a true American hero.

Last Saturday, I attended services for Aaron. He lived in Citrus County, and his father still resides there. The whole family was there. They are a military family, a very, very devoted military family, and a very close family who all grieved the loss of Aaron. I would like to paraphrase his widow's comments. His widow is Nancy Weaver, and she made a comment that Aaron's life, the loss of his life, will not be in vain if children in America can live safely; if his children and every other child in America can live without fear of another attack like 9–11.

Mr. Speaker, Aaron Weaver truly was a modern American hero, and we are grateful for his service and the service of all the men and women who are serving our country.

## CALIFORNIA AND THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight when President Bush begins to talk about the state of the Union, I hope that he includes remarks that will address the plight of the people that I represent in my district.

On the economy, the President will probably talk about how our country is coming out of a recession, and in some parts of my district the recession has been there for 3 years. In fact, in at least two areas I represent, in East Los Angeles, the unemployment rate is still above 9 percent. In the city of South El Monte, neighboring the community I live by, which is about 70 percent Latino, I would say the recession has not gone home. It is there. It is 9 percent.

Over 60,000 Californians in my State have exhausted their Federal unemployment benefits and another 340,000 Californians will lose those benefits in the next 4 months alone. Long-term unemployment is at a 20-year high. President Bush claimed that the $330 billion so-called jobs through tax cuts would help create 5.5 million new jobs by the end of 2004 or 306,000 a month. The thousand jobs added to the economy in December left the Nation 305,000 short of the Bush job promise in that month alone.

Grocery workers in the State of California, 70,000, are right now on strike. They have no employment and no unemployment insurance, these families that we are talking about, not just people that have somehow disregarded their employment status. Many are women with children who are faced with having to go to food lines and go seeking other types of assistance because our State will not even provide them with unemployment insurance. The grocery strike is a part of a larger debate on health care and wages going on in this country; and these workers, and workers around the country, are fighting for fair and livable wages and for health care benefits that will allow them to ensure health care for their families.

On homeland security, at a time when we are susceptible to being attacked now more than ever, we are seeing more cutbacks in our local government enforcement of law enforcement and firefighters. In my district, people are telling me that they no longer have the support to continue to work overtime. And every time that red alert or orange alert goes on, there is a lack of money, of sufficient funds to provide for the kind of coverage that we all believe that we should have.

□ 1315

In health care, the President's Medicaid block grant proposal jeopardizes the future of the Medicaid program for millions and millions of low-income families and children. At a time when States like California are facing growing budget deficits, Medicaid reform proposals must focus on strengthening health care coverage and the safety net for our Nation's most vulnerable. Block granting Medicaid will force States to ration care by limiting the number of people who can enroll in those programs. It will reduce services and will increase the amount of money that low-income people must pay. Medicaid provides health coverage to one in six Americans, more than one-fifth of the Nation's children and their future must be the responsibility of this government.

With respect to racial and ethnic minority groups in the U.S., they continue to suffer poor health care. Their outcomes are not good. In fact, the risk for type II diabetes among Latinos is almost twice that for non-Latinos. Eliminating these disparities requires a commitment on the part of the Federal Government to ensure that the needs of minority communities are being heard.

On education, how can schools, teachers and students be expected to meet the high standards of the No Child Left Behind Act when the President refuses to fully fund this initiative? At a time when in my home State of California, the education budget is threatened by a cut of $2 billion, it is unfair to place this additional burden upon our children and our parents in California.

On the environment, Republicans continue to protect the wealthy corporate interests and bend over backwards to manipulate our environmental regulations to profit their allies. The health of our children and families is threatened. We should not sacrifice clean air, clean water, our most precious natural resources, and, most importantly, the health of our families.

With respect to Iraq and our veterans, the capture of Saddam Hussein was a great victory for our troops. However, we have a lot more to do. The war is not over. Our real enemy has not been captured. For example, over 500 soldiers have been killed in Iraq, with 372 of them since the President declared the end of major combat in Iraq. At this time of conflict we are reminded every day that our soldiers' sacrifices should not be taken in vain. Although we have lost a significant number of soldiers, a lot more, approximately 2,900, have been wounded in combat or disabled. Furthermore, these numbers mask the true impact of our wounded and fallen soldiers.

We need to do more. President Bush must encourage the Republican Party to keep their promise to our troops and to our country.

## HEARTLAND FIRES ARE BURNING ON EVE OF PRESIDENT'S VISIT

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this evening the President will address this Congress and America. Tomorrow morning he will travel to northwest Ohio, the region in which I reside and represent. Ohio's snow-covered fields and towns this time of year give a placid impression, but they mask the fire that is burning inside the homes that dot the real Ohio that the President will not visit. It really is too bad. Air Force One will pass over most of us in northern Ohio on Wednesday morning, tomorrow.

Sealed off from the general public in a tight security bubble, the President will land at an airfield and travel by interstate as highway patrol and sheriff's deputies close overpasses and hold people back in half-mile cordons. The President will not see them. The dutiful national press corps, with credentials issued by the White House, will be subjected to a similar fate, never meeting the folks who really live there. The motorcade will lock in its guests, ushering them to Owens College, where tuition has just been hiked by 9 percent. An invitation-only audience will await. The White House is staging photo ops and messages less than 6 weeks before Ohio's primary on March 2. But taxpayers and not the President's brimming campaign coffers are paying for Air Force One on this visit to the heartland in Ohio.

So let this message go forth. The President has the worst jobs record since the Great Depression and Herbert Hoover: 2.7 million Americans are jobless. In December, only 1,000 new net jobs were created nationwide. 300,000 Ohioans are out of work. Their unemployment benefits and health insurance are evaporating. College tuition across our State is skyrocketing. The average graduate ends up a debtor with $17,000 in debt as they begin their careers. 1,300,000 Ohioans have lost their health insurance, nearly 80,000 more than when this President assumed office. Since 2001, another 167,000 of Ohio's manufacturing jobs have disappeared. High tech, ballyhooed to have been our salvation, has been on a precipitous decline with hardware and software jobs being outsourced to India and China.

America and Ohio are being emptied of our wealth-producing jobs. Our trade deficit is at record levels. In 2003, imports exceeded exports by $484 billion. NAFTA has hurt us deeply. These are not just numbers. These are people. Each billion dollars in trade deficit costs us 20,000 jobs. Hoover in Canton is gone, as is Dixon Ticonderoga in Sandusky and Acuity Lighting in Vermillion which is closing; Campbell Soup in Sidney; GE in Bucyrus; Goodyear Tire in Greenville; Honeywell in Elyria; International Paper in Cincinnati; Lucent Technology in Columbus; Mr. Coffee in Glenwillow; Philips Electronics in Ottawa; and now Electrolux just across the border in Michigan.

When the President visited our region on September 6, 2001, I respectfully handed him a letter on Air Force One inviting him and President Fox to travel with me to meet the thousands of workers in Ohio who were losing their jobs to NAFTA and their Mexican counterparts who are also sliding backwards. He never bothered to answer. I mentioned this to him at the White House Christmas party that year and asked him about a reply. He winked and joked, and this is a quote: "The letter must have gotten lost in the shuffle." He did not ask for another.

Is it any wonder the heartland fires are burning? The trade deficit is not mashed potatoes. Jobs lost to Mexico, China and India drag down our Nation's economic growth by nearly a third and every year of the Bush presidency it has worsened. The President will speak in Wood County, Ohio's largest corn-producing county, and my hope is he will urge new ethanol and biodiesel production to offset rising petroleum imports from foreign countries. They equal 60 percent of what our Nation consumes, the highest ever.

As gas prices in northwest Ohio just topped $1.65 per gallon and the per barrel cost of oil now at over $35 per barrel, do we not want America to transition to energy independence? Since 50 cents of every farm dollar earned today is Federal subsidy, what a gigantic job-creating gift the President could give to Ohio and to America by helping launch us on energy independence.

Mr. Speaker, when the fires burn in the heartland, we know America will feel the heat.

Since 50 cents of every farm dollar earned today is federal subsidy, let's put it to work to remedy the nation's chief strategic vulnerability—reliance on imported crude, a key component of our trade deficit. Promoting biofuel independence would create vast numbers of new jobs here at home, far more than Mars exploration or the billions being spent for Iraq rebuilding.

Ohio is plagued by deficits due to the poor economy. Declining revenues have used the state to raise taxes—fuel taxes, sales taxes, cigarette taxes, property taxes. Whatever federal tax relief the Bush Administration might have envisioned has been eaten up by rising state taxes. Even with Mrs. Bush's Reading campaign, our local libraries suffered state cutbacks, had to close down services, and were forced to seek a local levy to sustain normal hours.

The public sector isn't the only pressure point either. Ohio bankruptcies broke a record with over 10,500 last year, and the Pension Benefit Guarantee Corp just announced a troubling $11.2 billion deficit threatening the solvency of our nation's private retirement plans. This is serious indeed.

Each year of the Bush Presidency, his budgets have ballooned the federal deficit. 2003 goes down as the worst red ink in history!

The bipartisan Concord Coalition calls the Bush budgets the "most irresponsible" ever. Our national debt has now broken $7 trillion, and we are adding $2.03 billion to the debt each day. This poor management threatens the long-term solvency of Social Security and Medicare.

The International Monetary Fund has warned that these net financial obligations, heavily floated through borrowing from foreign countries, pose "significant risk for the U.S. and the world." The U.S. economy as a whole will end up paying 40 percent of its total earnings in a few years, to pay interest on this "unprecedented level of external debt for a large industrial country."

It doesn't have to be this way.

For 8 years, Congress and President Bill Clinton labored to balance annual budgets, on a track to pay down the long-term debt.

Now the President will come to Northern Ohio to talk about jobs and a $120 million national new job training initiative. Ironic since Ohio, due to abysmal Republican management in Columbus, still has failed to obligate $242 million in job training and transition funds for which I have voted, the second-most of any state in the nation. Ohio is under watch and being fined for poor performance in federal job training efforts. These dollars were meant to help unemployed workers gain a foothold in this economy. I hope that during his visit, this President will join me in my efforts to recapture these funds for Ohio's workers despite an inept State government. Ohio's workers could use his help.

In Ohio, we are grateful to be a battleground state in Election 2004. Ohioans seek good jobs with good wages; health and retirement benefits that can't be taken away; affordable education for youth; and prescription drugs under Medicare for seniors. We seek respect for veterans, in theatre and afterwards fiscal responsibility and energy independence.

Every citizen must ask the question in this Presidential election year: Am I, and America, better off now than we were four years ago?

When the fires burn in the heartland, we know America will feel the heat.

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## OREGON ISSUES AND THE PRESIDENT'S STATE OF THE UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WU) is recognized for 5 minutes.

Mr. WU. Mr. Speaker, the most important thing the President can tell Oregonians tonight is what he will do to improve our struggling economy. All Oregonians hope for an improved economy that creates new and high-wage jobs. But the President must not let his hopes and expectations for future economic growth blind him to the current plight of the thousands of Oregonians who are out of work today. The unemployment rate in Oregon is a shocking 7.2 percent. But this is not a naked statistic. This is people losing their homes, losing their health care, losing their ability to send their children to college and a better future.

I was on our solid light rail system recently and I met a gentleman who came up to me and said, "Congressman, I have two master's degrees and I have been working in high technology for almost 20 years. But I've been without work for 18 months and I've lost access to unemployment benefits." To show compassion for that man, Oregonians and Americans across this country, the President must and should call for an immediate extension of unemployment benefits. For unemployed Oregonians, it is these benefits that keep their kids in college and prevent the loss of a home, a car or vital access to health care.

Too many Oregonians know the heartbreak of a jobless economic recovery. To create new, high-paying jobs, we need investment in Main Street as well as Wall Street. I have sponsored legislation to give small businesses incentives to invest and grow, and I hope that the President will tell us tonight how all Americans can prosper together and not just the large corporations and the fortunate who are their shareholders.

Mr. Speaker, the key to economic success begins with education. The President needs to keep his promise to truly leave no child behind by committing tonight to providing the resources that America needs to have the best public school system in the world. Also, we must make college affordability a national priority. Recent tuition increases have put college out of reach for too many Oregon and American families. I will be working on the Committee on Education and the Workforce to make college more affordable and accessible.

In closing, we must work together to address the most important issues facing our Nation, extending unemployment benefits, investing in Main Street small businesses, and providing the best education possible to all Americans.

## STATE OF OUR UNION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, I rise this afternoon with my colleagues in the Congressional Black Caucus to discuss what I hope President Bush will address this evening in his State of the Union message. Specifically, Mr. Speaker, I would like to place President Bush's speech in some context which I believe America should use in evaluating the President's address.

We can all agree that the President will give a good speech. He has practiced, he has rehearsed and he will do a good job. However, I hope that his rhetoric will match actions that will benefit all Americans and benefit all Americans soon. It was just last year that the President stood in this hallowed hall and set forth a number of priorities that were to guide this Nation throughout 2003. I, along with the rest of the Nation, listened very intently to the President searching for some affirmation in his speech of the principles that have successfully guided our constitutional democracy thus far. The Founding Fathers of the United States understood that governments are instituted to secure the God-given rights of all men and women to life, liberty and the pursuit of happiness. In 1976, the late Senator Hubert Humphrey said, "The moral test of government is how it treats those who are at the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick, the needy and the handicapped.

Unfortunately, Mr. Speaker, this administration has miserably failed that test. As stewards of the government, we have a moral responsibility to ensure that the poor are granted the same access to opportunity as the rich; the sick are afforded the medical attention needed to restore health; and that the scourge of racism and discrimination is forever dispelled from our national identity.

Mr. Speaker, I submit that the true measure of our Union is the state of the least among us. So long as there are 9 million Americans looking for work, 43 million Americans without health insurance and nearly 2.5 million American men, women and children without a place to call home, then America has not reached her full potential. We need leadership that demands equity, parity and equality. We need leadership that is progressive and forward-thinking. And, Mr. Speaker, we need leadership that delivers results to all of the American people.

□ 1330

The American people deserve bold leadership, the demands of frank and honest discussion of the issues that are at the center of people's lives.

Just yesterday, we celebrated the birth of Dr. Martin Luther King, and I have noted so often we listen to the "I Have a Dream" speech; but one of the things that he said is that every citizen should demand the full, the full, the full measure of their citizenship. In other words, what he was saying was that this Nation owes every citizen certain rights and at the same time every citizen has a duty and responsibility to this Nation.

Since the President's last State of the Union Address in 2003, our Nation waited in vain, Mr. Speaker, for the President to recognize the importance of liberty, diversity, and charity beyond the superficial context of a speech. Yes, the President is quick to say that he is compassionate and conservative. As I have said on many occasions, I have seen much of our President's conservatism. So we are long on conservatism, but it appears that we are very short on compassion. Americans look to the President to set forth policies that would transform these lofty ideals into reality for almost 300 million men, women, and children that reside in our Nation.

Mr. Speaker, a year later, we see that the President has not yet been able to synchronize his conscience with his conduct. Yes, we have a lot of photo-ops, but the photo-ops do not bring a paycheck to that worker in Baltimore who has been laid off for the past year. It does not bring an insurance policy for health insurance to that mother in Appalachia who has no insurance; nor does it bring the $7.5 billion to our education system where children need computers, children need books, children need better classroom atmospheres so that they can grow up to be all that God wants them to be.

So it was last year, Mr. Speaker, that the President stood before this Nation, as he will do tonight; and there he announced the new initiative to fight the war against global HIV/AIDS with $15 billion to the global fund. After years of work by the gentlewoman from California (Ms. LEE), my colleague in the Congressional Black Caucus, and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), our health chairperson, and many of my colleagues in the Congressional Black Caucus urging the Congress to be more proactive in fighting this epidemic, the Congressional Black Caucus applauded the President's effort.

We are very pleased that he had listened to us 3 years ago. By the way, I might add that it was 3 years ago when the President met with the Congressional Black Caucus; but 3 years later after many requests, he refuses, actually refuses to meet with the 39 members of the Congressional Black Caucus who represent over 26 million people, at least a third of whom are white. And it is interesting that he laid a wreath at the Martin Luther King memorial just a few days ago and then turned right around the next day and appointed Judge Pickering from Mississippi, whom, as a matter fact, every civil rights organization in the country had opposed and he had been opposed by the Congressional Black Caucus; but this President saw fit to appoint a man who had been turned away by the Senate twice.

So we come back to today. A year later we are already underfunding our annual contribution commitment by $600 million, that is, to the AIDS fund, the global AIDS fund, by $600 million. It was just this weekend that members of the Congressional Black Caucus met with the U.N. ambassadors from Africa and they talked about how so many of their people are dying; but yet and still, after we agree that $15 billion should be allocated, we come up $600 million short in the first year, and they too are asking why are we holding back, because they say as long as we hold back the money, more and more people on that great African continent will die.

Two years ago, Mr. Speaker, in his State of the Union Address, President Bush said, "My economic security plan can be summed up in one word: jobs." Yet 2 years later, there are 9 million Americans who woke up this morning without a place of employment. On his watch America has lost nearly 3 million jobs. And I know that he will paint a rosy picture. He will tell us that we have a 5.7 percent unemployment rate. He probably will not mention that African American unemployment is 10.2 percent. He may not mention that in certain areas of our country, like parts of my district, the black male unemployment rate may be as much as 21 or 25 percent. He will not mention that.

He will not mention that over the past month only a thousand jobs were created. He will not mention that. He will mention that the economy seems to be going in the right direction; but he will not mention that we have such a lack of an increase in jobs, and when we think about it, Mr. Speaker, when we are talking about a thousand jobs for 50 States, that means that we have got very few per State. So in all, a total of 14 million American men and women of all ethnicities are unable to feed their families, pay their mortgages, and clothe their children.

The President will not tell us that when he mentions the 5.7 percent that the reason why the number has come down is that so many Americans have become so tired of looking for work. They have been unemployed for so long that they have given up on looking for a job. So he will not tell us that their numbers are not in that 5.7 percent. He will not tell us that.

While the President travels the country boasting about the Nation's economic recovery, he neglects and will neglect to mention these 14 million Americans whose families have yet to recover and remain in a state of financial disrepair.

Mr. Speaker, last year after listening to the President's State of the Union speech, I asked the following question: "Where was the assurance that we will adequately fund legislation to guarantee that every vote will be counted in determining who will lead the Government of the United States?" A year later this question is even more poignant. Just last week students at Prairie View A.& M. University, a historically black college in the President's home State of Texas, marched in protest of their local district attorney's challenge to their fundamental right to vote. It is an affront to democracy that in the year 2004, African Americans are still marching for voting rights, still marching to exercise the very thing that underpins our democracy, still marching, trying to make sure that they are participants in this wonderful thing we call a democracy, still marching.

Mr. Speaker, if our Nation is to retain the strength that has sustained us in times of war and in times of peace, in times of depression and in times of robust economic growth, then we must redouble our efforts to ensure that life, liberty, and the pursuit of happiness is indeed granted to all. And when I think about life, liberty, and the pursuit of happiness, one of the greatest things that we can do for any human being is to educate them.

Then I think about FAM U University, another historically black college down in Florida, when I visited there just recently and had students come up to me and ask the question at what point will the Congress get it? At what point will they realize that we have worked so hard to get to college, that our families are making less than $30,000 a year and we are trying to be the best that we can be? Can we get a little help from the Congress that spends all of this money in Iraq? Can we get a little help? We Americans, who are trying to be the best that we can be, just want to pursue a little happiness so that we can grow up and contribute to this society.

But yet and still, they see the Pell grants leveling off. They see no real increase there. They see their tuitions rising. They work the part-time jobs. They give it all that they have. They try to borrow from Aunt Sally and borrow from Uncle Jim and Momma, but the money simply is not there; and then they find themselves, like the students at Morgan State University, another historically black college where I am on the board of trustees, where we have to actually release some 800 students. Why? Because they simply do not have the money to go to college. Tuition is going up; aid from our Federal Government for our students is going down, when we talk about our hope that the President, when he addresses us tonight, will address the question of how do we support our young, how do we make sure that they rise up to be all that they want to be.

I maintain, Mr. Speaker, that terrorism, by the way, is not the only threat to our democracy. Indifference to the ills of the least among us and denial of basic human rights challenges the foundation upon which this country was built.

Mr. Speaker, this evening I sincerely hope that President Bush will address all the issues which I have outlined this afternoon in a meaningful way. I have heard through newspaper accounts that the President will articulate a plan to insure the uninsured. I certainly hope that this plan will be proactive, realistic, and designed to actually achieve the intended results. I hope that if, in fact, the President does present a plan to insure the uninsured, it will not emulate the Medicare plan that does nothing to make prescription drugs more affordable and will in practice destroy Medicare.

Mr. Speaker, this evening my colleagues in the Congressional Black Caucus and the 9 million, and I repeat that, 9 million unemployed Americans will be listening to the President very closely in expectation of a real plan to create economic growth and, most importantly, jobs. America does not want the President to give lip service to the idea of job creation while lining the pockets of corporate America as he did in his 2002 State of the Union Address. America wants the President to promise to work in a bipartisan manner to enact policies which we know work to create jobs.

Mr. Speaker, just yesterday we lost another 20 soldiers to a bomb in Baghdad. This evening America wants the President to pay homage to the over 500 men and women, brave young men and women, who have lost their lives in Iraq by presenting a plan to create stability in the region and bring our troops safely home. And, finally, Mr. Speaker, on the eve of another Presidential election, the Congressional Black Caucus and the over 130 million registered voters in the United States want the President to make a real commitment, a real commitment, to protect our right to vote and have our votes counted. Americans want to be absolutely certain that when they arrive at the polls on November 2, their vote will be counted. These are our national priorities, Mr. Speaker, that Americans of every color are looking to the President for leadership.

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The Congressional Black Caucus will be watching, and waiting to work with the president to strengthen our Nation and to secure the state of our Union.

Mr. Speaker, I yield to the gentlewoman from the great State of California (Ms. LEE).

Ms. LEE. Mr. Speaker, once again let me just thank the gentleman from Maryland, the Chair of the Congressional Black Caucus, for his leadership, and for calling these special orders to discuss the real state of the Union. I thank the gentleman from Maryland (Mr. CUMMINGS) for once again attempting to wake up America.

Today I hope that people listen very carefully to the President as he tells us about his vision of America. I hope that they listen and ask themselves just what America does George Bush see out there? Who gets left behind in his vision, and really just where does it take us?

I want to remind the gentleman from Maryland (Mr. CUMMINGS) and the entire country of what President Bush told us, I believe it was the year before last, in terms of creating the "axis of evil." Then last year he told us that the British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa. Of course, that has been questionable, but it did serve, however, as a very central and very critical piece of the spin campaign that led the country into war. I must remind you this was last year in the State of the Union that this critical piece of information was put forward. So tonight I hope the country listens very carefully to what the President says.

Of course, in preparation for the upcoming election, the President is again getting ready to tell the Nation something that really should be questioned. According to news reports, the President will declare victory in the fight to provide the Nation's elderly and the disabled with health care. He will point to the Medicare bill that he and the Congressional Republicans pushed through Congress. But there is one small problem: The Medicare bill will not help Medicare, and it will not help seniors. In fact, it is designed really, if you ask me and ask many of us, to do the program in.

He will claim that the economy is surging ahead; but will he talk about the millions of jobs that have been lost during his presidency?

He will talk about homeland security; but will he talk about the insecurity in our ports and elsewhere, about first responders who still lack vital resources? So let us all listen very closely to what he says.

What is the state of the Union today? We have about 130,000 American troops in Iraq, sent there in a preemptive war that we did not have to fight.

We face an economy here at home that has been dominated by tax cuts for the wealthy and job losses for the rest of the country. We have an administration that seems eager to expand these tax cuts for the rich, and just as eager to privatize one of our most successful programs in history, Social Security.

We have a healthcare system marked by disparities and deficiencies which leaves 44 million Americans without any health insurance and which the President seeks to reform, not by expanding benefits for the public for universal health care, but by expanding profits for the insurance industry and the HMOs.

And we have health care problems, including skyrocketing asthma rates, which will only grow worse as the administration erodes fundamental environmental protections such as the Clear Air Act.

That is the real state of the Union: A foreign policy based on preemption, not cooperation; an economy based on tax cuts, not job creation; a health care and retirement system that promotes corporate benefits, not individual care; and an approach to the environment that protects polluters and oil companies, rather than promoting public health or developing alternative energy sources.

How did we get in this situation? We got here really not by accident, but through a series of choices made by the administration and the Republican majority in Congress.

We have to begin this discussion by confronting the question of war. Understanding this war and preventing future foreign policy disasters requires us to understand how we got here and to demand answers about the abuse of intelligence in the process so that it never happens again.

Over 500 Americans have died in Iraq. Over 3,000 have been wounded, many of them suffering terrible injuries. We owe it to them and we owe it to the unknown number of Iraqi men, women and children who have been killed to ask how we got there, how we can get out and how we can prevent future tragedies.

This Nation went to war not because we were attacked, not because we were in imminent danger, but because this administration was just determined to do so. They have captured Saddam Hussein, but they have yet to find a single weapon of mass destruction, although the administration told us with absolute certainty last year that there were tens of thousands of them and they were aimed at us.

This war of preemption without justification goes against both American ideals and international law, it has made the world a more dangerous place, and it has carried with it enormous costs in both lives and treasure.

Yesterday, this past weekend, we celebrated the 75th anniversary of the birthday of Dr. Martin Luther King, Jr. Dr. King knew all about the danger of war and the terrible toll that it exacted here at home. Dr. King said, "In the wasteland of war, the expenditure of resources knows no restraints."

Dr. King said, "A Nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual death."

Mr. Speaker, I think it makes a real mockery out of Dr. King's life to place a wreath at his tomb one day, appoint a segregationist to the Federal bench the next day, and then come forward with a plan for military expenditures that, again, will wreak havoc on the areas in America which need the kind of help that our resources could provide in terms of alleviating poverty and helping young people with their college education. This Nation, the state of this Nation, Mr. Chairman, is approaching, as Dr. King said, spiritual death.

What then would Dr. King say? What would he say about the $87 billion supplement passed last year, and the fact that the $87 billion came on top of the $78 billion that Congress already appropriated for the war, on top of the $400 billion defense budget? What would he say about the priorities and choices that led to a preemptive war abroad and social and economic distress here at home, for as we confront the war, we must also confront the domestic choices that this administration has made that have led to the present state of our Union.

The economy, health care, Social Security and the environment are all at stake, and, yes, they are all at risk today.

First the economy. This Nation has lost nearly 2.5 million jobs since President Bush took office. That is the worst job creation since Herbert Hoover. Reports indicate that in his address tonight, the President will propose $120 million, I believe that is what I understand, in new job training grants. That sounds fine. But this President has sought over $800 million in cuts to job training and vocational education since moving into the oval office.

This same administration has refused, refused, to extend unemployment benefits, at the very moment when millions of Americans are desperately looking for jobs but simply not finding them. Almost 90,000 jobless workers are running out of regular State-funded unemployment benefits each week. As we speak, almost 400,000 Americans are jobless and have no unemployment compensation.

We are all excited about economic growth in the last quarter, but we want to see real economic development, real jobs and real economic opportunities for all Americans, and we want to see poverty rates in America reduced, rather than go forward. We want to see those rates go down. We want to see homelessness conquered; we want to see hungry children fed; we want to see a real commitment to end poverty in the President's State of the Union address tonight.

Secondly, just as the Americans are concerned about the economy, they are deeply and justifiably worried about their health care. We have raging health care disparities in this country that separate black from white, rich from poor, African Americans, Asian Pacific Americans, Latinos, all from the poor, from the middle-class. This really is a national disgrace in the wealthiest country in the world.

Forty-four million Americans have no health insurance. Four million of those have lost their coverage since President Bush took office. Americans who are fortunate enough to have health insurance are not only facing massive premiums hikes, but also live in constant fear of losing their insurance, and those fears, sadly, unfortunately, are warranted.

Minorities have an even greater reason to be insecure and to listen closely to what the President will propose tonight. Minorities are sicker, and when they finally make it to the emergency rooms of this country, they get poorer care. Like the uninsured and the under-cared for, our seniors are also left out of the so-called Bush recovery.

The Medicare bill passed this fall will leave the seniors who have the gravest chronic diseases with the highest out-of-pocket costs. But, again, there are beneficiaries to these policies. The insurance industry, the drug manufacturers and the HMOs, they will make billions.

Thirdly, there is Social Security. This program was one of the great inventions of the 20th century. It has made enormous differences in the lives of millions and millions of Americans. But the Bush administration seeks to partially privatize this program. The New York Times says this would cost $100 billion to undertake. It would also make the seniors of tomorrow subject to the whims of the stock market. Privatization presents risks that we cannot afford and that we do not need. We must not dismantle this vital program.

Finally, I cannot leave without addressing what this administration has done and seeks to do to our environment. Like Social Security, environmental protections exist to safeguard all, but this administration has refused to enforce existing laws and has even worked to strip them away, including such absolutely critical protections as the Clean Air Act.

It has failed to create an energy policy that matches the needs of the 21st century. We could be reducing our dependence on foreign oil, fighting global warming and creating new jobs all at the same time, but, instead, this administration subsidizes big oil and big coal, refuses to address concerns such as MTBE, and tells Americans that all the answers to the energy crisis and problems lie in the drilling of the Arctic wilderness.

So the common theme running through all of these domestic policies is that the Bush Administration has signed a contract with corporate America at the expense of the American people. That is the real state of the union today, and it sounds pretty bleak.

In fact, I am pretty optimistic about the future of America, because these things can be fixed. We can forge a foreign policy based on international cooperation that truly enhances our own security. We can get our troops home from Iraq and end the daily news reports that another two or three or 16 Americans have been killed. We can craft domestic policies that create jobs, expand health care, protect Social Security, reduce poverty and safeguard our environment. And, yes, we can invest in health care and education and affordable housing. We can redirect our resources and realign our priorities. We can do better. Dr. King, again, left us a road map of how to do it better.

So tonight, Mr. Chairman, I hope the country listens very carefully to the President's picture that he will paint of the state of the Union and raise some of these very critical questions as we enter this next year, to make certain that his State of the Union is not the state of the Union that we want to see for the American people.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman for her statement.

Mr. Speaker, I yield to a friend of the Congressional Black Caucus, the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I thank the gentleman very much for yielding. I think that as we prepare for this evening, the necessity of putting up a minority report on the state of the Union is crucial for the American people.

Mr. Speaker, I include in the RECORD an article from the Independent, which is a major newspaper in the United Kingdom, called "George W. Bush and the Real State of the Union."

[From the Independent, Jan. 20, 2004]

### GEORGE W. BUSH AND THE REAL STATE OF THE UNION

Today the President gives his annual address. As the election battle begins, how does his first term add up?

232: Number of American combat deaths in Iraq between May 2003 and January 2004.

501: Number of American servicemen to die in Iraq from the beginning of the war—so far.

0: Number of American combat deaths in Germany after the Nazi surrender to the Allies in May 1945.

0: Number of coffins of dead soldiers returning home from Iraq that the Bush administration has allowed to be photographed.

0: Number of funerals or memorials that President Bush has attended for soldiers killed in Iraq.

100: Number of fund-raisers attended by Bush or Vice-President Dick Cheney in 2003.

13: Number of meetings between Bush and Tony Blair since he became President.

10 million: Estimated number of people worldwide who took to the streets in opposition to the invasion of Iraq, setting an all-time record for simultaneous protest.

2: Number of nations that Bush has attacked and taken over since coming into the White House.

9.2: Average number of American soldiers wounded in Iraq each day since the invasion in March last year.

1.6: Average number of American soldiers killed in Iraq per day since hostilities began.

16,000: Approximate number of Iraqis killed since the start of war.

10,000: Approximate number of Iraqi civilians killed since the beginning of the conflict.

$100 billion: Estimated cost of the war in Iraq to American citizens by the end of 2003.

$13 billion: Amount other countries have committed towards rebuilding Iraq (much of it in loans) as of 24 October.

36%: Increase in the number of desertions from the U.S. army since 1999.

92%: Percentage of Iraq's urban areas that had access to drinkable water a year ago.

60%: Percentage of Iraq's urban areas that have access to drinkable water today.

32%: Percentage of the bombs dropped on Iraq this year that were not precision-guided.

1983: The year in which Donald Rumsfeld gave Saddam Hussein a pair of golden spurs.

45%: Percentage of Americans who believed in early March 2003 that Saddam Hussein was involved in the 11 September attacks on the U.S.

$127 billion: Amount of U.S. budget surplus in the year that Bush became President in 2001.

$374 billion: Amount of U.S. budget deficit in the fiscal year for 2003.

1st: This year's deficit is on course to be the biggest in United States history.

$1.58 billion: Average amount by which the U.S. national debt increases each day.

$23,920: Amount of each U.S. citizen's share of the national debt as of January 19, 2004.

1st: The record for the most bankruptcies filed in a single year (1.57 million) was set in 2002.

10: Number of solo press conferences that Bush has held since beginning his term. His father had managed 61 at this point in his administration, and Bill Clinton 33.

1st: Rank of the U.S. worldwide in terms of greenhouse gas emissions per capita.

$113 million: Total sum raised by the Bush-Cheney 2000 campaign, setting a record in American electoral history.

$130 million: Amount raised for Bush's re-election campaign so far.

$200 million: Amount that the Bush-Cheney Campaign is expected to raise in 2004.

$40 million: Amount that Howard Dean, the top fund-raiser among the nine Democratic presidential hopefuls, amassed in 2003.

28: Number of days holiday that Bush took last August, the second longest holiday of any president in U.S. history (Recordholder: Richard Nixon).

13: Number of vacations days the average American worker receives each year.

3: Number of children convicted of capital offenses executed in the U.S. in 2002. America is the only country openly to acknowledge executing children.

1st: As Governor of Texas, George Bush executed more prisoners (152) than any governor in modern U.S. history.

2.4 million: Number of Americans who have lost their jobs during the three years of the Bush administration.

221,000: Number of jobs per month created since Bush's tax cuts took effect. He promised the measure would add 306,000.

1,000: Number of new jobs created in the entire country in December. Analysts had expected a gain of 130,000.

1st: This administration is on its way to becoming the first since 1929 (Herbert Hoover) to preside over an overall loss of jobs during its complete term in office.

9 million: Number of U.S. workers unemployed in September 2003.

80%: Percentage of the Iraqi workforce now unemployed.

55%: Percentage of the Iraqi workforce unemployed before the war.

43.6 million: Number of Americans without health insurance in 2002.

130: Number of countries (out of total of 191 recognized by the United Nations) with an American military presence.

40%: Percentage of the world's military spending for which the U.S. is responsible.

$10.9 million: Average wealth of the members of Bush's original 16-person cabinet.

88%: Percentage of American citizens who will save less than $100 on their 2006 Federal taxes as a result of 2003 cut in capital gains and dividends taxes.

$42,000: Average savings members of Bush's cabinet are expected to enjoy this year as a result of the cuts in capital gains and dividends taxes.

$42,228: Median household income in the U.S. in 2001.

$116,000: Amount Vice-President Cheney is expected to save each year in taxes.

44%: Percentage of Americans who believe the President's economic growth plan will mostly benefit the wealthy.

700: Number of people from around the world the U.S. has incarcerated in Guantanamo Bay, Cuba.

1st: George W. Bush became the first American president to ignore the Geneva

Conventions by refusing to allow inspectors access to U.S.-held prisoners of war.

+6%: Percentage change since 2001 in the number of U.S. families in poverty.

1951: Last year in which a quarterly rise in U.S. military spending was greater than the one the previous spring.

54%: Percentage of U.S. citizens who believe Bush was legitimately elected to his post.

1st: First president to execute a federal prisoner in the past 40 years. Executions are typically ordered by separate states and not at federal level.

9: Number of members of Bush's defense policy board who also sit on the corporate board of, or advise, at least one defense contractor.

35: Number of countries to which U.S. has suspended military assistance after they failed to sign agreements giving Americans immunity from prosecution before the International Criminal Court.

$300 million: Amount cut from the federal programme that provides subsidies to poor families so they can heat their homes.

$1 billion: Amount of new U.S. military aid promised Israel in April 2003 to offset the "burdens" of the U.S. war on Iraq.

58 million: Number of acres of public lands Bush has opened to road building, logging and drilling.

200: Number of public-health and environmental laws Bush has attempted to downgrade or weaken.

29,000: Number of American troops—which is close to the total of a whole army division—to have either been killed, wounded, injured or become so ill as to require evacuation from Iraq, according to the Pentagon.

90%: Percent of American citizens who said they approved of the way George Bush was handing his job as president when asked on 26 September, 2001.

53%: Percentage of American citizens who approved of the way Bush was handling his job as president when asked on 16 January, 2004.

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This article lists the accomplishments of this administration. We all know we are engaged in a war that the President could not keep us out of; he had to go to war. We have had 501 people die. But what people do not know about is that 40,000 of our troops whose enlistments have ended are being kept in under stop-loss orders. There is a major crisis, and the likelihood of the President talking honestly tonight about what is going on in Iraq and Afghanistan, in my opinion, is zero, because he cannot talk about solving this problem with soldiers if people do not want to reenlist, or enlist for the first time. They are offering $10,000 to people in Iraq to reenlist while they are in country, and 4,000 people are chafing to get out and go home.

Now, that is a situation that is, I think, undeniable. Worse than that, in the President's rush to go to war, is that when he came into office, he had a $127 billion surplus. In the first 6 or 8 years I was in the Congress, there was endless talk from the other side about, we have to have a balanced budget amendment. Bill Clinton did it and actually started reducing the debt. Now, in this year, in 2004, the President will pile up a deficit of $374 billion and counting.

Now, that means in this country, or it explains, perhaps, why we have the record number of the most bankruptcies in a single year: 1.57 million bankruptcies in 2002 under Mr. Bush. He wants to tell us this is a recovery. Well, explain that for me. Mr. Speaker, 2.4 million people have lost their jobs, and 221,000 jobs have been created since all of those tax cuts. He promised over 300,000 last month. We got 1,000 jobs. That is 20 in every State: 20 in Washington, 20 in Maryland, 20 in New York, 20 in California, and so on. Yet, he has not asked for an extension of unemployment benefits. Mr. Speaker, 68,000 people in the next 6 months in the State of Washington will lose their unemployment benefits because the President refuses to ask for an extension of unemployment benefits.

Now, presently, we are spread out across the world: 130 of the 191 countries on the face of the Earth have an American military presence. Forty percent of the world's military expenditures are done by this country. Will the President suggest that Mr. Rumsfeld's office be changed to the Secretary of War? I doubt it. They are going to keep talking about defense. But, in fact, we are making war.

The average income, and this is where the tax cuts are really amazing, the average income of Mr. Bush's cabinet was $10.9 million. Eighty-eight percent of Americans will save less than $100 in 2006 as a result of those 2003 tax cuts. The average American makes $42,000. Vice President CHENEY will save $116,000 in taxes every year. Remember, $42,000 is the average salary. The President cut $300 million from Federal programs that provide subsidies to poor families so they can heat their homes in a cold winter. I wonder if they have turned the heat down over at the White House. Think so? No. He will come and tell us everything is great: the economy is picking up; everybody is doing better. Look at the stock market. One cannot eat the stock market; one has to have a job. And this President has done relatively nothing.

The previous speaker talked about his assault on public health and environmental laws. As a physician, this has been the most disastrous administration in history. Mr. Speaker, 200 separate issues they have undercut, undermined, done away with; and it has all been done on Friday afternoon about 4 o'clock. They come out, they put a little bit in the paper, and they change the Mercury in the water, or they change the air quality, or they change something. They have made a full-scale assault on the environment in which all of us live.

The state of the Union is not good. If we think about the whole question of the amount of greenhouse gases, the United States leads the world in greenhouse gases; and the President says, we refuse to deal with the rest of the world on this. We are 5 percent of the population. We use 25 percent of the energy in the world. We do not have to care what the rest of the world thinks. Will he make a proposal tonight to get us off our oil addiction, or are we going to continually be at war over oil reserves in Iraq, Iran, Saudi Arabia, Turkmenistan, Kazakhstan, Uzbekistan, and Azerbaijan? This President is taking us into a situation from which it is going to be very difficult for anybody else to dig us out.

The next President of the United States will have a tremendous problem. That is to say nothing of what he has done with the question of Medicare and what he has done, or not done, with Social Security. He has borrowed all of the money, and we are still going to have a deficit of over $300 billion. And tonight he is going to say, hey, look, folks, I have a plan for us. You ought to privatize that Social Security. You could be doing a lot better if you just had that money yourself. You should not be giving it to the government and getting a guarantee. Let us just give it back to you and you can open your private accounts, and you can all get privately rich. What do you think the people of Enron think who lost everything and all they have left is their Social Security? George Bush and Ken Lay could not figure out how to get that away from them, or they would not have that either.

So the question tonight is going to be a rephrasing, in my view, of a question that Ronald Reagan asked us a number of years ago. And I really think this crystallizes the problem with where we are tonight in this State of the Union. Ronald Reagan said to the American people, "Are you better off today than you were 4 years ago?," making it all a very personal thing.

Now, the problem with the speech we are going to get tonight is going to be more of the same sort of stuff to confuse the American people: I am going to make the tax cuts permanent; I am going to go to the Moon; I am going to go to Mars, trying to confuse the American people and get reelected. The question that should be asked tonight is, Are we better off than we were 3 years ago?

The question the President needs to answer for us is, What is the common good, Mr. President? Why, why does all the money in the tax cuts, why does it all go to people on the top? Why is it all for those people? What about the people at the bottom, the kids that are going to college and get deeper in debt; the older people who have still got to come up with $3,500 out of their pocket to get anything out of this pharmaceutical benefit?

The question tonight should be, What is in the common interest? What is the common good for all of us? If it is good for all of us, we will support him. But if it is just for his friends in the oil industry and the munitions industry, then I think he deserves to get a pretty silent response. He does not deserve clapping when he stands up and says the economy is great.

Mr. Speaker, 1,000 jobs last month, 1,000. 68,000 people in my own State are losing jobs, and no unemployment benefit. How can you call that good?

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for his statement. I really appreciate his being here.

Mr. Speaker, I yield to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding; and I thank him, above all, for his leadership in affording the opportunity for members of the Congressional Black Caucus and other Members to come forward with this so-called "prerebuttal." I am going to speak on one subject instead of on the many subjects that concern me likely to be raised this evening, because this subject is at the center of black misery today. Instead of calling it a prerebuttal, I literally mean it as friendly advise because the subject is the cause of so much chaos in the African American community, and that subject is jobs.

The President got 10 percent of the black vote the last time, something under 10 percent; and there are various figures about how much he proposes to get this time. What the President has got to understand about the African American community is that it is the most bottom line community in the United States, that is to say, it votes its bottom line because it has no choice, because it is further behind in our country because of historic circumstances of which we are all aware. The indication of just how bottom line the black community is, is switch from the Republican Party, the so-called party that freed the slaves, to the Democratic Party when the bottom line was whether or not you could get a job or had enough to eat, and those are the issues that are central to the African American community today.

Yet, I expect the President to boast of the economy. He stands before his economy today, his economy, his economy after almost 4 years. But our response to the President is borrowed from 8 years ago. It is not the economy, Mr. President, it is not the economy, and I will not say "stupid." It is not the economy, Mr. President. It is jobs. There is no such thing as a recovery without jobs. Whatever happens on Wall Street will be irrelevant to the average American if there is joblessness and fear of joblessness; and that is what continues to grip our country, despite improvement in the stock market. Any doubt about that may have vanished yesterday when Iowa, the preeminent antiwar State, according to the responses to the Democratic primary, said as its residents left the polls that jobs was the number one issue. Half of the American people indicate they are worse off than when this President took office. Jobs and the lack of health care, which is in our country attached to jobs, is the reason for that sentiment from the American people. And if half of the American people say they were worse off, I can assure my colleagues that the majority of African Americans would answer they are worse off to that question.

This Congress left town this time, the latest in memory; but they left, but they did not leave before they made sure that the pharmaceutical companies had theirs in the Medicare bill, and they certainly did not leave until the tax cuts for the wealthy were secure. But they left a country at 9 percent unemployment.

For African Americans, that represents a 20 percent increase since this President took office. We have some befores and afters to compare here in recent history, because there was a 48 percent decline in unemployment while President Clinton was in office. Yet Congress left town without any jobs program and with virtually no discussion on this floor of a jobs program. I understand the President is likely to talk about a retraining program this evening.

□ 1415

Mr. Speaker, I am going to have to say a few words about what we need more, that is a jobs program, not a retraining program. And I want to have something to say about how we can get there, by the way, with no increase in the deficit.

Congress left town without even any extension of unemployment benefits even though it was just before Christmas. Merry Christmas, America. Congress left town without increasing the minimum wage at all even though average income has decreased every year for the last 2 years. Congress left town with the child tax credit for the 6 million of the poorest Americans not there. Everyone else but the poorest even though the poverty rate in our country is up 3 years in a row.

Congress left town with a provision in the omnibus bill to reduce overtime for 8 million people. You know, for many of these people this is the difference between a low wage existence and a living wage: To work for it; you work overtime and you will get it.

Now, African Americans knew better than to get used to the Clinton economy. For a while we did hold some hope that this two-for-one, that is to say we had always have twice as much unemployment as white people, would somehow disappear, we held that hope because I can tell you here in this city even African American men getting out of jail could often find a job because then employers were looking for workers.

Today, Mr. Speaker, workers are searching endlessly for jobs. And the reason the unemployment rate does not look any worse than it does is because so many millions have dropped out of even looking any longer. I do not expect an economy like the economy of the late 1990s. And that is not the comparison I would make or the standard I would hold this President to. But I do not expect what we have seen, that black unemployment would increase faster than any period for the last 20 years.

I do not expect a month like October, for example, when blacks absorbed all of the unemployment. They were the only part of the population where unemployment grew. That kind of disproportion is not only heartless, it is immoral. And in the face of that, surely we can do more than talk about retraining. We can talk about an honest-to-goodness jobs program of the kind we have always had in times of recession.

Yet what bothers me most about the most recent period is there has been no particular American conversation about the disproportionate effect of joblessness on African Americans. We used to always talk about it. We used to talk about there is twice as much unemployment for African Americans, the effect that was having, having to reach down and do something about it. We ought to go back and read Ralph Ellison's Invisible Man. Because African American unemployment has become the invisible unemployment.

I indicated earlier that I was not talking about something we could not do something about. The Democrats introduced the Rebuild America Act of 2003. We could have given America a quick start in this jobless recovery with a provision of jobs in areas where they are most needed and where the country most needs work without increasing the deficit because this bill, a $50 billion bill was paid for. It would have had an extraordinary effect, particularly before Christmas, because many of these jobs would have been in manufacturing and construction, and that is where the ripple effect is in areas like retailing, for example, where blacks are found often disproportionately.

But what did we do? Instead of looking at the Rebuild America Act, we went home. This act was focused on manufacturing and that is where the President is in trouble and where the Congress is in trouble, and on construction where the country is in trouble, where he is in trouble.

We could have relieved our national infrastructure deficit with this $50 billion bill that would cover every aspect of our own infrastructure. Now, I was particularly interested in this because

I am on the Permanent Select Committee on Homeland Security and because I fret daily about the deficits in infrastructure and what that does to security. For example, I want aviation. We have shored up some of airline security, but rail security, for example, is just out there. Amtrak, your Union Stations around the country and the lines that go in between them with tracks that invite mischief.

There was something in this bill for every district. For example, there were several things in there that would have helped my district, $500 million for pending work items, for rehabilitation of Federal buildings. Pending work items that they cannot get to. And the interesting thing about this bill was that everything it was directed at were projects ready to go. Projects on the table waiting for the money to lift them up so that they could put people to work and deal with ailing infrastructure in our country.

The average length of unemployment today is more than 20 weeks. This is the longest period of unemployment in 20 years. Mr. Speaker, this President must speak directly to jobs, to the fear of jobs, to the loss of unemployment insurance with jobs or else he has given us nothing that essential to reviving the domestic economy of our country.

Yeah, we got the slogan for tonight. It is not "It Is the Economy, Stupid"; it is jobs. And not "stupid," I respect our President. It is jobs. It is not the economy, Mr. President; it is jobs, Mr. President.

Mr. CUMMINGS. Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the chairman of the Congressional Black Caucus and the Congressional Black Caucus for giving us the opportunity to lay out a road map, if you will, for this Nation as we prepare to hear the President's State of the Union address.

And I might say to my friends on the other side of the aisle, I am told and I have heard that many view this as a state of the world because he is the commander in chief and the leader of the free world, commander in chief of the most powerful Nation in the world. And the world watches tonight.

So, my first concern with respect to the optimism that I hope we hear tonight is that he will restate for the world that we are a country of freedoms, protecting both our civil liberties and civil rights, and that we will not intend or pretend to govern from a position of fear, that we will continue to mourn those who we lost on 9/11 but that we will go forward embracing the freedom of this Nation and reemphasize our civil liberties.

And so that we can address Attorney General Ashcroft to the extent that we began to reinforce the civil liberties of Americans as opposed to take them away, to ask the questions about an enemy combatant without the opportunity to have access to counsel, to wonder why the Transportation Security Administration will begin profiling all Americans who are traveling on domestic flights, and are an outrage, to begin to address the questions that our rights should not be taken away but they should be enhanced. Library books need not be the cause of suggesting someone is a terrorist.

And the civil rights of Americans reinforcing affirmative action, believing in the right to privacy, must be stated tonight. The Congressional Black Caucus has worked for a very long time on a real racial profiling bill, one that would prevent racial profiling. We ask the President to speak tonight about the need to sign hate crimes legislation which we have been working on for now over almost a decade.

And then when it comes to election reform in this year, it is crucial that we add to the election reform legislation a tracking system, a paper trail, so that when we go to the 2004 election, when many jurisdictions have gone to the electronic process, we will not have the crisis of 2000 when we turn people away but, more importantly, when votes were not counted. Now that we have the electronic process, let me say to you that it certainly is a travesty that we have a situation where we cannot even track how the votes were cast.

I hope he will promote the Peace Corps and that encourage, in the next fiscal year, extra support for the Peace Corps, the face of America, and make sure that we do not assign one person to an area but we assign two Americans to a region for safety and other reasons.

I believe going into space is valuable, but we have to do it in a bipartisan way, protecting American jobs, providing for education and explaining to the American people how we will fund our vision in going to Mars and to the moon and the safety of it.

Let me just say that the Democrats have extended an olive branch. I agree with my colleagues the need to create more jobs. That is a big question, are you going to do it. But I agree that Democrats are saying to the President that those who seek higher education need increased dollars for the Pell Grant from $4,050 to $5,800 and doubling the Hope Scholarship Tax Credit from $1,500 to $3,000, and getting rid of the disabled veterans tax once and for all. How can we have young men and women in the front lines of Iraq and when they come home as disabled veterans, they are to be taxed?

And finally let me say, Mr. Speaker, we have got a lot of work to do on immigration reform. And my support for moving in the right direction is that I say to the President tonight, let us talk about comprehensive immigration reform including Liberians, including Haitians, including a comprehensive response, Europeans and others from all over who are trying to earn access to legalization, let's not have a flat earth procedure where at the end of 3 years you disappear into the night.

Mr. Speaker, I hope the President will be optimistic tonight. I hope he will accept the olive branch. I hope he will work with the Congressional Black Caucus and the chairman, and that we will get on the right track for America. Because if we do not, the world is watching us tonight and wondering whether America can lead in the 21st century.

## GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

## STATE OF THE UNION ADDRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, let me thank the gentleman from Florida (Mr. FOLEY) for allowing me to have this unanimous consent and let me commend the chairman of the Congressional Black Caucus for having this special order dealing with some of the very trying problems of our time.

In this new millennium, we will face many hurdles and we are going to hear the first State of the Union address tonight. But today I would like to rise this afternoon to discuss the true state of the Union as it is, not as we would like it to be. We have our true land and then there is wonderland. And it is great in wonderland because all things are nice and we have the road that leads to all good things.

However, the true state of the Nation is more grim. It is time to face reality. There are too many people in our Nation who are still struggling. They are not enjoying the benefits that have been awarded to the more privileged among us. While the White House tries to put the best face on the economy, the fact is that we have lost about 2.5 million jobs in the last 2 years. Long-term unemployment is at a 20-year high.

While the wealthiest Americans enjoy the benefits of tax cuts, which was tilted their way, millions of Americans continue to live paycheck to paycheck, although the unemployment rate has dropped .1 percent. There are more people unemployed this month than were last month because thousands and thousands have dropped out of the hunt for a job because of the long-term unemployment. And they have just given up, they have fallen out.

□ 1430

So the unemployment rate is not even a true reflection of what is going on. The response of the Bush administration to this inequity is to make lopsided tax cuts permanent.

Our friends across the aisle who used to rail against budget deficits only a few years ago are now willing to overlook the largest, most alarming budget deficit in the history of this great Nation.

Under former-President Clinton's budget policies, we amassed a healthy budget surplus, which has now been totally squandered. We used to talk about mortgaging our children's futures. We do not hear that anymore.

What this means is that resources that can be channeled into positive action to address such key problems as jobs, health care, education, housing are no longer available. They have been drained by the irresponsible tax cuts for the very wealthy in our Nation.

The state of the Union today is weaker in many other ways. Racial disparities in health care continue to take a toll on minorities. Yet the administration's response to this national health crises is to sweep it under the carpet.

The Washington Post reported last week that a Federal report on racial disparities was rewritten for the first time in our history by the Department of Health and Human Services to hide the fact that minorities in our Nation receive inferior health care for a wide range of diseases. In fact, the final draft of what was supposed to be a scientific study dropped the detailed descriptions of health disparities and removed a reference to national problems. This is a serious matter because studies have shown that even among patients with identical diseases and similar income levels, minorities are less likely to receive the same quality of care for diseases including cancer, diabetes, heart problems, AIDS, and other illnesses.

As our colleague, the gentleman from California (Mr. WAXMAN), pointed out, the first draft of the "Health Care Racial Disparity Report" mentioned the word disparity 30 times in the key-finding section, while the final version mentioned the word only twice and then even failed to define it.

As a member of the House Committee on Education and the Workforce, I remain concerned about inequities in education of our children. This marks the 50th anniversary of the historic Brown v. the Board of Education decision which banned segregation in schools. Yet, the fact is that our schools have not reached the goal of racial integration. About one-third of African American students go to schools that are 90 to 100 percent African American. About 70 percent attend schools that are composed primarily of minority students. We need strong leadership at the top to reverse this trend and to really leave no child behind and to ensure access to a quality education for all of our students.

We are one Nation, under God, indivisible, with liberty and justice for all; and we need to make that plan and dream a reality.

Mr. Speaker, we can only make our country stronger and we are better if we are willing to examine the real state of the Union and seek real solutions to our problems.

I hope we can pull together and address these issues so that we can begin to move forward again in crucial areas including the economy, health care, and education.

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## FUTURE IS BRIGHT

The SPEAKER pro tempore (Mr. TURNER of Ohio). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. FOLEY) is recognized for 60 minutes as the designee of the majority leader.

Mr. FOLEY. Mr. Speaker, I am delighted to be back here in our Nation's capital for the opening of the 108th second session of Congress.

As we start a new year, we often pray for hope and optimism to help lift the Nation, to help guide the Nation, to help give it strength and to honor the character of this Nation that we all love so dearly.

So it is troubling that when, in the first hour of the first day of the 108th second session, the negativity ringing in this Chamber is deafening, the criticism, the constant carping, the antagonism towards this President knows no boundaries. Yet the American public remains optimistic and hopeful because that is in our core nature. That is our core; that is who we are as people.

There is a reason Howard Dean went down in ashes, in flames in Iowa yesterday, because for the last 11 months he has done nothing but characterize and criticize the President of the United States in negative tones. Consequently, John Edwards comes in second because he was at least talking about hopeful optimism, a spirit that is imbued in the character of this Nation and its people.

As we proceed in this year of trials and tribulations, you have to look back at the past year and look forward to the future and hope that, rather than fighting one another, we can join together in finding solutions to our common problems.

In the last hour and a half I have heard how bad the economy is. Yet at this time our Dow Jones Industrial Average is over 10,500; NASDAQ has passed the 2,000 threshold. Unemployment is dropping. Statistics prove it. Last month was not the best month; but anyone who follows the economy recognizes there is a lag behind employment and robust employment numbers and optimism in the sector that is gauged by Wall Street. Factory orders. Sale of durable goods. Light trucks. Look at the numbers. Real estate. First time home buyers. People's 401(k)s now back to where they were pre-1999. Their IRA's are gaining momentum again. Their financial status is better. Not perfect, not perfect, but better. And what fuels that basic surge in investor confidence? Well, that is the term. Investors' confidence.

In order to have confidence, you have to have some optimism, and you have to have some hope that times will in fact get better. But if you listen to the cacophony of voices from the other side of the aisle, woe is me, and how desperate we are.

It was telling, one of the speakers offered the President an olive branch moments ago. Why is it when they offer the olive branch, they always hand it to you with the thorns exposed?

Can there not be a generous offer of helping together, solving Americans' problems? It has to be about criticizing virtually everything this administration has done.

Look at Iraq and look at the strength of character that this President displayed in challenging one of the most evil dictators of our time. He is met with negative sound bytes and poll-driven babble about why we should not be there and why we should leave immediately. The gentleman from Ohio (Mr. KUCINICH) and Mr. Dean eloquently made that point. The gentleman from Ohio (Mr. KUCINICH) came in last and Mr. Dean was third. So clearly I think others, based on if you are taking polling statistics, 65 percent of the American public thought it was the right thing to do to liberate Iraq from Saddam Hussein.

The President stood alone on that precipice trying to decide what was best for the people of this country, stood alone. And yet with the wind at his back, he has now been able to change fundamentally the way other nations look at us. Fundamentally. Libya is now in negotiations to turn over its nuclear secrets and arsenal and weaponry and technology. Libya. It was not that long ago that Muammar Khadafi was heading Libya, obviously with an eye towards destroying the Middle East. And now Libya is at least, hopefully, brokering negotiations as we speak.

North Korea is sounding more conciliatory rather than beating their chests and threatening the annihilation of Japan or South Korea or other places. North Korea is now starting to talk about containment.

Pakistan and India, who have been at odds for a long time, are talking about constructive engagement to solve their mutual problems relative to Kashmir.

Think about it. Think about just those hot spots in the world where because of the President's strength of character in pursuing the evil of Saddam Hussein have we now started to recognize that only peace can be achieved through strength. Yes, it must have been lonely for this President when the rest of the free world was saying. I am not interested; let us not do that; let us not upset the apple cart; let us not bother Iraq. They are quiet now.

To the contrary. If you are one of the 1 million people that have died in Iraq, I am not sure you consider it quiet. If you had your tongue cut out by Saddam Hussein's henchmen, I do not think you consider Iraq peaceful. If you were starved or imprisoned or murdered by the regime, I do not think you consider Iraq a place you would call home. Yet, because of the President's insistence on pursuing the course of action that would free and liberate the people of Iraq, we now have the dominoes falling in other areas of the world that are showing that the United States' strength is what is solving the perplexing and difficult challenges we face as a Nation and as a world power.

I can remember during the last administration when there was a problem in Haiti, and I believe the U.S.S. *Harlan* was heading for Haiti, and because of a band of malcontents and miscontents and misfits who were on the dock waving brooms and pitchforks, our Commander in Chief then ordered the U.S.S. *Harlan* to turn around and not head into Haiti to bring peace and stability to Haiti.

We turned around a naval vessel because we were nervous about the gathering of dissidents on a dock at Port au Prince. That visual image of our naval vessel turning around from a group waving brooms at our military power was a shot heard round the world because people looked at that as an abject instance of failure on behalf of diplomacy and democracy and America's commitment. So why would people be fearful of the United States?

The first World Trade Center bombing was met with loud voices but no follow-up. Khobar Towers. The U.S.S. *Cole*. The war on terrorism was gathering strength for years before this President became our Commander in Chief. But only because of his leadership have we now seen progress in the theater and in the fight against terrorism. It seems like I turn on the TV every other day, and there is a critical commentary about homeland security; and yet we have not had another instance of terrorism in this country since September 11.

September 11 remains vivid in my mind as I left that City of New York that morning, minutes before the first World Trade Center was struck by that aircraft. I had passed only 4 or 5 minutes before that first plane struck and had noticed those gleaming towers in that New York glorious morning. After that strike on American soil, this President knew his obligation and his duty was to protect the public, and he has done that.

There is no perfect plan; but this President has marshaled his team, whether it be John Ashcroft or others, to help mobilize our law enforcement agencies for the fight ahead. Tom Ridge of Homeland Security and Asa Hutchinson have done a masterful job of bringing our Nation together to focus on our domestic tranquility.

The economy, as I mentioned earlier, is improving steadily. And that optimism will bring jobs for the American people. This President will talk about jobs because it is important to him. He has mentioned it time and time again. He never gets credit from those on the other side of the aisle, but he consistently believes that full employment and a robust economy go hand in hand.

This economy has improved. We were down at 7,200 on the Dow. We are now at 10,551, I believe, an hour ago. That is good news for the American investor. And it is good news for the American economy.

Medicare. People keep moaning about the bill. Most have not read it. Most of the benefits of the bill will not become effective for a while, but there is an improving opportunity for seniors through the Medicare delivery of prescription drugs to their communities.

□ 1445

I woke up this morning to the moveon.org campaign commercial with soft money. It is interesting. They raising soft money with reckless abandon. George Soros gave $5 million to an organization headed by Democrats to destroy this President and demean him and demean the office, but they have moved on. Remember, they have moved on. They were there for the past President and they are there now as a vehicle to spend soft money, that old bugaboo that was so reviled by the other side of the aisle. Now they have found other ways to move money into new different camps and run the same negative ads but just not run by the political committees here in Washington. They are just committees that are closer to home, I guess.

Health care is something we are concerned about, and the President will address that as well. He is concerned about health care. The President's concerned about health care, the delivery of health care, the availability, the affordability, and that will be discussed tonight.

He is talking about the space program, and yes, there are those that question whether the space program has, or do we have the funding to move forward in the corridor of space, and let me challenge everyone to recognize what has occurred because of the space program. Whether it is the cellular phone or the Blackberry, it is the heart pacemaker, the microwave oven, Internet technology, all has come from a genesis of discovery of space. From the scientists and astronauts, from the team leaders, whether it is Johnson Space Center in Texas or Kennedy in Florida, these have been the pioneers that have brought about incredible opportunities in technological corridors to bring about a better way of life for all America. The discovery of cells and cancerous genes and things that may stem the tide of devastating illnesses and disease have been discovered in space. So this President, true to his mission of being an innovator and a leader, is challenging us to move forward. The clarion call to all, this final frontier, as was mentioned by John Kennedy, has not been conquered and will not be given up because of tight budget years.

The President talks about immigration, and a lot of people are nervous about immigration. Obviously, again, they have not read the bill. They think there is a blanket amnesty. The President's leading on an issue that, yes, is politically polarizing but is an issue once again that he is not willing to have just out there in the abyss and not be discussed in practical solutions, rather than political sound bytes.

Education. I have mentioned many times on this floor my father was a principal and a schoolteacher. So education is important to this Member of Congress, and this President has worked to make education the hallmark of his administration.

So rather than continue to take the time of the Congress today, I just ask the other side of the aisle if rather than snappy sound bytes and eloquent rhetoric all directed to demonize this President, that if half the energy was going into developing constructive proposals to bring to the floor, we may be able to solve America's problems.

In today's Roll Call, a newspaper that is all over the Hill, David Winston has the headline "Democratic Hopefuls' Sniping Souring Their Images With Voters." It talks about, "Twenty-four hours after the Iowa caucus grabbed the national spotlight for the Democrats, President Bush takes center stage tonight for the annual ritual of the State of the Union address. As Bush heads to Capitol Hill with the power and prestige of the presidency behind him, the Democrats are licking their wounds and heading to New Hampshire, some on CPR.

"In contrast, the President will report to the nation as a strong wartime leader," and I emphasize strong, wartime leader, "as the economy comes roaring back, creating jobs, as his education centerpiece, No Child Left Behind, remains popular with the public, and as a President who kept his promise to pass a prescription drug benefit for seniors. As Ronald Reagan said when he left office, 'Not bad. Not bad at all.'

"Meanwhile, the Democratic presidential contenders have gone to the mattresses in the biggest family feud since the Hatfields and McCoys. The Democratic primary has become little more than a nasty snipe-a-thon, leaving none of the candidates looking statesmanlike, much less presidential."

If my colleagues happened to watch Mr. Dean screaming at the TV today, they will realize this may not be the man we want close to the nuclear button. I added that. That is not in Mr. Winston's column.

"The endless bickering and name calling is beginning to take its toll on everyone in the race.

"The latest polls show not only that the Democratic presidential candidates are losing ground with voters overall," but they are also losing Democratic voters who have an increasingly unfavorable view of their own field.

Let me continue because I think it is important to just lay this out as an observation made by Mr. Winston.

"A comparison of the two most recent CNN/USA Today/Gallup polls, taken January 2–5 and November 10–12, spells bad news for Democrats in two key measurements. First, with all voters, every one of the six candidates tested . . . saw little or no movement with their favorables since November, while their unfavorables increased." Why? Because America rejects pessimism, negativity and nastiness, and that is what we have had hurled at those in Iowa and we witnessed through the reporting of Fox and CNN and others.

Let me finalize with this one. "Dean led the pack in this dubious category with his unfavorables increasing more than his favorables by 13 points to reach an unenviable 28 percent favorable, 39 percent unfavorable rating by all voters. But, every one of the Democratic candidates saw their favorable-unfavorable ratings get worse among the overall electorate."

They are running for the highest office in the land, and as time goes on and people get to know them more, they like them less, not because they are not pleasant people to look at and not because they are not educated. I am sure they all qualified in their educated endeavors, but why is America rejecting them? They are rejecting them because of their nastiness and their negativity and their pessimism because America, after all, is about optimism, about hope, about opportunity, about equality, about engagement, about being part of a bigger picture, a bigger world, a bigger place.

So I do pray that as we conclude today that the minority party, that may be the permanent minority if they keep it up, rather than promising in speech to extend an olive branch, that they actually do it and give this President a chance. We will not always agree with this President as Republicans or Democrats, but I think in the final analysis, as we look at the man as a person, I have come to really admire his determination.

When I heard those comments by Paul O'Neill, I thought back of several meetings we have had with multiple Members of Congress in the Cabinet room of the White House, and one foretelling day was about the Patients' Bill of Rights, a subject that I had worked on with the gentleman from Georgia (Mr. NORWOOD) and others in this country for a long time. As we sat around the room I was really taken aback by the depth of knowledge that President Bush had relative to the Patients' Bill of Rights. The discussion with lawmakers, the back and forth, the questions, the probative questions, the responses, whether we wanted to hear the answer or not, he gave it to us with what he believed was the best course of action for this particular piece of legislation. This was a President engaged in the minutia of debate, not a scripted card that was given to him by an aide, but something that inherently he understood, both intimately and through research and through interest.

So as we hear the State of the Union tonight, as we enter 2004, let us hope that the optimism that I know will be contained in the speech becomes contagious, and let us hope that all of us as Members of this deliberate body can join together in trying to figure ways to make every American safer, Democrat, Republican or Independent, bringing together a better world where we are talking and communicating and helping each other in the Nation, whether it is the fight against AIDS in Africa or whether it is terrorism in the Middle East or whether it is freeing people from tyranny.

Let us join together in a pledge that in order to form a more perfect union, we must be organized together as citizens first and politicians second. Our political parties are not the most important credential on this floor. Our most important credential is citizens, Americans, and hopefully patriots.

I wish the President well tonight because his guidance and his expertise is needed by the American public, and I hope as young children hopefully are allowed to watch history and democracy in action here on the floor, we will see a President whose character cannot be questioned, whose administration has performed admirably, whose people have been at the forefront of the fight. I wish him well and I wish him success, and I know together, as Americans, his leadership, his vision will help every American find work in the new year.

## RECESS

The SPEAKER pro tempore (Mr. TURNER of Ohio). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 8:40 p.m. for the purposes of receiving in joint session the President of the United States.

Accordingly (at 2 o'clock and 56 minutes p.m.), the House stood in recess until approximately 8:40 p.m.

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☐ 2044

## AFTER RECESS

The recess having expired, the House was called to order at 8 o'clock and 44 minutes p.m.

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## JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 349 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The Speaker of the House presided.

The Assistant to the Sergeant at Arms, Mr. Bill Sims, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:

The gentleman from Texas (Mr. DELAY);

The gentleman from Missouri (Mr. BLUNT);

The gentlewoman from Ohio (Ms. PRYCE);

The gentleman from Georgia (Mr. KINGSTON);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Maryland (Mr. HOYER);

The gentleman from New Jersey (Mr. MENENDEZ); and

The gentleman from South Carolina (Mr. CLYBURN).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the United States into the House Chamber:

The Senator from Tennessee (Mr. FRIST);

The Senator from Kentucky (Mr. MCCONNELL);

The Senator from Pennsylvania (Mr. SANTORUM);

The Senator from Texas (Mrs. HUTCHISON);

The Senator from Arizona (Mr. KYL);

The Senator from Virginia (Mr. ALLEN);

The Senator from Pennsylvania (Mr. SPECTER);

The Senator from Alaska (Ms. MURKOWSKI);

The Senator from South Dakota (Mr. DASCHLE);

The Senator from Maryland (Ms. MIKULSKI);

The Senator from Louisiana (Mr. BREAUX);

The Senator from North Dakota (Mr. DORGAN);

The Senator from California (Mrs. BOXER);

The Senator from Illinois (Mr. DURBIN);

The Senator from Rhode Island (Mr. REED);

The Senator from Florida (Mr. NELSON);

The Senator from Michigan (Ms. STABENOW);

The Senator from New York (Mrs. CLINTON); and

The Senator from New Jersey (Mr. CORZINE).

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Roble Olhaye, Ambassador from Djibouti.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Associate Justice of the Supreme Court.

The Associate Justice of the Supreme Court entered the Hall of the House of Representatives and took the seat reserved for him in front of the Speaker's rostrum.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 7 minutes p.m., the Sergeant at Arms, the Honorable Wilson Livingood, announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

(Applause, the Members rising.)

The SPEAKER. Members of the Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

(Applause, the Members rising.)

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## THE STATE OF THE UNION ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The PRESIDENT. Mr. Speaker, Vice President CHENEY, Members of Congress, distinguished guests, and fellow citizens:

America this evening is a Nation called to great responsibilities. And we are rising to meet them.

As we gather tonight, hundreds of thousands of American servicemen and women are deployed across the world in the war on terror. By bringing hope to the oppressed and delivering justice to the violent, they are making America more secure.

Each day, law enforcement personnel and intelligence officers are tracking terrorist threats; analysts are examining airline passenger lists; the men and women of our new Department of Homeland Security are patrolling our coasts and borders. And their vigilance is protecting America.

Americans are proving once again to be the hardest working people in the world. The American economy is growing stronger. The tax relief you passed is working.

Tonight, Members of Congress can take pride in the great works of compassion and reform that skeptics had thought impossible. You are raising the standards for our public schools; and you are giving our senior citizens prescription drug coverage under Medicare.

We have faced serious challenges together, and now we face a choice. We can go forward with confidence and resolve, or we can turn back to the dangerous illusion that terrorists are not plotting and outlaw regimes are no threat to us. We can press on with economic growth and reforms in education and Medicare, or we can turn back to old policies and old divisions.

We have not come all this way, through tragedy and trial and war, only to falter and leave our work unfinished. Americans are rising to the tasks of history, and they expect the same from us. In their efforts, their enterprise, and their character, the American people are showing that the state of our Union is confident and strong.

Our greatest responsibility is the active defense of the American people. Twenty-eight months have passed since September 11, 2001, over 2 years without an attack on American soil, and it is tempting to believe that the danger is behind us. That hope is understandable, comforting, and false. The killing has continued in Bali, Jakarta, Casablanca, Riyadh, Mombasa, Jerusalem, Istanbul, and Baghdad. The terrorists continue to plot against America and the civilized world. And by our will and courage, this danger will be defeated.

Inside the United States, where the war began, we must continue to give our homeland security and law enforcement personnel every tool they need to defend us. And one of those essential tools is the PATRIOT Act, which allows Federal law enforcement to better share information, to track terrorists, to disrupt their cells, and to seize their assets. For years, we have used similar provisions to catch embezzlers and drug traffickers. If these methods are good for hunting criminals, they are even more important for hunting terrorists. Key provisions of the PATRIOT Act are set to expire next year. The terrorist threat will not expire on that schedule. Our law enforcement needs this vital legislation to protect our citizens. You need to renew the PATRIOT Act.

America is on the offensive against the terrorists who started this war. Last March, Khalid Shaikh Mohammed, a mastermind of September 11, awoke to find himself in the custody of U.S. and Pakistani authorities. Last August 11 brought the capture of the terrorist Hambali, who was a key player in the attack in Indonesia that killed over 200 people. We are tracking al Qaeda around the world, and nearly two-thirds of their known leaders have now been captured or killed. Thousands of very skilled and determined military personnel are on a manhunt, going after the remaining killers who hide in cities and caves; and one by one, we will bring these terrorists to justice.

As part of the offensive against terror, we are also confronting the regimes that harbor and support terrorists and could supply them with nuclear, chemical or biological weapons. The United States and our allies are determined: we refuse to live in the shadow of this ultimate danger.

The first to see our determination were the Taliban, who made Afghanistan the primary training base of al Qaeda killers. As of this month, that country has a new constitution, guaranteeing free elections and full participation by women. Businesses are opening, health care centers are being established, and the boys and girls of Afghanistan are back in school. With help from the new Afghan army, our coalition is leading aggressive raids against surviving members of the Taliban and al Qaeda. The men and women of Afghanistan are building a nation that is free and proud and fighting terror, and America is honored to be their friend.

Since we last met in this Chamber, combat forces of the United States, Great Britain, Australia, Poland and other countries enforced the demands of the United Nations, ended the rule of Saddam Hussein; and the people of Iraq are free. Having broken the Baathist regime, we face a remnant of violent Saddam supporters. Men who ran away from our troops in battle are now dispersed and attack from the shadows.

These killers, joined by foreign terrorists, are a serious, continuing danger. Yet we are making progress against them. The once all-powerful ruler of Iraq was found in a hole and now sits in a prison cell. Of the top 55 officials of the former regime, we have captured or killed 45. Our forces are on the offensive, leading over 1,600 patrols a day and conducting an average of 180 raids every week. We are dealing with these thugs in Iraq, just as surely as we dealt with Saddam Hussein's evil regime.

The work of building a new Iraq is hard, and it is right. And America has always been willing to do what it takes for what is right. Last January, Iraq's only law was the whim of one brutal man. Today our coalition is working with the Iraqi Governing Council to draft a basic law with a bill of rights. We are working with Iraqis and the United Nations to prepare for a transition to full Iraqi sovereignty by the end of June. As democracy takes hold in Iraq, the enemies of freedom will do all in their power to spread violence and fear. They are trying to shake the will of our country and our friends, but the United States of America will never be intimidated by thugs and assassins. The killers will fail, and the Iraqi people will live in freedom.

Month by month, Iraqis are assuming more responsibility for their own security and their own future. And tonight we are honored to welcome one of Iraq's most respected leaders, the current president of the Iraqi Governing Council, Adnan Pachachi. Sir, America stands with you and the Iraqi people as you build a free and peaceful nation.

Because of American leadership and resolve, the world is changing for the better. Last month, the leader of Libya voluntarily pledged to disclose and dismantle all of his regime's weapons of mass destruction programs, including a uranium enrichment project for nuclear weapons. Colonel Qadhafi correctly judged that his country would be better off, and far more secure, without weapons of mass murder. Nine months of intense negotiations involving the United States and Great Britain succeeded with Libya, while 12 years of diplomacy with Iraq did not. And one reason is clear: for diplomacy to be effective, words must be credible, and no one can now doubt the word of America.

Different threats require different strategies. Along with nations in the region, we are insisting that North Korea eliminate its nuclear program. America and the international community are demanding that Iran meet its commitments and not develop nuclear weapons. America is committed to keeping the world's most dangerous weapons out of the hands of the world's most dangerous regimes.

When I came to this rostrum on September 20, 2001, I brought the police shield of a fallen officer, my reminder of lives that ended and a task that does not end. I gave to you and to all Americans my complete commitment to securing our country and defeating our enemies. And this pledge, given by one, has been kept by many. You in the Congress have provided the resources for our defense and cast the difficult votes of war and peace. Our closest allies have been unwavering. America's intelligence personnel and diplomats have been skilled and tireless.

And the men and women of the American military, they have taken the hardest duty. We have seen their skill and courage in armored charges and midnight raids and lonely hours on faithful watch. We have seen the joy when they return, and felt the sorrow when one is lost. I have had the honor of meeting our service men and women at many posts, from the deck of a carrier in the Pacific, to a mess hall in Baghdad. Many of our troops are listening tonight. And I want you and your families to know: America is proud of you. And my administration, and this Congress, will give you the resources you need to fight and win the war on terror.

I know that some people question if America is really in a war at all. They view terrorism more as a crime, a problem to be solved mainly with law enforcement and indictments. After the World Trade Center was first attacked in 1993, some of the guilty were indicted, tried, convicted, and sent to prison. But the matter was not settled. The terrorists were still training and plotting in other nations and drawing up more ambitious plans. After the chaos and carnage of September 11, it is not enough to serve our enemies with legal papers. The terrorists and their supporters declared war on the United States, and war is what they got.

Some in this Chamber, and in our country, did not support the liberation of Iraq. Objections to war often come from principled motives. But let us be candid about the consequences of leaving Saddam Hussein in power. We are seeking all the facts. Already the Kay Report identified dozens of weapons of mass destruction-related program activities and significant amounts of equipment that Iraq concealed from the United Nations. Had we failed to act, the dictator's weapons of mass destruction programs would continue to this day. Had we failed to act, Security Council resolutions on Iraq would have been revealed as empty threats, weakening the United Nations and encouraging defiance by dictators around the world. Iraq's torture chambers would still be filled with victims, terrified and innocent. The killing fields of Iraq, where hundreds of thousands of men and women and children vanished into the sands, would still be known only to the killers. For all who love freedom and peace, the world without Saddam Hussein's regime is a better and safer place.

Some critics have said our duties in Iraq must be internationalized. This particular criticism is hard to explain to our partners in Britain, Australia, Japan, South Korea, the Philippines, Thailand, Italy, Spain, Poland, Denmark, Hungary, Bulgaria, Ukraine, Romania, the Netherlands, Norway, El Salvador, and 17 other countries that have committed troops to Iraq. As we debate at home, we must never ignore the vital contributions of our international partners or dismiss their sacrifices. From the beginning, America has sought international support for operations in Afghanistan and Iraq, and we have gained much support. There is a difference, however, between leading a coalition of many nations and submitting to the objections of a few. America will never seek a permission slip to defend the security of our country.

We also hear doubts that democracy is a realistic goal for the greater Middle East, where freedom is rare. Yet it is mistaken and condescending to assume that whole cultures and great religions are incompatible with liberty and self-government. I believe that God has planted in every human heart the desire to live in freedom; and even when that desire is crushed by tyranny for decades, it will rise again.

As long as the Middle East remains a place of tyranny and despair and anger, it will continue to produce men and movements that threaten the safety of America and our friends. So America is pursuing a forward strategy of freedom in the greater Middle East. We will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friends. To cut through the barriers of hateful propaganda, the Voice of America and other broadcast services are expanding their programming in Arabic and Persian, and soon a new television service will begin providing reliable news and information across the region. I will send you a proposal to double the budget of the National Endowment for Democracy, and to focus its new work on the development of free elections and free markets, free press, and free labor unions in the Middle East. And above all, we will finish the historic work of democracy in Afghanistan and Iraq so those nations can light the way for others and help transform a troubled part of the world.

America is a Nation with a mission, and that mission comes from our most basic beliefs. We have no desire to dominate, no ambitions of empire. Our aim is a democratic peace, a peace founded upon the dignity and rights of every man and woman. America acts in this cause with friends and allies at our side; yet we understand our special calling: this great Republic will lead the cause of freedom.

In these last 3 years, adversity has also revealed the fundamental strengths of the American economy. We have come through recession and terrorist attack and corporate scandals and the uncertainties of war. And because you acted to stimulate our economy with tax relief, this economy is strong and growing stronger.

You have doubled the child tax credit from $500 to $1,000, reduced the marriage penalty, begun to phase out the death tax, reduced taxes on capital gains and stock dividends, cut taxes on small businesses, and you have lowered taxes for every American who pays income taxes.

Americans took those dollars and put them to work, driving this economy forward. The pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years. New home construction: the highest in almost 20 years. Home ownership rates: the highest ever. Manufacturing activity is increasing. Inflation is low. Interest rates are low. Exports are growing. Productivity is high, and jobs are on the rise.

These numbers confirm that the American people are using their money far better than government would have, and you were right to return it.

America's growing economy is also a changing economy. As technology transforms the way almost every job is done, America becomes more productive, and workers need new skills. Much of our job growth will be found in high-skilled fields like health care and biotechnology. So we must respond by helping more Americans gain the skills to find good jobs in our new economy.

All skills begin with the basics of reading and math, which are supposed to be learned in the early grades of our schools. Yet for too long, for too many children, those skills were never mastered. By passing the No Child Left Behind Act, you have made the expectation of literacy the law of our country. We are providing more funding for our schools, a 36 percent increase since 2001. We are requiring higher standards. We are regularly testing every child on the fundamentals. We are reporting results to parents and making sure they have better options when schools are not performing. We are making progress toward excellence for every child in America.

But the status quo always has defenders. Some want to undermine the No Child Left Behind Act by weakening standards and accountability. Yet the results we require are really a matter of common sense: we expect third graders to read and do math at the third grade level. That is not asking too much. Testing is the only way to identify and help students who are falling behind.

This Nation will not go back to the days of simply shuffling children along from grade to grade without them learning the basics. I refuse to give up on any child, and the No Child Left Behind Act is opening the door of opportunity to all of America's children.

At the same time, we must ensure that older students and adults can gain the skills they need to find work now. Many of the fastest-growing occupations require strong math and science preparation and training beyond the high school level. So tonight I propose a series of measures called Jobs for the 21st Century. This program will provide extra help to middle- and high school students who fall behind in reading and math, expand Advanced Placement programs in low-income schools, invite math and science professionals from the private sector to teach part time in our high schools. I propose larger Pell grants for students who prepare for college with demanding courses in high school. I propose increasing our support for America's fine community colleges. I do so so they can train workers for industries that are creating the most new jobs. By all these actions, we will help more and more Americans to join in the growing prosperity of our country.

Job training is important, and so is job creation. We must continue to pursue an aggressive, pro-growth economic agenda.

Congress has some unfinished business on the issue of taxes. The tax reductions you passed are set to expire. Unless you act, the unfair tax on marriage will go back up. Unless you act, millions of families will be charged $300 more in Federal taxes for every child. Unless you act, small businesses will pay higher taxes. Unless you act, the death tax will eventually come back to life. Unless you act, Americans face a tax increase. What Congress has given, the Congress should not take away. For the sake of job growth, the tax cuts you passed should be permanent.

Our agenda for jobs and growth must help small business owners and employees with relief from needless Federal regulation and protect them from junk and frivolous lawsuits. Consumers and businesses need reliable supplies of energy to make our economy run, so I urge you to pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy. My administration is promoting free and fair trade to open up new markets for America's entrepreneurs and manufacturers and farmers, and to create jobs for America's workers. Younger workers should have the opportunity to build a nest egg by saving part of their Social Security taxes in a personal retirement account. We should make the Social Security System a source of ownership for the American people.

And we should limit the burden of government on this economy by acting as good stewards of taxpayer dollars. In 2 weeks I will send you a budget that funds the war, protects the homeland and meets important domestic needs by limiting the growth in discretionary spending to less than 4 percent. This will require that Congress focus on priorities, cut wasteful spending, and be wise with the people's money. By doing so, we can cut the deficit in half over the next 5 years.

Tonight, I also ask you to reform our immigration laws so they reflect our values and benefit our economy. I propose a new temporary worker program to match willing foreign workers with willing employers when no Americans can be found to fill the job. This reform will be good for our economy because employers will find needed workers in an honest and orderly system. A temporary worker program will help protect our homeland, allowing Border Patrol and law enforcement to focus on true threats to our national security. I oppose amnesty, because it would encourage further illegal immigration and unfairly reward those who break our laws. My temporary worker program will preserve the citizenship path for those who respect the law, while bringing millions of hard-working men and women out from the shadows of American life.

Our Nation's health care system, like our economy, is also in a time of change. Amazing medical technologies are improving and saving lives. This dramatic progress has brought its own challenge, in the rising costs of medical care and health insurance. Members of Congress, we must work together to help control those costs and extend the benefits of modern medicine throughout our country.

Meeting these goals requires bipartisan effort, and 2 months ago you showed the way. By strengthening Medicare and adding a prescription drug benefit, you kept a basic commitment to our seniors. You are giving them the modern medicine they deserve.

Starting this year, under the law you passed, seniors can choose to receive a drug discount card, saving them 10 to 25 percent off the retail price of most prescription drugs, and millions of low-income seniors can get an additional $600 to buy medicine. Beginning next year, seniors will have new coverage for preventive screenings against diabetes and heart disease, and seniors just entering Medicare can receive wellness exams.

In January of 2006, seniors can get prescription drug coverage under Medicare. For a monthly premium of about $35, most seniors who do not have that coverage today can expect to see their drug bills cut roughly in half. Under this reform, senior citizens will be able to keep their Medicare just as it is, or they can choose a Medicare plan that fits them best, just as you, as Members of Congress, can choose an insurance plan that meets your needs. And starting this year, millions of Americans will be able to save money tax-free for their medical expenses in a health savings account.

I signed this measure proudly, and any attempt to limit the choices of our seniors or to take away their prescription drug coverage under Medicare will meet my veto.

On the critical issue of health care, our goal is to ensure that Americans can choose and afford private health care coverage that best fits their individual needs. To make insurance more affordable, Congress must act to address rapidly rising health care costs. Small businesses should be able to band together and negotiate for lower insurance rates so they can cover more workers with health insurance.

I urge you to pass Association Health Plans. I ask you to give lower-income Americans a refundable tax credit that would allow millions to buy their own basic health insurance. By computerizing health records, we can avoid dangerous medical mistakes, reduce costs, and improve care. To protect the doctor-patient relationship and keep good doctors doing good work, we must eliminate wasteful and frivolous medical lawsuits. And tonight I propose that individuals who buy catastrophic health care coverage as part of our new health savings accounts be allowed to deduct 100 percent of the premiums from their taxes.

A government-run health care system is the wrong prescription. By keeping costs under control, expanding access and helping more Americans afford coverage, we will preserve the system of private medicine that makes America's health care the best in the world.

We are living in a time of great change in our world, in our economy, and in science and medicine. Yet some things endure: courage and compassion, reverence and integrity, respect for differences of faith and race. The values we try to live by never change; and they are instilled in us by fundamental institutions, such as families and schools and religious congregations. These institutions, the unseen pillars of civilization, must remain strong in America, and we will defend them.

We must stand with our families to help them raise healthy, responsible children. When it comes to helping children make right choices, there is work for all of us to do.

One of the worst decisions our children can make is to gamble their lives and futures on drugs. Our government is helping parents confront this problem with aggressive education, treatment, and law enforcement. Drug use in high school has declined by 11 percent over the past 2 years. 400,000 fewer young people are using illegal drugs than in the year 2001.

In my budget, I have proposed new funding to continue our aggressive community-based strategy to reduce demand for illegal drugs. Drug testing in our schools has proven to be an effective part of this effort. So tonight I propose an additional $23 million for schools that want to use drug testing as a tool to save children's lives. The aim here is not to punish children, but to send them this message: we love you, and we do not want to lose you.

To help children make right choices, they need good examples. Athletics play such an important role in our society: but, unfortunately, some in professional sports are not setting much of an example. The use of performance-enhancing drugs like steroids in baseball, football and other sports, is dangerous; and it sends the wrong message, that there are shortcuts to accomplishment and that performance is more important than character.

So tonight I call on team owners, union representatives, coaches and players to take the lead, to send the right signal, to get tough, and to get rid of steroids now.

To encourage right choices, we must be willing to confront the dangers young people face, even when they are difficult to talk about. Each year, about 3 million teenagers contract sexually transmitted diseases that can harm them or kill them or prevent them from ever becoming parents. In my budget, I propose a grassroots campaign to help inform families about these medical risks. We will double Federal funding for abstinence programs so schools can teach this fact of life: abstinence for young people is the only certain way to avoid sexually transmitted diseases. Decisions children now make can affect their health and character for the rest of their lives. All of us, parents, schools and government, must work together to counter the negative influence of the culture and to send the right messages to our children.

A strong America must also value the institution of marriage. I believe we should respect individuals as we take a principled stand for one of the most fundamental, enduring institutions of our civilization. Congress has already taken a stand on this issue by passing the Defense of Marriage Act, signed in 1996 by President Clinton. That statute protects marriage under Federal law as the union of a man and a woman, and declares that one State may not redefine marriage for other States. Activist judges, however, have begun redefining marriage by court order, without regard for the will of the people and their elected representatives. On an issue of such great consequence, the people's voice must be heard. If judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. Our Nation must defend the sanctity of marriage.

The outcome of this debate is important, and so is the way we conduct it. The same moral tradition that defines marriage also teaches that each individual has dignity and value in God's sight.

It is also important to strengthen our communities by unleashing the compassion of America's religious institutions. Religious charities of every creed are doing some of the most vital work in our country: mentoring children, feeding the hungry, taking the hand of the lonely. Yet government has often denied social service grants and contracts to these groups, just because they have a cross or a star of David or a crescent on the wall. By executive order, I have opened billions of dollars in grant money to competition that includes faith-based charities. Tonight I ask you to codify this into law, so people of faith can know that the law will never discriminate against them again.

In the past, we have worked together to bring mentors to children of prisoners and provide treatment for the addicted and help for the homeless. Tonight I ask you to consider another group of Americans in need of help. This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they cannot find work or a home or help, they are much more likely to commit more crimes and return to prison. So tonight, I propose a 4-year, $300 million Prisoner Re-Entry Initiative to expand job training and placement services, to provide transitional housing, and to help newly released prisoners get mentoring, including from faith-based groups. America is the land of second chance; and when the gates of the prison open, the path ahead should lead to a better life.

For all Americans, the last 3 years have brought tests we did not ask for and achievements shared by all. By our actions, we have shown what kind of Nation we are. In grief, we have found the grace to go on. In challenge, we rediscovered the courage and daring of a free people. In victory, we have shown the noble aims and good heart of America. And having come this far, we sense that we live in a time set apart.

I have been a witness to the character of the people of America, who have shown calm in times of danger, compassion for one another, and toughness for the long haul. All of us have been partners in a great enterprise. And even some of the youngest understand that we are living in historic times. Last month a girl in Lincoln, Rhode Island, sent me a letter. It began, "Dear George W. Bush. If there is anything you know I, Ashley Pearson, age 10 can do to help anyone, please send me a letter and tell me what I can do to save our country." She added this P.S.: "If you can send a letter to the troops, please put, 'Ashley Pearson believes in you.' "

Tonight, Ashley, your message to our troops has just been conveyed. And, yes, you have some duties yourself. Study hard in school, listen to your mom and dad, help someone in need, and when you and your friends see a man or woman in uniform, say "thank you." And, Ashley, while you do your part, all of us here in this great Chamber will do our best to keep you and the rest of America safe and free.

My fellow citizens, we now move forward with courage and faith. Our Nation is strong and steadfast. The cause we serve is right because it is the cause of all mankind. The momentum of freedom in our world is unmistakable, and it is not carried forward by our power alone. We can trust in that greater power Who guides the unfolding of the years. And in all that is to come, we can know that His purposes are just and true.

May God continue to bless America.

(Applause, the Members rising.)

At 10 o'clock and 6 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Associate Justice of the Supreme Court.

The Acting Dean of the Diplomatic Corps.

## JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 12 minutes p.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

## MESSAGE OF THE PRESIDENT REFERRED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. WILSON of South Carolina. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ABERCROMBIE (at the request of Ms. PELOSI) for today and the balance of the week on account of business in the district.

Ms. BALDWIN (at the request of Ms. PELOSI) for today on account of travel problems.

Mr. CRAMER (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. REYES (at the request of Ms. PELOSI) for today and the balance of the week on account of family illness.

Mr. NADLER (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and January 21 on account of official business.

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for today on account of a death in the family.

Ms. DUNN (at the request of Mr. DELAY) for today on account of illness.

Mr. BURTON of Indiana (at the request of Mr. DELAY) for today on account of being detained in his district.

Mr. EVERETT (at the request of Mr. DELAY) for today and January 21 on account of having the flu.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. WU, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Ms. GINNY BROWN-WAITE of Florida) to revise and extend their remarks and include extraneous material:)

Mr. BURGESS, for 5 minutes, January 27.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PAYNE, for 5 minutes, today.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1172. An act to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Energy and Commerce.

S. 1177. An act to prevent tobacco snuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on Energy and Commerce.

S. 1267. An act to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform; in addition to the Committee on Rules for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; and in addition to the Committee on Appropriations for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2000. An act to extend the special postage stamp for breast cancer research for 2 years; to the Committee on Government Reform; in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned; and in addition to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## ADJOURNMENT

Mr. WILSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 21, 2004, at 10 a.m.

## NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
*Washington, DC, December 8, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER:

WITHDRAWAL OF NOTICE OF PROPOSED SUBSTANTIVE RULE, MAKING, AND ADVANCE NOTICE OF PROPOSED RULE MAKING

On November 13, 2001, the Board of Directors of the Office of Compliance submitted proposed substantive rules for comment, pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 ("VEOA") (2 U.S.C. 1316a(4)), and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)). The proposed substantive rules would implement section 4(c) of the VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law. The Notice of Proposed Rule Making was printed in the Congressional Record on December 6, 2001 at H9065, et seq., and S12539 et seq.

In response to that Notice, the Board of Directors received comments which addressed the difficulty in promulgating regulations applying substantive veterans' preference rights in the absence of formal civil service merit personnel systems in the legislative branch. In view of the comments, and upon further consideration, the Board has decided to withdraw the notice of proposed rule making of November 13, 2001, printed in the Congressional Record of December 6, 2001.

The Board of Directors has initiated a new process of drafting proposed substantive regulations which would implement section 4(c) of the VEOA. The Board invites the informal input of interested parties in advance of the Board's completion of new draft regulations and publication of a new Notice of Proposed Rule Making in the future. Interested parties are invited to contact the Executive Director of the Office of Compliance, Room LA-200, 110 2nd Street, S.E., Washington, D.C. 20540; 202-724-9250, TDD 202-426-1912.

We request that this notice be published in the Congressional Record. Any inquiries regarding this notice should be addressed to the Office of Compliance at our address above, or by telephone or TDD.

Sincerely,

SUSAN S. ROBFOGEL,
*Chair.*

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5945. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Ports of Entry for Certain Plants and Plants Products [Docket No. 03-067-1] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5946. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Pine Shoot Beetle; Additions to Quarantined Areas [Docket No. 03-120-1] received January 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5947. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Golden Nematode; Regulated Areas [Docket No. 03-082-1] received January 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5948. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Regulated Areas [Docket No. 03-047-1] received January 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5949. A letter from the Administrator, Agricultural Marketing Service, Science & Technology, Department of Agriculture, transmitting the Department's final rule—Removal of Cottonseed Chemist Licensing Program, Updating of Commodity Laboratory and Office Addresses, and Adoption of Information Symbols [Docket Number ST02-03] (RIN: 0581-AC18) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5950. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tomatoes Grown in Florida; Increased Assessment Rate [Docket No. FV03-966-4 FR] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5951. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fluroxypyr; Pesticide Tolerance [OPP-2003-0377; FRL-7340-5] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5952. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Cyprodinil; Time-Limited Pesticide Tolerance [OPP-2003-0394; FRL-7337-5] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5953. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Vinclozolin; Time-Limited Pesticide Tolerances Technical Correction [OPP-2003-0311; FRL-7337-7] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5954. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Extension of Tolerances for Emergency Exemptions Multiple Chemicals [OPP-2003-0402; FRL-7339-8] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5955. A communication from the President of the United States, transmitting the request and availability of funds for the Department of the Treasury's Counterterrorism Fund, pursuant to Public Law 106—554; (H. Doc. No. 108—148); to the Committee on Appropriations and ordered to be printed.

5956. A communication from the President of the United States, transmitting a request to make the subsidy budget authority necessary to support a $30 million Federal credit instrument for World Airways, Inc.; (H. Doc. No. 108—150); to the Committee on Appropriations and ordered to be printed.

5957. A communication from the President of the United States, transmitting in accordance with provisions of the "1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including those in Bosnia" (Public Law 105-18), a request to make available emergency funding for the Department of the Interior's National Park Service; (H. Doc. No. 108—151); to the Committee on Appropriations and ordered to be printed.

5958. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 02-11, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

5959. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 02-10, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

5960. A letter from the Chairman, National Transportation Safety Board, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

5961. A letter from the Acting Under Secretary of Defense, Department of Defense, transmitting a report on the Evaluation of Training, Knowledge, and Resources Regarding Negotiation of Intellectual Property Arrangements, pursuant to Section 821 of the Bob Stump National Defense Authorization Act for FY 2003 (Pub. L. 107-314); to the Committee on Armed Services.

5962. A letter from the Deputy Secretary, Department of Defense, transmitting as required by 41 U.S.C. 253(c)(7) and 10 U.S.C. 2304(c)(7), notice of determination that it is in the public interest that only firms from the United States, Iraq, and Coalition partners and force contributing nations should be eligible to compete for prime contracts for Iraq relief and reconstruction; to the Committee on Armed Services.

5963. A letter from the Comptroller, Department of Defense, transmitting a notice that the Department of the Navy is pursing a multiyear procurement (MYP) for the fiscal year 2004 through fiscal year 2007; to the Committee on Armed Services.

5964. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of September 30, 2003, entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account," pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

5965. A letter from the Comptroller, Department of Defense, transmitting a notice that the Department of the Navy is pursing a multiyear procurement(MYP) for the fiscal year 2005 through fiscal year 2009 with advance procurement in FY 2004; to the Committee on Armed Services.

5966. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-10 on Waiver of Conditions on Obligation and Expenditure of Funds for Planning, Design, and Construction of a Chemical Weapons Destruction Facility in Russia; to the Committee on Armed Services.

5967. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Home Mortage Disclosure [Regulation C; Docket No. R-1178] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5968. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Reporting and Disclosure Requirements for National Banks with Securities Registered Under the Securities Exchange Act of 1934; Securities Offering Disclsoure Rules [Docket No. 03-25] (RIN: 1557-AC12) received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5969. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Suspension of Community Eligibility [Docket No. FEMA-7823] received Janaury 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5970. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations—received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5971. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-D-7549] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5972. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5973. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5974. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received January 15, 2004, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5975. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations—received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5976. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA–P–7630] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5977. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Changes in Flood Elevation Determinations—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5978. A letter from the Acting General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule—Final Flood Elevation Determinations—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5979. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—FHA TOTAL Mortgage Scorecard [Docket No. FR–4835–C–02] (RIN: 2502–AI00) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5980. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Thailand, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

5981. A letter from the Secretary, Department of Education, transmitting the Department's final rule—Title I—Improving the Academic Achievement of the Disadvantaged (RIN: 1810–AA95) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5982. A letter from the Administrator, Energy Information Administration, transmitting a copy of the Executive Summary to the Energy Information Administration's (EIA) eleventh annual report, entitled "Emissions of Greenhouse Gasses in the United States 2002," pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

5983. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule—Confirmation of Effective Date of Rules Declaring Metal-Cored Candlewicks Containing Lead and Candles With Such Wicks To Be Hazardous Substances and Banning Them—received September 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5984. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Acquisition Regulations; Conditional Payment of Fee, Profit, and Other Incentives (RIN: 1991–AB54) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5985. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Skin Protectant Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment [Docket Nos. 78N–0021 and 78N–021P] (RIN: 0910–AA01) received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5986. A letter from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Time Limitation on Recordkeeping Requirements Under the Drug Rebate Program [CMS–2175–IFC] (RIN: 0938–AM20) received December 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5987. A letter from the Secretary, Department of Health and Human Services, transmitting the report entitled "Increasing Access to Health Care for Certain Non-elderly, Low-Income Populations Who Were Not Otherwise Qualified to Receive Medicaid Benefits," submitted in response to section 4745 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law 101–508; to the Committee on Energy and Commerce.

5988. A letter from the Secretary, Department of Health and Human Services, transmitting the report entitled "Study of the Impact of Boren Amendment Repeal," in response to the requirements of Public Law 105–33, the Balanced Budget Act of 1997; to the Committee on Energy and Commerce.

5989. A letter from the Secretary, Department of Health and Human Services, transmitting as required by Sections 913(b)(2) and Section 902(g) of the Healthcare Research and Quality Act of 1999 (Pub. L. 1066–129), reports entitled "The National Healthcare Quality Report" (NHQR) and "The National Healthcare Disparities Report" (NHDR); to the Committee on Energy and Commerce.

5990. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, San Joaquin Valley Unified, Ventura County, Santa Barbara County, and Monteray Bay Unified Air Pollution Control Districts and Yolo Solano, Bay Area, and Mojave Desert Air Quality Management Districts [CA 259–0425; FRL–7598–1] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5991. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Control of Emissions from Highway Motorcycles [AMS–FRL–7604–8] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5992. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Operating Permits Program; San Diego County Air Pollution Control District [CA 110–OPPa; FRL–7603–1] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5993. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements [OAR–2003–0009; FRL–7604–9] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5994. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Delaware; MOBILE6-Based Motor Vehicle Emission Budgets for the Delaware Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area [DE072–1042a; FRL–7593–5] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5995. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations [IN159–1a; FRL–7598–6] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5996. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections [SIP NO. UT–001–0048, UT–001–0049, FRL–7593–2] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5997. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Emissions of Volatile Organic Compounds from Consumer Products [MD152–3105a; FRL–7596–4] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5998. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Nevada [NV108–SWIa; FRL–7595–5] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5999. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Final Approval of Revision of 34 Clean Air Act Title V Operating Permits Programs [CA107–OPP–FRL–7589–8] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6000. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Interim Final Determination to Stay and Defer Sanctions, South Coast Air Quality Management District [CA 296–0427; FRL–7594–2] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6001. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions [FRL–7597–5] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6002. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico [NM–40–2–744a; FRL–7598–8] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6003. A letter from the Deputy Associate Administrator, Environmental Protection

Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA255-0426; FRL-7597-4] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6004. A letter from the Deputy Associate Adminstrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA 259-0421; FRL-7588-7] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6005. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA 296-0427a; FRL-7593-9] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6006. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District [CA 291-0424a; FRL-7590-7] received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6007. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut portion of the New York-New Jersey-Long Island nonattainment area and for 2007 for the Greater Connecticut nonattainment area [CT-057-7216e; A-1-FRL-7600-2] received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6008. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Significant New Uses of Certain Chemical Substances [OPPT-2002-0078; FRL-7307-3] (RIN: 2070-AB27) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6009. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) [OAR-2002-0029, FRL-7599-9] (RIN: 2060-AJ42) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6010. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Memphis-Shelby County; Revised Format for Materials Being Incorporated by Reference [TN-200328; FRL-7596-6] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6011. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans for Kentucky: Permit Provisions for Jefferson County, Kentucky: Partial Withdrawal of Direct Final Rule [KY-145-200339(w); FRL-7600-4] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6012. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration (PSD) [AD-FRL-7601-5] (RIN: 2050-AK28) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6013. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of California [CARB-106-DELa; FRL-7600-5] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6014. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Regional Haze Rule to Correct Mobile Source Provisions in Optional Program for Nine Western States and Eligible Indian Tribes Within that Geographic Area [FRL-7601-4] (RIN: 2060-AL80) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6015. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to the Phase 2 Requirements for Spark-Ignition Nonroad Engines at or below 19 Kilowatts [AMS-FRL-7606-1] (RIN: 2060-AL80) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6016. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Kentucky Update to Materials Incorporated by Reference [KY-200404; FRL-7601-2] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6017. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Iowa; Correction [IA 200-1200; FRL-7608-3] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6018. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Kansas [KS 202-1202; FRL-7608-9] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6019. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [Mo 201-1201; FRL-7608-8] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6020. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Disapproval of State Implementation Plan Revisions, San Joaquin Valley Unified Air Pollution Control District [CA255-0431; FRL-7607-6] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6021. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District [CA 289 0118a; FRL-7600-9] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6022. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—State Implementation Plans: States of Arizona, California, and Nevada; Correction [CA 105-CORR FRL-7609-4] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6023. A letter from the Chief, Policy and Rules Division, OET, Federal Communication Commission, transmitting the Commission's final rule—Revision of Part 2 and 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) devices in the 5 GHz Band [ET Docket No. 03-122; RM-10371] received January 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6024. A letter from the Legal Advisor, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Elimination of Experimental Broadcast Ownership Restrictions [MM Docket No. 00-105] received January 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6025. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Springfield, Tennessee, Oak Grove and Trenton, Kentucky) [MB Docket No. 03-132; RM-10709] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6026. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Corpus Christi, Texas) [MM Docket No. 00-198; RM-9980] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6027. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Juneau, Alaska) [MB Docket No. 03-97; RM-10683] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6028. A letter from the Senior Legal Advisor, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Marble Falls and Dripping Springs, Texas) [MB Docket No. 03-195; RM-10745] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6029. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Worchester and Westborough, Massachusetts) [MM Docket No. 02-49; RM-10220] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6030. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Conway and Vilonia, Arkansas) [MB Docket No. 03-23; RM-10633] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6031. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Ravenwood, West Virginia and Racine, Ohio) [MB Docket No. 03-22; RM-10597] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6032. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Ash Fork, Chino Valley, Dolan Springs, Fredonia, Gilbert, Peach Springs, Seligman, and Tusayan, Arizona; Moapa Valley, Nevada; Beaver and Cedar City Utah) [MM Docket No. 02-12; RM-10356; RM-10551; RM-10553; RM-10554] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6033. A letter from the Deputy Division Chief, WTB/Broadband Div., Federal Communications Commission, transmitting the Commission's final rule—Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands [WT Docket No. 02-353] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6034. A letter from the Deputy Division Chief, Competition Policy Div., Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102]; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements: Petition of the National Telecommunications and Information Administration to Amend Parts 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610–1660.5 MHz Band [IB Docket No. 99-67] Received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6035. A letter from the Chief, WTB/Broadband Division, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems Non-Initialized Phones [CC Docket No. 94-102; RM-8143] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6036. A letter from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting the Commission's final rule—Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz and 48.2-50.2 Ghz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocation in the 40.5-42.5 GHz Frequency Band; Allocation of Spectrum in the 46.9-47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0–38.0 GHz and 40.0–40.5 GHz for Government Operations [IB Docket No. 97-95] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6037. A letter from the Deputy Chief, WCB/TAPD, Federal Communications Commission, transmitting the Commission's final rule—Schools and Libraries Universal Service Support Mechanism [CC Docket No. 02-6] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6038. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Station. (Carrizozo, New Mexico) [MB Docket No. 03-69; RM-10664] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6039. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Salina, Utah) [MB Docket No. 02-166; RM-10478] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6040. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Centerville, Texas) [MB Docket No. 02-128; RM-10450] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6041. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Hartigton, Nebraska) [MB Docket No. 02-121; RM-10443; RM-10665] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6042. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Alpine and Presidio, Texas) [MB Docket No. 02-239; RM-10529; RM-10711] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6043. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Silverton, Texas) [MB Docket No. 03-72; RM-10674]; (Leedey, Oklahoma) [MB Docket No. 03-73; RM-10675]; (Memphis, Texas) [MB Docket No. 03-75; RM-10677] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6044. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Meridianville, Tuscumbia, Carrolton, and Gurley, Alabama) [MB Docket No. 02-114; RM-10426] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6045. A letter from the Senior Legal Advisor, Chief Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 304 of the Telecommunications Act of 1996 [CS Docket No. 97-80]; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment [PP Docket No. 00-67] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6046. A letter from the Sr. Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Reexamination of the Comparative Standard for Noncommercial Educational Applicants; Association of America's Public Television Stations' Motion for Stay of Low Power Television Auction (No.81) [MM Docket No. 95-31] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6047. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting the second report of 2003 as required by the Nuclear Waste Policy Amendments Act of 1987, Public Law 100-203, pursuant to 42 U.S.C. 10268; to the Committee on Energy and Commerce.

6048. A communication from the President of the United States, transmitting notification that the Libya emergency is to continue in effect beyond January 7, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108—147); to the Committee on International Relations and ordered to be printed.

6049. A communication from the President of the United States, transmitting notification stating that the emergency declared with respect to foreign terrorists who threaten to disrupt the Middle East peace process is to continue in effect beyond January 23, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108—152); to the Committee on International Relations and ordered to be printed.

6050. A communication from the President of the United States, transmitting notification to terminate the national emergency with respect to Sierra Leone in Executive Order 13194 of January 18, 2001, and expanded in scope with respect to Liberia by Executive Order 13213 of May 22, 2001, pursuant to 50 U.S.C. 1622(a); (H. Doc. No. 108—153); to the Committee on International Relations and ordered to be printed.

6051. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting the Department of the Defense's proposed lease of defense articles to the Government of Tajikistan (Transmittal No. 01-04), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

6052. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 27-03 which informs you of our intent to sign a Memorandum of Understanding (MOU) for Maritime Missile Defense Projects between the United States, Australia, Canada, Germany, Italy, Spain, The Netherlands and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6053. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 25-03 which informs you of our intent to sign a Memorandum of Understanding (MOU) concerning Standard Missile Upgrades and Improvements between the United States, Canada, Germany, and The Netherlands, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6054. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 24-03 which informs you of our intent to sign a Memorandum of Understanding (MOU) between the United States and The Netherlands Concerning Test and Evaluation Program Cooperation (TEP MOU), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6055. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 26-03 which informs of an intent to sign a Project Agreement concerning Nonacoustic Sensing Aid and Nonlinear Dynamics between the United States and Sweden, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

6056. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6057. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6058. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6059. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification for FY 2003 that no United Nations organization or United Nations affiliated agency grants an official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103—236, section 565(b) (108 Stat. 845); to the Committee on International Relations.

6060. A communication from the President of the United States, transmitting a report on additional steps taken with respect to the national emergency declared in Proclamation 7463 of September 14, 2001 and consistent with Executive Order 12396 of December 9, 1982, pursuant to 50 U.S.C. 1631 10 U.S.C. 603; (H. Doc. No. 108—149); to the Committee on International Relations and ordered to be printed.

6061. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report of the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001; to the Committee on International Relations.

6062. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000; to the Committee on International Relations.

6063. A letter from the Assistant Secretary for Legislative Affairs, Department of the Treasury, transmitting Pursuant to the Vietnam Education Foundation Act of 2000 (title II of division B of H.R. 5666, as enacted by section 1(a)(4) of Public Law 106-554 and contained in appendix D of that Act; 114 Stat. 2763A-255) as amended, a report on the financial balances of the Vietnam Education Foundation for 2003; to the Committee on International Relations.

6064. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting Report on Withdrawl of Russian Armed Forces and Military Equipment, pursuant to paragraph 5(D) of the Senate's resolution of advice and consent of the ratification of the CFE Flank Document; to the Committee on International Relations.

6065. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Section 620C(c) of the Foreign Assistance Act of 1961, as amended, and in accordance with section 1(a)(6) of Executive Order 13313, a report prepared by the Department of State and the National Security Council on the progress toward a negotiated solution of the Cyprus question covering the period October 1 through November 30, 2003; to the Committee on International Relations.

6066. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendment to the International Traffic in Arms Regulations: United States Munitions List—received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6067. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to obligate funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities, pursuant to Public Law 102—511, section 508(a) Public Law 108—7, section 515; to the Committee on International Relations.

6068. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of Items to Iraq in the National Interest of the United States pursuant to section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003 (Transmittal No. DTC 041Z-03); to the Committee on International Relations.

6069. A letter from the Assistant Secretary for Legislativé Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-09 on Waiving Prohibition on United States Military Assistance to Parties to the Rome Statute Establishing the International Criminal Court, pursuant to Public Law 107—206; to the Committee on International Relations.

6070. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Presidential Determination No. 2004-14, Imposition and Waiver of Sanctions Under Section 604 of the Foreign Relations Authorization Act, Fiscal Year 2003; to the Committee on International Relations.

6071. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to obligate funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on International Relations.

6072. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Cooperative Threat Reduction Act of 1993 and the FREEDOM Support Act; to the Committee on International Relations.

6073. A letter from the Director, Office of Personnel Management, President's Pay Agent, transmitting a report justifying the reasons for the extension of locality-based comparability payments to categories of positions that are in more than oneexecutive agency, pursuant to 5 U.S.C. 5304(h)(2)(C); to the Committee on Government Reform.

6074. A letter from the Secretary, Department of Education, transmitting the semiannual report of the activities of the Office of Inspector Generalduring the six month period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6075. A letter from the Inspector General, Department of Education, transmitting a corrected semiannual report of the activities of the Office of Inspector General during the six month period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6076. A letter from the Secretary, Department of Health and Human Services, transmitting a report of surplus real property transferred for public health purposes for October 1, 2002, through September 30, 2003, pursuant to Public Law 100—77, section 601 (101 Stat. 515); to the Committee on Government Reform.

6077. A letter from the Inspector General, Department of the Interior, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6078. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the semiannual report on activities of the Inspector General of the Pension Benefit Guaranty Corporation for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

6079. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-255, "Elimination of Outdated Crimes Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6080. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-256, "Marriage and Family Therapy Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6081. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-251, "Income From Discrimination Exclusion Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6082. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-254, "Certified Capital Companies Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6083. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-250, "Charity Auction Sales Tax Exemption Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6084. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-249, "Medical Support Establishment and Enforcement Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6085. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-247, "Eastern Avenue Tour Bus Parking Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6086. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-248, "Freedom of Information Legislative Records Clarification Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6087. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-246, "Unemployment Compensation Funds Appropriation Authorization Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6088. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-245, "Presidential Primary Petition and Filing Waiver Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6089. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-244, "PSA Restructuring Council Review Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6090. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-243, "Emmaus Rehabilitation Project Real Property Exemption Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6091. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-242, "Tax Increment Financing Reauthorization Date Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6092. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-241, "Freedom Forum Newseum Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6093. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-240, "Authorization of the Spending of the Commerical Trust Fund Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6094. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-239, "Nurse Staffing Agency Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6095. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-238, "Comprehensive Housing Strategy Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6096. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-259, "Utility Rate Payers Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6097. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-260, "Closing of a Portion of a Public Alley in Square 2677, S.O. 03-0208, Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6098. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-261, "Housing and Community Development Reform Advisory Commission Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6099. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-262, "Washington Convention Center Authority Term Limit Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6100. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-263, "Towing Regulation and Enforcement Authority Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6101. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-264, "Parking Meter Fee Moratorium Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6102. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-265, "Real Property Classification Clarification Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6103. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-266, "National Capital Medical Center Negotiation Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6104. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-267, "Presidential Primary State Committee Elections Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6105. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-268, "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6106. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-269, "Rehabilitation Services Program Establishment Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6107. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-270, "Procurement Practices Vendor Payment Revised Approval Authorization Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6108. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-271, "Inspector General Appointment and Term Clarification Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6109. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-272, "Board of Education Campaign Contribution Clarification Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6110. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-274, "Automated Traffic Enforcement Fund Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6111. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-286, "Uniform Trust Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6112. A letter from the Federal Co-Chair, Appalachian Regional Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

6113. A letter from the Chairman, Broadcasting Board of Governors, transmitting the semiannual report on the activities of the Office of Inspector General for the period from April 1, 2003 to September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6114. A letter from the Chairman, Consumer Product Safety Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6115. A letter from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting the semiannual report of the Office of the Inspector General for the period from April 1, 2003 through October 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6116. A letter from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6117. A letter from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6118. A letter from the Chair, CPB Board of Directors, Corporation for Public Broadcasting, transmitting the semiannual report of the Office of the Inspector General for the period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6119. A letter from the Assistant Director, Executive & Political Personnel, Department of the Army, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6120. A letter from the Secretary, Mississippi River Commission, Department of the Army, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act covering the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6121. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6122. A letter from the Secretary, Department of Education, transmitting the twenty-ninth Semiannual Report to Congress on Audit Follow-Up, covering the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6123. A letter from the Secretary, Department of Education, transmitting the annual report concerning surplus Federal real property disposed of to educational institutions, pursuant to 40 U.S.C. 484(o); to the Committee on Government Reform.

6124. A letter from the Secretary, Department of Homeland Security, transmitting the semiannual report of the Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to Public Law 95—452, section 5(b) (102 Stat. 2526); to the Committee on Government Reform.

6125. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6126. A letter from the Inspector General, Department of Justice, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6127. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6128. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6129. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6130. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6131. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6132. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6133. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6134. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6135. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6136. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6137. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6138. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6139. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6140. A letter from the Administrator, Environmental Protection Agency, transmitting the Fiscal Year 2003 Annual Report; to the Committee on Government Reform.

6141. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Office of Management and Budget's (OMB's) review of the Equal Employment Opportunity Commission's (EEOC's) Year 2003 Inventories of Commercial and Inherently Governmental Activities in accordance with the Federal Activities Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

6142. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the semiannual report on the activities of the Inspector General and management's report for the period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6143. A letter from the Chief of Staff, Federal Mediation and Conciliation Service, transmitting the FY 2003 annual report under the Federal Managers' Financial Integrity Act (FMFIA) of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6144. A letter from the Director, Financial Management, General Accounting Office, transmitting the FY 2003 annual report of the Comptroller General's Retirement System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

6145. A letter from the Comptroller General, General Accounting Office, transmitting information concerning GAO employees who were assigned to congressional committees during fiscal year 2003, pursuant to 31 U.S.C. 719(b)(1)(C); to the Committee on Government Reform.

6146. A letter from the Administrator, General Services Administration, transmitting the FY 2003 Annual Performance and Accountability Report in accordance with the Report Consolidation Act of 2000; to the Committee on Government Reform.

6147. A letter from the Administrator, General Services Administration, transmitting notification of the new mileage reimbursement rates for Federal employees who use privately owned vehicles while on official travel, pursuant to 5 U.S.C. 5707(b)(1)(A); to the Committee on Government Reform.

6148. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the consolidated annual reports under the Federal Managers Financial Integrity Act of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6149. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on the activities of the Inspector General for April 1, 2003, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

6150. A letter from the Chairman and General Counsel, National Labor Relations Board, transmitting the semiannual report on the activities of the Office of Inspector General of the National Labor Relations Board for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

6151. A letter from the Chairman, National Mediation Board, transmitting the FY 2003 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6152. A letter from the Chairman, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6153. A letter from the Chairman, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6154. A letter from the Chairman, National Transportation Safety Board, transmitting the FY 2003 annual report under the Federal Managers' Financial Integrity Act (FMFIA) of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6155. A letter from the Deputy Director for Admin. & Info. Mgmt., Office of Government Ethics, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6156. A letter from the Director, Office of Transition Administration, Panama Canal Commission, transmitting the FY 2003 annual report under the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6157. A letter from the Director, Peace Corps, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6158. A letter from the Inspector General, Railroad Retirement Board, transmitting the semiannual report on activities of the Office of Inspector General for the period April 1, 2003, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

6159. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on the management controls of the Commission for the fiscal year ending September 30, 2003, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6160. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the Office of Inspector General for the period April 1, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6161. A letter from the Chairman, U.S. International Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

6162. A letter from the Chair, United States Access Board, transmitting the Board's consolidated report for the Inspector General Act and the Federal Fiancial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3) 5 app. #Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform.

6163. A letter from the Chairman, Board of Governors, United States Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6164. A letter from the Chair, Office of the General Counsel, Federal Election Commission, transmitting the Commission's final rule—Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files [Notice 2003–25] received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

6165. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the 1998, 1999, and 2000 annual reports of the Fish and Wildlife Service on the reasonably identifiable expenditures for the conservation of endangered or threatened species by Federal and State agencies, pursuant to 16 U.S.C. 1544; to the Committee on Resources.

6166. A letter from the Secretary, Department of the Interior, transmitting the Final Engineering Report (FER) and incorporated Water Conservation Plan for the Perkins County Rural Water System, pursuant to Public Law 106—136, section 4(b)(2); to the Committee on Resources.

6167. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Kentucky Regulatory Program [KY–245–FOR] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6168. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Indiana Regulatory Program [IN–153–FOR; Administrative Cause No. 02–034R] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6169. A letter from the Principal Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan under the Indian Tribal Judgment Funds Act, 25 U.S.C. 1401 et seq., as amended, for the use and distribution of the Mescalero Apache Tribe judgment funds in Docket 92–403L; to the Committee on Resources.

6170. A letter from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting the Department's final rule—Special Rules Applicable to Public Land Hearings and Appeals (RIN: 1090–AA84) received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6171. A letter from the Chairman, National Indian Gaming Commission, transmitting the Commission's final rule—Amendment of fee regulations (RIN: 3141–AA16) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6172. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Transfer [Docket No. 021122284–2323–02; I.D. 121803C] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6173. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New Jersey [Docket No. 021122284–2323–02; I.D. 121803A] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6174. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Shortraker/Rougheye and Northern Rockfish in the Bering Sea Subarea and "Other Species" in the Bering Sea and Aleutian Islands Mangement Area [Docket No. 031126295–3295–01; I.D. 121703A] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6175. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; North Pacific Halibut and Sablefish IFQ Coast Recovery Program [Docket No. 991207325–0063–02; I.D. 100699A] received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6176. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea subarea [Docket No. 021212307–3037–02; I.D.092603C] received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6177. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Bluefin Tuna Fisheries [I.D. 120903A] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6178. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species: Bluefin Tuna Fisheries [I.D. 122303H] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6179. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area [Docket No. 021212307–3037–02; I.D. 120303A] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6180. A letter from the Assistant Administrator, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Atlantic Shark Management Measures [Docket No. 030721180–3315–02; I.D. 010903D] received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6181. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Area; Interim 2004 Harvest Specifications for Groundfis [Docket No. 031126295–3295–01; I.D. 111703B] received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6182. A letter from the Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan [Docket No. 030221039–3309–04; I.D. 120903E] (RIN: 0648–AQ04) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6183. A letter from the Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 10 [Docket No. 030908224–3325–02; I.D. 080403B] (RIN: 0648–AM23) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6184. A letter from the Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone (EEZ) Off Alaska; Salmon Fisheries off the Coast of Alaska [Docket No. 030314059–3326–03; I.D. 062003A] (RIN: 0648–AQ48) received January 14, 2004, pursuaht to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6185. A letter from the Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; 2004 Fishing Quotas for Atlantic Surfclams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs [Docket No. 031015257–3308–02; I.D. 101603A] (RIN: 0648–AQ79) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6186. A letter from the Deputy Assistant Administrator for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—International Fisheries; Pacific Tuna Fisheries [Docket No.; 031022265–3298–02; I.D. 092203E] (RIN: 0648–AQ93) received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6187. A letter from the Solicitor General, Department of Justice, transmitting Notice that the government will not intervene in Tennessee Student Assistance Corp. v. Hood, S. Ct. No. 02–1606; to the Committee on the Judiciary.

6188. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2002 Annual Report of the National Institute of Justice (NIJ); to the Committee on the Judiciary.

6189. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting the redesignation as "foreign terrorist organizations" pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001; to the Committee on the Judiciary.

6190. A letter from the Acting President and Chief of Sport Performance, Olympic Committee, transmitting the 2002 Annual Report of the United States Olympic Committee; to the Committee on the Judiciary.

6191. A letter from the Chair, Sentencing Commission, transmitting a report responding to the congressional directive on downwards departures in the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, Pub. L. 108–21 (the PROTECT Act); to the Committee on the Judiciary.

6192. A letter from the Architect of the Capitol, transmitting In accordance with Conference Report, H. Rpt. 108-279, "Making Appropriations for the Legislative Branch for the fiscal year 2004, and for other purposes," notification of intent (30 days in advance) to start the eastern portion of the Library of Congress (LOC) tunnel excavation; to the Committee on Transportation and Infrastructure.

6193. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation Change, St. Croix River, Minnesota and Wisconsin [CGD08–02–035] (RIN: 1626–AA09) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6194. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, Miami-Dade County, Florida [CGD07–03–141] (RIN: 1625–AA09) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6195. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Rice Creek, Putnam County, FL [CGD07–03–094] (RIN: 1625–AA09) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6196. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Port Hueneme Harbor, Ventura County, CA [COTP Los Angeles-Long Beach 01–013] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6197. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, MD [CGD05–03–023] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6198. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety/Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland [CGD05–03–204] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6199. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Suisan Bay, Concord, California [COTP San Francisco Bay 03–027] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6200. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lockwood Folly Inlet, NC [CGD05–03–199] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6201. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulf Intracoastal Waterway, Mile 134 West of the Harvey Locks, Louisa, LA [COTP Morgan City-03–011] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6202. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Suisan Bay, Concord, California [COTP San Francisco Bay 03–030] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6203. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Charleston Harbor, Cooper River, SC [COTP Charleston–03–171] (RIN: 1625–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6204. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Renaissance Center, Cobo Hall, North American International Auto Show, Detroit River, Detroit, MI [CGD09–03–289] (RIN: 2115–AA00) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6205. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Rates for Pilotage on the Great Lakes [USCG–2002–11288] (RIN: 1625–AA38) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6206. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Anchorage Grounds; Delaware Bay and River [CGD05–03–195] (RIN: 1625–AA01) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6207. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operations; Inner Harbor Navigation Canal, New Orleans, LA [CGD08–03–030] (RIN: 1625–AA09) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6208. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Mississippi River, Dubuque, Iowa [CGD08–03–048] (RIN: 1625–AA09) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6209. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Validation of merchant mariners' vital information and issuance of Coast Guard Merchant Mariner's Documents (MMDs) [USCG–2003–14500] (RIN: 1625–AA81) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6210. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Deepwater Ports [USCG–1998–3884] (RIN: 1625–AA20) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6211. A letter from the Secretary, Department of Transportation, transmitting a report on the results of a study on the effects of Motor Carrier Safety Assistance Program (MCSAP) grant reductions, pursuant to Public Law 105—178, section 4032; to the Committee on Transportation and Infrastructure.

6212. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 301, –321, –322, –341, and –342 Airplanes [Docket No. 2001–NM–353–AD; Amendment 39–13341; AD 2003–21–06] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6213. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Manokotak, AK [Docket No. FAA–2003–16083; Airspace Docket No. 03–AAL–19] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6214. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS332C, C1, L, L1, AS350B, BA, B1, B2, B3 and D, and AS355E, F, F1, F2 and N Helicopters [Docket No. 2003–SW–15–AD; Amendment 39–13384; AD 2003–25–01] (RIN: 2120–AA64) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6215. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007A1, AE 3007A1/1, AE 3007A1/3, AE 3007A3, AE 3007 A1E, and AE 3007A1P Turbofan Engines [Docket No. 2003–NE–19–AD; Amendment 39–13391; AD 2003–25–08] (RIN: 2120–AA64) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6216. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; York, PA; Correction [Docket No. FAA-2003-16291; Airspace Docket No. 03–AEA–08] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6217. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Gettysburg, PA; Correction [Docket No. FAA–2003–15228; Airspace Docket No. 03-AEA-04] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6218. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Charlottesville, VA; Correction [Docket No. FAA-2003-15789; Airspace Docket No. 03-AEA-09] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6219. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; New York, NY [Docket No. FAA-2003-16180; Airspace Docket No. 03–AEA–14] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6220. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; New York, and New Jersey [Docket No. FAA-2003-16614; Airspace Docket No. 03–AEA–17] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6221. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Mentasta Lake/Mountains Area, AK [Docket No. FAA–2003–16075; Airspace Docket No. 03–AAL–18] received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6222. A letter from the Secretary, Department of Transportation, transmitting the Federal Transit Administration's Study and Report to Congress: Applicability of Maximum Axle Weight Limitations to Over-the-Road and Public Transit Buses, submitted pursuant to Section 339 of Senate Report No. 107–38 regarding the Department of Transportation's appropriations for FY 2002; to the Committee on Transportation and Infrastructure.

6223. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Hazardous Liquid Pipeline Operator Annual Reports [Docket No. RSPA–01–9832; Amdt. 195-80] (RIN: 2137-AD59) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6224. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's final rule—Computer Reservations System (CRS) Regulations [Dockets Nos. OST–97–2881, OST–97–3014, OST–98–4775, and OST-99-5888] (RIN: 2105-AC65) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6225. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Greenfield, IA [Docket No. FAA–2003–16504; Airspace Docket No. 03–ACE–88] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6226. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace, Kingman, KS [Docket No. FAA-2003-16081-; Airspace Docket No. 03–ACE–73] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6227. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Great Bend, KS [Docket No. FAA-2003-16080; Airspace Docket No. 03–ACE–72] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6228. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class D and E Airpsace; Ormond Beach, FL [Docket No. FAA-2003-15466; Airpsace Docket No. 03–ASO–9] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6229. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Cherokee, IA [Docket No. FAA-2003-16505; Airspace Docket No. 03–ACE–89] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6230. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Aging Airplane Safety [Docket No. 1999–5401; Amendment No. 135–92] (RIN: 2120–AE42) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6231. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Winterset, IA [Docket No. FAA–2003–16503; Airspace Docket No. 03–ACE–87] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6232. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Gettysburg, PA [Docket No. FAA-2003-15228; Airspace Docket No. 03–AEA–04] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6233. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Minot, ND [Docket No. FAA-2003-16057; Airspace Docket No. 03–AGL–07] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6234. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; New Richmond, WI [Docket No. FAA-2003-16056; Airspace Docket No. 03–AGL–08] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6235. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT9D–3A, –7, –7A, –7F, –7H, –7AH, and –7J Turbofan Engines [Docket No. 2003-NE-52-AD; Amendment 39-13381; AD 2003-24-12] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6236. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-31, PA-31-300, PA-31-325, PA–31–350, PA–31P, PA–31T, PA–31T1, PA-31T2, PA-31T3, and PA-31P-350 Airplanes [Docket No. 2003–CE–03–AD; Amendment 39–13376; AD 2003-24-07] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6237. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model EC120B Helicopters [Docket No. 2003–SW–07–AD; Amendment 39–13358; AD 2003–22–10] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6238. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model 369A, H, HE, HM, HS, D, and E Helicopters [Docket No. 2003-SW-16-AD; Amendment 39–13370; AD 2003–24–01] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6239. A letter from the Program Analyst, FAA, Department' of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt . & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 Turbofan Engines [Docket No. 2003-NE-40-AD; Amendment 39-13357; AD 2003-22-09] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6240. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc Trent 556-61 Turbofan Engines [Docket No. 2003-NE–42–AD; Amendment 39–13349; AD 2003–22–02] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6241. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N Helicopters [Docket No. 2003–SW–18–AD; Amendment 39–13359; AD 2003–22–11] (RIN: 1220–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6242. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc Trent 768-60 and Trent 772-60 Turbofan Engines

[Docket No. 2003–NE–37–AD; Amendment 39–13350; AD 2003–22–03] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6243. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N Helicopters [Docket No. 2000–SW–12–AD; Amendment 39–13354; AD 2003–22–06] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6244. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hartzell Propeller Inc. Model HC–A6A–3 Series Propellers. [Docket No. 2003–NE–47–AD; Amendment 39–13352; AD 2003–22–05] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6245. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes [Docket No. 2003–CE–22–AD; Amendment 39–13355; AD 2003–22–07] (RIN: 2120–AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6246. A letter from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Hazardous Materials Regulations; Compatibility with the Regulations of the International Atomic Energy Agency [Docket No. RSPA–99–6283(HM–230)] (RIN: 2137–AD40) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6247. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Notice of Request for Initial Proposals (IPs) for Projects to be Funded from the Water Quality Cooperative Agreement Allocation (CFDA 66.463—Water Quality Cooperative Agreements)—received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6248. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Effluent Limitations Guidelines, Pretreatment Standards, and New Sources Performance Standards for the Centralized Waste Treatment Point Source Category [FRL–7601–3] (RIN: 2040–AD95) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6249. A letter from the Chair, Barry Goldwater Scholarship and Excellence in Education Foundation, transmitting the annual report of the activities of the Goldwater Foundation, pursuant to 20 U.S.C. 4710(b); to the Committee on Science.

6250. A letter from the Secretary, Department of Health and Human Services, transmitting the interim report on the Implementation of the Performance-Based Incentive System, submitted in compliance with Section 201 of the Child Support Performance and Incentive Act of 1998 (CSPIA); to the Committee on Ways and Means.

6251. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a semi-annual report concerning emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan, as required by Sections 402 and 409 of the 1974 Trade Act, as amended; to the Committee on Ways and Means.

6252. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2004–3] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6253. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group [TD 9098] (RIN: 1545–BC77) received December 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6254. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Hedging Transactions—received December 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6255. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Disclosure of Relative Values of Optional Forms of Benefit [TD 9099] (RIN: 1545–BA78) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6256. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004–2) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6257. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2004–9) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6258. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2004–10) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6259. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Guidance Necessary to Facilitate Business Electronic Filing [TD 9100] (RIN: 154–BC62) received December 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6260. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Interpretation of Section 301.6109(d)(3)(ii) of the Procedures and Administration Regulations [Notice 2004–1] received December 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6261. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Information Statements for Certain Substitute Payments [TD 9103] (RIN: 1545–BC97) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6262. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Awards of attorney's fees and other costs based upon qualified offers [TD 9106] (RIN: 1545–AW99) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6263. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Confidential Transactions [TD 9108] (RIN: 1545–BC76) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6264. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Information Reporting Relating to Taxable Stock Transactions [TD 9101] (RIN: 1545–BC79) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6265. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Establishing Defenses to the Imposition of the Accuracy-Related Penalty [TD 9109] (RIN: 1545–AY97) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6266. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Political Organizations (Rev. Rul. 2004–6) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6267. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous [Notice 2004–2] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6268. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income; Collection of Overdue Program and Administrative Debts Using Administrative Wage Garnishment (RIN: 0960–AE92) received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6269. A letter from the Chairman, Advisory Panel to Assess Domestic Response Capabilities For Terrorism Involving Weapons of Mass Destruction, transmitting the Panel's fifth annual report entitled, "America's New Normalcy"; jointly to the Committees on Armed Services and Transportation and Infrastructure.

6270. A letter from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program: Changes to Medicare Payment for Drugs and Physician Fee Schedule Payments for Calendar Year 2004 [CMS–1372–IFC] (RIN: 0938–AM97) received December 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

6271. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report entitled, "Suspension of Limitations Under the Jerusalem Embassy Act" (Presidential Determination No. 2004–12), pursuant to Public Law 104–45, section 6 (109 Stat. 400); jointly to the Committees on International Relations and Appropriations.

6272. A letter from the Chair, Office of Compliance, transmitting a Notice for publication in the Congressional Record withdrawing notice of proposed substantive rule making, and advance notice of proposed rule making, pursuant to 2 U.S.C. 1384(b), 2 U.S.C. 1316a(4); jointly to the Committees on House Administration and Education and the Workforce.

6273. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to Section 428 of the Homeland Security Act of 2002, a report of the status of implementation of that section of the law, which related to the Department of State and Department of Homeland Security's joint role in the visa process; jointly to the Committees on the Judiciary and Homeland Security (Select).

6274. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's appeal letter to OMB regarding the initial determination of the FY 2005 budget request, pursuant to 49 U.S.C. 1113; jointly to the Committees on Transportation and Infrastructure and Appropriations.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ANDREWS (for himself and Ms. Jackson-Lee of Texas):

H.R. 3701. A bill to amend the Immigration and Nationality Act to extend the provisions governing nonimmigrant status for spouses and children of permanent resident aliens awaiting the availability of an immigrant visa, and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN:

H.R. 3702. A bill to amend title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide additional beneficiary protections; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY:

H.R. 3703. A bill to protect the civil rights of victims of gender-motivated violence and to promote public safety, health, and regulate activities affecting interstate commerce by creating employer liability for negligent conduct that results in an individual's committing a gender-motivated crime of violence against another individual on premises controlled by the employer; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McMINNIS:

H.R. 3704. A bill to amend the Internal Revenue Code of 1986 to repeal the 7.5 percent threshold on the deduction for medical expenses and to allow that deduction to taxpayers whether or not they itemize deductions; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California:

H.R. 3705. A bill to amend the Federal Meat Inspection Act to enhance the safety of beef and beef food products originating in the United States by requiring the testing of cattle for bovine spongiform encephalopathy (commonly known as mad cow disease) at the time of slaughter, and for other purposes; to the Committee on Agriculture.

By Mr. GEORGE MILLER of California:

H.R. 3706. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes; to the Committee on Resources.

By Mr. MOORE (for himself, Mrs. Emerson, Mr. Davis of Florida, Mr. Burton of Indiana, Mr. Emanuel, and Mr. Wamp):

H.R. 3707. A bill to amend title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate fair prices for Medicare prescription drugs on behalf of Medicare beneficiaries; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PITTS (for himself, Mr. English, Mr. Paul, Mr. Tancredo, and Mr. Crowley):

H.R. 3708. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kazakhstan; to the Committee on Ways and Means.

By Mr. ROHRABACHER:

H.R. 3709. A bill to restore the Federal electoral rights of the residents of the District of Columbia, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEXLER:

H.R. 3710. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs; to the Committee on Energy and Commerce.

By Mr. WEXLER (for himself, Mr. Frank of Massachusetts, Mr. Owens, and Mr. Jefferson):

H.R. 3711. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) to eliminate the comparative cost adjustment program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS (for himself, Mr. McCotter, Mr. Cox, Mr. Crane, Mr. Tancredo, Mr. Pickering, Mr. Gallegly, Mr. Cannon, Mr. Pence, Mr. Doolittle, Mr. Dreier, Mr. Foley, Mr. Rehberg, Mr. Manzullo, Mr. Rohrabacher, Mr. Bonner, Mr. Wamp, Mr. Oxley, Mr. Miller of Florida, Mr. Rogers of Michigan, Mr. Weldon of Pennsylvania, Mr. Cole, Mr. Wilson of South Carolina, Mr. Souder, Mr. Calvert, Mr. Otter, Mr. Reynolds, Ms. Ros-Lehtinen, Mr. Toomey, Mr. Kingston, Mr. Lewis of California, Mrs. Blackburn, Mr. Simpson, Mr. Peterson of Pennsylvania, Mr. Sensenbrenner, Mr. Gutknecht, Mr. Akin, Mr. DeMint, Mr. King of Iowa, Ms. Hart, Mr. Porter, Mr. Cantor, Mr. Bartlett of Maryland, Mr. Johnson of Illinois, Mr. Pombo, Mr. Rogers of Alabama, Mr. Chocola, Mr. Bachus, Mrs. Myrick, Mr. Gary G. Miller of California, Mr. Turner of Ohio, Mrs. Cubin, Mr. Herger, Mr. Vitter, Mr. Carter, Mr. Issa, Mr. Norwood, Mr. Terry, Mr. Boehner, Mr. Green of Wisconsin, Mr. Fossella, Mr. Weldon of Florida, Mr. Brown of South Carolina, Mr. Hayworth, Mr. Collins, Mr. Sweeney, Mr. Graves, Mr. Beauprez, Mr. Ballenger, and Mr. Wolf):

H.J. Res. 84. A joint resolution recognizing the 93d birthday of Ronald Reagan; to the Committee on Government Reform.

By Mr. MICHAUD:

H.J. Res. 85. A joint resolution proposing an amendment to the Constitution of the United States relating to the maintenance of a system of social insurance that provides Social Security for its citizens; to the Committee on the Judiciary.

By Mr. COSTELLO (for himself, Mr. Hastert, Ms. Schakowsky, Mr. Shimkus, Mr. Manzullo, Mr. Jackson of Illinois, Mr. Johnson of Illinois, Mr. Evans, Mr. Emanuel, Mr. Crane, Mr. Kirk, Mr. LaHood, Mr. Lipinski, Mr. Davis of Illinois, Mr. Gutierrez, Mr. Stenholm, Mr. Davis of Alabama, Mr. Acevedo-Vilá, Mrs. Christensen, Mr. Waxman, Mr. Levin, Ms. DeLauro, Mr. Payne, Mr. Norwood, Mr. Kucinich, Mr. Hastings of Florida, Mr. McGovern, Mr. Foley, Mr. Snyder, Mr. Clay, Ms. Kilpatrick, Mr. Skelton, Ms. McCarthy of Missouri, Mr. Hinchey, Ms. Bordallo, Mr. Serrano, Ms. Carson of Indiana, Mr. Towns, Mr. Farr, Mr. Lantos, Ms. Kaptur, Mr. Gallegly, Mr. Frost, Mr. Udall of Colorado, Mr. Tanner, Mr. Petri, Mr. Houghton, Mr. Wolf, and Mr. Oberstar):

H. Res. 489. A resolution stating the agreement of the House of Representatives with the sentiment expressed by the Senate in Senate Resolution 281; to the Committee on House Administration.

By Mr. DREIER (for himself, Mr. Schiff, Mr. Rohrabacher, Mr. Gordon, Mr. Boehlert, Mr. Lampson, Mr. Walsh, Mr. Mollohan, Mr. Feeney, Mr. McDermott, Ms. Jackson-Lee of Texas, Mr. Costello, Ms. Lofgren, Mr. Moran of Virginia, Mr. Ehlers, Mr. Holt, Mr. Culberson, Mr. Alexander, Mr. Calvert, Mr. Berman, Mrs. Capps, Mr. Udall of Colorado, Mrs. Jones of Ohio, Mrs. Tauscher, Ms. Harman, Mr. Hinchey, Mr. Sherman, Mr. Bilirakis, and Ms. Roybal-Allard):

H. Res. 490. A resolution recognizing and commending the achievements of the National Aeronautics and Space Administration, the Jet Propulsion Laboratory, and Cornell University in conducting the Mars Exploration Rover mission, and recognizing the importance of space exploration; to the Committee on Science.

By Mr. OSBORNE (for himself, Mr. Boehner, Mr. Petri, Mr. McKeon, Mr. Platts, Mr. Keller, Mrs. Davis of California, Ms. McCollum, Mr. Owens, Mr. Schiff, Mr. Bereuter, Mr. Waxman, Mrs. Jones of Ohio, Mr. Crenshaw, Mr. Carson of Oklahoma, Mr. LaHood, Mr. Terry, and Mr. King of Iowa):

H. Res. 491. A resolution honoring individuals who are mentors and supporting efforts to recruit more mentors; to the Committee on Education and the Workforce.

By Mr. VITTER (for himself, Mr. BOEHNER, Mr. HOEKSTRA, Mr. CASTLE, Mr. TIBERI, Mr. GINGREY, Mr. FOLEY, Mr. KING of New York, Mr. HAYWORTH, Mr. KENNEDY of Minnesota, Mr. BAKER, Ms. ESHOO, Mr. LANTOS, Mr. BACHUS, Mr. MCCOTTER, Mr. MURPHY, Ms. KAPTUR, Mr. PASCRELL, Mr. NUSSLE, and Mr. BISHOP of New York):

H. Res. 492. A resolution honoring the contributions of Catholic schools; to the Committee on Education and the Workforce.

By Mr. KENNEDY of Minnesota (for himself, Mr. KLINE, Mr. SABO, Mr. GUTKNECHT, Mr. OBERSTAR, Mr. RAMSTAD, and Mr. PETERSON of Minnesota):

H. Res. 493. A resolution congratulating the St. John's University, Collegeville, Minnesota, football team on winning the 2003 NCAA Division III Football National Championship; to the Committee on Education and the Workforce.

By Mr. LEACH:

H. Res. 494. A resolution to create a select committee to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism; to the Committee on Rules.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

240. The SPEAKER presented a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution No. 103 memorializing the United States Congress to improve the enforcement of food import restrictions on seafood imports; to the Committee on Agriculture.

241. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 520 expressing its support for the National Defense Authorization Act for FY 2004 (H.R. 1588) and the protections it confers on certain noncitizen military personnel; to the Committee on Armed Services.

242. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 183 memorializing the United States Congress to amend the Fair Credit Reporting Act to provide that the statute of limitations for an identity theft suit is two years from the time the fraud was discovered; to the Committee on Financial Services.

243. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 8 encouraging the International Joint Commission to maintain its participation in developing feasible and defensible strategies and policies that protect the Great Lakes waters from out-of-basin diversions and to continue to support the Annex 2001 process; to the Committee on International Relations.

244. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 510 the House of Representative of the Commonwealth of Pennsylvania urging the President and Congress of the United States to enact legislation reenacting the Abandoned Mine Reclamation Fund; to the Committee on Resources.

245. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Joint Resolution 2 memorializing the Congress of the United States to provide for the ratification of the Fourteenth Amendment to the United States Constitution to guarantee equal protection and due process to all persons born or naturalized in the United States; to the Committee on the Judiciary.

246. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 136 memorializing the United States Congress to enact legislation to grant a federal charter to the Korean War Veterans Association; to the Committee on the Judiciary.

247. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 187 memorializing the United States Congress to enact legislation to grant a federal charter to the Korean War Veterans Association; to the Committee on the Judiciary.

248. Also, a memorial of the Legislature of the State of New Jersey, relative to Senate Joint Resolution No. 16 revoking Joint Resolution No. IV of 1868 which attempted to withdraw New Jersey's ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

249. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 186 memorializing the United States Congress to enact legislation to prohibit the use of a person's Social Security number as an identification number beyond its original purpose; to the Committee on Ways and Means.

250. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 514 the House of Representative of the Commonwealth of Pennsylvania urging the President and the Congress of the United States to continue to support the revitalization of the American steel industry by reinstating the steel tariffs under Section 201 of the Trade act of 1974 or providing support to the steel industry for the entire three-year duration regardless of the World Trade Organization's November 10, 2003 ruling; to the Committee on Ways and Means.

251. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 486 of the House of Representatives of the Commonwealth of Pennsylvania memorializing the President and the Congress of the United States to support efforts to increase LIHEAP funding over last year's funding; jointly to the Committees on Energy and Commerce and Education and the Workforce.

252. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 141 memorializing the United States Congress to enact the Great Lakes environmental restoration act; jointly to the Committees on Transportation and Infrastructure and Resources.

253. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 182 memorializing the United States Congress to enact legislation to provide greater protections against identity theft; jointly to the Committees on Ways and Means and Financial Services.

254. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 182 memorializing the United States Congress to enact measures that support venture capital activities in Michigan; jointly to the Committees on Ways and Means and Small Business.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. CUMMINGS.

H.R. 218: Mr. DAVIS of Alabama, Mr. JEFFERSON, and Mr. KLINE.

H.R. 284: Mr. GILLMOR, Mrs. NAPOLITANO, and Mr. CANNON.

H.R. 299: Mr. REYNOLDS.

H.R. 328: Mr. CUMMINGS.

H.R. 378: Mr. LUCAS of Kentucky.

H.R. 527: Mr. SOUDER.

H.R. 548: Mr. CLYBURN.

H.R. 583: Mrs. MILLER of Michigan.

H.R. 594: Mr. LEWIS of Georgia, Mr. KIRK, Mr. YOUNG of Florida, Mr. MEEK of Florida, Mr. GOODLATTE, Mr. WEINER, and Mr. FATTAH.

H.R. 623: Mr. CUMMINGS.

H.R. 645: Mr. SIMMONS.

H.R. 677: Mr. STARK.

H.R. 687: Mr. GERLACH and Mr. FOSSELLA.

H.R. 713: Mr. BELL, Mrs. MILLER of Michigan, Mr. TURNER of Texas, Mr. INSLEE, and Mr. LAHOOD.

H.R. 716: Mr. HOLT.

H.R. 717: Mr. GRIJALVA.

H.R. 745: Mr. RAHALL.

H.R. 776: Mr. SHAYS and Mr. OWENS.

H.R. 886: Mr. LEVIN.

H.R. 898: Mr. LINCOLN DIAZ-BALART of Florida and Mr. MARIO DIAZ-BALART of Florida.

H.R. 970: Mr. MCINTYRE and Mr. KENNEDY of Minnesota.

H.R. 972: Mr. MCHUGH.

H.R. 1029: Mr. MEEHAN, Mr. OWENS, and Mr. STARK.

H.R. 1043: Mr. GILCHREST and Mr. BARTLETT of Maryland.

H.R. 1061: Mr. DOOLEY of California.

H.R. 1111: Mr. SIMPSON.

H.R. 1117: Mr. HEFLEY and Mr. PITTS.

H.R. 1160: Mr. THOMPSON of Mississippi and Mr. HOEFFEL.

H.R. 1179: Mr. SMITH of Washington.

H.R. 1191: Mr. LYNCH.

H.R. 1196: Ms. HOOLEY of Oregon.

H.R. 1205: Mr. MCGOVERN and Ms. BORDALLO.

H.R. 1206: Mr. OTTER.

H.R. 1214: Ms. MCCARTHY of Missouri and Mr. QUINN.

H.R. 1258: Mrs. MALONEY, Mr. WEINER, and Mr. MEEHAN.

H.R. 1268: Mr. MCINTYRE and Mr. SHAYS.

H.R. 1285: Mr. SMITH of Washington, Mr. ABERCROMBIE, Mr. BROWN of Ohio, Ms. DELAURO, Mr. LARSON of Connecticut, Mr. MENENDEZ, Mr. PALLONE, and Mr. SPRATT.

H.R. 1321: Mr. FILNER.

H.R. 1345: Mr. GEORGE MILLER of California, Mr. BLUMENAUER, Mr. MARKEY, and Mr. HOLDEN.

H.R. 1349: Mr. LANTOS.

H.R. 1359: Mr. MURPHY, Mr. CUMMINGS, and Mr. RAMSTAD.

H.R. 1385: Mr. LOBIONDO and Mr. TAYLOR of North Carolina.

H.R. 1414: Mr. ALLEN.

H.R. 1434: Mr. WYNN, Mr. BLUMENAUER, and Mr. ABERCROMBIE.

H.R. 1472: Mr. VISCLOSKY.

H.R. 1508: Mr. MOORE.

H.R. 1626: Mr. HERGER.

H.R. 1628: Mr. KIND.

H.R. 1695: Ms. SCHAKOWSKY.

H.R. 1700: Mr. HASTINGS of Florida, Mr. WEINER, Mr. CUMMINGS, Mr. OWENS, and Ms. BORDALLO.

H.R. 1708: Mr. SCHROCK.

H.R. 1713: Mr. HINOJOSA.

H.R. 1863: Ms. KAPTUR and Mr. NORWOOD.

H.R. 1873: Mr. SHUSTER, Mr. SULLIVAN, and Mr. TURNER of Ohio.

H.R. 1874: Ms. HOOLEY of Oregon.

H.R. 1943: Mr. WAMP.

H.R. 2038: Mr. RUPPERSBERGER.

H.R. 2079: Mr. GUTKNECHT.

H.R. 2192: Mr. ANDREWS.

H.R. 2213: Ms. ESHOO.

H.R. 2217: Mr. STUPAK and Mr. CUMMINGS.

H.R. 2239: Mr. TURNER of Texas, Mr. WAXMAN, Ms. NORTON, Mr. RYAN of Ohio, Mr. PETRI, Mr. MCNULTY, Mr. CARDOZA, Mr. STENHOLM, Mr. WILSON of South Carolina, Mr. RANGEL, Mr. SHERMAN, Mr. PASCRELL, and Mr. SABO.

H.R. 2295: Ms. MILLENDER-MCDONALD.

H.R. 2318: Mr. SCHIFF and Ms. KILPATRICK.

H.R. 2323: Mr. FROST and Mr. PAYNE.

H.R. 2379: Mr. KIND.

H.R. 2391: Mr. HYDE.

H.R. 2404: Mr. MEEHAN, Mr. ENGEL, Mr. OWENS, Mr. HERGER, and Mr. ENGLISH.

H.R. 2440: Mr. SULLIVAN.

H.R. 2527: Mr. HOLT and Mr. SIMMONS.

H.R. 2626: Mr. SPRATT.

H.R. 2664: Mr. ANDREWS.

H.R. 2665: Mrs. MILLER of Michigan and Mr. DEFAZIO.

H.R. 2727: Mr. WEINER.

H.R. 2759: Ms. BALDWIN.

H.R. 2768: Mr. WAMP, Mr. MILLER of North Carolina, Mr. SANDLIN, Mr. EDWARDS, Mr. ETHERIDGE, Mr. HAYES, Mr. HOLDEN, Mr. GUTIERREZ, Mr. CRAMER, Mr. ABERCROMBIE, Mr. CASTLE, Mr. DAVIS of Illinois, Mr. EVANS, Mr. HILL, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. KAPTUR, Ms. LEE, Mr. SHERMAN, Ms. MILLENDER-MCDONALD, Mr. BRADLEY of New Hampshire, Mr. OWENS, Mr. KLECZKA, Mr. PRICE of North Carolina, Mr. RUSH, Mr. GRIJALVA, Mr. HASTINGS of Florida, Ms. CORRINE BROWN of Florida, Mr. YOUNG of Alaska, and Mr. CARDOZA.

H.R. 2823: Mr. MATHESON, Mr. PLATTS, Mr. GORDON, Mr. WEINER, Mr. RUPPERSBERGER, Mr. HERGER, and Mr. MCDERMOTT.

H.R. 2832: Mr. HILL.

H.R. 2853: Mr. MARKEY.

H.R. 2945: Ms. SCHAKOWSKY, Mr. FARR, and Mr. MCGOVERN.

H.R. 3015: Mrs. BIGGERT.

H.R. 3048: Mr. WEINER.

H.R. 3069: Mrs. MUSGRAVE and Mr. LAHOOD.

H.R. 3085: Mr. FATTAH, Mr. ANDREWS, and Mr. DAVIS of Illinois.

H.R. 3111: Mr. ALLEN, Mr. LANTOS, Mr. BERMAN, Mr. SCHIFF, Mr. WAXMAN, Mr. MATSUI, Mr. SHERMAN, and Mr. TERRY.

H.R. 3139: Mr. BELL and Mrs. JONES of Ohio.

H.R. 3178: Mr. WEINER, Mr. MCCOTTER, and Mr. HINCHEY.

H.R. 3184: Mr. VAN HOLLEN.

H.R. 3190: Mr. JONES of North Carolina, Mr. TIBERI, Mr. DEAL of Georgia, Mr. OTTER, Mrs. BLACKBURN, Mr. VITTER, Mr. RAHALL, Mr. CARTER, and Mr. PLATTS.

H.R. 3194: Mr. GRIJALVA and Mr. TERRY.

H.R. 3204: Mr. FATTAH, Mr. OLVER, Mr. GUTIERREZ, Mr. CROWLEY, Ms. HOOLEY of Oregon, and Mrs. MALONEY.

H.R. 3270: Mr. SIMMONS.

H.R. 3352: Mr. DEFAZIO and Mr. STARK.

H.R. 3359: Mr. VISCLOSKY.

H.R. 3362: Mr. CUMMINGS.

H.R. 3416: Mr. FROST and Mr. BROWN of Ohio.

H.R. 3424: Mr. FROST, Mr. ACEVEDO-VILÁ, Mr. MICHAUD, Mr. SNYDER, and Mr. GUTIERREZ.

H.R. 3425: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FROST, Mr. ACEVEDO-VILÁ, Ms. MCCOLLUM, Mr. MICHAUD, and Mr. OWENS.

H.R. 3429: Mr. SIMMONS, Mr. ROGERS of Michigan, Mr. CRANE, and Mr. MANZULLO.

H.R. 3432: Ms. LINDA T. SÁNCHEZ of California.

H.R. 3473: Mrs. NAPOLITANO, Mrs. BIGGERT, Mr. TURNER of Ohio, Mr. GILCHREST, Mr. COBLE, Mr. ALLEN, Mr. KIND, Mr. EVERETT, and Mr. MEEKS of New York.

H.R. 3474: Mr. TURNER of Ohio, Mr. CONYERS, Mr. MCINTYRE, Mr. BALLANCE, Mr. SMITH of Washington, Mrs. EMERSON, Mr. TOWNS, Mr. LUCAS of Kentucky, Mr. GOODE, Mr. WAMP, Mr. OWENS, Mr. PRICE of North Carolina, Mr. EMANUEL, Mr. DEUTSCH, Mr. WU, Mr. THOMPSON of California, Mr. KIND, Mr. ROSS, Mr. HAYES, Mr. PICKERING, Mr. WEXLER, Mr. WICKER, Mr. BACA, Mrs. WILSON of New Mexico, Mr. HASTINGS of Florida, Mr. WEINER, Mr. SERRANO, Mrs. CAPITO, Mr. MICHAUD, Ms. KILPATRICK, Mr. MEEKS of New York, Ms. KAPTUR, Ms. SLAUGHTER, Ms. SCHAKOWSKY, Mr. PEARCE, Mr. FRANKS of Arizona, and Mr. OBERSTAR.

H.R. 3484: Ms. SCHAKOWSKY.

H.R. 3488: Mr. FILNER.

H.R. 3492: Mrs. MUSGRAVE.

H.R. 3539: Mr. OWENS.

H.R. 3550: Mr. RUSH, Mr. ENGEL, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. WU, Mr. GRIJALVA, Mr. ALEXANDER, Mr. EMANUEL, and Mr. FRANK of Massachusetts.

H.R. 3582: Mr. SMITH of Washington and Mr. OWENS.

H.R. 3632: Mrs. BLACKBURN.

H.R. 3643: Mr. ROTHMAN.

H.R. 3676: Mr. SPRATT, Mr. MARKEY, Mr. BAIRD, and Mr. WEXLER.

H.R. 3677: Mr. BROWN of Ohio, Mr. CASE, and Mr. FROST.

H.R. 3688: Mr. TURNER of Texas.

H.J. Res. 22: Mr. RUPPERSBERGER.

H.J. Res. 38: Mr. BROWN of South Carolina.

H.J. Res. 62: Ms. ROS-LEHTINEN.

H. Con. Res. 3: Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. SNYDER, Mr. FROST, Mr. GRIJALVA, Mr. BISHOP of Georgia, Mr. SANDERS, Ms. KILPATRICK, Mr. CUMMINGS, Mr. RANGEL, Mrs. EMERSON, and Mr. OWENS.

H. Con. Res. 87: Mr. RADANOVICH.

H. Con. Res. 182: Ms. LINDA T. SÁNCHEZ of California.

H. Con. Res. 218: Mr. WELDON of Florida, Mr. ROTHMAN, and Mr. PALLONE.

H. Con. Res. 226: Mr. GEORGE MILLER of California, Ms. NORTON, and Mrs. NAPOLITANO.

H. Con. Res. 247: Mr. CALVERT, Mr. PAYNE, Mr. GRIJALVA, Mr. WEINER, and Mr. ALLEN.

H. Con. Res. 275: Mr. WEINER.

H. Con. Res. 298: Mr. DEAL of Georgia, Mr. PETRI, Mr. MANZULLO, Mr. DAVIS of Tennessee, Mr. JENKINS, and Mr. HAYWORTH.

H. Con. Res. 332: Mr. WEXLER, Mr. FROST, Mr. BRADLEY of New Hampshire, Mr. GORDON, and Mr. WEINER.

H. Con. Res. 343: Mr. MEEHAN, Mr. WEINER, Mr. COSTELLO, Mr. KLECZKA, Mr. SABO, Mr. DOOLEY of California, Mr. SCHIFF, Mr. STUPAK, Mr. PALLONE, Mr. GREEN of Texas, Mr. ROTHMAN, Ms. BERKLEY, Mr. WAXMAN, Mr. INSLEE, Mr. CUMMINGS, Mr. SPRATT, and Mr. BERMAN.

H. Res. 38: Ms. SCHAKOWSKY.

H. Res. 103: Mr. ANDREWS, Mr. OLVER, and Mr. DAVIS of Tennessee.

H. Res. 320: Ms. WATERS.

H. Res. 363: Ms. PELOSI.

H. Res. 419: Mr. RYAN of Ohio.

H. Res. 461: Mr. HOEFFEL.

H. Res. 466: Mr. SMITH of New Jersey, Mr. CARDOZA, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. SHIMKUS, Mr. PAYNE, Mr. FARR, and Mr. OWENS.

## PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

51. The SPEAKER presented a petition of the Common Council of the City of Buffalo, New York, relative to resolution No. 3 petitioning the Department of Strategic Planning to release all Year 29 Community Development Block Grant funds; to the Committee on Financial Services.

52. Also, a petition of James J. Kearney, Plantation, Florida, relative to a notice of fraud and demand for redress; to the Committee on Ways and Means.

# EXTENSIONS OF REMARKS

## HONORING UNION COUNTY SHERIFF KEN JONES

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. ROSS. Mr. Speaker, I would like to take this time to recognize Sheriff Ken Jones of Union County for his continued dedication and service to the community. I congratulate him on the 2003 Director's Award from the Federal Bureau of Investigation for his exemplary job in drug and violence prevention.

To the people of Union County and the rest of our state, Sheriff Jones is known as a truly selfless public servant. His experience in law enforcement spans more than 20 years as a deputy sheriff, Arkansas Highway Patrolman, Director of the 13th Judicial Drug Task Force, and now sheriff. His energy and dedication have earned him numerous accolades and honors in the past and ensure his continued success in the noble fight against crime.

Throughout his career, he has truly personified the mission of the Union County Sheriff's Department to "protect the lives and property of all Union County citizens and serve in the most courteous and professional manner possible." In doing so, he has continued to develop and implement many new changes in the sheriff's office, including the modernization of the Sheriff's Office. These efforts have allowed him to better serve the people of Union County and to keep his commitment to keep our communities, schools and families safer for us and our loved ones.

Sheriff Jones has distinguished himself through a sustained commitment to his community. His character is an example of the values we, as parents, teachers, community members, and legislators, hope to instill in our next generation.

Mr. Speaker, I again extend my sincerest congratulations to Sheriff Jones on this distinguished award. I am honored to serve as his Representative in the United States Congress.

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## A PROCLAMATION RECOGNIZING THE RETIREMENT OF KAYE FORBES

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Kaye Forbes has served the Bayer Employees' Federal Credit Union for 32 years; and

Whereas, Kaye Forbes has been a loyal leader to her co-workers and will continue to be an admired citizen of the community; and

Whereas, Kaye Forbes has served as Vice President of Operations, working to promote the interests of the company and wellbeing of its employees; and

Whereas, Kaye Forbes must be commended for her professionalism and her ability to motivate those around her by establishing a superb example; and

Whereas, Kaye Forbes's dedication and service will be deeply missed.

Therefore, I join with Members of Congress and Congressional staff in celebrating Kaye Forbes's years of service and retirement from Bayer Employees' Federal Credit Union.

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## HONORING GEORGE C. HALE, SR., M.D. AS A GREAT LIVING CINCINNATIAN

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PORTMAN. Mr. Speaker, I rise today to recognize George S. Hale, Sr., M.D., a distinguished constituent, who will be formally honored on February 26, 2004 by the Greater Cincinnati Chamber of Commerce as a Great Living Cincinnatian, one of our region's highest honors. The recipients of this prestigious award are selected on the basis of special professional achievement; an awareness of the needs of others; civic service; leadership; and distinctive accomplishments.

Born on June 3, 1929 in Detroit, Dr. Hale moved to his mother's hometown of Macon, Georgia when he was four. Growing up in Macon, Dr. Hale cites the benevolence of his mother, an aunt and their family's physician as his significant early influences. His mother, Carlena Jordan Hale, was a social worker during the Depression who took Dr. Hale along as she delivered food and clothing to poor families. His aunt, Junia Jordan Fambro, was a dietitian at Fort Valley State College for 44 years. She helped students with food and financial assistance, and was a loving and supportive example to Dr. Hale. The family's physician, Dr. C.W. Dwyer, was also a role model to him.

After attending Bibb County, Georgia public schools and Macon's Ballard High School, Dr. Hale graduated from Talladega College in Alabama. He returned to Macon and taught math and science for two years at Ballard High School. Although he encountered prejudice and the competition to attend medical school was keen, he was accepted into McHenry Medical College in 1952 and became an extern at Cincinnati's Jewish Hospital in 1955. He graduated in 1956, and returned to Jewish Hospital as an intern at a time when, Dr. Hale says, African American physicians had difficulty finding internships. He became a fellow with the University of Cincinnati Department of Metabolism and Endocrinology, then served at the Dover Air Force Base Hospital in Dover, Delaware. After leaving the Air Force, Dr. Hale opened a private practice in internal medicine that he maintains today.

In 1982, Dr. Hale became only the second African American physician to be elected president of Cincinnati's Academy of Medicine. He is also past president of the Cincinnati Chapter of the National Medical Association. Devoted to encouraging and mentoring African American medical students and physicians, Dr. Hale has contributed immeasurably to the quality of life in Cincinnati. A founding member of Health Careers and Cancer Family Care, Dr. Hale has also been active with the American Red Cross; the Child Guidance Home; the Health Foundation of the Greater Cincinnati Academy of Medicine; the Cincinnati Art Museum and the Allen Temple A.M.E. Church. He and his wife, Sarah Hale, received Lighthouse Youth Services' Beacon of Light Humanitarian Award; Urban League's Glorifying the Lions Award; and the National Philanthropy Day Award.

All of us in Greater Cincinnati thank Dr. Hale for his service to our community, and congratulate him on being named a Great Living Cincinnatian.

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## HONORING ELDON LESLIE AND HIS SERVICE TO HIS COMMUNITY

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. GORDON. Mr. Speaker, I rise today to congratulate Eldon Leslie for his nearly four decades of service to the Cookeville Area-Putnam County Chamber of Commerce. Eldon is retiring as the president and chief executive office of the chamber, a position he has held since 1967.

Eldon's career with the chamber has been remarkable. His leadership and vision have played an integral role in bringing 35 new manufacturing facilities to the Middle Tennessee community of Cookeville and Putnam County. His efforts also helped bring a branch of Nashville State Technical Community College to Cookeville, which strengthened the community's higher education component already anchored by Tennessee Technological University.

Eldon established the chamber's highly successful Adopt-A-School program and helped develop the Cookeville/Putnam County Clean Commission, as well. And as a leading proponent of economic development in the region, Eldon conceived of and developed the "4th State of Tennessee" concept, which promotes industrial development along the Highway 111 corridor.

Through the years, Eldon has been a dedicated and untiring servant to the community. His efforts have been lauded by many and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

validated through awards too numerous to mention. I salute Eldon for his hard work and contributions that have made Putnam County a better place to live and raise a family. Thanks for a job well done, Eldon, and good luck in your future endeavors.

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## JUNCTION CITY HIGH SCHOOL'S RECORD-SETTING SEASON

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. ROSS. Mr. Speaker, on the afternoon of December 13, 2003, at War Memorial Stadium in Little Rock, the Junction City High School Dragons team made history by capping off a perfect 15–0 season and winning its first Class AA state football championship. It was celebrated by a community, which braved the winter conditions to see the culmination of a record-setting season. This team personifies the spirit of determination and hard work that has always distinguished Arkansans.

As a parent, I understand the demands that our young people face. As members of the community, we are all aware that education is as important as any other issue we face. Each day, our children learn lessons in the classroom that will prepare them for the days and years ahead, and we work hard to see they are given the tools they need to compete and succeed in life. The success of the Junction City High School football program exemplifies how the lessons learned on the field of competitive athletics can often supplement the education learned in our classrooms. I have long been an advocate of athletics and extracurricular activities as those activities broaden academic excellence by instilling leadership, character, and teamwork in its participants.

At a time when our country needs youth leadership more than ever, this team has answered the challenge and set a course that can serve as an example for us all. Along with the school's first-ever championship, the records compiled by this team are truly impressive: An all-time state scoring record, the longest winning streak in school history, and the most wins in school history. It's about more than records or trophies. Championships are won in the heart as much as on the field. The will to overcome adversity, the daily drive to succeed, and the mental toughness to perform under pressure carried these young men during their championship season, and will provide them with a well to draw from throughout their entire lives.

It brings me a great deal of pleasure to again congratulate the Junction City High School football program on their tremendous season and first-ever Class AA High School Football Championship. We all take pride in you and all you have accomplished.

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## A PROCLAMATION RECOGNIZING RITA DUTTON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Rita Dutton has devoted herself to serving the Union Local School District for the past eleven and a half years; and

Whereas, Rita Dutton has served as the President of the Union Local School Board in 1996, 1998, and 2003; and

Whereas, Rita Dutton supported the construction of and served as Board President during the groundbreaking of a new high school and elementary school; and

Whereas, Rita Dutton has given selflessly of her time and talents to improve the quality and facilities of the Union Local School District;

Therefore, I join with the Union Local School District and the entire 18th Congressional District in congratulating Rita Dutton on her retirement from the Union Local School Board.

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## HONORING OLIVER BIRCKHEAD AS A GREAT LIVING CINCINNATIAN

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PORTMAN. Mr. Speaker, I rise today to recognize Oliver Birckhead, a dear friend and constituent, who will be formally honored on February 26, 2003 by the Greater Cincinnati Chamber of Commerce as a Great Living Cincinnatian, one of our region's highest honors. The recipients of this prestigious award are selected on the basis of special professional achievement; an awareness of the needs of others; civic service; leadership; and distinctive accomplishments.

A native of Brooklyn, New York, Mr. Birckhead graduated from Trinity-Pawling School in Pawling, New York; Nichols College in Dudley, Massachusetts; and the Stonier Graduate School of Banking at Rutgers University. Mr. Birckhead says the banking business was really in his blood: his father was the first Supervisor of National Banks in President Taft's administration. In 1937, Mr. Birckhead began his career in the banking business with the Peoples National Bank and Trust Company in White Plains, New York.

After a stint in the U.S. Air Corps, Mr. Birckhead was appointed assistant national bank examiner in the Second District of New York. From 1948 to 1951, he worked for Chemical Bank, then joined Central Trust Company (now PNC Bank) in Cincinnati. At Central Trust, he was elected an officer in 1951 and became executive vice president and director in 1967. In 1968, Mr. Birckhead was involved in the founding of Central Bancorporation and became CEO of its lead bank, The Central Trust Company, a position he held for 17 years. When he became president and later CEO of Central Bancorporation, the company's assets were approximately $500 million; when he retired in 1988, the company's assets were $5.2 billion. When Central Bancorporation merged into PNC the result was a $43 billion regional banking company, and Mr. Birckhead served as vice chairman and director of PNC Bank until he retired in 1989.

Mr. Birckhead's civic accomplishments have touched nearly every facet of Greater Cincinnati. He was a trustee, vice president and executive committee member of the Cincinnati Art Museum, and advisory board member and vice chairman of the Salvation Army. He also served on the boards of the Boy's Club of Cincinnati; the Cincinnati Association for the Blind; and the Cincinnati Council on World Affairs. He has been a leader for Xavier University's Capital Fund Drive; the University of Cincinnati's Annual Business Campaign; the National Conference of Christians and Jews (now the National Conference for Community Justice); the Greater Cincinnati Chamber of Commerce; the Cincinnati Business Committee; and the Statue of Liberty Centennial Commission. With several others, he led the original financing that formed the Cincinnati Bengals.

The recipient of many awards for his community service, Mr. Birckhead was honored by Ohio Governor John Gilligan with the Governor's Award for Community Action and by the Urban League. In 1986, he was presented with the Israel Peace Award by the State of Israel.

He is also devoted to his family, and his wife, Jane, is an active and effective volunteer in Greater Cincinnati. All of us in Greater Cincinnati thank Mr. Birckhead for his service to our community and congratulate him on being named a Great Living Cincinnatian.

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## HONORING THE DISTINGUISHED PUBLIC SERVICE OF TOMMY SANFORD

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. GORDON. Mr. Speaker, I rise today to recognize Tommy Sanford for his 22 years of service as the assessor of property in Rutherford County, Tennessee. Tommy was first elected in 1982, and since then, he has never had an opponent. But he has decided to retire from that position at the end of his current term.

During Tommy's tenure, the number of property parcels in the county has more than doubled, and the appraised value of all county property has increased by more than $10 billion. To keep up with all the work fueled by the county's phenomenal population growth, Tommy's staff has grown from 8 to 33 employees. And he is quick to give his employees credit for the success of his office.

Tommy also organized and supervised the county's reappraisal department and oversaw the implementation of the county's new digitized mapping system. A progressive and dedicated public servant who strives to treat all Rutherford County property owners fairly, he has received more than 40 awards, including the 1989–90 Tennessee's Outstanding County Official.

His unflinching dedication and tireless service to the county will be sorely missed. I congratulate Tommy on his outstanding career in public service and wish him well in his future endeavors.

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## IN LASTING MEMORY OF LOUIS L. RAMSAY, JR.

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. ROSS. Mr. Speaker, I would like to take this time to rise in honor of the life and legacy of Louis L. Ramsay, Jr. who passed away at the age of 85. Louis Ramsay, Jr. was born in 1918 in Fordyce, Arkansas, in rural Dallas County. Through his lifetime, Louis distinguished himself as a husband, father, businessman, and church and community leader. He was a truly selfless public servant and a leader in law and banking who sought to improve the lives of those in the community and state he called home.

Louis led a remarkable life of both energy and dedication and it was readily apparent to those around him. From his days on the playing fields as a University of Arkansas quarterback to his distinguished air combat service over the battlegrounds of World War II, Louis developed a steadfastness, discipline and vision well beyond his years. He carried those traits on to law school and eventually the Arkansas Business Hall of fame.

Whether Louis was working as a lawyer or bank president, or serving his Governor or alma mater, the scope of his involvement is apparent as he holds the distinction of the only individual in state history to serve as president of both the Arkansas Bar Association and the Arkansas Bankers Association.

Although his professional achievements speak volumes, his influence transcends the business community as he continually made a priority of helping others through volunteer service and civic activities. As a member of a small community, I know what men like Louis mean to their neighbors. For Louis, the citizens of Pine Bluff showed their appreciation by naming him the "City's Most Influential Citizen" in 1989. This honor recognized both the significant economic impact he provided the communities of Pine Bluff and Southeast Arkansas as well as the tireless devotion and strength of character he displayed. He was truly an example for us all.

My thoughts and prayers are with his wife, Joy; his son, Richard; and his daughter, Joy. I extend my sincerest sympathies to them and hope we can all find some solace in the realization that the spirit and legacy of Louis Ramsay lives on in each of us.

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## A PROCLAMATION RECOGNIZING THOMAS PATRICK FLANNERY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Thomas Patrick Flannery has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Thomas Patrick Flannery has shared his time and talent with the community in which he resides; and

Whereas, Thomas Patrick Flannery has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Thomas Patrick Flannery must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 87, and his family and friends in congratulating Thomas Patrick Flannery as he receives the Eagle Scout Award.

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## HONORING WILLIAM K. SCHUBERT, M.D. AS A GREAT LIVING CINCINNATIAN

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PORTMAN. Mr. Speaker, I rise today to recognize William K. Schubert, M.D., a distinguished leader, who will be honored on February 26, 2004 by the Greater Cincinnati Chamber of Commerce as a Great Living Cincinnatian, one of our region's highest honors. The recipients of this prestigious honor are selected on the basis of special professional achievement; an awareness of the needs of others; civic service; leadership; and distinctive accomplishments.

As president and CEO of Cincinnati Children's Hospital Medical Center, Dr. Schubert steered it from a small facility with four operating rooms to one of the top five pediatric medical centers in the Nation and designation by the American College of Surgeons as a Level 1 pediatric trauma center. During the 1970s, Dr. Schubert led a centralization of the region's pediatric care into a single medical center at Children's Hospital.

A Cincinnati native, Dr. Schubert graduated from Walnut Hills High School, the University of Cincinnati and the University of Cincinnati College of Medicine. Interested in science and influenced in childhood by the family's doctor, he made the decision in high school to later attend medical school. After completing an internship at Indiana University Medical Center, he returned to Cincinnati and served a residency in pediatrics and a fellowship in hematology at Cincinnati Children's Hospital Medical Center.

In 1996, Dr. Schubert retired after 33 years of service to Children's Hospital, including 13 years as head of the medical center. Dr. Schubert has held many key leadership positions, such as founder and director of the Division of Pediatric Gastroenterology; chief of staff, director of the pediatric residency training program; director of Children's Hospital Research Foundation; physician executive director; and chairman of the University of Cincinnati College of Medicine. He is a diplomat in the American Board of Pediatrics. Today, Dr. Schubert is professor emeritus of pediatrics at the University of Cincinnati and serves Children's Hospital Medical Center as a consultant.

In our community, Dr. Schubert was instrumental in the successful effort to expand Cincinnati's property tax levy for indigent care to include children. He has been involved in the Rotary Club of Cincinnati; the Babies' Milk Fund; the Center for Quality Leadership; and the Ohio Association of Children's Hospitals. I had the privilege of serving with Dr. Schubert on the board of the Springer School in Cincinnati. Dr. Schubert is the recipient of Children's Hospital Medical Center Board of Trustees' William Cooper Procter Medallion; the Cincinnati Pediatrics Society Founder's Award; and the University of Cincinnati's Daniel Drake and Distinguished Alumni Awards.

All of us in the Greater Cincinnati area are grateful to Dr. Schubert for his service to our community, and congratulate him on being named a Great Living Cincinnatian.

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## PERSON OF THE YEAR—SGT MARQUETTE WHITESIDE

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. ROSS. Mr. Speaker, I rise today to honor SGT Marquette Whiteside, a 24-year-old resident of Pine Bluff, Arkansas. SGT Whiteside was active in the Red Cross and the 4–H Club. Upon graduation from Watson Chapel High School, he took a job while he waited to hear from the military. Once accepted, SGT Whiteside trained in Germany where he specialized in weapons artillery.

Time Magazine's honoree for 2003 Person of the Year is the American Soldier, and SGT Whiteside was chosen to be profiled. SGT Whiteside is a member of Survey Platoon, Headquarters Battery, 2nd Battalion in the 1st Armored's 3rd Field Artillery Regiment. There is no soldier more deserving of this honor than SGT Whitefield. Scheduled to be relieved of duty in early 2004, SGT Whiteside signed on for an additional 3 years with the Army, with just a 6-month break between tours.

My sincere gratitude and deep appreciation go to SGT Marquette Whiteside, a man who has dedicated himself to protecting his country in the noblest sense.

I am honored to represent this fine soldier in the U.S. House of Representatives. Not just a soldier, SGT Whiteside is also a son, a brother, and a father. My thoughts and prayers are with Marquette's mother, Catherine; his two brothers, and his 6-year-old, daughter, Brashawn, who all anxiously await his permanent and safe return home.

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## A PROCLAMATION RECOGNIZING THE RETIREMENT OF JAMES E. CARNES

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. NEY. Mr. Speaker:

Whereas, James E. Carnes served the people of Ohio as a member of the Ohio State Senate for 8 years; and

Whereas, James E. Carnes has served as Chairman of the Senate's Finance Committee, overseeing the state budget; and

Whereas, James E. Carnes is currently the longest serving member of the Ohio State Senate; and

Whereas, James E. Carnes has used his position within the Ohio Senate to help better the lives of thousands of people; and

Whereas, James E. Carnes has been appointed to continue his service to the citizens of Ohio as the Deputy Director of the Ohio Department of Natural Resources; and

Whereas, James E. Carnes must be commended for his dedication to improving the state of Ohio and his willingness to continue this service through his new appointment.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in celebrating James E. Carnes's 8 years of service in the Ohio State Senate and wish him the best of luck in his new position.

## TRIBUTE TO WILFRED EUGENE TICKNER UNITED STATES ARMY CORPS OF ENGINEERS

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. MCINTYRE. Mr. Speaker, it is with great pleasure that I rise today and honor Wilfred Eugene Tickner of the United States Army Corps of Engineers. On January 3, 2004, Mr. Tickner retired after serving the people of this Great Nation for over 42 years.

Eugene Tickner is a talented engineer, who spent his career improving our Nation's infrastructure and ensuring that projects vital to our coastal areas are completed. Throughout his illustrious career, Mr. Tickner's contributions to our Nation have not gone unnoticed. He has been honored with the Engineer Regiment Bronze de Fleury Medal, two Commander's Awards for Civil Service, several Exceptional Performance Commendations, and the Division Commander's Award for EEO.

As Deputy District Engineer for Programs and Project Management of the Wilmington District United States Army Corps of Engineers, Mr. Tickner served the people with his involvement in many of the civil works projects in southeastern North Carolina. His innovative and unifying approach to solving problems has resulted in the timely completion of many projects that, without his involvement, may not have been possible. It is because of the dedication, determination, and leadership of Mr. Tickner that the people, animals, and ecosystems of the areas covered by the Wilmington District continue to flourish. From the Wilmington Port to the Brunswick, New Hanover, and Pender County beaches, his commitment has been unwavering and steadfast.

We owe Wilfred Eugene Tickner our sincere appreciation for his 42 years of committed service to our Nation. His devotion to the people of the United States should serve as an example to us all.

May God bless him and his family, and may God bless this great Nation.

## TRIBUTE TO THE JACKSON HIGH SCHOOL BLACK HISTORY TOUR GROUP

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. SMITH of Michigan. Mr. Speaker, I rise today in honor of the Jackson High School Black History Tour Group, a unique student organization started 10 years ago in my district that endeavors to share Black history and culture with the State of Michigan and the entire Nation.

In 1994, Jackson High School teacher Shirley Pitts recognized a desire among her students to learn and actively teach others about Black history. Though it began as a humble, once-a-year school program, her idea quickly grew into a year-round celebration of heritage and culture.

The Black History Tour Group is comprised of more than 30 students who travel to different schools, community organizations, and events. These students perform in a variety of artistic media including songs, poetry, dramatic readings, and theatrical sketches. They are some of the brightest, most talented members of their class, and they all share a deeply founded interest in Black history. Group members devote a great deal of their time and effort to their rehearsals and performances, but they are also active in many other ways at school and throughout their community.

Since its inception, the Black History Tour Group has been gaining both popularity and recognition. Among its distinguished highlights, the Group performed before the Michigan State Senate in 1997, in the East Room in the White House in 1998, and at the Presidential Inauguration in 2001, as one of only 3 groups to represent the State of Michigan.

On behalf of the United States Congress, I am very pleased to recognize the Jackson High School Black History Group for its first 10 years of excellence in the promotion of Black culture and heritage. We praise you for your dedication and hard work.

## TRIBUTE TO GWENDOLYN E. BOYD

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. MEEK of Florida. Mr. Speaker, it is my pleasure to rise today in honor of Gwendolyn E. Boyd, the National President of Delta Sigma Theta Sorority, Inc. for her service and dedication as a community leader and volunteer. The members of the Miami Alumnae Chapter of Delta Sigma Theta Sorority, Inc. will gather with Ms. Boyd on January 31, 2004 for the 91st anniversary of the founding of this honored sisterhood.

Ms. Boyd, a hardworking and motivated woman, is an inspiration and role model to all. She received her B.S. degree in Mathematics with a double minor in Physics and Music from Alabama State University. She thereafter pursued her Masters of Science degree at Yale University. Today, she is an engineer and the Assistant for Development Programs at the Johns Hopkins University Applied Physics Laboratory.

Committed to her work, Ms. Boyd nonetheless remains compassionate to the numerous community service organizations with which she is actively involved. She is a member of Leadership Washington, an organization committed to improving the quality of life in the Greater Washington Region and is actively involved with the Children's Research Institute of Children's National Medical Center. She is the founding chair of the Board of Directors of the National Center for Non-Profit Strategic Planning and Community Leadership and also served as President of the Board of Directors of United Way of the National Capital Area. A dynamo of a public servant, she also actively participates with The Links, Inc., the NAACP, the National Council of Negro Women and many other organizations.

Unselfish in her endeavors, Ms. Boyd can be found motivating others through inspirational speeches and workshops around the country. She routinely gives lectures on positive growth and the development of youth; conducts career development seminars; and often provides words of wisdom at commencement speeches to our future leaders.

It is no surprise to me that Ms. Boyd has been acknowledged and honored for her service and commitment on many occasions and by various organizations. I know that all my colleagues join with me in honoring her today and wishing her every success in the future.

## RECOGNIZING KEVIN ALLEN POEHLER FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kevin Allen Poehler, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 87, and in earning the most prestigious award of Eagle Scout.

Kevin has been very active with his troop, participating in many scout activities. Over the twelve years Kevin has been involved with scouting, he has earned 29 merit badges and has held numerous leadership positions, serving as Senior Patrol Leader, Assistant Patrol Leader, Patrol Leader, and Quartermaster. Kevin is also a Runner in the Tribe of Mic-O-Say.

For his Eagle Scout project, Kevin planned and installed a brick driveway entrance and sidewalk for the Cameron Depot Station for the Historical Preservation Society of Cameron, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Kevin Allen Poehler for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## HONORING THE 40TH ANNIVERSARY OF SPRINGFIELD CHAPTER 893, NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to commemorate the 40th anniversary of Chapter 893 of the National Association of Retired Federal Employees (NARFE), located in Springfield, Virginia.

NARFE is a multi-tiered, political, nonpartisan organization dedicated to preserving the earned retirement benefits of all Federal civilians. Membership eligibility includes current, former, and retired Federal civilians, as well as their spouses and survivor annuitants. Chapter 893 is one of over 1600 NARFE chapters nationwide.

From December 1963 to October 2003, the Springfield Chapter grew from 14 to 1,793 members, making it the fifth largest NARFE chapter. The majority of Chapter 893 members reside in the Springfield area; however, nearly 200 members reside outside Virginia, with two members in the Netherlands and Canada, respectively.

Over the years, Chapter 893 has become one of the most active in NARFE. It long has been and continues to be dynamic, progressive, and energetic, overcoming every challenge it faces. Chapter members have had a strong voice in many national and local legislative issues.

The Springfield Chapter approaches all issues in a realistic and humanitarian manner. Its members have worked tirelessly for the benefits of Federal retirees and all elderly, cooperating with local, State, and Federal agencies to do so.

While Chapter 893 always has placed emphasis on fulfilling primary NARFE functions, its members have not neglected local community needs. Chapter 893 members have volunteered countless hours at hospitals, libraries, blood drives, meals on wheels, and local elections. Beginning in 1987, Chapter members most generously have contributed to Alzheimer's Research, the charity of choice by NARFE nationwide. They participate in dollars and miles to the local area Alzheimer's Memory Walk, bringing in roughly $1,000 each year.

Over the course of its successful history, the Springfield Chapter has benefited from many dynamic, accomplished leaders. Several past presidents have been elected as officers or appointed committee chairs of the NARFE Virginia Federation of Chapters. Others have served in civic, professional, or fraternal organizations locally. Most notable are the accomplishments of past presidents David F. Sullivan, Vincent Agnelli, and Milton Kramer. Past President Sullivan was elected NARFE National Secretary in 2000 and 2002. Past President Agnelli served on an ad hoc committee influential in the 1993 Virginia State Supreme Court litigant tax refund issue. And Past President Kramer played a major role in organizing the Northern Virginia Caucus of Chapters.

Mr. Speaker, in closing, I would like to congratulate Chapter 893 on 40 years of success. They have become a strong organization committed to serving the interests of their members and their community. I call upon my colleagues to join me in applauding the chapter members' past accomplishments and in wishing Chapter 893 the best of luck in the many years to come.

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## PASSAGE OF S. 877 BY UNANIMOUS CONSENT ON DECEMBER 8, 2003

### HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. BURR. Mr. Speaker, I rise today in strong support of S. 877—the CAN SPAM Act of 2003—and urge my colleagues to accept the technical changes made by the Senate. I also rise in an effort to provide clarification for our nation's professional, trade, and non profit associations who may be unintentional victims of the Congress's efforts to control the fraudulent and abusive practices of spam email through the CAN–SPAM Act.

Trade associations have long provided representation for most of America's industries such as telecommunications, insurance, banking, realty, and transportation, just to name a few. Individuals or businesses that opt to join these associations do so in large part because of the outstanding benefits afforded to them, including reduced professional insurance premiums, continuing education opportunities, legislative awareness seminars, and conventions. While most of these opportunities are offered at a price, the cost is set at a greatly reduced rate than might otherwise be offered to non-members, primarily to offset operating costs, but also as a means of contribution to the furtherance of the association's non-profit status.

As a matter of expediency, trade associations often communicate with their membership through email, as this method is the fastest, most convenient, and most cost-effective process for both the associations themselves and the members with whom the associations communicate. These emails are a valuable element of membership privileges agreed to by the member upon joining, as they keep the member apprised of upcoming events, industry-related products, and legislative alerts. These emails are restricted to circulation within the membership only, and excluding the general public. It is my belief that association members have essentially opted-in to the receipt of these emails by virtue of their membership, and that these emails would fall under the definition of "transactional emails" that S. 877 contains. Therefore, email between a professional or trade association and its members should be a protected and mutually agreed-to line of communication and is hence not included in the definition of spam in the CAN SPAM Act of 2003.

Mr. Speaker, I would also like to call attention to Section 5(a)(3)(C), which provides an exception for not being able to receive the commonly-referred-to "unsubscribe messages" from commercial email recipients in circumstances where there are technical problems beyond the control of the sender. Although I'm sure that legitimate commercial email senders will make every effort to fully comply with the stipulations of this bill and receive unsubscribe emails whenever they are sent, I believe that the authors of this legislation understand that there may be short periods of time during which the sender is unable to receive unsubscribe messages because of necessary technical maintenance to the email systems receiving such unsubscribe messages.

Additionally, where Section 7(b) of the bill provides that banking agencies have enforcement authority over their respective financial services providers, it is my hope that the Federal Trade Commission will coordinate with the various regulators of banking agencies in its efforts to implement the rules called for in this legislation.

Mr. Speaker, I am very pleased with the important bill we have before us today. I strongly urge my colleagues to support this consumer protection and anti-fraud bill, and to quickly send it to the President for his signature.

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## HONORING FAIRFAX COUNTY BRANCH OF THE NAACP FOR THEIR COMMEMORATION OF DR. MARTIN LUTHER KING, JR.

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor the Fairfax County Branch of the NAACP for their effort to honor one of our nation's most treasured heroes, Dr. Martin Luther King, Jr.

Together with members from throughout our community, the Fairfax County NAACP has used the anniversary of Dr. King's birthday to commemorate the life and legacy of this great American.

The Fairfax County NAACP has used the teachings and life of Dr. King as inspiration to end the hatred of racism throughout the county and to celebrate the diversity that is common to this vibrant community. Through their efforts they have helped those who have faced discrimination find justice and have encouraged everyone to envision a world without intolerance.

It is important that we honor and celebrate the accomplishments of Dr. King and how he helped our nation deal with the hatred that had threatened to destroy us. By coming together to celebrate his birthday we are honoring a man who gave our nation a new hope that we can all live together. I am certain the celebration that the Fairfax County NAACP is hosting will do justice to the legacy of this great man.

However, we must celebrate what Dr. King taught us not just on his birthday, but every day. Every American should take the time to help their neighbor, enlighten a friend whose mind has been clouded with prejudice, and commit their lives to making the United States the true beacon of justice in the world. We must continue to live by the words of Martin Luther King and "make justice a reality for all of God's children."

We must all strive to achieve the dream that Dr. King imagined for his children, so that our children's children will live in a world free from racism, discrimination and hatred.

I applaud the Fairfax County NAACP for hosting this commemoration of Dr. King's life, a life cut short, but whose ideas, dreams and hopes continue to inspire our lives every day. I am pleased that they are using this opportunity to bring a beacon of light and hope to our community and share the legacy of Dr. King.

## CONGRATULATIONS TO PEOPLES BANK ON 94TH ANNIVERSARY

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of Peoples Bank throughout its 94 years of service in the Northwest Indiana community. To commemorate this special occasion, Peoples Bank will be holding an anniversary celebration on Saturday, January 10, 2004, at the Center for Visual and Performing Arts in Munster, Indiana.

Peoples Bank was established in 1910, and was organized to meet the needs of consumers. Peoples Bank was originally known as The First Polish National Building and Loan Association. During that time, it was the main hub for church and social activities in East Chicago, Indiana. Over several decades, the association's name changed numerous times, and in 1989 it was entitled Peoples Bank.

Peoples Bank was the first savings and loan association to ever receive a federal charter in East Chicago after the Great Depression. In the 1950s, the bank played an integral role in assisting former servicemen to build or purchase homes through G.I. Loans. At this time, Peoples Bank expanded its access to the Northwest Indiana community by moving into a multi-office operation. The Woodmar section of Hammond was chosen as the second office location along Indianapolis Boulevard.

It was during the 1960s that Peoples Bank added another branch location in Merrillville. Due to the success of these initial offices, additional branches were established in the area including Dyer, Munster, Schererville, and a second Merrillville office. In the year 2000, Peoples Bank opened its eighth branch location in Hobart.

Peoples Bank's Chief Executive Officer and Chairman, Mr. David Bochnowski, has served as the leader for the organization since 1981, after serving on the board since 1977. Through his guidance, along with all the hard work of the staff, Peoples Bank has continued to be an active force in providing superior customer service and assistance to all of Northwest Indiana.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in honoring and congratulating Peoples Bank on their 94th anniversary. Their many great accomplishments and hard work throughout the years is worthy of the highest commendation.

## HONORING DR. LEON AND FAYE STEINBERG

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PORTER. Mr. Speaker, I rise today to call the attention of the House of Representatives to Dr. Leon and Faye Steinberg as they are honored with the Jewish Federation of Las Vegas' Hank Greenspun Founders Award. The Steinbergs will be presented with this award on February 8, 2004, at the Jewish Federation of Las Vegas Champions of Freedom Dinner Gala.

The Hank Greenspun Founders Award honors those who have been instrumental in the creation, growth, and future of the Las Vegas Jewish community. The Steinbergs epitomize all of these qualities. They have spent most of their lives enriching the Jewish community and I would like to thank them for their contributions to Southern Nevada and our Nation.

The Steinbergs are originally from San Antonio, Texas, and like thousands of people each year moved to Las Vegas in 1958, where Leon became the first radiologist at Sunrise Hospital. From the first day of their arrival in Las Vegas they have volunteered to make our community a better place by serving in the leadership of their synagogue and helping meet the religious needs of our community. The Steinbergs also helped establish the Jewish Federation of Las Vegas, which raises awareness of the important contributions that the Southern Nevada Jewish Community has made to our state and country, and champions freedom and human rights around the world. Leon and Faye have been especially active in building strong ties between Las Vegas and Israel, and have worked to bring relief to victims of terrorism in Israel.

I am pleased to call the attention of the U.S. House of Representatives to the welldeserved selection of Dr. Leon and Faye Steinberg for the Hank Greenspun Founders Award, and I thank them for having given so much of themselves to make the world a better place.

## RULE PROPOSED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DURING CONGRESSIONAL RECESS

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mrs. MUSGRAVE. Mr. Speaker, in March 2003, the House Small Business Committee convened a hearing to review a prospective rule from the Department of Housing and Urban Development (HUD). This rule was intended to alter the Real Estate Settlement Procedures Act.

During the past 2 years, HUD has been working to simplify the real estate settlement process. Their goal is to produce a uniform packaged pricing concept for consumers that incorporates all pricing elements including home inspections, title insurance, and interest rates.

During the March 2003 hearing, HUD officials testified to the Small Business Committee regarding different elements of this initially proposed rule. Much attention focused on the inadequacy of the economic impact study contained within the rule, particularly with respect to the effect on small businesses nationwide. After fielding questions from nearly every Member seated on the Committee, HUD agreed to give additional consideration and possible revision to their prospective rule.

It became evident during review of the initially proposed rule that it would be a step in the wrong direction. Consequently, it had no support from the real estate and mortgage industries, as well as little support from consumer advocacy groups.

During the process leading up to last spring's hearing, the Department of Housing and Urban Development was forthcoming about details of the rule prior to last spring's hearing. But since then, HUD has been virtually silent about changes, despite receiving tens-of-thousands of pages of comments during the extended review period.

Mr. Speaker, it troubles me that, as of late, HUD has been stonewalling Congressional inquiries by not responding to suggested comments, as indicated, and to questions asked during the hearing.

Surprisingly during the recent Congressional winter recess, and without notice to Congress regarding the nature of any changes, HUD submitted their final rule to the President's Office of Management and Budget in December 2003.

Now, executive privilege prevents Congress and the public from reviewing the final rule. While it is HUD's prerogative to forward this rule during Congress' recess, this instance clearly circumvents the intent of congressional oversight for departmental and agency rulemaking.

Depending on the contents of this final rule, the largest of the market lenders may seek to establish exclusive relationships with real estate service providers, such as home inspectors, title insurers, mortgage brokers, or real estate agents.

Home inspectors, for instance, would be forced to accept below market pricing for their inspection services, or face difficulty finding work.

Furthermore, large and small businesses alike would spend millions of dollars to change forms and reformat their disclosures, losing valuable time being retrained to present a product they already produce ethically and efficiently. This does not make sense.

Ultimately, consumers would be left with limited choices and higher prices. Smaller businesses unable to compete, due to a lack of sufficient resources, would be forced to close their doors.

Mr. Speaker, I encourage OMB to make the right decision on this delicate matter and to operate transparently and deliberatively when considering rule proposals. The opportunity to purchase a home through easy and equitable transactions may be lost for many, should this final rule become published.

## RECOGNIZING MS. DELSA BUSH AS THE NEW CHIEF OF POLICE OF WEST PALM BEACH, FLORIDA

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to recognize the recent promotion of Ms. Delsa Bush as the new police chief of West Palm Beach, Florida. Chief Bush is the first African American and first woman to serve in this prestigious and demanding position.

Through honesty, hard work and determination, Chief Bush has risen from a childhood of poverty in the Mississippi Delta to a very prominent position in the criminal-justice field. Though others might have given up when faced with the many challenges she has had to overcome, Delsa Bush never took her eyes off of her goal. As a result of her strong will and optimistic attitude, she graduated college, continued on to receive her Master's degree and is currently pursuing her Doctorate.

Mr. Speaker, as previously mentioned, Chief Bush is West Palm Beach's first black and first female police chief, as well as one of few black women police chiefs in America. Courage and excellence are just two of many words of praise that have been used to describe this remarkable law enforcement professional. Delsa Bush is an excellent role model and someone whom we can all be proud.

I am delighted that Chief Bush lives and works in my Congressional District. It is an honor and a privilege to represent such a great American. I say on behalf of the House of Representatives, Chief Bush, congratulations. You are a true hero!

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## IN TRIBUTE AND APPRECIATION OF SALLY TIBBETTS

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. BASS. Mr. Speaker, I rise today to recognize a loyal member of my staff, Sally Tibbetts, as she leaves Washington for warmer climates and to pay tribute to her dedication and commitment before this body of Congress.

Sally has been on my staff since 1997 and has performed ably and consistently during her time with me. As a public spokesperson before the media and countless community organizations, I could have had no better assistant to help positively present my agenda on behalf of all New Hampshire's citizens.

Her distinguished record as a journalist and Press Secretary for Congressman Bill Zeliff (NH–01) before joining my staff demonstrated her talent. On behalf of New Hampshire's Second District, her work and success with media outlets as diverse as the Manchester Union Leader and Concord Monitor; Milford Cabinet and Keene Sentinel; WMUR and NH Public Television; and WOKQ, WEVO, and WZID have proven her skill.

Mr. Speaker, I am proud to pay tribute to Sally's service to New Hampshire and the nation. I am extremely honored to consider her and her husband Gary as friends and wish them the best of luck in their new lives far—but not far in spirit—from the Granite State.

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## RECOGNIZING THE IMPORTANCE OF NIGHTRIDERS, INC.

### HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. BEAUPREZ. Mr. Speaker, the occasion on which I rise today is to recognize the importance of one small business based in my home state of Colorado. This business has provided Colorado with an innovative private sector concept that demonstrates social-minded entrepreneurship by assisting in our nation's fight against drunk driving.

Each year, seventeen thousand Americans die in alcohol-related traffic accidents and over six hundred thousand are injured. While Congress has made numerous efforts to reduce the number of these tragedies, private sector industries and community leaders perform a vital role to stop drinking and driving. One such company leading the fight against this tragic and avoidable threat is NightRiders, Inc.

Located in Boulder, Colorado, NightRiders was created by three pioneering young men who wanted to reduce impaired driving and its tragic consequences. Founders Gary Calnan, Brad Dickerhofe, and Carl Grodnik implemented NightRiders to operate on a simple, but effective business plan that gives individuals peace of mind and the freedom to get home safely without risking lives. NightRiders provides such a valuable service that it enjoys the endorsements of local businesses and law enforcement officials.

Let me take a moment to explain how they operate. A dispatched driver on a folding motorized scooter meets you at your automobile, places the scooter in the trunk, drives you home, and the driver gets back on the scooter to assist the next customer.

Recently, NightRiders was recognized by the National Commission Against Drunk Driving (NCADD) and received the 2003 Corporate Leadership Award. Past recipients of the Corporate Leadership Award from the NCADD include Liberty Mutual Group (2002), The Century Council (2001), Kmart Corporation (2000) and Daimler Chrysler (1999). By presenting this award to NightRiders, the NCAAD is recognizing the potential for the NightRiders solution to affect real change in the problem of drinking and driving on a national scale.

Mr. Speaker, I ask that my colleagues join me and the NCAAD in commending NightRiders for their efforts and vision to reduce the senseless tragedies associated with drunk driving.

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## IN RECOGNITION OF MS. GLORIA NILSON

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PALLONE. Mr. Speaker, I rise today to honor an exemplary individual, Gloria Nilson whose professional accomplishments are equally matched by her generous and selfless contributions to the community in the areas of education, the arts and culture. Just this past year, on December 6, 2003, the Monmouth University Library Association honored Ms. Nilson, awarding her with their 2003 Community and Humanities Award.

It is clear to me that Ms. Nilson is truly deserving of this award because of her dedication and diligence with every project that she has taken on. Being regarded as a pioneer in a field where few women were even licensed to sell real estate, Ms. Nilson is widely recognized in the state of New Jersey, and nationally as one of the state's top-ranking Realtors.

Remarkably, Ms. Nilson began her career carrying a typewriter in the trunk of her car to draw up contracts and close sales for clients. After being ranked Number 1 in the state of New Jersey for residential real estate volume by the New Jersey Real Estate Board for four consecutive years, she started Gloria Nilson Realtors in 1977. As Executive Vice President, Director of Luxury Homes for Gloria Nilson Realtors/GMAC Real Estate, she is the exclusive affiliate for Sotheby's International Realty for the Greater Monmouth County area, and in 2000, placed third in the country for GMAC.

Notable among her numerous affiliations and philanthropic activities; Ms. Nilson is the founding board member of the Women's Council for the Cancer Center at Monmouth Medical Center, she is also the first woman to be named chairperson of the Business Council at Monmouth University's School of Business. Widely recognized for her outstanding contributions both professionally and personally, her awards include the Monmouth Girl Scouts Council 2001 Women of Distinction Award, the Monmouth Ocean Development Council's 1996 Silver Gull Award for Business Achievement, and the 2000 Community Service Award for GMAC Real Estate, which is now given annually in the name of Gloria Nilson.

Once again, Mr. Speaker, I would like to congratulate Ms. Gloria Nilson on her Community and Humanities Award and offer her the highest praise for her professional achievements, as well as her civic contributions.

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## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. GALLEGLY. Mr. Speaker, on Monday, December 8, I was unable to vote on ordering the previous question on H. Res. 465, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (rollcall

672); on agreeing to H. Res. 465 (rollcall 673); on ordering the previous question on H. Res. 473, waiving points of order against the conference report to accompany the bill H.R. 2673 (rollcall 674); on agreeing to H. Res. 473 (rollcall 675); on passage of H.R. 2673, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act 2004 (rollcall 676); and on a motion to lay on the table, H. Res. 474, a resolution regarding a question of the privileges of the House regarding rollcall 669 (rollcall 677). Had I been present, I would have voted "yes" on all measures.

## RECOGNIZING ROBERT PARKS DAILEY, WHO AFTER 34 YEARS OF SERVICE IS RETIRING AS THE CLOVERDALE, CALIFORNIA POLICE CHIEF

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Cloverdale Police Chief Robert Parks Dailey, who is retiring after 34 years of service to his community.

Chief Dailey has spent all of his adult life in lain enforcement. He began his career as a Senior Patrol Officer with the Berkeley, California Police Department in 1970 and spent nine years on the force during one of the most tumultuous periods in this city's colorful history.

He joined the Cloverdale Police Department as a Sergeant in 1979 and quickly advanced through the ranks. He was promoted to Lieutenant, a rank he held until 1987, when he became the Chief of Police. In 1993, his title was changed to Director of Public Safety when the Cloverdale Fire Department was added to his command. When the Fire Department hired a full time Chief in 1996, he reacquired the rank of Chief of Police, a position he held until December 31, 2003.

During his tenure with the Cloverdale Police Department, he automated the police records system, restructured the Department for clearer lines of authority and responsibility, implemented a remodeling of the Department, and oversaw the Department's participation in the county-wide Computer Aided Dispatch/Records Management System/Mobile Data Computer Program.

Chief Dailey is a member of the California Peace Officer's Association, the California Police Officers Association, the International Association of Chiefs of Police, the Sonoma County Law Enforcement Chiefs Association (where he served two terms as President) and the Santa Rosa Training Center Advisory Committee. He also represented the California Police Chief's Association on the State Association of Chiefs of Police Committee.

Chief Dailey also served his community as a member and Past President of the Cloverdale Rotary Club, President of the Cloverdale Citrus Fair Board of Directors, and a member of the Cloverdale Eagles Boosters Club and Cloverdale Project Graduation Committee.

Mr. Speaker, Chief Dailey is a dedicated public servant who plans to spend his retirement years working with the League of California Cities Interim Chief of Police program, traveling, and improving his golf handicap. It is appropriate that we honor him today.

## TRIBUTE TO ED McVANEY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to an outstanding patriot from my home state of Colorado. My friend, Ed McVaney, is currently in Iraq where he has placed himself in harm's way to assist the citizens of that nation in their recovery from three and a half decades of tyrannical oppression. It is my pleasure to call the attention of this body of Congress to the bravery and heroism of this great American.

Ed recently retired as CEO of the J.D Edwards Corporation in Denver. During Ed's tenure, J.D. Edwards grew to become Colorado's largest software company. Under his watch, the company played a major role in promoting the health of Colorado's economy. J.D. Edwards employed five thousand Coloradans and kept our state at the forefront of the technology industry.

Ed's journey to Iraq began as the result of a discussion he had with Congressman Bob Schaffer last May. When the Congressman proposed the trip, Ed's patriotic nature shone through and he accepted without hesitation. In Iraq, Ed spends each day working tirelessly to help the country rebuild its ravaged economic infrastructure. Ed is truly utilizing his vast expertise and tremendous work ethic for the betterment of those desperately in need.

Ed currently lives in a 10-foot by 10-foot travel trailer near one of Saddam Hussein's former palaces. He spends each day working tirelessly to help the people of Iraq rebuild their homeland. It is truly an admirable human being who is willing to sacrifice his comfortable retirement to risk life and limb to assist others. Ed's commitment to this project is far from a symbolic gesture; he has made a commitment to remain in Iraq for an entire year.

Mr. Speaker, I am honored to rise and call the attention of this body of Congress and our nation to Ed McVaney. Ed has done a great deal for the betterment of the state of Colorado, the United States, and the people of Iraq. He has done all this while happily serving as a wonderful husband, a tremendous father and a loyal friend to many. I am proud of Ed and it is my honor to recognize him here today.

## RECOGNIZING COMPLETION AND OPENING OF DIAMOND TRAINING CENTER

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize the completion and grand opening of the Diamond Training Center, a 30,000 square foot, state-of-the-art, baseball and softball practice center, located in Warrendale, PA. I am happy to see the spirit of entrepreneurship flourishing in the congressional district that I represent.

The training center will combine traditional baseball practice methods with new technology such as the Pro Batter—a newly developed improvement upon the traditional style of batting cages. Management anticipates that the center will service nearly 10,000 patrons per year; including, but not limited to, little league, high school, and local college teams, and even a potential minor league franchise.

I ask that all of my colleagues in the House of Representatives join with me in recognizing the grand opening of this new enterprise. I am proud to have the Diamond Training Center in my district, where it will not only stimulate the economy but also will provide a functional athletic facility for the residents of Western Pennsylvania.

## IN REMEMBRANCE OF MOTHER DEOLA BOOKER

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. FARR. Mr. Speaker, I rise today to honor the life of Mother Deola Booker, a dedicated community leader and an exceptional gospel singer, who passed away recently. She was an active member of the Christian Memorial Tabernacle Church of God in Christ Congregation in Seaside, California, for over twenty years.

Her dedication to her church was matched only by her dedication to her community, for which she received numerous awards and recognition. Among them was a certificate of recognition for her work with the Monterey County Department of Social Services Children's Services presented by me on behalf of the California Legislative Assembly in 1991. She was also a well-known and well-loved musician, gracing those who knew her with her amazing voice and talented piano playing. She shared this love of music with others through her work directing choirs, as well.

Mother Booker will be greatly missed by the many that knew her, were helped by her, or who shared in her love and kindness to all people. Those who were touched by her will forever remember her spirit of service and faith.

## TRIBUTE TO BOB BEVERLY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to my friend Bob Beverly. Throughout his life, Bob has done a tremendous amount for the sport of skiing and the people of our home state of Colorado. Each day, Bob shares his joy for life with others and it is my honor to rise and call the attention of my colleagues to his many contributions.

Bob was born in Steamboat Springs, and it was there that his lifelong passion for skiing began. While in high school, Bob was an alpine ski racer and a member of the renowned Steamboat Springs High School Marching Band on Skis. After high school, Bob attended the University of Denver, where he was active in the promotion of skiing as a collegiate sport. In fact, Bob's work was instrumental in the University sanctioning skiing as a varsity sport.

After leaving the University of Denver, Bob continued his dedication to skiing when the National Ski Area Committee appointed him as its Chairman. In this capacity, Bob played a key role in influencing the National Collegiate Athletic Association's recognition of skiing as an official sport. Later, Bob helped to pioneer the skiing industry in Mesa Creek, Grand Mesa and my hometown of Glenwood Springs.

Bob has dedicated a great deal of time to the promotion of skier safety. He has organized chapters of the National Ski Patrol, created a volunteer patrol program and has passed his knowledge along to countless instructors and patrolmen. Bob has also worked tirelessly to share his love for skiing with young people. He developed a statewide youth ski program, and continues to dedicate time to sharing his love for skiing with children. Bob's dedication to his sport has not gone unnoticed. In 1965, he was awarded the Halstead Memorial Award by the United States Ski Association and, in 2000, he was inducted into the Colorado Ski Hall of Fame. Bob has always used skiing as a means to better the lives of countless people.

Mr. Speaker, it is my honor to call the attention of this body of Congress to the contributions of Bob Beverly. Hundreds of young people have had their lives enhanced as the result of Bob's tireless enthusiasm, zest for life and altruistic nature. Bob has managed to do all of this while happily serving as a tremendous husband, father, and friend to many. It is a true honor to count Bob among my close friends.

## CONGRATULATING WOODBURY, MINNESOTA, ON BEING RECOGNIZED AS THE NATION'S HOTTEST CITY UNDER 100,000 PEOPLE IN THE CENTRAL UNITED STATES

### HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to congratulate Mayor William Hargis, the City Council and all the residents of Woodbury, Minnesota, on Woodbury's recognition as the nation's hottest city under 100,000 people in the central United States by Money Magazine.

Since 1990, Woodbury's population has grown by 153 percent, it boasts lower than average property taxes, 1,600 acres of parklands, a low crime rate and a recently completed indoor park with a playground and waterfalls.

Originally named Red Rock, the first settlers came to Woodbury in 1844 and established a farming community. Today, Woodbury is one of the fastest growing suburbs in the Twin Cities area. It is home to many large businesses, but also 75 miles of trails and attractive neighborhoods for families of all sizes.

Mr. Speaker, on behalf of all Minnesotans I would like to congratulate the citizens of Woodbury on receiving this distinction by Money Magazine and thank them for showcasing the best of Minnesota to the entire nation.

## IN HONOR OF ARMY SGT. CRAIG DAVIS OF OPELOUSAS, LOUISIANA

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. JOHN. Mr. Speaker, I rise today to honor the memory of a fine American, a devoted husband and son, and beloved father who gave his life serving our Nation in Operation Iraqi Freedom.

Sgt. Craig Davis, 37, served with the U.S. Army's 603rd Transportation Company, 142nd Corps Support Battalion—part of the Warrior Brigade stationed at Fort Polk in Louisiana. On the 8th of January, he and eight of his fellow soldiers were killed when their helicopter was shot down near Fallujah, Iraq. Craig was on his way to Baghdad for medical treatment at the time of the incident.

Craig leaves behind a wife, Rosalind, and their two children who reside in Fort Polk. Craig's mother is Clara Mae Davis of Opelousas, LA and his father is Lionel Gabriel of Houston, TX. He also leaves behind two stepsisters: Cathy Gabriel and Sandra Gabriel.

Craig dedicated his life to military service, joining the Army immediately upon his graduation from Opelousas High School in 1984. Family and friends describe him as a "team player" who approached every assignment with strength and determination.

On January 8, he undoubtedly approached what would be his last assignment with that same strength. He bravely gave his life to help make this world a better place for his two children and indeed for us all.

Mr. Speaker, please join Craig's friends, family and me as we honor his memory and thank him for his heroic service to our country.

## TRIBUTE TO DONA GUY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute today to a remarkable woman from my district. Dona Guy is a beloved figure in Durango, Colorado who has touched the lives of countless people. Dona is retiring this year after 18 years of service to Fort Lewis College and I am honored to rise and recognize her contributions to the college and her community.

Dona has dedicated her life to young people. Countless Fort Lewis students and alumni consider Dona their adopted grandmother. She began her career working in the school's records office and will retire from her current position as the school's Assistant Athletic Director. Dona has always gone beyond the call of duty in her work and her tremendous service has not gone unnoticed. She has been the recipient of many awards, including the prestigious Fort Lewis College Outstanding Staff Award.

Dona's school spirit is legendary. Her intense and contagious cheering has been credited with inspiring numerous Sky Hawk victories. In addition, Dona provides a great deal of time and effort to various school groups, including the Talon Club, the Sky Hawk Angels and the Athletic Advisory Committee. For her dedication to the school's athletic program, Dona has received the Joanne Parish Outstanding Spectator Award, as well as the President's Spirit Award. Dona truly embodies Fort Lewis school spirit.

Dona's contributions to the Durango community reach far beyond her work at Fort Lewis College. In a recent ceremony to celebrate Dona's retirement, two hundred and fifty students, friends, family members and fellow citizens gathered to pay tribute to Dona. Those who spoke recounted fond memories of times when Dona had enhanced their lives, not only through her work with the school, but through her involvement in the community as well.

Mr. Speaker, it is my honor to call the attention of this body of Congress and our nation to Dona Guy. In her service to Fort Lewis College, Dona has served as a mentor and friend to countless students and faculty members. In addition to her work, Dona has happily served as a wonderful wife, mother and friend. Thank you, Dona, I hope you enjoy your retirement.

## HONORING THE RESIDENTS OF LAWRENCE COUNTY, PENNSYLVANIA

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Ms. HART. Mr. Speaker, I would like to take this opportunity to praise some admirable residents of Lawrence County, in the Fourth Congressional District of Pennsylvania who will soon be honored by 4–H at the annual Lawrence County 4–H Banquet. I am proud to represent such dedicated individuals who give so much back to their community every year.

The recipients of these awards have excelled in numerous categories including, Jr. Leaders, Club Achievements, Leader Recognition, Collegiate Scholarships, and outstanding 4–H Members. The commitment to helping the community that these individuals display serves as an inspiration.

I ask my colleagues in the House of Representatives to join me in honoring these fine individuals and their efforts to improve Western Pennsylvania. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to recognize the leadership of the Lawrence County 4–H.

## IN REMEMBRANCE OF MR. JACK REID

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. FARR. Mr. Speaker, I rise today to acknowledge the passing of one of our nation's great heroes. Jack Reid, a former Naval Aviator who helped turn the tide of World War II, passed away on December 12, 2003 in Santa Cruz County. Many veterans throughout California and beyond will observe his passing. He was ninety years old.

Mr. Reid was born in Kentucky, in the small town of Bandana, and was an excellent student. However, the hard times of the Great Depression precluded college, so he joined the Navy in 1933. His hard work and dedication to service earned him the chance to attend flight training, which he began in 1937, graduating as a Naval Aviation Pilot in 1938. After receiving his wings, he continued his education, attending the University of Washington and earning a degree in Aeronautical Engineering from LaSalle Extension University in Chicago.

Mr. Reid is perhaps most well known for his role in the Battle of Midway, in the Pacific. On June 3, 1942, he spotted the Japanese fleet 800 miles from Midway Island, allowing Admiral Nimitz and the fleet commanders to prepare and successfully defend their position. In an interview in May of 2002, Mr. Reid commented, "It was the greatest naval battle in the history of the world—a battle we won that we should have lost." What he did not acknowledge was that it was his early action and information that helped save the day, and eventually the war.

His naval service continued after the war, including piloting dignitaries such as Madame Chiang Kai-shek and Admiral Radford, and he finally retired with the rank of Captain after twenty-five years of service. He continued his interest in naval history and aviation, speaking as a panelist before symposiums at the National Air and Space Museum and on the Fiftieth Anniversary of the Battle of Midway.

Mr. Reid settled in Aptos, California, in 1967, after a successful second career as a real estate broker and developer. He was a life member of the California Alumni Association and a member of the Who's Who in California, as well as the Veterans of Foreign Wars Post 10110 in Aptos. I have also heard that he was an avid golfer, and enjoyed the many courses available in our area.

Mr. Speaker, I wish to take this moment to honor Jack Reid for the service he gave to his country, for his continuing efforts to make a difference in the world, and for his significant contributions to the history of naval aviation in World War II. He will be greatly missed by his family, including his wife, Ina Mae Reid; two sons, Hal Reid and Jim Reid; his sister, Berah McKinney; his grandson, Jim Reid and two great grandchildren. His grandson, Steve Reid, preceded him in death in 1991. In addition to his large and loving family, Jack will be missed and remembered by all who knew him.

## HONORING CATHOLIC SCHOOLS WEEK

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. JOHN. Mr. Speaker, I would like to take this opportunity to join with my colleagues today in honoring national Catholic Schools Week. As a product of a strong Catholic education in Crowley, Louisiana, it is my privilege to commemorate the great resource that Catholic Schools provide for families and children across the country.

Since 1974, we have celebrated this week in an effort to highlight the hard work of the teachers, parents, administration and students who have built and continue to grow our Catholic Schools. A quality education is the foundation of a child's future, and this week recognizes one of the many types of educational choices available our country's young minds.

The State of Louisiana has the highest percentage of private schools in the country, and most of them are Catholic. With over 90,000 students attending over 200 Catholic schools in Louisiana the tradition of a Catholic education remains strong.

For nearly 300 years, Catholic schools in Louisiana have endured and flourished. Capuchin Father Raphael de Luxembourg, pastor of St. Louis parish who founded the St. Ann Street School in New Orleans in 1725, believed "there is nothing upon which the establishment of a colony more essentially depends than upon the education of the young."

This year's theme for Catholic Schools Week is "A Faith-Filled Future," and I truly believe that more than at any other time in our history that strong faith is a vital foundation. Our children today are faced with situations that none of us could have imagined in our youth. Faith is the stronghold that many of us rely on each day, and Catholic schools across the country build upon the foundation of faith to daily emphasize discipline and values to all they instruct.

It is my pleasure to stand with my colleagues today in extending my best wishes and extreme gratitude to all of those who serve by providing a Catholic education not only based in academia but also in faith.

## PAYING TRIBUTE TO FRED VELASQUEZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. MCINNIS. Mr. Speaker it is my honor to rise and pay tribute to a remarkable man from my district. The Colorado Association of Conservation Districts recently recognized Fred Velasquez from La Jara, Colorado as Colorado's Ranch Conservationist of the Year. Not only is Fred a tremendous steward of the land, but he has also contributed a great deal to the La Jara community. I am proud to call the attention of this body of Congress and our nation to Fred's many accomplishments.

Fred was born and raised in Antonito and graduated from Antonito High School in 1949. Following graduation, Fred answered his country's call to duty and served in Korea and Japan as a member of the United States Army Medical Corps between 1951 and 1954. Upon returning from duty, Fred became the Deputy County Assessor for Conejos County. From 1968 through 1972, Fred served on the La Jara City Council. In 1972, the people of La Jara elected Fred to serve as their Mayor. As Mayor, Fred contributed a great deal during his four-year term. From 1959 to 1987, Fred owned a branch of the Farm Bureau Insurance Agency and, in 1991, continued his duty to Conejos when he became the County's Weed Supervisor.

In addition to his duties for the City of La Jara, Fred is also a well-respected rancher in the region. Fred's recognition as Ranch Conservationist of the Year stemmed from his leadership in the implementation of soil and water conservation practices. Fred recently restored the land surrounding the Conejos River, which runs through his 500-acre ranch. This has improved the water quality in the river and provided habitat for the many species of wildlife that make their home on the ranch.

Mr. Speaker, it is my privilege to rise and pay tribute to Fred Velasquez. Fred's many conservation accomplishments, coupled with his tireless service to our nation and his community, are certainly worthy of recognition. Thank you for your service, Fred, and congratulations on a well-deserved award.

## HAPPY NEW YEAR TO THE ORGANIZATION OF CHINESE AMERICANS

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Ms. HART. Mr. Speaker, I would like to wish the membership of the Organization of Chinese Americans a healthy and happy New Year for the year 4702, the year of the Monkey.

The New Year is a time for reflection and thanksgiving for the joys of life and loved ones and I am thankful for the richness that this organization brings to my region. Chinese Americans have made great contributions to Western Pennsylvania and to our nation as a whole and I am very honored for this opportunity to wish them the best year yet in 4702.

I encourage my colleagues in the House of Representatives to join with me in wishing the members of the organization of Chinese Americans a very happy and prosperous New Year.

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## IN HONOR OF ANDREW URAM

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. FARR. Mr. Speaker, I would like to rise today in honor of Andrew Uram's 81st birthday. A World War II veteran, loving father and grandfather, and upstanding citizen, Andrew Uram embodies the 20th century American Dream.

Born December 18, 1922 to an immigrant father and a first-generation Swedish Danish American, Andrew was one of eight children of Andy Sr. and Minnie Uram, who met while Mr. Uram was a soldier during the First World War. Andrew continued this tradition, enlisting in the Navy on March 20, 1941—seven months before the United States entered WWII. His initial training was as an aviation machinist in Alaska, however he quickly rose to the rank of Seaman 1st class by the outbreak of the war. Following his service in Alaska, Andrew arrived three days after the invasion of Tawara, located in the South Pacific. There, he saw some of the most intense fighting he ever saw during the war, as his group was bombed throughout the night by Japanese forces. The sound and vibration from the bombs made his whole body ring like a bell, and he lost his hearing in one ear. However, he continued to serve throughout the night and next day with honor; indeed, his Navy career continued for years to come—thirteen in all.

After retiring from the military, Andrew moved with his wife and daughter to Burlington, Washington, and later to California. He continued his work in mechanics, this time with automobiles, retiring as the Senior Auto Mechanic at the garage he worked in. He and his wife retired back to Washington, but have since moved to Soquel, California, to be with their daughter and granddaughter. He continues to be active, and is well known to the birds of the Monterey Bay coastline, where he goes to feed them often.

Andrew Uram has led a long and honorable life, serving his country and raising a wonderful family. Mr. Speaker, I wish to take this moment to extend my congratulations as he and his family celebrate his birthday this year.

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## TRIBUTE TO STEVE ORTIZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, I am honored to rise before you to recognize a tremendous public servant from my district. Trooper Steve Ortiz from Pueblo, Colorado was recently named Outstanding Drug Interdiction Officer of the Year for his tireless dedication to protecting Coloradans from the dangers of illicit drugs. Steve has done a great deal for the betterment of Colorado, and I am proud to call his many contributions to the attention of this body of Congress and our nation here today.

Steve has been a Trooper with the Colorado State Patrol for 13 years. In that time, he has become a leading force in the state's battle against illegal drugs. In 2003, Steve was responsible for the seizure of nearly two million dollars in cash, ninety-five pounds of cocaine and over two hundred and seventy pounds of marijuana. Steve is truly an outstanding officer and his success stems from his perceptiveness, intelligence and dedication to his work. Colorado is truly a safer place as the result of Steve's service.

Mr. Speaker, I am honored to rise and pay tribute to Steve Ortiz. Steve has dedicated his life to the people of Colorado and his acts are the embodiment of heroism. I am proud of Steve and his many accomplishments. Congratulations on a well deserved award, Steve. Thank you for your service.

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## COMMENDING DAVID SCHWARTZ ON HIS 34 YEARS OF SERVICE TO THE FOREST LAKE, MINNESOTA, POLICE DEPARTMENT

### HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to commend David Schwartz on his 34 years of service to the Forest Lake, Minnesota, police department. Among David's accomplishments during his service are mentoring young officers, creating a youth safety camp, and participating in the National Night Out program. His colleagues describe him as a fair and trustworthy person and someone that has always done what he considers best for his community.

Born in 1948, Schwartz and his family moved to Forest Lake in 1964. He graduated from Forest Lake High School and holds degrees from Lakewood Community College, Metro State University and a master's degree in police leadership from St. Thomas University. He and his wife, Lucy, live in Hugo, Minnesota, and have three grown children, Bryan, Matt and Margaret, and two grandchildren.

David began his career as a part-time police officer in 1969 and rose through the ranks until he was promoted to chief in 1979. When he first put on the officers uniform, the department operated with one radio channel for communication and handled about 2,000 calls per year. At his retirement, the Forest Lake police force now uses 16 radio channels, an on-board computer system and radar weather images to handle the 13,000 calls per year they receive.

Chief Schwartz plans to stay busy during his retirement and is looking forward to teaching and doing some writing. He also plans to spend some much deserved time with his family at their cabin in northern Minnesota.

Mr. Speaker, Chief David Schwartz has been working to make Forest Lake a safer community for the past 34 years. I join the residents of Forest Lake and all of Minnesota in thanking him for his service to his community and his tireless efforts to make Forest Lake a wonderful place to live.

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## HONORING DR. MARTIN LUTHER KING, JR.

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. HOLT. Mr. Speaker, I rise to revise and extend my remarks.

I submit to the RECORD the remarks of Dr. Valerie Smith, the Woodrow Wilson Professor of Literature and director of the Program in African-American Studies at Princeton University. Dr. Smith delivered this speech yesterday, January 19, 2004, in honor of Dr. Martin Luther King, Jr. As you will see, the speech draws heavily on the words of Dr. King himself. I venture to say that Dr. King's words will continue have more lasting value than anything we say here on the House floor today.

[Keynote Speech, Jan. 19, 2004]

IN MEMORY OF DR. MARTIN LUTHER KING, JR.

PRINCETON UNIVERSITY MARTIN LUTHER KING DAY CELEBRATION

(By Valerie Smith)

On December 10, 1964, the Rev. Dr. Martin Luther King, Jr. accepted the Nobel Prize for Peace. In the speech he delivered on that occasion, he was careful to acknowledge that he accepted the award not on his own behalf, but in the name of all who made the Civil Rights Movement, and thus his leadership, possible.

"From the depths of my heart [he said] I am aware that this prize is much more than an honor to me personally.

"Every time I take a flight I am always mindful of the many people who make a successful journey possible, the known pilots and the unknown ground crew.

"So you honor the dedicated pilots of our struggle who have sat at the controls as the freedom movement soared into orbit. . . .

"You honor the ground crew without whose labor and sacrifices the jet flights to freedom could never have left the earth

"Most of these people will never make the headlines and their names will not appear in

Who's Who. Yet the years have rolled past and when the blazing light of truth is focused on this marvelous age in which we live—men and women will know and children will be taught that we have a finer land, a better people, a more noble civilization—because these humble children of God were willing to suffer for righteousness' sake."

On February 9, 1968, Dr. King preached what we might consider to be his own eulogy from the pulpit of Ebenezer Baptist. Ebenezer is, of course, the prominent black church in Atlanta in which he grew up, which his grandfather and father had pastored, and which Dr. King co-pastored with his father, the Rev. Martin Luther King, Sr.

This sermon, entitled "The Drum Major Instinct," was, like so many of his sermons, speeches and writings, at once reflective and prophetic. In it, Dr. King analyzes the human desire for greatness and recognition. He explores various manifestations of this compulsion, from the personal and insignificant to the national and cataclysmic. For from his perspective, the desire among individuals "to be important, to surpass others, to achieve distinction," is linked to the struggle among nations "engaged in a bitter, colossal contest for supremacy." As he puts it:

". . . Nations are caught up with the drum major instinct. I must be first. I must be supreme. Our nation must rule the world. And I am sad to say [he continues] that the nation in which we live is the supreme culprit. And I'm going to continue to say it to America, because I love this country too much to see the drift that it has taken."

This sermon culminates in Dr. King's eloquent and heartbreaking reflection on how he would like to be remembered. He tells his congregants: "If any of you are around when I have to meet my day, I don't want a long funeral. And if you get somebody to deliver the eulogy, tell them not to talk too long. Every now and then I wonder what I want them to say. Tell them not to mention that I have a Nobel Peace Prize, that isn't important. Tell them not to mention that I have three or four hundred other awards, that's not important. Tell him [sic] not to mention where I went to school. I'd like somebody to mention that day, that Martin Luther King, Jr. tried to give his life serving others. I'd like for somebody to say that day, that Martin Luther King, Jr., tried to love somebody. I want you to say that day, that I tried to be right on the war question. I want you to be able to say that day, that I did try to feed the hungry. And I want you to be able to say that day, that I did try, in my life, to visit those who were in prison. I want you to say that I tried to love and serve humanity.

"If you want to say that I was a drum major, say that I was a drum major for justice; say that I was a drum major for peace; I was a drum major for righteousness. And all of the other shallow things will not matter."

Two months later, these words were broadcast at his funeral.

Each year at this time, as a nation we pause to remember and to honor the life and legacy of the Rev. Dr. Martin Luther King, Jr. We typically recall the highlights of his remarkable and all-too-brief career: his leadership of the triumphant Montgomery Bus Boycott of 1955–56; his climactic speech on the steps of the Lincoln Memorial during the 1963 March on Washington for Jobs and Freedom; his receipt of the Nobel Peace Prize in 1964; his assassination in Memphis in 1968. Furthermore, typically, we replay the most familiar sentences from his most famous speech, a speech we have all come to know as his "I Have a Dream" speech. Those words, of course, include the following: "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

Without a doubt, the achievements that mark the high points of Dr. King's career are extraordinary. And without a doubt, his words on the steps of the Lincoln Memorial on August 22, 1963, are some of the most eloquent uttered by one of the preeminent orators of his generation or indeed, any other.

But by focusing on the same moments in Dr. King's life, and on a few words from one speech in particular, we, paradoxically, reduce him to the status of an icon. We do a disservice to his memory, to the movement to which he gave so much and in the service of which he died, and to the legacy we seek to honor. For the struggle for freedom and equality preceded and extends beyond what we commonly call the Civil Rights Movement. As he suggests so eloquently in his Nobel acceptance speech, The Movement was and is larger than his leadership. And of course, Dr. King was much, much more than these phrases and these moments.

To limit him to a few words denies the boldness, the complexities and the contradictions of his vision for humanity. To freeze Dr. King at these moments of his greatest visibility is to ignore his frailty, his vulnerability, and his transformations. By seizing upon the image of Dr. King at the pinnacle of his success or at the moment of his martyrdom, we risk allowing him to stand in for the Civil Rights struggle in its entirety, thereby rendering invisible the less well-known or indeed unknown foot soldiers without whom there would have been no Movement. To restrict him to these few representations deprives him of the power to inspire us to action. For if we believe that he was somehow fundamentally and essentially greater than or different from who we are, then we render ourselves unable to follow his example. In other words, to limit Dr. King to a few phrases and a few moments makes us complicit with an act of cultural amnesia, perpetuated in the name of memorialization.

Today I ask us to consider how we commemorate Dr. King not to suggest that we as a nation dispense with such ceremonies and celebrations. Rather, I raise these concerns in order to challenge us to work out the most meaningful way to honor his legacy. I want to suggest that as we remember Dr. King, we commit ourselves to a vision of memory as a critical function. Let us draw inspiration from "The Drum Major Instinct," look beyond the prizes and the fanfare, and seek to explore the deeper, more profound meanings of his life and ministry.

We might use this occasion to question why certain moments in Dr. King's magnificent body of sermons, speeches and writings have achieved canonical status while others are all but forgotten. We might seize this as the opportunity to ask whose interests are served when Dr. King is remembered as the champion of a color blind society and not, for example, as an advocate for the poor or an outspoken opponent of war. Indeed, we might take this opportunity to restore Dr. King's notion of a color blind society to its original meaning. For Dr. King used the term to refer to a society free of racial subordination. Yet various political leaders and pundits have appropriated the notion to justify their opposition to any intervention by the state to eliminate racial subordination.

In the spirit of Dr. King's Nobel Prize acceptance speech, we might use this occasion as a time to commit ourselves to learning more about the lesser-known activists associated with the struggle, men and women such as Septima Clark, E. D. Nixon, the Rev. Fred Shuttlesworth, Bob Moses, Diane Nash, Ella Baker, Fannie Lou Homer, Bayard Rustin, as well as the many, many others without whom there would have been no Movement. Perhaps most importantly, we might commit ourselves to a critical, productive engagement with his words and his actions so that we will be able to make his vision come alive for us as we face the challenges of the present moment. For the poverty, inadequate access to education, employment, and health care, discrimination and military aggression against which he struggled are still with us. They may have assumed different forms, but we face them nevertheless. What should we do in our daily lives to honor this drum major for justice, peace and righteousness?

During his lifetime, Dr. King was often criticized for stepping outside the categories into which others sought to confine him, his message and his mission. When, for example, a group of Birmingham clergymen accused him of being an outside agitator, he responded in his 1963 "Letter from Birmingham Jail," that

"Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly."

When he was criticized for speaking out against the Vietnam War, and told that "peace and civil rights don't mix," he responded in a sermon entitled "A Time to Break Silence," delivered at the Riverside Church in New York City on March 25, 1967 that he had "a calling . . . beyond national allegiances."

"To me [he continued] the relationship of this ministry to the making of peace is so obvious that I sometimes marvel at those who ask me why I am speaking against the war. Could it be that they do not know that the good news was meant for all men—for Communist and capitalist, for their children and ours, for black and for white, for revolutionary and conservative? Have they forgotten that my ministry is in obedience to the one who loved his enemies so fully that he died for them? What then can I say to the 'Vietcong' or to Castro or to Mao as a faithful minister if this one? Can I threaten them with death or must I not share with them my life?"

As we seek appropriate ways to remember Dr. King, we ought be certain not to limit him in death as his critics sought to limit him in life. He saw the interconnectedness of diverse struggles against racism, imperialism and economic exploitation. Our tributes to him must draw inspiration from that vision, they must enable us to see beyond our local interests and personal investments, and they must require us to recognize our place in the network of mutuality within which we are inescapably placed.

The brilliant 2001 film Boycott, offers a compelling example of memory as a critical function. In Boycott, the director Clark Johnson expands our conventional understandings of the Montgomery Bus Boycott. This film works to disabuse us of the notion that the Movement began with the boycott by drawing a connection between the segregation of public accommodations and the terror of rural lynch law. It complicates our understanding of the leadership of the Movement by pointing to the significant roles of figures such as Joann Gibson Robinson, E.D. Nixon, and Bayard Rustin. Moreover, it captures Dr. King's youth and vulnerability—at the time the boycott began he was only 26 years old—thus suggesting that he grew into the powerful, charismatic presence we so commonly associate with him.

What I find so impressive about Boycott is that it contradicts the notion that memory need be static or fixed. Rather, through its deliberate use of anachronism, it exemplifies how memory can be made pliable, dynamic, active. For example, it contains a dizzying array of visual images from both earlier and later moments in history that subtly link the boycott to previous and subsequent acts of struggle and resistance. It incorporates diverse musical tracks—rock, hip hop, gospel, jazz, alternative—from the '60s, through the '90s—a technique that pulls the boycott out of the safe past in which it has been enshrined. This compelling and imaginative use of the soundtrack prompts viewers to consider the enduring legacy of the boycott for the present.

The film ends with a striking image that dramatizes the kind of critical use of memory to which I've been alluding. The closing credits roll over a shot of Dr. King, played by the actor Jeffrey Wright, walking in 21st century Atlanta. Looking somewhat bemused by the people he passes—a young man carrying a boom box, someone else speaking on a cell phone—he stops to speak with a group of young African American men. A police car approaches, slowing to check out this group of men. The two officers, a Latina and an African American man, wave somewhat ambiguously at King and his associates before they move on.

At one level this final scene would seem to evoke a powerful, nostalgic longing for the martyred King. It might seem to prompt viewers to wonder how different the world would be if Dr. King were still here. But I believe that something else is going on here. I believe that this final scene is meant to inspire us to reflect upon the politics and the act of remembering. The exchange of glances between the officers and the black men on the street conjures up the familiar iconography of the tense relationship between the police and African American communities. In the context of a film about the end of Jim Crow seating on buses in Montgomery, this closing image links the protocols of segregation to the violence and terror communities of color continue to associate with law enforcement and the criminal justice system. This gesture positions the boycott, and by extension the Civil Rights Movement, within a broader history of oppression and resistance. The deliberately anachronistic shot of King speaking to the young men on the corner might thus be read as a figure for the possibility of a critical dialogue between the examples of history and the exigencies of the contemporary cultural and political scene.

I want to close with a passage from the end of King's Nobel Prize speech that speaks powerfully to the present moment. For even as he honors the men and women with whom he struggled so tirelessly in the Movement, he denounces military aggression and articulates a vision of global peace:

> I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into a hell of thermonuclear destruction. I believe that unarmed truth and unconditional love will have the final word in reality. That is why right temporarily defeated is stronger than evil triumphant.
>
> I believe that even amid today's mortar bursts and whining bullets, there is still hope for a brighter tomorrow. I believe that wounded justice, lying prostrate on the blood-flowing streets of our nations, can be lifted from this dust of shame to reign supreme among the children of men.
>
> I have the audacity to believe that peoples everywhere can have three meals a day for their bodies, education and culture for their minds, and dignity, equality and freedom for their spirits. I believe that what self-centered men have torn down men other-centered can build up. . . .

This faith can give us courage to face the uncertainties of the future. It will give our tired feet new strength as we continue our forward stride toward the city of freedom. When our days become dreary with low-hovering clouds and our nights become darker than a thousand midnights, we will know that we are living in the creative turmoil of a genuine civilization struggling to be born.

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## TRIBUTE TO CHAR SORENSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, I am honored to rise before you to recognize a remarkable woman from my home state of Colorado. Char Sorenson was recently recognized as one of four finalists for Colorado's annual Teacher of the Year Award. Char has dedicated her life to the betterment of young people and I am proud to call the attention of this body of Congress and our nation to her outstanding contributions.

Char is a teacher at Vanderhoof Elementary School in Arvada, Colorado. Char's genuine passion for teaching shines through in the classroom each day. As a teacher, Char works tirelessly to provide her students with the educational foundation that will help them to become effective and successful members of their community. In addition to traditional lessons, Char teaches her students integrity, respect and self-discipline through example.

Char's commitment to the betterment of young people does not end with her position at Vanderhoof Elementary. Char is also devoted to teaching children the wonders of the great outdoors. As a volunteer with the Outdoor Education Laboratory School, Char works to ensure that hundreds of Colorado's students are exposed to the wonders of natural science.

Mr. Speaker, it is my honor to rise and pay tribute to Char Sorenson. Char has dedicated her life to the betterment of young people and all of her students have had their future enhanced by her dedication.

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## UNVEILING UNITED STATES POSTAGE STAMP IN HONOR OF PAUL ROBESON

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. HOLT. Mr. Speaker, I submit to the RECORD remarks I gave this morning at the unveiling of a United States Postage Stamp in honor of Paul Robeson. He was an impressive American, and these remarks capture my thoughts and feelings on his remarkable, yet tragic, life and accomplishments.

I am honored to be here to recognize Paul Robeson and also to recognize his son Paul Robeson, who himself has done so much for America.

This is just a stamp. But I can hardly express how important this is to me personally.

You see, I grew up in the 1950's. My town was probably no more racially segregated than most of America, and anti-communism was no more at a fever pitch than anywhere else. But I never had heard of Paul Robeson.

When, as a young man, I learned about Paul Robeson I got all his recordings and watched all his movies and read all about him. I marveled at his voice, his intellect, his optimism. Several times as a student I even considered trips to meet him, just to show up at his door and ask to speak with him. But I was told he was in seclusion.

I did not know what I would do if I met him. Say I admired him? Apologize for his mistreatment? As a kid I did not think I could really do anything. Maybe I wanted to know how he got the courage to sacrifice his career by fighting for, what he called, his people.

Mostly I just wanted to meet the person who more than anyone else in America represented for me what had to be fixed.

How could this be? Not how could so much talent be in one person. Rather, how could a talent of this magnitude, a person of such dignity and such accomplishment be rubbed out of the history books? A great actor, singer, writer, linguist and scholar. And how could America, sports crazy America, fail to mention a note-worthy all-American football player. One of the great talents of our age. How much more he offered than so many of the shallow, faintly-talented people whom we celebrate in the papers, on television, and, yes, even on postage stamps. His autobiography and manifesto was not reviewed in a single main-stream publication. I felt cheated. Even as a boy, I considered myself very well informed about the world and about America. How did I not know about his role in the American labor movement? How could the knowledge of Paul Robeson be kept from me. Yes, I felt cheated and angry. Even more, I felt America had been cheated. Why was he denied to my generation? And worst of all, America had cheated itself. It was painful. In the person of Paul Robeson I saw the cost of racism and the cost of patriotic fear. It wasn't just a few vicious bigots. It wasn't just some anti-communist know-nothings. It was the official policy of my country to commit this injustice. Our country, Paul Robeson's and mine.

And it was happening to the person who had popularized the song "The House I Live In" with the words ". . . the right to speak my mind out; that's America to me." Someone who had overcome racial exclusion to become one of the best-known and outwardly successful figures in the world, only to be benched. As Lloyd Brown had said, "The spotlight was switched off . . . and a thick smokescreen was spread around him."

I could not fix it, and I regretted deeply that I couldn't. Even if I visited him. I couldn't. What could a white kid say, standing on his doorstep? I never met him.

When I heard about the decision of the commemorative stamp committee, I realized that I should bring this ceremony to Princeton, Robeson's birthplace. The irony, you say? That a white elected official would ask to bring this ceremony to Princeton, the town that Robeson himself said "was spiritually located in Dixie" and a home to Jim Crow? To the Princeton University Paul Robeson never could have attended? (Need I say that it hurt Princeton University more than it hurt Paul Robeson. They lost the benefit of a two-time all-American, a national-level debater, a Phi Beta Kappa and valedictorian level student, an actor and chorister unmatched in the collegiate world of the day, and they lost the bragging rights to Paul Robeson.) Yes, Princeton was where this ceremony should be.

Paul Robeson said Princeton not only gave him his start; it gave him his grounding. Princeton days were, he said, his "happier" days. After his mother died and his father was removed from his pulpit, the people of Princeton—not so much the white people, although he had white playmates, but the close-knit African-American community—gave him "an abiding sense of comfort and security." He had a Home in that Rock, don't you see? He was adopted, he said, by all of Negro Princeton. In his words: "Hard working people, and poor, most of them, in worldly goods—but how rich in compassion! How filled with the goodness of humanity and the spiritual steel forged by centuries of oppression! There was the honest joy of laughter in these homes, folk-wit and story, hearty appetites for life as for the nourishing greens and black-eyed peas and cornmeal bread they shared with me. Here in this hemmed-in world where home must be theater and concert hall and social center, there was a warmth of song. Songs of love and longing, songs of trials and triumph, deep-flowing rivers and rollicking brooks, hymnsong and ragtime ballad, gospels and blues, and the healing comfort to be found in the illimitable sorrow of the spirituals. Yes, I heard my people singing. . . . And there was something else, too, that I remember from Princeton. Something strange, perhaps, and not easy to describe . . . People claimed to see something special about me . . . that I was fated for great things." Princeton, he says, gave him what he needed to succeed, what every child needs. Yes, what every child needs, a sense of comfort and security, and a sense of possibility and expectation. We could still give that to every child, couldn't we?

He needed all the strength that was bred into him and more. Years later he was summoned before the House UnAmerican Activities Committee and he was asked, by someone like me, I regret to say, why, if he liked Russia so much on his repeated visits, why didn't he just stay there, he replied in a most imposing voice, "Because my father was a slave, and my people died to build this country, and I'm going to stay right here and have a part of it, just like you. And no fascist-minded people like you will drive me from it. Is that clear?" I suppose the Princeton and Somerville schools did not teach the Dale Carnegie method back then.

Paul Robeson began his autobiography with the sentences, "I am a Negro," and too, "I am an American." When he said that blacks should not fight the USSR, I'm sure he meant that the fight for freedom begins at home. Then, declaring him a security risk the government, our government, revoked his passport—even at a time that we were castigating China and Russia for not allowing their citizens freedom of travel. And as we castigated them for police-state tactics at the same time that we tailed Robeson, tapped his phone, opened his mail, and denied him his livelihood. Why? Out of irrational fear. Out of ill-considered patriotic fervor. Out of, yes, unexamined fear of terrorism. Paul Robeson must have scared the daylights out of America. It wasn't just white America; it was Jackie Robinson who spurned him, and the NAACP, and the leaders of the civil rights movement, and the labor leaders he had championed. Robeson said maybe his watch was fast. Explaining that he was ahead of his time is small consolation. How that must have hurt! The painful isolation, after he had broken the ground, from which a successful civil rights movement grew.

Yes, we can take satisfaction in knowing that the people here in New Jersey made Paul Robeson what he was. Then, too, we must remember we represent what brought him down, what blacklisted him, what crushed his optimism—ordinary Americans. We let it happen. We did it to ourselves.

A stamp does not make it all right. A stamp does not absolve us of our collective responsibility and regret. Too many lives were ruined by the hatred of racism and the fearful excesses of the Cold War. Still, this stamp helps a lot. This is First Class postage! This is official U.S. postage. Every time we affix one of these stamps to a letter—a stamp depicting Paul Robeson with cheerful dignity—let's draw a lesson or two. First, just as the people of Princeton once did for a boy, let's show young boys and girls that there is something special about them; that they can do great things. And second, let us remember that we as a government, we as the media, and we who comprise conventional wisdom can be wrong, painfully wrong. Let us guard against that possibility of self-deception in a skewed view of the world. The Cold War and fear of communism are past, you say? Let us remember that simplistic tests of patriotism appear from time to time in our history and in an unthinking love for our country we can crush the very greatness of America.

## TRIBUTE TO WILL RORVIG

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. McINNIS. Mr. Speaker, I rise before you with a heavy heart to pay tribute to the life of an extraordinary man. Will Rorvig, from my home state of Colorado, recently passed away after courageously battling a series of illnesses. Will was known throughout the Denver community for his zest for life, friendly disposition and generous spirit. I am honored to rise today to recognize Will's many contributions to the state of Colorado and our great nation.

Will was raised in Montana and graduated from the University of Montana in 1967. Following graduation, Will answered his country's call to duty, and served honorably in the United States Army during the Vietnam War. He married his lovely wife Lana in 1977.

Will spent his professional career in the field of accounting. Renowned for his brilliance in tax law, Will was widely respected as an outstanding accountant. Over the past six years, Will held the position of Tax Director for the Anschutz Corporation; there he was known not only for his intelligence, but also for his leadership and willingness to mentor less experienced members of his staff.

Will was a beloved figure in Colorado. He delighted in playing golf and meeting for meals with his many friends, business acquaintances and family members throughout Denver. Will is also remembered for his generosity. Not only did Will perform traditional acts of charity, but he also had a unique penchant for generously assisting anyone he encountered whom he perceived needed his help. Will's altruistic nature certainly worked to the betterment of countless individuals less fortunate than himself.

Mr. Speaker, I am honored to rise and pay tribute to Will Rorvig. Will was a generous man, a loyal employee, and a dedicated mentor. Above all, Will was a loving husband to his wonderful wife and a tremendous friend to many. There is no question that the state of Colorado and our nation are better off as the result of Will's contributions. My heart goes out to Will's loved ones during this difficult time of bereavement.

## FREEDOM FOR EDUARDO DÍAZ FLEITAS!

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Eduardo Díaz Fleitas, a prisoner of conscience in totalitarian Cuba.

Eduardo Díaz Fleitas is a farmer by trade who became a dissident by necessity. The incessant brutal repression of human rights by the tyrant Fidel Castro forced Mr. Díaz to choose between a life without rights or fighting for a life with freedom.

Mr. Díaz bravely chose to dedicate his life to the fight for freedom. He joined his fellow Cuban dissidents and eventually Mr. Díaz rose to become vice president of the 5 August Movement, an organization commemorating the popular uprising against the dictatorship by the people of Havana on August 5, 1994.

With predictable cruelty, the tyrant, Fidel Castro, unleashed his machinery of repression on Mr. Díaz. According to Amnesty International, Mr. Díaz was subjected to regular harassment, including periods of detention that culminated in one year's restricted freedom and house surveillance for public disorder on February 25, 2000.

Undeterred by threats of continued harassment, Mr. Díaz resumed his role as a staunch advocate for freedom for every Cuban citizen. In the tyrant Castro's horrific March 2003, crackdown on dissidents, Mr. Díaz was arrested once again. According to the sham trial verdict that sentenced Mr. Díaz to 21 years in Castro's gulag, Mr. Díaz was convicted because:

> It is known by everyone in the area that he directs an opposition group of so-called 'human rights,' carrying out activities and meetings, using our national flag and showing posters asking for freedom for political prisoners and prisoners of conscience, in a frank challenge to the judicial, political, and social system.

Mr. Díaz was sentenced to 21 years in the hell hole of Castro's gulag because he challenged the bankrupt, backward, repressive system that robs its citizens of every freedom.

Mr. Speaker, today this Congress participates in one of the great traditions of our Republic. This evening, President Bush will deliver the State of the Union speech to a joint session of Congress here in this very chamber. As we gather here to participate in our constitutional responsibility let us also rise as one to display our solidarity with those brave souls who struggle for the same freedoms 90 miles from our shore. Let us demand the immediate release of Eduardo Díaz Fleitas and all prisoners of conscience in totalitarian Cuba.

## TRIBUTE TO NIGHTRIDERS INC.

### HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 20, 2004*

Mr. MCINNIS. Mr. Speaker, I am honored to rise before you to recognize a remarkable organization from the State of Colorado. NightRiders Incorporated of Boulder, Colorado was recently recognized for its innovative approach to protecting Coloradans from the perils of drunk driving with the National Commission Against Drunk Driving's Corporate Leadership Award. I am proud to call the attention of my colleagues and this nation to the contributions that NightRiders is making for the betterment of the Boulder community.

NightRiders has developed a unique way of getting Boulder citizens home from a night out. Upon request, a NightRiders employee rides a collapsible motorized scooter to the patrons' vehicle, places the scooter in the car, and safely transports the customer and their vehicle home. This service provides the passenger a safe ride while ensuring that our streets are safer for all.

Mr. Speaker, I am honored to pay tribute to NightRiders Incorporated for its commitment to improving the safety of Colorado's roadways. NightRiders is dedicated to the prevention of drunk driving and the company's achievements are certainly worthy of recognition. I would like to congratulate NightRiders on this well-deserved award.

## IN HONOR OF HAROLD REDDICK

### HON. JIM DAVIS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 20, 2004*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Harold Reddick, a pioneer in Tampa Bay's civil rights community, who leaves behind a legacy of fighting for a better life for all Floridians.

Following in the footsteps of his father, Harold started his career as a porter for Pullman Co., and went on to serve the Tampa chapter of the Brotherhood of Sleeping Car Porters. But Harold was born to lead—he was constantly breaking boundaries in his battle for equal rights.

In the early 1940's, traveling all the way to Chicago to plan a march on Washington, Harold fought to open federal government and defense jobs to black workers. Harold shook up Tampa Bay's establishment by attempting to register in the local White Municipal Primary, and he was arrested for trying to patronize an all-white drive-in theater.

A former vice president of the Tampa area chapter of the NAACP and strong supporter of the Montgomery Improvement Association, which helped to organize the Montgomery bus boycott, Harold was not afraid to challenge the old rules. He never let intimidation or violence get in his way.

After leaving the railroad industry, Harold went on to fight for the poor and unemployed. Working for the AFL–CIO's Human Resources Development Institute, Harold helped the less fortunate get back on their feet.

As vice president of the local branch of the A. Philip Randolph Institute, the senior constituency group of the AFL–CIO, and as a member of the Florida Silver-Haired Legislature, Harold was an advocate for seniors. And Harold fought for the young as well, serving on various advisory committees to the Hillsborough County School Board, alongside his wife, Doris, a school board member.

Like so many public officials in our community, I had the good fortune to call Harold my friend. I could always count on him for his candid and constructive counsel. Until his last breath, Harold never stopped helping everyone he knew be the best that they could be and helping our community be the best it could be.

Harold Reddick fought for all of us, and thanks to him, our community is stronger. On behalf of the Tampa Bay area, I would like to extend my deepest sympathy to Harold's family and friends. Harold's legacy will not soon be forgotten.

## TRIBUTE TO JANET JUNKIN

### HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 20, 2004*

Mr. MCINNIS. Mr. Speaker, I am honored to rise today to recognize a remarkable woman from my home state of Colorado. Janet Junkin was recently recognized as one of four finalists for Colorado's Teacher of the Year Award. Janet has dedicated her life to the betterment of young people and I am proud to call the attention of this body of Congress and our nation to her outstanding contributions.

Janet has been teaching for over two decades. In that time, she has helped to develop the minds and character of countless young people. At the root of Janet's teaching philosophy is her belief that education is a catalyst to creating opportunities for young people. Each of her students has had their future enhanced by Janet's unwavering devotion to their best interests.

In addition to traditional subjects, Janet also works to teach her students the importance of contributing to their community. Each year, Janet's classes undertake various community service projects. This past November, Janet and her class collected 52,000 cans of food for homeless families in the Denver area. By integrating classroom lessons with real life service to others, Janet imparts timeless values to her students that will help them develop into service-oriented adults.

Mr. Speaker, it is my honor to rise and pay tribute to Janet Junkin. Janet's selfless dedication to her students contributes to the betterment of those in her class and society as a whole. Thank you, Janet, for your service.

## TRIBUTE TO CHARLES F. McNAMEE

### HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 20, 2004*

Ms. LOFGREN. Mr. Speaker, Charles F. McNamee was born on January 11, 1911 in the old O'Conner Hospital in San Jose, California. His family had to travel there for the birth because it was the closest hospital to their farm in Hollister 50 miles away. His Irish mother, Agnes Hudner, was born on her family's ranch in Hollister in 1871. His father, Charles, was born in 1874 in Ireland and was brought to the United States at the turn of the century to work as a haberdasher in Hollister. Charlie's uncle John was married to Molly Breen, daughter of Patrick Breen of the ill fated "Donner Party". James Hudner, his grandfather, came to the United States after the potato famine in Ireland. He settled in Hollister by purchasing his land from Col. Hollister in 1868.

Charlie attended Hollister's Sacred Heart Elementary School in the fall of 1916 and later graduated high school there with a class size of eight! He attended Santa Clara University in 1928. There he was able to meet many founders of local industry and government. Dutch Hamann, eventually city manager and largely responsible for the evolution of San Jose from 1950–1969, and was a close friend at the University. It was Dutch who advised him many years later to move to Almaden Valley "as fast as you can" when Charlie's three children evolved to four and outsized his small home in Santa Clara. Vincent Thomas, elected to the California assembly in 1940, was his roommate for his last two years at Santa Clara. Charlie lived in an era that allowed tutoring by Fr. Cornelius J. McCoy, president of the University. Tuition was a "steep" $400 per semester (including room & board), but being the depression era, he got a half scholarship working in the board of athletic control as a typist. He graduated with a B.S. in Political Economics in May 1933.

After graduation he returned shortly to Hollister to work at the Grangers grocery as a delivery boy until about July 1934. Sounds like a meager job after a college education, but these were hard times where jobs, graduate or not, were just not available. With hay fever and asthma, he soon decided that ranch life was not to his liking and moved to San Jose taking a mail clerk job at Sunsweet Growers (where the Fairmont hotel currently resides). He switched to Western Pacific in the fall of 1940 with a job as a stenographer clerk and a year later transferred to the Western Pacific Main Office in the Mills Building on Montgomery Street in San Francisco.

He resigned Western Pacific in May 1942 to accept a commission as Lieutenant Junior Grade in the U.S. Naval Reserve at the bottom of Broadway in Oakland, California. In San Diego he was assigned to the Port Director's office. Commander Earnest transferred him to the Fleet Post office on Navy pier in San Diego. In 1943 he became Officer in charge of the Fleet Post Office at Terminal Island near San Pedro. In the fall of 1944 he was transferred to 7th Amphibious Force in the South Pacific on board the USS *Henry T. Allen* as Postal Officer. He was later promoted to Lieutenant Commander. After the war subsided, he returned to Pearl Harbor in December 1945 and was honorably discharged.

In 1946 he returned home to Hollister. After reminiscing with some Navy buddies down south, he returned to Sunsweet eventually becoming their Traffic Manager.

On October 26, 1946 he married Genevieve Washburn at the old St. Leo's church and began the first year of a fifty-three year marriage. He had three daughters and a son. His Catholic faith saw him assist with the building of three local churches: St. Justin's, Holy Spirit and St. Anthony's. He first settled in Campbell, moved to Santa Clara in 1952 with the arrival of a son and then to Almaden Country Club in 1961 after the arrival of his 3rd daughter and final child.

He was diagnosed with cancer in 1972 and given a few months to live by his doctor at O'Conner hospital. The tumor was too large to remove so no operation was performed. He retired immediately from Sunsweet. With faith and an herbal remedy, the tumor diminished and he soon returned to good health. He then got interested in the "Sons in Retirement" (SIRS) and held several positions there including the CEO post called "Big Sir". In 1996 he received an honorary life membership for his work.

Charlie began to enjoy golf at Almaden as a charter member when his children entered adolescence but had to wait until his 80th year to score his first hole-in-one. Ironically he had his second one a decade later at 90 years of age! Charlie still drives, plays golf three times a week, and leads a very active life at 93 years of age.

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## HONORING HARRY NASH SYKES

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. PICKERING. Mr. Speaker, yesterday we celebrated Martin Luther King, Jr. Day in Starkville, Mississippi and honored a native son and civil rights leader, Harry Nash Sykes. During his life he overcame adversity to excel as a public servant, educator, and athlete.

Sykes was born on April 1, 1927 to Marie Hall Sykes and P.K. Sykes in Starkville, Mississippi. He spent his early childhood years there and when he was 16, his family, led by his father P.K. Sykes, a tenant farmer and part-time minister, moved to Chicago.

While still in school, Sykes worked in a can factory for 72 cents an hour to help support his family. After World War II, he combined athletics with academics and became a four-sport star in high school, graduating in 1948 to attend Kentucky State University on a basketball and track scholarship. Sykes earned a bachelors degree in physical education from Kentucky State and later earned a master's degree in mathematics from the University of Minnesota.

After graduating from Kentucky State University in 1952, Sykes joined the world famous Harlem Globetrotters through the 1954 season. From 1954 until 1962, he taught high school mathematics for the Lexington Public School System at Dunbar High School and coached the Junior High School's basketball team. Sykes built a diverse business career as an insurance salesman, the Business Development Officer for Second National Bank, a real estate broker, and the Contract Compliance Officer with Frankfort, Kentucky's Department of Finance.

In 1963, Sykes was elected as the first African American councilman for the city of Lexington. He was reelected in 1965, 1967 and 1969. Between 1967 and 1969, Sykes also served as Mayor Pro-Temp. In 1971, he ran for Mayor of Lexington, but lost by a narrow margin. From 1972 to 1974, he served as Acting City Manager and, from 1974 until 1975, worked as the Acting Chief Administration Officer (CAO) for the Urban County Government.

Sykes served his community on various boards and commissions including the Board of Management of the YMCA and the Historical Pleasant Green Baptist Church. In 1968, he founded the Lexington-Fayette County Urban League and served as president until 1972. Sykes has been honored with numerous awards, including the Outstanding Citizen's Award by the Council of Christians and Jews in 1969.

Sykes is married to Geraldine Higgins Sykes and has five children: Harry, Melvin, Paula, Kevin and Kermit and members of their extended family still live in Starkville and Oktibbeha County, where Sykes is remembered and proudly called a son of Mississippi.

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## TRIBUTE TO ARCHIE BODO

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 20, 2004*

Mr. MCINNIS. Mr. Speaker, I rise before you with a heavy heart to pay tribute to a remarkable man from my district. Archie Bodo from Durango, Colorado passed away recently at the age of 94. Archie contributed a great deal to the Durango community, and it is my honor today to rise and pay tribute to his life before this body of Congress and our nation.

Archie was born on his family's vegetable farm in Durango in 1909. After growing up on the farm, Archie attended the Ford Motor Company School in Detroit, where he was trained as a machinist. Upon returning to Colorado, Archie opened a successful machine shop in Durango. In 1931, Archie married his wife of 72 years, Hazel Lemon. Although they had no children, the couple selflessly adopted and raised Hazel's niece and nephew as their own. In 1983, Archie retired after 37 years of devoted service to the City of Durango.

Archie had a true zest for life. Renowned for his sense of adventure, Archie was an avid vehicle enthusiast ,who enjoyed car racing, building motorcycles and off road driving. Archie also delighted in gardening, roller-skating and discussing politics with his friends. Archie always shared his enthusiasm for sport with others and countless Durango residents had their lives enhanced as the result of his friendship and guidance.

Mr. Speaker, it is my honor to rise and pay tribute to Archie Bodo. Archie's love of life and altruistic nature set a fine example for all Coloradans. Archie was a fine businessman and a friend to many. Above all, Archie was a tremendous father figure, and a devoted and loving husband. My thoughts go out to Archie's loved ones in this difficult time of bereavement.

# HOUSE OF REPRESENTATIVES—*Wednesday, January 21, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMMONS).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 21, 2004.*

I hereby appoint the Honorable ROB SIMMONS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, creator of life, author of our inalienable rights, every single human person is to be valued and reverenced. Some people in life mean more to us than others. In this Nation, the office of Presidency bestows upon a single person an awesome responsibility. The President personifies our loyalty and our strength as a Nation. He is called to unify our diversity and resources for the lasting good of this country and for the betterment of the world community.

Today we pray for George W. Bush, the 43rd President of the United States of America. Bless him, his cabinet, staff advisors, and especially his family. Be his source of wisdom and planning and of understanding the people's needs and courage in difficult times.

May all in the executive branch of government work in cooperation with this Congress to achieve what is best for our Nation at this time. This we ask in Your holy name. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Connecticut (Ms. DELAURO) come forward and lead the House in the Pledge of Allegiance.

Ms. DELAURO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PRESIDENT BUSH LEADS EFFECTIVELY, HONORABLY, AND WITH DISTINCTION

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I see there are a few Democrats on the floor today; they are busy preparing their "I hate George Bush" speeches for the day. We finished last night with a message from the President of the United States about the hopeful optimism this country has and the things that we can do together if we only stop bickering and start working towards our common goals.

The war on terrorism is his single focus; and since September 11, our homeland has been safe. Liberating the world has been his hallmark, and today we can claim that Libya is now negotiating with the United States. North Korea is finally talking about putting aside their hatefulness. India and Pakistan are joining together for conversations that are hopeful and helpful for solving the world's problems.

This President has led effectively, honorably, and with distinction.

At the end of the State of the Union speech, the minority leader went on to describe how reckless, basically, this President has been. I disagree vehemently and strongly. I applaud our President. I applaud the state of the Union. The economy is growing stronger, unemployment is reducing itself and we are finding ourselves in a better place, thanks to his leadership.

God bless this great Nation and, as the chaplain said, God bless our President.

## HONORING MICHAEL GALE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, I rise today to honor Michael Gale, an exceptional student in my district in West Virginia, and one of my constituents.

Michael was recently awarded one of 12 George Mitchell Scholarships for postgraduate studies at universities in Ireland and Northern Ireland. Michael is the first West Virginia resident ever to receive this prestigious award and will study at the National University of Ireland in Galway.

The Mitchell Scholarship was established by an endowment from the Irish Government in 1998 and is administered by the U.S.-Ireland Alliance. The House has supported funding for the Mitchell Scholarship both in 2003 and 2004. The British Government also provides support for this program.

I offer my congratulations to Michael Gale, an exceptional young West Virginian, and the other 11 winners of the Mitchell Scholarship and wish them all the best in their studies in Ireland.

## HONORING THE LIFE OF HAROLD J. "TEX" LEZAR, JUNIOR

(Mr. BURGESS asked and was given permission to address the House for 1 minute.)

Mr. BURGESS. Mr. Speaker, it is my sad duty this morning to report on the passing of one of the most articulate conservative voices in Texas.

Harold J. "Tex" Lezar, Jr., left us earlier this month, a Texas lawyer who had worked for both the Nixon and Reagan administrations and was a fixture in Texas and national politics.

Born in Dallas, Tex Lezar grew up in Japan, the son of a ship's captain who did reconnaissance work for General MacArthur. He graduated from Yale and was an assistant to columnist William F. Buckley, Jr., before becoming a speech writer for President Nixon. Tex worked on Ronald Reagan's 1980 Presidential campaign before becoming a special counsel to the U.S. Attorney General and later the chief of staff under Attorney General William French Smith.

In June of 1984, Tex Lezar married Ms. Mary Spaeth. He leaves three children: Philip, Beau, and Maverick.

As a Texas Republican, I can say we were blessed to have had him with us as a guide to encourage and direct our political paths. As a friend of him and his family, I am glad I had the chance to know him; and I honor his life here today.

## COMMENDING DR. GEORGE MEETZE FOR HIS HISTORIC SERVICE TO THE SOUTH CAROLINA GENERAL ASSEMBLY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last week history was made in the South Carolina State Senate when the Reverend George Elias Meetze presented the prayer for opening the Senate First Day of the Second Session of

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the 115th General Assembly on January 13. This marked the 55th year of service by the enthusiastic Dr. Meetze as chaplain of the Senate. He holds the historic record of being the longest-serving chaplain of a legislative body in the world. Every day, as he leads the Senate in prayer, he establishes a new record of devotion to the people of South Carolina.

Dr. Meetze is a graduate of the University of South Carolina, New York Theological Seminary, and Lutheran Southern Seminary. He is the retired pastor of the Lutheran Church of the Incarnation of Columbia from 1942 to 1974. Dr. Meetze and his late wife, Margarete Allen, have two sons, George Allen Meetze and William Dagnall Meetze.

In every way, Dr. Meetze is a vital participant of the Midlands community, never missing Rotary, promoting the Salvation Army, and serving the American Cancer Society.

I urge my colleagues to commend Dr. George Meetze for his historic service as he begins a new session.

In conclusion, God bless our troops. We will always remember September 11.

## HEALTH CARE VOUCHERS FOR THE WORKING UNINSURED

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, last year, Americans on average saw their health care costs increase by 9.3 percent. That is on top of the year before where health care inflation ran at 12 percent. Today, we have 44 million Americans without health insurance and 32 million Americans who work full-time without health care.

In fact, the problem with our health care system today is that many people with health care insurance pay an uninsured premium for those who work, but show up at emergency rooms without health care. Hospital costs are skyrocketing through the roof. We all pay for their health care, and they do not get it.

What ails our health care system is that there is not enough competition. We need competition in pricing of prescription drugs where we have competition, where people can buy drugs in Canada, in Europe. That competition and choice would drive prices down. What we need to do for the uninsured is also create a competitive system.

I have offered and will be offering soon a piece of legislation for a health care voucher for the working uninsured where they will get a voucher equal to the dollar amount of the tax credit the President proposed and buy into a subsidiary of the Federal employees health care plan.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

## HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 492) honoring the contributions of Catholic schools.

The Clerk read as follows:

### H. RES. 492

Whereas America's Catholic schools are internationally acclaimed for their academic excellence, but provide students more than a superior scholastic education;

Whereas Catholic schools ensure a broad, values-added education emphasizing the lifelong development of moral, intellectual, physical, and social values in America's young people;

Whereas the total Catholic school student enrollment for the 2003–2004 academic year is 2,600,000 and the student-teacher ratio is 17 to 1;

Whereas Catholic schools teach a diverse group of students;

Whereas more than 26 percent of school children enrolled in Catholic schools are from minority backgrounds, and more than 14 percent are non-Catholics;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual, character, and moral development;

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated: "Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives."; and

Whereas January 25–31, 2004, has been designated as Catholic Schools Week by the National Catholic Educational Association and the United States Conference of Catholic Bishops, an event celebrating its 30th year: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals of Catholic Schools Week, an event co-sponsored by the National Catholic Educational Association and the United States Conference of Catholic Bishops and established to recognize the vital contributions of America's thousands of Catholic elementary and secondary schools; and

(2) congratulates Catholic schools, students, parents, and teachers across the Nation for their ongoing contributions to education, and for the key role they play in promoting and ensuring a brighter, stronger future for this Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

### GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 492.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 492, offered by the gentleman from Louisiana (Mr. VITTER). This resolution honors the contributions of America's Catholic schools, which are dedicated to not only educating their students academically but to developing their moral, intellectual, physical, and social values.

January 25 through the 31 is Catholic Schools Week, an annual tradition jointly sponsored by the National Catholic Education Association and the United States Conference of Catholic Bishops, and it is in its 30th year. The purpose of this resolution and Catholic Schools Week is to celebrate the vital role that Catholic elementary and secondary schools play as they provide a values-added education with high standards of quality and excellence to many of America's children.

As President George W. Bush noted earlier this month in recognition of the National Catholic Education Association's 100th anniversary, "Catholic educators share the basic conviction that every child can learn," a principle that we are extending to public education through the No Child Left Behind Act.

The President also pointed out that high expectations that characterize Catholic education have provided students with overwhelming results. More than 99 percent of students participating in Catholic education graduate from high school and the majority of those go on to college.

As a product of Catholic education from elementary school through my education at Xavier University, I have found that my foundation in Catholic education has helped me strengthen my sense of purpose in life and prepare me to achieve my goals. My home State of Ohio has more than 500 Catholic schools, including my alma mater, Moeller High School. In Ohio, the Catholic schools serve more than 180,000 students, including more than 56,000 students attending 135 Catholic schools in the archdiocese of Cincinnati that is part of my district.

I appreciate the great work being done by Catholic schools, their administrators and teachers, as well as their parents and volunteers. And as the President noted earlier this month, "Catholic schools carry out a great mission, to serve God by building the knowledge and character of young people." I commend my colleague from Louisiana for introducing this resolution, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume, and I am pleased to join the gentleman from Ohio (Chairman BOEHNER) in support of this resolution.

I also want to commend the gentleman from Louisiana for introducing this resolution as we recognize the diversity of our educational systems throughout the country. Today's resolution recognizes the contribution of Catholic schools. Mr. Speaker, children all across America have benefited from Catholic education. Certainly we can all agree that Catholic schools are a strong and positive force in America's educational system.

Fortunately, the great, truly great aspect of America's education system is its diversity. The goal of our system should be both public and private, and it is to provide anyone and everyone in any city, any State with the opportunity they need to succeed.

☐ 1015

The educational recipe for success in our country certainly includes Catholic schools, schools with other religious focuses and non-religious private schools, along with our public schools which means so much to so many. It is this variety, this diversity that truly makes American education powerful. It makes American education successful in its mission.

Today we recognize Catholic schools for their long commitment to education, to a value system, to developing the kind of lifestyles that students as well as adults need to seek.

There are many outstanding Catholic schools in my Congressional district. Among them Fenwick High School in Oak Park, Illinois, Resurrection Elementary Schools in Chicago, and, of course, St. Ignatius Prep, which is recognized as one of the top prep schools in the Nation.

So I am pleased to join with the gentleman from Louisiana (Mr. VITTER) in supporting this resolution, commend him for his insight.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. HOEKSTRA), the chairman of one of our subcommittees of the Committee on Education.

Mr. HOEKSTRA. Mr. Speaker, I rise today in strong support of House Resolution 492, which recognizes Catholic Schools Week and honors Catholic schools for the important role that they play in educating America's children.

Catholic schools will provide a high quality and innovative education for over 2.5 million students this year, serving a diverse group of students from many social and economic backgrounds. Catholic schools educate racially and ethnically diverse students, children who live in inner cities, urban and rural communities, children who are not Catholic, and even students with disabilities.

These schools excel not only in bringing students with different needs and backgrounds, but they also graduate 99 percent of their student population and send 97 percent of their student body to post-secondary institutions of higher education.

This academic excellence is coupled with very low per-pupil expenditures which stems from the Catholic's Church's willingness and commitment to invest in students and in local communities. Over 84 percent of Catholic schools provide tuition assistance to their students to enable low income parents to send their children to these high-achieving schools.

Catholic schools have demonstrated a commitment to teaching every child believing that each child can and will learn. When school choice initiatives have become the law in States and communities across the country, Catholic schools have opened their arms and their doors to parents and children seeking alternative educational options.

My home State of Michigan has the ninth largest Catholic school enrollment in the country, with 320 Catholic schools educating more than 88,000 students through preschools, elementary schools, middle schools, high schools and after-school programs. In my Congressional district, I have many large and small Catholic schools in urban and rural communities, some schools that specialize in elementary educations and others that educate students during their middle school and high school years.

Catholic schools are widely recognized for their academic distinction. However, I am proud to praise their achievement in meeting the needs of the entire student. Catholic schools build character in our young people and seek to educate the spiritual, intellectual, social, and cultural components of each person while developing an attitude of servant leadership among their students.

Through their insistence on teaching children values, Catholic schools challenge students to live moral and compassionate lives. By insisting on high academic standards and innovative teaching methods, Catholic schools are models of academic excellence for all teachers and schools in this Nation.

I join my colleagues in recognizing Catholic schools week and in congratulating the schools, students, parents and teachers in West Michigan and throughout the Nation for their ongoing commitment to a high-quality education for all of our children.

I would also like to thank the Catholic educational system for the fine work that they did in shaping our chairman, the gentleman from Ohio (Mr. BOEHNER).

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he might consume to the Democratic Whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I am going to support this resolution, of course, notwithstanding the most recent information I have received from our colleague. I congratulate the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Illinois (Mr. DAVIS) for bringing it to the floor.

(Mr. HOYER asked and was given permission to speak out of order.)

### CARLTON R. SICKLES, A TRUE PUBLIC SERVANT

Mr. HOYER. Mr. Speaker, a former colleague of our ours died last Saturday morning. He was an extraordinarily good human being and a very close friend. I want to pay tribute to a good and decent American, an absolutely wonderful individual, Carlton R. Sickles, who passed away early Saturday.

It is unfortunate that millions of people whose lives he touched during his 82 years never had the benefit of knowing him personally. I am blessed as many in this body were blessed by knowing him well. He was a veteran of World War II and the Korean War, a former Maryland legislator, a gubernatorial candidate and a Member of the House from 1963 to 1967.

But he is perhaps best known, Mr. Speaker, for those of us who live in the Washington metropolitan area as the father of the Metrorail transit system which today serves millions of customers every single year, not only those who live in this region but those millions of people who come to the Washington metropolitan area to visit their Capitol and their Representatives.

On a personal note, Mr. Speaker, I will forever be indebted to Carlton for encouraging me to choose a career in public service. I wanted to run for the House of Delegates in 1966. He was running for governor. He urged me to run for the State Senate. I did not think I could win a State Senate seat. I was 2 months out of law school and thought that premature, but he continued to encourage me. And the third time he asked I ran, and I was fortunate enough to be successful. That has made a huge difference in my life.

He encouraged so many others to participate in public service. His own public service was a credit to elective office, a credit to this institution, a credit to Maryland, and his community.

To his wife Jacqueline, his children, and all his family, I offer my deepest condolences. Carlton was a role model who left a tremendous legacy. He will be sorely missed.

Mr. BOEHNER. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Ohio (Mr. BOEHNER) for bringing in resolution to the floor and to my colleague from Louisiana (Mr. VITTER), hopefully our next Senator from the great State of Louisiana, for proclaiming the importance of Catholic parochial education in our society and in our lives.

As a product of Sacred Heart School in Lake Worth, I remembered returning to that very classroom where the shock of my life at that time had been the assassination of President John Kennedy. We were in 4th grade. We were asked to pray and pray for our nation and for our assassinated president.

And after September 11th when I was equally shocked as the Nation was watching in horror the events unfolding in New York City, I returned to that classroom for solace, for comfort, and for guidance.

Catholic education was a lot to me and to our family. My father started at Sacred Heart himself as a teacher, went on to Cardinal Newman to be a coach and earth science teacher, and then went on to the public school system where he retired from a school for troubled children.

Through his leadership and our parents' guidance and the church's blessing, it has meant a lot to all of our family as we learned life's lessons.

I recently attended St. Ann's school in West Palm Beach. Their students undertook on their own initiative an effort to send memorabilia and messages to our troops in Iraq. They gathered and worked together to do handiworks and crafts and essential items, care packages, if you will, to our troops only to find that nobody would take the packages. Not UPS, did not fly there, not FedEx. There was no way to get all of their hard work accomplished. They called our office. Thanks to the hard work of our staff, they repacked the boxes, asked the Department of Defense for permission and were able to load those packages on to a flight heading to Iraq.

I recently went to the school and thanked the children for their extraordinary efforts and thinking of our troops first over the holiday period. And they read for me a number of the letters that were sent back by our personnel in the field. It was heartwarming to see the interaction between soldier and student.

Ave Maria is a new university contemplated and soon to be constructed in Ft. Myers, Florida, the first Catholic university to be built in the country in 40 years. I commend our community for being lucky to have a Catholic University soon in our presence.

Catholic schools are important to the fiber and foundation of our Nation. They give every child a chance to pray in class, which is a unique and novel thing, one I welcome and urge other non-parochial schools to participate in. Because, after all, after September 11th the one thing that lifted the soul of the Nation and gave us courage to fight on in the days ahead was, in fact, our collective prayer, our willingness and wishes for a better world for all Americans and all inhabitants of the world.

So I salute the author of the amendment, the gentleman from Louisiana (Mr. VITTER), our colleague, the gentleman from Ohio (Mr. BOEHNER), the chairman, and all who will join with us today in, again, saluting the importance of Catholic education in our daily lives.

Mr. DAVIS of Illinois. Mr. Speaker, I continue to reserve my time.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. VITTER), the author of the resolution that we are considering.

Mr. VITTER. Mr. Speaker, thanks for the opportunity to recognize today the contributions of Catholic schools. It is particularly significant for me and my constituents since Catholic education began in America in my home State of Louisiana in 1725. My wife Wendy and I are both Catholic school graduates. We send our kids to the Catholic school right in our neighborhood. We know first-hand those contributions as so many speakers before me have noted.

Catholic schools prepare every student to meet the challenges of their future by developing their mind, yes, but also their body and their soul and spirit. They instill students with self-confidence and motivation and the will to succeed, and they provide a true education of value in every sense of the term.

This year is the 30th anniversary of Catholic schools week. The week was established to recognize the vital contributions of America's thousands of Catholic elementary and secondary schools.

The schools produce students strongly dedicated to their faith, values, families, and communities. And those students are very well rounded and they come from truly diverse backgrounds. Nationally non-Catholic enrollment in Catholic schools is 13 percent and minority enrollment is 26 percent. So the institutions are rich both in tradition and diversity.

I rise, Mr. Speaker, to honor the faculty who dedicate their lives to shaping the future of their students, and certainly that includes the religious who are at the core of Catholic education. I salute the parents who sacrifice their personal funds to send their children to Catholic schools. I applaud the students of those schools for the role they play in promoting and ensuring a brighter, stronger future for this Nation.

And I join with so many of my colleagues in saluting this vital part of American education.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just indicate again that I strongly support this resolution for a number of reasons. We all know that Catholic schools are noted for a strong emphasis on discipline, which is so important for young people. As a matter of fact, important for all of us. They are noted for a strong emphasis on values education, values that we all need to internalize and make a part of our everyday lives.

They are also noted for parental involvement. Catholic schools' parents must be involved in the education of their children. All schools should follow this concept because without parental involvement, then children do not really get the information that they need to have to know that education is not just inside the school, but it is an actual part of life.

And so, again, I commend the gentleman from Louisiana (Mr. VITTER) for introducing this resolution. I am pleased to join with the gentleman from Ohio (Mr. BOEHNER) and others in support of it.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, I want to thank all my colleagues who have come to the floor today to help us celebrate Catholic Schools Week. As I said, not only am I a graduate of Catholic education, but so are my 11 brothers and sisters. If it were not for the commitment of my parents to send us to Catholic schools, I do not think that we would be what we are today.

□ 1030

I cannot really go on much further in talking about Catholic education without admiring the work of Cardinal McCarrick here in Washington, D.C.

While there are many Catholic schools here in Washington, there are 13 very special Catholic schools here in Washington called the Consortium Schools that are in low-income neighborhoods. They are 95 percent minority, 80 percent non-Catholic. Cardinal McCarrick and the volunteers at the consortium have worked to keep those 13 schools open for the benefit of those children in those neighborhoods.

Last year, Senator KENNEDY and I worked to help raise money to keep these 13 schools open. I made a commitment to go see all 13. I made it to four. I have got nine more to go. But there is amazing work that is going on at these 13 schools here in Washington where we all know the condition of the public schools. I just want to take a moment to thank Cardinal McCarrick and those at the City Consortium Schools for the work they are doing to help minority and poor children here in Washington, D.C.

Mr. BACA. Mr. Speaker, today, I am pleased that Congress has recognized the important role that Catholic Schools play in our community.

As a Latino, I know the important place that Catholic education has had in my district. The Saint Thomas Aquinas High School in San Bernardino, CA, is highly regarded for its academic and athletic excellence.

The San Bernardino Diocese School System under Bishop Gerald Barnes has made major investments into their school system to bring students into the 21st century.

Even though I am a strong supporter of public schools, I understand the importance of Catholic schools in our Nation's education and the values they instill in our students.

The quality of education provided at Catholic schools is truly remarkable, and deserving of high honors.

Not only do they focus on academic achievement but they also build strong moral foundations for young people. Their curriculums are often full of programs in character development and community service.

Catholic school students graduate with a wide variety of skills that will not only help them in their careers but also in their family and community life.

I am please to support this resolution honoring the contributions of Catholic schools.

Mr. CASTLE. Mr. Speaker, I rise today to speak in support of House Resolution 492, offered by the gentleman from Louisiana, Mr. VITTER. This resolution honors the contributions of America's Catholic schools, and their dedication to educating their students and improving their communities.

Catholic Schools Week 2004 will be celebrated from January 25–31 with the theme. "Catholic Schools: A Faith-Filled Future." Every year since 1974 Catholic Schools Week has been celebrated and jointly sponsored by the National Catholic Educational Association and the U.S. Conference of Catholic Bishops.

Catholic schools are internationally acclaimed for their academic excellence, but provide students more than a quality academic education. Catholic schools provide a values-infused education that emphasizes moral, intellectual, physical, and social values in America's young people. In turn these schools produce students strongly dedicated to their faith, values, families, and communities.

There are currently over 2.6 million students enrolled in 8,000 Catholic schools across this Nation. In my home State of Delaware, over 30 Catholic schools provide an excellent education to over 15,000 students. These schools serve children from all incomes and backgrounds. In addition, Catholic school students come from many different races, religions, and ethnicities. In this school year, about 26 percent of Catholic school students are from minority backgrounds and about 14 percent are not Catholic.

I appreciate the great work being done by the Catholic schools, their administrators and teachers as well as their parents and volunteers. I commend my colleague from Louisiana for introducing this resolution and urge my colleagues to support it.

Archmere Academy, Claymont
Christ Our King School, Wilmington
Corpus Christi School, Wilmington
Holy Angels Elementary School, Newark
Holy Cross School, Dover
Holy Rosary Elementary School, Claymont
Holy Spirit Elementary School, New Castle
Immaculate Heart Of Mary School, Wilmington
Mother of Divine Grace
Mother Seton School
Our Lady Of Fatima School, New Castle
Our Lady of Grace Kindergarten, Newark
Padua Academy, Wilmington
Sacred Heart Academy
Saint Ann Elementary School, Wilmington
Saint Anthony Of Padua School, Wilmington
Saint Catherine Of Siena School, Wilmington
Saint Edmond's Academy School, Wilmington
Saint Elizabeth Elementary School, Wilmington
Saint Elizabeth High School, Wilmington
Saint Hedwig Elementary School, Wilmington
Saint Helena Elementary School, Wilmington
Saint John Bosco's Academy
Saint John The Beloved School, Wilmington
Saint Joseph's Academy
Saint Marks High School, Wilmington
Saint Mary Magdalen School, Wilmington
Saint Matthew Elementary School, Wilmington
Saint Paul Elementary School, Wilmington
Saint Peter School, New Castle
Saint Peters Cathedral School, Wilmington
Saints Peter and Paul School of Easton
Saint Thomas More Academy, Magnolia
Saint Thomas The Apostle School, Wilmington
Saint Vincent's Academy
Salesianum School, Wilmington
Ursuline Academy of Wilmington
Windermere Place

Mr. SHAW. Mr. Speaker, I rise today in support of H. Res. 492 and in recognition of the numerous contributions that Catholic schools bring to our country. The standard of academic excellence promoted in the thousands of Catholic elementary and secondary schools around the nation provide a vital contribution to the fabric of our educational system.

Year-round, these institutions provide a solid, structured education to our young people that is steeped in the traditions of the Catholic church. Today, we congratulate Catholic schools, parents, and teachers for their ongoing contributions and their key role in ensuring a brighter, more promising future for the more than 2.5 million students who attend these schools. We also recognize the particular contribution of Catholic schools to our country's minority population. Nationwide, Catholic schools have a minority enrollment of 26 percent.

Mr. Speaker, we owe a debt of gratitude to every individual in our country who dedicates themselves to educating our children. I am proud to recognize today the unique contribution of America's Catholic Schools, and specifically, the great work of South Florida Catholic schools in educating the children of South Florida.

Mr. FRANK of Massachusetts. Mr. Speaker, because I am attending the important World Economic Conference in Davos, Switzerland, at which I intend to argue strongly for changes in international economic policy better to reflect the rights of working people and the importance of environmental protection, I am missing some votes in suspension. By their nature of course, bills scheduled this early in the session on the suspension calendar are entirely non-controversial so my inability to vote on some of them, while regrettable, was obviously irrelevant to the outcome. What my absence does mean is the lack of a chance to express my support for various of the principles affirmed in those resolutions, so I want to take this opportunity to express my agreement with their thrust. In particular, given the importance of Catholic schools in the district I am privileged to represent, I want to express my appreciation for the dedicated and effective work done by the educators in that school system whose commitment to young people is one of the great assets our society has. I am happy to be able to join my colleagues in expressing my gratitude to those dedicated men and women who devote themselves to the job of educating young people in an appropriate way.

Mr. TURNER of Ohio. Mr. Speaker, as we strive for excellence in America's schools, I am pleased to honor next week as Catholic Schools Week.

Catholic schools provide an intellectually stimulating environment, one where children are challenged by their peers and teachers to make the most of their education. Children from many nationalities and religious backgrounds attend Catholic Schools across America, and all learn the basic principles and values necessary to achieve the American Dream.

Catholic Schools emphasize the importance and development of faith and character. Teachers and staff nurture students in a professional and caring manner encouraging spiritual and emotional growth through education and community involvement.

Receiving a quality education has always been of great importance for our country as we reach to make the future bright for generations to come, and Catholic schools have and will continue to make a huge impact on our nation's youth.

I am pleased to offer my support for H. Res. 492, the Designation of Catholic Schools week, and thank my colleague Representative DAVID VITTER of Louisiana for bringing this important issue to the floor and to the attention of the House.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and agree to the resolution, H. Res. 492.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BOEHNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## HONORING MENTORS AND SUPPORTING EFFORTS TO RECRUIT MENTORS

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 491) honoring individuals who are mentors and supporting efforts to recruit more mentors.

The Clerk read as follows:

H. RES. 491

Whereas mentoring is a strategy for motivating and helping young people succeed in life by bringing them together in structured and trusting relationships with caring adults who provide guidance, support, and encouragement;

Whereas mentoring offers a supportive environment in which young people can grow, expand their vision, learn necessary skills, and achieve a future that they may never have thought possible;

Whereas a growing body of research shows that mentoring benefits young people in numerous ways, including improvements in school performance and attendance, self-confidence, attitudes toward and relationships with adults, and motivation to reach their potential;

Whereas mentoring is an adaptable, flexible approach that can be tailored to help children with academics, social support, career preparation, or leadership development;

Whereas there is in this Nation a mentoring gap, consisting of over 15,000,000 young people who need mentors but do not have them;

Whereas, in an effort to begin closing the mentoring gap, the House of Representatives on December 8, 2003, approved a measure to significantly increase Federal grant funding for local mentoring organizations to $100,000,000 for fiscal year 2004;

Whereas the recipients of those grants and other mentoring programs all across the country rely principally on volunteer mentors and will need an influx of volunteers to meet the growing demand for mentoring;

Whereas nonprofit groups and leading media companies have joined together to designate January 2004 as National Mentoring Month in an effort to recruit more mentors for young people;

Whereas the monthlong celebration of mentoring will encourage more adults to volunteer their time as mentors for young people and will enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement; and

Whereas on January 9, 2004, President George W. Bush signed a proclamation designating January 2004 as National Mentoring Month and called upon the people of the United States to recognize the importance of being role models for youth, to look for mentoring opportunities in their communities, and to celebrate this month with appropriate ceremonies, activities, and programs: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) praises those individuals who have already given their time to mentor a child; and

(2) supports efforts to recruit more mentors in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

### GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 491.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to introduce the National Mentoring Month Resolution honoring those who give their time to mentor children.

Last night in this Chamber the President emphasized the threat of terrorism to our Nation's security, and I think all of us are aware of that threat. I would like to make a point that the major threat to our Nation's survival, as I see it, is not terrorism, as much of a threat as this is; but, rather, it is the trauma and dysfunction that is faced by so many of our children, because they are the future of this country.

Currently, roughly 50 percent of our young people are growing up without both biological parents. We have 20 million fatherless children in our Nation. I used to work with some of those young people. And when your father does not care enough about you to stay around to even see what you look like, it leaves a hole in your psyche that you are often times trying to fill for the rest of your life and usually filling it with all of the wrong things.

Currently, the United States leads the world in violence for young people: homicide, suicide, so on. We also are certainly very much addicted to drugs, alcohol abuse with teenagers, pornography. These are every day threats that our young people face. So having said all that, mentoring is the best-known remedy that many of us have for the social pathology that is harming our children today which threatens the foundation of our culture and our society.

Let me take a minute or two and mention what a mentor is. Some people hear the term and do not think about it very much. A mentor is someone who cares. Quite often children have some attention from fathers, mothers, grandparents, teachers and preachers and people who are paid to pay attention to them in some way or another. But a mentor is one who simply cares enough to show up and spend time with a young person and say unconditionally, I, someone who has no ax to grind at all, cares enough about you to show up every week or twice a week or whatever and spend some time and invest my life in your life.

A mentor is also someone who affirms. And I saw in my previous profession of coaching how important affirmation was. So often if you gave the player the message that he was not very good, that he did not measure up, that he was not going to make it, often times his performance would begin to play down to that level of expectation. But on the other hand, if you told him, I really believe in you, I see some promise in you, we think you have a great future, we think down the line you will be a great player, that player often times would perform at a level that he himself was not aware that he could perform at.

So that is essentially what a mentor does. A mentor affirms. He says, I believe in you. I see some potential here. I see some talent.

So many of our young people today have no affirmation in their lives, no one who is affirming who they are, what they are or what they can do.

Lastly, I would say a mentor is one who provides some directions and vision. So many young people are growing up in households today where they really do not have a role model who has shown what it is to get up and go to work every day, someone who takes responsibility, someone who finishes their education or someone who just finishes anything. A mentor is one who can say, I see a future for you beyond dropping out at the end of the tenth grade. I see a future for you beyond minimum-wage jobs, and you have this talent and you can do this.

So mentoring is very important, and I think it is important to realize also that mentoring works. We have currently a great deal of evidence that indicates that mentoring will reduce drug and alcohol abuse by roughly 50 percent, significantly reduces teenage pregnancy, teenage drop-out rates, teenage violence; and it improves self-esteem, grades, and relationships. And so it is the best thing that we have going, considering what our children are facing today.

The other thing to remember is that mentoring is cost effective. It costs roughly $300 to $500 to provide a good mentoring experience for a child, and it costs $25,000 to $30,000 to lock them up for a year. The average meth addict will commit 64 crimes a year, which is a huge cost to any community. So we feel that mentoring at the front end reduces a great many of the costs at the back end of the social process.

Two years ago, the first Mentoring for Success grants were awarded by the Department of Education. And to give an idea of how important these grants were, we had roughly 10 times as many applicants as we had grants to award. So that $17.5 million that was awarded went very quickly and was well spent.

This fiscal year with the President's support, funding for mentoring has been increased in the omnibus bill, if we can get that passed, which includes mentoring for children of prisoners as well. It increases from $17.5 million to $100 million. So the President has put a significant emphasis on mentoring, which we think is very important.

The National Mentoring Partnership estimates that 2.5 million children have mentors in our country today, and roughly 17.5 million badly need a mentor. So we are mentoring just about 1 out of 10 that need it. But actually, almost every child could use a mentor. Most every successful person can point to a mentor in their life that has made a huge difference.

Congressional staff members are mentoring. One example is Horton's Kids. I would encourage Members of Congress to encourage their staff members to be active here on the Hill because this provides a great service and a great example. As we celebrate National Mentoring Month through January. I want to commend all who support mentoring by contributing their time and financial resources.

Working together one child at a time, we can make a difference.

Mr. Speaker, I include the following for the RECORD:

AMERICAN OSTEOPATHIC ASSOCIATION,
*Washington, DC, January 20, 2004.*

Hon. TOM OSBORNE,
*House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR REPRESENTATIVE OSBORNE: As President of the American Osteopathic Association (AOA), I am pleased to inform you of our support for your resolution. The AOA, and the 52,000 osteopathic physicians it represents, extends its sincere gratitude to you for your support and advocacy of mentoring programs.

Andrew Taylor Still, M.D., D.O., founder of osteopathic medicine, dedicated his life to improving the health and well-being of his fellow citizens. Through a lifetime of sharing his knowledge and experiences, he shaped the lives of thousands of physicians and provided direction to an entire profession. He was a mentor in the truest sense. Recognizing the significant role of mentors and the contributions they make to enhance the studies and careers of osteopathic physicians, I have made my presidency the Year of the Mentor. Throughout the year, we work to recognize those who have contributed their time and talents to mentoring. In addition, we work to enroll new mentors who will shape the minds and talents of future D.O.s.

Your resolution, celebrating January 2004 as the Month of the Mentor, supports efforts to honor mentors and increase the number of individuals involved in mentoring programs. As evidenced by the lives and careers of those who have been mentored, mentoring positively impacts individuals and communities. As a result of mentoring within the osteopathic profession, beginning with our founder, patients benefit by receiving quality care from physicians who have enhanced their knowledge through the years of learning and experience of their mentors.

On behalf of my fellow osteopathic physicians, I pledge our support for your effort to promote mentoring programs. Please do not hesitate to call upon the AOA or our members for assistance on health care issues. Please contact the AOA's Department of Government Relations at (202) 414-0140 for additional information.

Sincerely,
DARRYL A. BEECHLER,
*President.*

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague from Nebraska for his leadership in bringing this resolution recognizing National Mentoring Month to the floor today. Since he arrived in Congress, the gentleman from Nebraska (Mr. OSBORNE) has worked to make youth issues a priority, and this resolution is another example of his dedication to this effort.

Without a doubt, Mr. Speaker, mentoring is a proven strategy that can change the lives of children and youth, and, I might add, adds additional value to the lives of those who provide the mentoring service.

When a young person is matched with a caring, responsible individual, this relationship makes a positive difference in the quality of life for that young person. For too long we have focused on providing remedies to problems that only address negative behavior rather than looking at ways that promote the positive and healthy development of our young people. This resolution directs us to focus on what children need to grow into healthy, safe, and well-educated adults, making sure that children have access to a caring and responsible adult relationship.

A recent report from the Greater West Town Community Development Project showed that nearly 18 percent of Chicago public school students drop out. Another report from the Annie E. Casey Foundation showed that more than 200,000 Chicago-area children are living in severely distressed neighborhoods. These are among the tens of thousands of Chicago area youth who could dramatically benefit from having a mentor, since without one, some would never be exposed to healthy, productive lifestyles and the development of real-life skills.

Research shows that young people who are mentored had a stronger attachment to school, have higher graduation rates and decreased involvement with drugs and violence. Mentoring opens young people's eyes to a brighter future, and every young person deserves that opportunity. But right now there are simply not enough mentors to go around.

This resolution brings much needed attention to the value of mentoring and encourages communities to focus their efforts on recruiting more adult mentors so that we can fill the gap that currently exists. I am proud of many of the great mentoring programs that are already in place in Chicago, such as Mercy Home's Friends First program, Sinai Mentoring Program which links Sinai professionals with youth from North and South Lawndale high schools, as well as the involvement of the Chicago Cubs headed by Coach Dusty Baker kicking off the celebration of National Mentoring Month in Chicago last week.

In Chicago and across the country, it is clear that the framework is in place. Now we just need more people to volunteer their time and help change the life of a child. I am very pleased to be associated with many groups and organizations, like the Alpha Phi Alpha fraternity, which has a great national mentoring program, and especially my local chapter Mu Mu Lambda. I am also pleased to be associated with the 100 Black Men of America who have mentoring programs in chapters throughout the Nation.

So I want to commend also the Chicago public school system, the board of education, for a program called Cradle to the Classroom where they have mentors who work individually with young parents, students who have become pregnant and who have children and yet have been able to finish their high school education and graduate with the help of a mentor.

So once again I would commend the gentleman from Nebraska (Mr. OSBORNE) for his insight, dedication, and continuous work with the development of young people as expressed in this resolution. I urge strong support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for his kind comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, who has been very supportive of mentoring; and we certainly appreciate all he does on the committee.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from Nebraska (Mr. OSBORNE) and the sponsor of this resolution for the time and congratulate him for his leadership on the very important issue of mentoring.

□ 1045

As he pointed out very rightly, many children in America need the help and support that many times they do not get at home, and the gentleman from Nebraska (Mr. OSBORNE) has led the efforts over the 3 years that he has been here in Congress to bring our attention to the need for more mentors, and probably no one in the Congress is more qualified to talk about the need for mentors than someone who mentored a young man on the football field for many years.

But beyond his prowess as a coach and mentor of a lot of young men, the gentleman from Nebraska (Mr. OSBORNE) spent much time around his State of Nebraska helping to establish mentoring programs there, and during the years he has been in Congress, has continued his efforts, and I want to congratulate him for all of his work.

Mentors do provide affirmation and a guidepost for many children who do not get affirmation and do not get the kind of guidance that they need. I know in my home State of Ohio we have a program called Ohio Reads. Many schools in my district have grants where it is a mentoring-based program to help children who need help in reading, and many people throughout my community and communities throughout my district and the State mentor in many schools to help young people achieve more proficiency in their reading.

Here in Washington and other cities around America, there is a program called Everybody Wins, and here in Washington, that program involves many staffers here on Capitol Hill and Members who read to children in various schools throughout the city. I am proud that many of my staff, both of my committee staff and my personal staff, are mentors to young people, again trying to help them read and to provide guidance for them.

One of those mentors is my assistant in my office, Amy Hobart, who for 5 years, has read to a young girl at Tyler Elementary School here on Capitol Hill, and the child has her share of problems but every week, Amy goes over there and spends an hour helping that young lady master her reading skills. But those are just several mere examples of the millions of Americans who do, in fact, volunteer.

The last point that I would make is that many of us as Members, as we go around our districts and around the country, people always ask, well, what can I do, what can I do to help, and everybody in America has something to offer to some young person in America. So I would suggest to my fellow Americans that they can volunteer, whether it is reading to someone, whether it is going to a Boys Club or Girls Club, whether it is going to a juvenile detention facility. There are many ways that the people can help, and I would urge them to do that.

I congratulate my colleague for bringing this resolution to the floor today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume as I prepare to close.

Listening to the discussion reminds me of the fact that I spent some time as a Big Brother, and I think I may have gotten more out of the relationship than the young fellow who was my little brother. I remember a few years ago I got a call from a fellow who said to me that Vice President Al Gore was coming to town and did I want to meet with him. I said, well, I would not mind. He says, do you know who this is? I said, well, no, I really do not. He said, this is Courtney Miller, your little brother, and of course, Courtney had grown up and at that particular time was working for the Vice President of the United States.

I also served for about 12 years as the commissioner of Boy Scouts in my community, and just day before yesterday I was at a Martin Luther King celebration, and there was a young fellow there who had become a minister, Jonathan Carter. As Jonathan participated in the services, he says, well, you know, I used to be a Boy Scout when you were the scouting commissioner and I have now become what I am. He said, I remember you coming to our Eagle Scout celebration and talking about how great it was.

So my point is that oftentimes those who serve as mentors will get as much from the relationship as the young people that they associate themselves with.

I listened to the chairman talking about the fact that everybody can be a part of this. One does not really need to have a degree. One does not need to have a title. One does not need to be an elected official. One does not have to be anything special other than themselves.

We have just finished celebrating the life of Dr. Martin Luther King, and one of the things that Dr. King often would say is that everybody can be great because everybody can serve. When it comes to mentoring young people, no matter who we are and where we are, we can serve. We can be a part of helping to grow and develop the life of someone else.

So, again, I commend the gentleman from Nebraska (Mr. OSBORNE) for this resolution and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for his comments and his commitment to mentoring. Ofttimes we hear the complaint "too busy," and yet I have found the time over the last 4 years, sometimes it is Saturday, sometimes it is a Monday, sometimes it is Friday, to meet regularly with a mentoree. I mentor a young person and also several members from my office have been mentoring here on Capitol Hill.

So, again, I would urge my colleagues to encourage their office staff to do the same.

Mr. KELLER. Mr. Speaker, I rise today to support the National Mentoring Month Resolution introduced by Congressman TOM OSBORNE. This resolution recognizes and supports the efforts of mentoring programs across our Nation. It embraces the notion that volunteer mentors can change the life of a troubled teen. This resolution celebrates the month of January as a month-long campaign focused on raising awareness of mentoring programs, their impact on our youth, and information on how to volunteer to become a mentor.

I am proud to be an original cosponsor to Congressman OSBORNE's resolution. Both Coach OSBORNE and I worked as mentors before coming to Congress and both felt a need to raise awareness of the cause once we were elected. Last Congress, we successfully passed the Mentoring for Success program, which provided money to start up new mentoring programs across the country. We also fought for increased Federal funding for local mentoring programs bringing that total to $100 million this year. In addition, we founded the Congressional Mentoring Caucus, a bipartisan organization designed to disseminate information about the positive impact mentoring programs have on our Nation's children.

Mentoring programs offer many benefits to children, particularly as it relates to educating our children. These programs are proven to help prevent children from dropping out of high school. In the state of Florida, we had a big problem. Only 53 percent of our children were graduating from high school. So, in Central Florida, we decided to do something about it by creating the Orlando/Orange County Compact Program. The Compact Program is a mentoring program that matches up students at risk of dropping out of high school with mentors from the business community. The mentors meet with the students 1 hour a week to work on homework and projects.

The results from this mentoring program have been dramatic. Over a period of 10 years, 98 percent of the children in the Compact Program have graduated from high school—the No. 1 graduation rate in the United States.

I would also like to discuss the crime prevention benefits of mentoring programs. In Florida, 70 percent of the inmates in our jails and prisons are high school dropouts. It costs taxpayers $25,000 a year for each Federal prisoner, compared with only $5,000 a year to educate a student in our public schools. Clearly, making the investment in mentoring programs now will save us literally hundreds of millions of dollars down the road in terms of reduced jail costs and reduced welfare costs.

In summary, mentoring programs make a meaningful difference in the lives of our young people; they improve education, prevent crimes, and will save us money. I urge all of my colleagues to support National Mentoring Month by participating in local programs in their home districts—together we can make a difference in the lives of our children.

Mrs. DAVIS of California. Mr. Speaker, I am honored to join my colleague from Nebraska, TOM OSBORNE, in support of House Resolution 491, which recognizes the critical role of mentors in our children's lives.

Ralph Waldo Emerson once said, "It is one of the most beautiful compensations of this life that no man can sincerely try to help another without helping himself."

I can think of no better way to summarize the true reward of mentoring than by recognizing the inherent truth in this statement.

The mentoring partnership is unique, because it is one of the few relationships where both sides stand to benefit immensely.

Both individuals bring their own—and oftentimes, very different—set of life experiences to the table, and this has the pleasantly surprising effect of forcing us outside of our own comfort zones.

It is easy for us to relate to those with whom we share obvious similarities, but venturing outside of that comfort zone gives us the opportunity to view the world from an entirely different perspective.

While it may seem too difficult, or uncomfortable at first, you will find that you are a richer person for it in the end.

My experiences as the executive director of the Aaron Price Fellows Program have also taught me a great deal about the rewards of mentoring.

Being a mentor is not about rescuing someone—but it is about helping young people to discover their own hidden strengths and talents.

In today's world, children need more than a sense of right and wrong. They need knowledge, and they need someone they can trust to provide it to them. The risk factors that face teenagers today are not only dangerous—they are prevalent.

If we fail our responsibility to educate young people on the choices they face, then we fail to prepare them to make the right decisions. And the decisions they make will impact them for the rest of their lives—for better or for worse.

In these situations, the most important information they can receive will come not from a textbook, but from the wisdom and experience of someone who cares; someone who has taken the time to invest in that young person's life and to share the lessons life has to offer. It is here that we have the greatest potential to make a difference.

Believe it or not, the relationship built on trust and mutual respect can be the one that finally opens the door to knowledge. It leads the way to a stronger sense of self and an ability to confront life's challenges wisely. To put it in the simplest of terms—mentoring matters.

No matter what side of the mentoring relationship you find yourself on, the rewards will last a lifetime.

Mr. BEREUTER. Mr. Speaker, as an original cosponsor of the resolution, this Member wishes to add his strong support for H. Res. 491, which supports efforts to encourage more individuals to become mentors. In addition to raising awareness, a key provision is to commend those who give their time and talents to support mentoring initiatives.

This Member would like to commend the distinguished gentleman from Ohio [Mr. BOEHNER], the chairman of the House Committee on Education and the Workforce, and the distinguished gentleman from California [Mr. MILLER], the ranking member of the House Committee on Education and the Workforce for bringing this important resolution to the House Floor today; this issue is very timely as January 2004 is National Mentoring Month. This Member would also like to commend the distinguished gentleman form Nebraska [Mr. OSBORNE] for sponsoring H. Res. 491 and for his personal interest in establishing mentoring opportunities nationwide.

Many children throughout the Untied States face difficult situations—and when matched with a caring and responsible adult, positive results ensue. Research has shown that mentoring benefits young people in a positive manner by increasing school attendance, improving rates of secondary school graduation and college attendance, decreasing involvement with drugs and alcohol, and reducing violent behavior.

Mr. Speaker, in closing, this Member urges his colleagues to support H. Res. 491.

Mr. CRENSHAW. Mr. Speaker, I rise today in support of House Resolution 491, a bill that promotes mentoring as a very worthwhile and much needed cause.

This measure recognizes that mentors serve as a guiding light, a benchmark, and a valuable asset for the many young people in America who might not otherwise have access to such a role model.

For many young people, mentors set an example of civility and stability. Mentors promote education and community respect. Mentors teach young people that there are many benefits to contributing to selfless efforts such as charity drives, neighborhood cleanups, and serving in soup kitchens.

In my congressional district of northeast Florida, there are a great many volunteers that selflessly give guidance, time, and resources to young people.

This resolution thanks those people who currently serve as mentors, and places a special focus on tapping into the vast pool of potential mentors. My hope is that this resolution will motivate more adults to take action to help America's young people.

This House resolution recognizes numerous studies documenting that mentors help young people to augment social skills, enhance emotional well being, improve cognitive skills, and to plan for the future. It also recognizes that for some children, having a caring adult mentor to turn to for guidance and encouragement can make the crucial difference between success and failure in life.

As a mentor, I personally know the satisfaction it brings to offer advice and guidance to a young person. I have known my mentor, Derek Williams, for many years. Over that period we have become good friends. Today I am proud to say that he is in college, furthering his education, and building a strong foundation for his future.

This measure does more than encourage mentoring; it gives thanks to those who already participate in mentoring programs. We should shower these people with praise because their actions do a lot to benefit society. That is why during the 107th session of Congress, I introduced a bill establishing American Youth Day, a measure encouraging communities all across the Nation to set aside one day each year to honor organizations and individuals that take the time to help young people.

For all its wealth and prosperity, in recent years America has been suffering from what I call problems of the soul, where courts and Congress do not have any jurisdiction. So many of our neighbors have lost their moral compass and need help finding their way again when it comes to moral values. This is most true when it comes to our young people.

There no longer seems to be a period in young people's lives when kids can just be kids. Mr. Speaker, it makes no difference what their race, their gender, their ethnicity. These negative images and influences make no distinction and no prejudices; all young people are fair game.

So it is incumbent on each and every one of us to offer our time and energy and love to children to provide positive role models and influences to young people to give them guidance and hope.

Currently, 17.6 million young people, nearly half the youth population, want or need mentors to help them reach their full potential. Only 2½ million youth are in formal mentoring relationships, leaving 15 million young people still in need of mentors.

This resolution is a call to action, designating January 2004 as National Mentoring Month. It is my hope that this month-long celebration of mentoring will encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement.

As President Bush noted last night in his state of the Union address, America's young people face dangers. Young people face negative cultural influences that glorify and glamorize those things that can hurt them most. Mentoring is focused on providing young people the best our society can offer—hope, stability, guidance, and understanding.

Mr. CASTLE. Mr. Speaker, I rise in strong support of H. Res. 491, legislation recognizing the importance of mentoring.

This resolution, introduced by the gentleman from Nebraska (Mr. OSBORNE), reminds us all of the important role that caring adults play in the lives of our Nation's youth, and I thank the gentleman for his work in Congress—as well as his work with his own mentoring organization, "TeamMates of Nebraska"—on this important issue.

Today's teens cope with major physical changes, emotional ups and downs, peer pressures and a changing identity, but they are also confronted by a more complex and impersonal society where drugs and alcohol are easily available and tragedies, such as AIDS and violence, strike too close to home. In this time of growth and uncertainty, our children need positive role models, or mentors, in their lives.

Simply, a mentor is an adult who, along with parents, provides young people with support, counsel, and friendship. Most important, mentors are people who care. And, for many children, that makes all the difference.

According to recent research, children with mentors are 46 percent less likely to begin using illegal drugs, 52 percent less likely to skip school, and 33 percent less likely to get into fights. In addition, children with mentors reported greater confidence in their performance at school and better relationships with their families.

Despite these positive outcomes, too many children who need a mentor do not have one.

In my state of Delaware alone, an estimated 10,000 young people could benefit from a positive, supportive relationship with an adult, but approximately 7,000 are currently served.

It is therefore appropriate that January is National Mentoring Month, a time in which we encourage caring adults to reach out to the children and youth in their communities. As part of that effort, I want to recognize the many businesses, churches and community groups that partner with our schools to provide mentors to children in need as well as the informal mentoring relationships that exist between teachers, coaches and neighbors. I also want to recognize those who lend their expertise or contribute financially to mentoring organizations. Their support is as important as volunteering to become a mentor.

Again, I thank the gentleman for his resolution and I urge an "aye" vote.

Mr. OSBORNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the resolution, H. Res. 491.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OSBORNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## RECOGNIZING AND COMMENDING ACHIEVEMENTS OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, THE JET PROPULSION LABORATORY, AND CORNELL UNIVERSITY IN CONDUCTING THE MARS EXPLORATION ROVER MISSION

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 490) recognizing and commending the achievements of the National Aeronautics and Space Administration, the Jet Propulsion Laboratory, and Cornell University in conducting the Mars Exploration Rover mission, and recognizing the importance of space exploration.

The Clerk read as follows:

### H. RES. 490

Whereas since its inception in 1958 the National Aeronautics and Space Administration has achieved extraordinary scientific and technological feats;

Whereas the National Aeronautics and Space Administration's exploration of space has taught us to view Earth, ourselves, and the universe in a new way, opening our eyes and minds to great and new possibilities;

Whereas for over 40 years the National Aeronautics and Space Administration's Jet Propulsion Laboratory has led the world in the robotic exploration of the solar system, commanding the first United States unmanned missions to the Moon, Venus, Mars, Mercury, Jupiter, Saturn, Uranus, Neptune, and most recently, the edge of our solar system;

Whereas the Jet Propulsion Laboratory began the space age for the United States in 1958 with the successful development and launch of the Explorer 1, the first United States satellite;

Whereas the Jet Propulsion Laboratory conducted the first interplanetary mission, in which the Mariner 2 spacecraft arrived at Venus in December 1962;

Whereas over 100 years ago Russian astrophysicist Konstantin Tsiolkovsky asked, "to observe Mars from a distance of several tens of kilometers, to land on its satellite or even on its surface, what could be more fantastic?";

Whereas the Jet Propulsion Laboratory fulfilled Konstantin Tsiolkovsky's vision when it navigated the Viking mission, developed the Viking Orbiter, and in 1976 successfully operated the Viking 1 and 2 robot landers on Mars, the first missions to land a spacecraft safely on the surface of another planet;

Whereas more than 26 years after its launch in 1977, the Jet Propulsion Laboratory's Voyager 1, which unlocked the mysteries of the outer planets of our solar system, continues to expand our understanding of the farthest reaches of our solar system;

Whereas the Jet Propulsion Laboratory's Mars Pathfinder successfully landed on the Martian surface on July 4, 1997, launching the first United States free-roving exploration of another planet and inspiring a new generation of children to dream of the heavens;

Whereas after a journey of nearly seven years the Jet Propulsion Laboratory's Cassini-Huygens spacecraft will enter Saturn's orbit and begin to explore the solar system's second largest planet on July 1, 2004, and subsequently dispatch Huygens, a European-built probe, to the surface of Titan, Saturn's largest moon;

Whereas the Jet Propulsion Laboratory's Stardust spacecraft, having traveled more than 3,000,000,000 miles, will return to Earth on January 15, 2006, with the first extraterrestrial materials from beyond the orbit of the Moon;

Whereas the Mars Exploration Rovers Spirit and Opportunity were launched on June 10, 2003, and July 7, 2003, respectively, on missions to search for evidence indicating that Mars once held conditions hospitable to life;

Whereas Cornell University has led the development of the five science instruments carried by the two Rovers, is leading a science team consisting of 150 preeminent astronomers and engineers in the science investigation for the Mars mission, and is playing a leading role in both the operation of the two Rovers and the processing and analysis of the images and other data sent back to Earth;

Whereas the Rovers' landing sites were selected on the basis of intensive study of orbital data collected by the Mars Global Surveyor and Mars Pathfinder missions;

Whereas Spirit's landing site, formerly known as Gusev Crater and renamed Columbia Memorial Station, is thought to have once contained a large lake and may hold water-laid sediments that preserve important records of the lake environment, the sediments' highlands origins, and the sediments' river trip;

Whereas Opportunity's landing site, the Meridiani Planum, contains exposed deposits of a mineral that usually forms under watery conditions;

Whereas each Rover will conduct a three-month scientific study of the geologic records at the sites and evaluate whether those conditions would have been suitable for life;

Whereas each 384-pound Rover, roughly the size of a golf cart, traveled approximately 300,000,000 miles to reach Mars;

Whereas the craft carrying each Rover reaches speeds nearing 12,000 miles per hour when entering the Mars atmosphere before decelerating to a vertical stop in just over six minutes;

Whereas, during the period between entry into the Mars atmosphere and the Rovers' landing, over one dozen intricate operations need to be performed perfectly at just the right point for the Rovers to survive;

Whereas Spirit successfully completed entry, descent, and landing on January 3, 2004, at 11:35 p.m. eastern standard time, and within hours was beaming photographs of the Martian surface back to Earth;

Whereas Spirit is to be joined on the surface of Mars by its twin, Opportunity, on January 24, 2004; and

Whereas the engineers, scientists, and technicians of the Jet Propulsion Laboratory have played a vital role in the Nation's space program and set an example for the rest of us to follow: Now therefore be it

*Resolved*, That the House of Representatives—

(1) commends the engineers, scientists, and technicians of the Jet Propulsion Laboratory and Cornell University for their years of effort leading up to the successful entry, descent, landing, and operation of the Mars Exploration Rover Spirit on the Martian surface on January 3, 2004;

(2) recognizes the importance to the Nation and to humanity of the exploration of space; and

(3) honors the achievements of the National Aeronautics and Space Administration, the Jet Propulsion Laboratory, and Cornell University in expanding our comprehension of the universe and fulfilling the human need to explore and understand.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

### GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 490, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I would consume.

Last week, Mr. Speaker, President Bush unveiled our administration's vision for space exploration, including humans returning to the moon and eventually traveling on to Mars. The President's plan envisions a working relationship between both man and machine in charting new pathways for exploring the solar system.

On January 3, we all witnessed a new chapter in America's continuing space experience with the success and the landing of the Spirit on the martian surface. The creative and hardworking professionals at the Jet Propulsion Laboratory in Pasadena, California, and at Cornell University at Ithaca, New York, have once again hit the bull's eye after a 300-million-mile trip.

As chairman of the Subcommittee on Space and Aeronautics, I rise in support of the gentleman from California's (Mr. DREIER) resolution, H. Res. 490, to honor NASA and those working on this exciting mission. Over the course of my tenure as chairman, I am particularly pleased that our Members have fought hard on a bipartisan basis to ensure the exploration of neighboring planets and to make the investment in basic research that is so necessary for human progress in the area of technology.

In the past, JPL has managed such spectacular missions as the Ulysses Solar Polar mission and the Cassini-Huygens mission to Saturn and the Viking Landers on Mars, and like so many other missions before them, Spirit, and soon its partner Opportunity, will also dramatically increase the scientific knowledge available to those of us on earth, scientific knowledge that will be put to good use for the benefit of all people.

The collaboration between the Jet Propulsion Laboratory and Cornell University, in enabling Spirit to deliver spectacular images of the martian landscape, is exemplary of the teamwork among public and private sectors and academia. I consider the engineers, technicians and scientists at JPL and Cornell to be space pioneers of the finest tradition and heroes of technology.

Indeed, the gentleman from California (Mr. DREIER) also is to be commended for his leadership in spearheading this resolution before us today. We all share the gentleman from California's (Mr. DREIER) desire to recognize the contributions being made in furthering our knowledge of the heavens. This is a fine tribute to the extraordinary scientific and technological accomplishments of the Nation's scientific community.

In closing, I applaud our administration's decision in taking bold steps in renewing our commitment to space exploration. I am confident that the dedicated men and women of our space program will be in the forefront of this Nation's efforts in taming new frontiers and expanding human knowledge and in leading human progress.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

The House today has the pleasant task of congratulating the Mars Exploration Rover team for their success in landing the Spirit Rover on Mars on January 3. The pictures being returned from the surface of Mars reminds us of the excitement that comes from seeing new places for the first time and wondering what we will learn from being there.

NASA, the Jet Propulsion Laboratory and Cornell University can be proud of what has been accomplished, and I am pleased to be a cosponsor of this resolution offered here by the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules, my friend, who demonstrated today the power of the Committee on Rules chairman by expediting this motion. I compliment him for that, as well as the gentleman from California (Mr. SCHIFF) who represents several of the employees there at JPL.

The premier position of the United States in planetary exploration owes much to NASA's Jet Propulsion Laboratory. Astronomy textbooks after 1980 had to be rewritten in the aftermath of the epic Voyager mission, and spacecraft developed by JPL have taken us to all of the planets except for Pluto.

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But Mars has been a prime target for robotic exploration since the 1960s. There have been both triumphs and setbacks in that exploration as NASA has attempted ever more ambitious missions. The images have been awe-inspiring. For example, Mariner 9 showed us mountains taller than Everest and the immense Valley of the Mariners, a canyon deeper and longer than our own Grand Canyon.

We have learned much from our spacecraft in orbit around Mars, but there is no substitute for being on the surface. The Spirit rover builds on the experience gained from the Viking missions of the mid-1970s as well as from Sojourner, the rover that accompanied Mars Pathfinder to the Red Planet in 1997. This time, however, we are going to visit a lot more of the Martian neighborhood.

The Nation's future in space has been much on my mind since the terrible day almost a year ago when the Space Shuttle *Columbia* did not make it home. The critical issue we have to address is how best to use human skills and robotic capacities in NASA's future programs. It was robotic Ranger and Lunar Orbiter spacecraft that prepared the way to the Moon for Armstrong and Aldrin, and it will be Spirit and its successors that will draw the maps future Martian explorers will carry.

Mr. Speaker, JPL has provided NASA some of its proudest moments, and today we salute its latest accomplishment. I am pleased to join in the resolution proposed by the gentleman from California and recommend its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BOEHLERT), chairman of the full Committee on Science.

Mr. BOEHLERT. Mr. Speaker, I stand today in support of the resolution offered by my colleague, the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER); and I thank him for working with me to ensure that the resolution recognizes the contributions of Cornell University in upstate New York. One of the outstanding attributes of the Jet Propulsion Laboratory is the way it works with academic and private-sector scientists at universities throughout the United States, and indeed the entire world. Efforts like the current mission to Mars are truly team efforts in which our entire planet reaches out to other worlds.

We are already seeing the results of that teamwork with the stunning images of the Martian surface that the aptly named Recovery Spirit is beaming back to Earth. Now Spirit is beginning to examine a rock called Adirondack, named after a well-known feature of the upstate New York landscape. We look forward to the other rover, Opportunity, touching down successfully next week and beginning to explore another side of Mars.

The details of the Mars mission are at once mundane and other-worldly, simple to recite, yet mind-boggling to contemplate. Each of these Rovers weighs about 400 pounds and is about the size of a golf cart. Each is fitted with sensitive scientific equipment designed to survey the geology of Mars and help an international team of 150 scientists back here on Earth determine whether water was ever a part of the Martian landscape and whether the planet could once have supported life.

This team of extraordinarily dedicated scientists is led by Dr. Steven Squyers of Cornell University. Dr. Squyers and his team developed the scientific instruments the rover missions carried. They operate them by remote control from over 15 million miles away here on Earth, and they are the chief investigators who will sift through the voluminous streams of data that the Rovers beam back to us daily.

The faculty and students at Cornell who are participating in this wondrous mission of discovery are clearly taking delight in their historic opportunity, and we are blessed to have the benefit of their years of hard work and dedication. I congratulate them and the scientists and engineers at NASA and the Jet Propulsion Laboratory for their stunning success in the rover missions.

Even though the work on the Martian surface has just begun, the team at JPL and Cornell University have already provided us with priceless inspiration and new ways to see our universe. We look forward with great anticipation to sharing their achievements in the coming days and years.

Mr. ROHRABACHER. Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for thousands of years people have looked to the heavens and wondered what was up there, what were the dots of light scattered on the hemisphere of the night sky, what is our place in all of this.

The Moon, the planets, and the stars became part of ancient religions. Heroes were immortalized as constellations. Planets, whose irregular movements and brightness set them apart from the stars, were named after gods. Celestial events foretold the death of kings; they augured victory in war.

But for our ancestors, the changing sky also had a practical effect. For millennia, the movements of the Moon and stars guided the rhythms of human life; they told people when to plant and when to harvest. Wars were planned based on the phases of the Moon.

Even as they wondered, planted, harvested, and fought in keeping with the seasons, people dreamed of visiting these other worlds, of expanding humanity's realm, of satisfying the human yearning to explore. The telescope, which Galileo first turned to the heavens in 1609, changed our view of the cosmos. The myriad points of light began to resolve themselves into planets with moons, galaxies, nebulae, and clusters of stars. The universe, which had seemed static, was revealed as a place of infinite distance and incredible dynamism. Our view of space and of ourselves was changed forever.

It would be another 450 years before human beings could begin to take our first forays from the protective cocoon of the Earth. Throughout that time, telescopes grew larger and more powerful: astronomers learned more about our solar system, our galaxy, and the tens of millions of other galaxies throughout the universe. Still, even as the Moon and our nearby planetary neighbors tantalized us, they seemed hopelessly out of reach.

With the development of large rockets after World War II, humans were finally able to escape the Earth's gravity and venture into space. During the past half century, from the grapefruit-sized Explorer I, which was America's first satellite, to the International Space Station now being built 200 miles above us, we have begun to learn to operate in the harsh environs of space.

Throughout its existence, America's space program has operated on dual tracks. On the one hand, we have stressed human space flight, which is costly, often dangerous. With the exception of Apollo lunar landing missions, humans have not ventured beyond the relative safety of low-Earth orbit. The other track we have followed is the robotic exploration of our solar system, using spacecraft that are impervious to the harsh conditions of space and unaffected by the enormous distances necessary to explore our planetary neighbors.

Our unmanned space probes, from the Ranger and Surveyor craft that paved the way for Apollo, to the Voyager spacecraft that explored the outer planets and are still continuing to send back data even as they leave the solar system, have increased our comprehension beyond anything even contemplated half a century ago.

On Mars, we have witnessed dust storms on Olympus Mons, the largest mountain in our solar system. We have peered through Venus' clouds at its broiling surface. We have discovered new moons and ring systems around the outer planets. And as we speak, a small spacecraft bearing dust from a comet is zooming back towards the Earth and will parachute into Utah on January 15, 2006.

This summer, the Cassini spacecraft will enter the orbit of Saturn and will dispatch a small probe called Huygens to explore the atmosphere of Saturn's largest moon, Titan.

NASA's Jet Propulsion Laboratory, managed by the California Institute of Technology, has designed, built, and controlled all of these programs. JPL has been the pioneer of our exploration of the solar system from the beginning of our space program. Earlier I mentioned JPL's Explorer I, America's first satellite. At the time it was launched, the United States has fallen behind the Soviet Union in the space race, and several other attempts at getting an American Sputnik into orbit had ended in fiery explosions on the launch pad. Not only did Explorer I salvage our pride, but the tiny satellite discovered the Van Allen radiation belts that circle the Earth.

Every American space probe that has visited another planet was managed by JPL. Through the wonders of technology, we have zoomed by Jupiter with Voyager, witnessed a Martian sunset with Viking, and rolled across the surface of Mars with Sojourner.

Whom do we have to thank for unlocking the wonders of our solar system, for providing brilliant three- dimensional images of the Martian surface, and for making us desire even great discoveries? For this, we must thank the women and men of the Jet Propulsion Laboratory in California. Each day, under the leadership of Dr. Charles Elachi, the employees of the Jet Propulsion Laboratory work tirelessly to develop and manage America's robotic exploration of space.

Mr. Speaker, they have done it again. The Jet Propulsion Laboratory has brought America back to Mars. I am proud to join with my distinguished colleague and neighbor, the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), in introducing this resolution honoring the men and women of NASA, and especially the Jet Propulsion Laboratory, whose years of effort paid off so spectacularly when the Mars exploration rover Spirit landed on January 3.

Mr. Speaker, led by principal investigator, Steve Squyres, Jet Propulsion Laboratory employees like Peter Theisinger, Richard Cook, Rob Manning, Jennifer Trosper, Mark Adler, Jim Erickson, Matt Wallace, Joy Crisp, Joel Krajewski, Jason Willis, Jim Donaldson, and Jan Chodas have worked around the clock since Spirit's arrival on Mars.

Spirit, the first of JPL's rovers to land on Mars, and Spirit's twin, Opportunity, which is scheduled to touchdown on January 24, will conduct a 3-month scientific study to evaluate whether conditions at one time have been suitable for life on Mars. Equipped with cameras, spectrometers, and a grinder, these robotic explorers are poised to unlock the mysteries of Mars. The breadth of their discoveries is yet unknown, but our confidence in their abilities and the ability of the scientists at JPL, who now live not according to the cycles of their fellow Earthlings but in keeping with the Martian day, is sky high.

Mr. Speaker, Spirit's landing is another milestone in our exploration of the solar system. Let us take a moment to reflect on this occasion and honor those who made it possible. For tomorrow. Our thirst is renewed and our exploration continues.

Mr. ROHRABACHER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), and I might add the Member in this body who represents JPL in California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I want to rise and join my colleagues, the distinguished chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT), who very appropriately recognized the important contribution that Cornell University has made in this effort. And I should say that, even though I have been out at the Jet Propulsion Laboratory in La Canada/Flintridge, the people in that town like to say that, as well as Pasadena. Pasadena and La Canada/Flintridge both claim the Jet Propulsion Laboratory. My friend, the gentleman from California (Mr. SCHIFF), used to represent La Canada/Flintridge. He represents the California Institute of Technology in Pasadena, and I am privileged to actually represent the facility of the Jet

Propulsion Laboratory, which is in La Canada/Flintridge.

But as I am at JPL, I have to say to my friend from New York that I have regularly seen the pennants of Cornell University hanging in that facility. So Cornell has a very great presence; and as the gentleman from New York (Mr. BOEHLERT) said, Dr. Steven Squyers, who was the principal investigator, has in fact played a big role in recognizing the importance of Cornell to this project.

The gentleman from California (Mr. ROHRABACHER), my colleague, I am happy to say was with us the night we were able to get images back, the night after the Mars exploratory rover Spirit landed, and has been a real visionary when it comes to the issue of space exploration. I also want to join in congratulating the former member of the Committee on Rules, the gentleman from Tennessee (Mr. GORDON), who is now, I am happy to say, the ranking minority member of not only the subcommittee that the gentleman from California (Mr. ROHRABACHER) chairs but of the full Committee on Science; and of course my friend, the gentleman from California (Mr. SCHIFF), who, as I said, did represent JPL and still continues with a very strong dedication to the science program and this great vision that is out there.

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The gentleman from California (Mr. SCHIFF) gave a great outline of the history of the fascination that we as humans have had for outer space. I think that as we look at where we are going, it is amazing to see this debate which is raging on right now. I am somewhat saddened to hear some of my colleagues refer to the vision that the President set forth in his speech before the employees of NASA a week or so ago as being a joke. I know there are a lot of people who are very cynical about this whole notion of vigorously pursuing the goal of further pursuit of exploration in space, the Moon and Mars in particular.

The reason I am discouraged about it is that I regularly look now into the eyes of young children who have this great fascination as they look towards the challenge of space exploration. One of the things that is particularly encouraging for me is that that same kind of fascination exists among many Members of Congress, not all but many Members of Congress, and it also exists today among every single one of those people who were named by the gentleman from California. Charles Elachi and the great team, Steve Squyres and Pete Theisinger and all those whom the gentleman from California mentioned continue to have that same fascination and they also have this amazing intellectual curiosity which has played such a big role in pursuing this.

Mr. Speaker, it is impossible for us to describe in words the kind of excitement that has gone into this. The gentleman from California (Mr. SCHIFF) and I have ridden the roller coaster ride. Four years ago last month, we saw the failure of the Mars polar lander. I had the opportunity to wait night after night at JPL to try and get some kind of message of a word back. Unfortunately we failed. But I am so often reminded of the words of Dr. Ed Stone, who was the predecessor of Director Charles Elachi, who said to me 4 years ago, this past month, "David, if we don't take risks, we won't learn anything."

That is really what this is all about, taking risks. As we rapidly approach the first anniversary of the tragic loss of those lives in the space shuttle *Challenger*, we can think about those seven men and women who lost their lives a year ago as we look at the great success that we are now experiencing with the Mars exploratory rover program. We have seen the successful landing and messaging coming back from Spirit. This coming weekend, I know my friend, the gentleman from California (Mr. SCHIFF) will be in at the Jet Propulsion Laboratory as we see what I know we all hope and pray will be the same kind of success as we get messages back after seeing the successful landing on another part of the planet of the Mars exploratory rover named Opportunity. Spirit and Opportunity. The names of the two rovers in many ways is exactly what this is all about.

There is one name of someone who was not mentioned by my friend, the gentleman from California (Mr. SCHIFF), who I would like to point to as an individual who actually played a role in the first Viking program nearly 3 decades ago, in 1975 and 1976. He is an individual who was probably the youngest person who was involved in that program 30 years ago, and today he is probably, if not the oldest, one of the oldest involved in the Mars exploratory rover program. His name is Gentry Lee. He has a fascinating outline of what it has been like going from 1975 all the way up to today.

Mr. Speaker, it is so clear that we have limitless opportunities as we look at space exploration. The kinds of tangible evidence that we have seen improving our quality of life continues to go on and on and we still do not know what kinds of opportunities we will find. One of the naysayers was on television the other day. He said in criticizing this program, if we had Mars covered with gold and we went to Mars to get this gold and bring it back, it would cost more to do that than the value of the gold itself. When we look at the imaging technology that has been created with MRIs, when we look at the cellular technology and the satellite telephones and the tremendous advances that have been made technologically not only in the health area but in the area of communications and security, we have transcended the cost of that gold, the value of that gold with what it is that we are doing here.

And so, Mr. Speaker, I simply want to congratulate all of my colleagues who have been involved in this effort and I want to thank all who have joined as cosponsors of this resolution. I also want to include the appropriations subcommittee members who have been so important in this effort too, the gentleman from New York (Mr. WALSH) and the gentleman from West Virginia (Mr. MOLLOHAN) who have been very helpful and have joined as cosponsors. I thank again my colleague from Huntington Beach for his leadership and his continued vision, and I hope very much that we are able to, in a bipartisan way, pursue the goals that have been set forth with President Bush's very dynamic plans for space exploration.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SMITH), the distinguished chairman of the Subcommittee on Research.

Mr. SMITH of Michigan. Mr. Speaker, first let me thank Chairman DREIER, certainly Chairman ROHRABACHER and the rest of the cosponsors of the bill. Let me also thank the scientists at JPL, at Cal Tech, at Cornell that not only have a tremendous amount of knowledge but a tremendous amount of dedication to move ahead on these ventures, often at the sacrifice of a lot of their personal time.

My family has been very involved in JPL. On the 4th, two of my daughters, Stacia Smith and Juliana Bellinger, were at JPL, I like to think, representing me on January 4 at the successful landing. My son did his engineering degree at Cornell and my daughter and her husband, Elizabeth and Fred Burnette, worked at JPL for 8 years. Elizabeth studied physics at Cornell. Just the accomplishments and the excitement that it has brought to this country over the years, somehow it would be nice to renew that kind of dedication and achievement. As chairman of the Subcommittee on Research, research is going to be the key to our future economy, so developing the kind of products that people around the world want to buy and developing the ways to produce those products at a competitive cost is part of the key to our continued economic success.

In conclusion, my very great compliments to the scientists and the management at the Jet Propulsion Laboratory and again my thanks to the gentleman from California (Mr. ROHRABACHER).

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I want to thank the new ranking member of the committee for his kindnesses and generosity. That bodes well for the future.

Science is fun. I can vouch for that as someone who has been a practicing scientist for over 2 decades. Science is also interesting. And science is rewarding. All of that is epitomized by the success of the rover that is currently on Mars transmitting pictures to us and also scientific data and information to us. I am very pleased to join in congratulating the Jet Propulsion Laboratory and their scientists for the successful landing and operation of the rover Spirit on Mars. For over 40 years, the dedicated scientists at JPL have built cutting-edge robotic explorers that have investigated other planets and the far reaches of our solar system and even beyond. These missions have opened windows to the universe, provided us with invaluable scientific information and inspired generations of scientists and engineers.

Just 2 months ago, I was privileged to lead a group of science committee members on a tour of the Jet Propulsion Laboratory. That tour included an exciting meeting with Dr. Daniel McCleese, who is the chief scientist and Dr. Peter Theisinger, the project manager for the Mars exploration project. Their enthusiasm and devotion to this work was clearly evident during our discussion, and it epitomizes the excitement that the scientists at JPL have. They worked endless hours and I am sure they are so interested and excited in their work that they would be willing to do that work without pay if they had some other means of putting food on the table.

Science is fun, as I said, and it is very clear that this grand experiment on Mars is exciting and interesting to our students, our children at our elementary and secondary schools. That is extremely important, because we do not have enough Americans studying science and engineering. Our engineering enrollments in American universities have steadily declined in the last 20 years. One of the reasons is that children in our schools are not excited enough about science. I want to thank JPL and NASA for their efforts to stimulate the excitement of the students in the schools and help generate a new generation of scientists and engineers.

I certainly want to congratulate JPL and all its partners on this latest success in landing the rover Spirit on Mars. It is truly moving to see the years of devoted scientific work succeed in this effort.

As I saw the first pictures coming back, tears welled in my eyes at the tremendous advancements in science that we are seeing. This experiment also epitomizes what we must do if we are to meet the President's vision. We cannot just pop humans in a space capsule and send them off to Mars. There is an incredible amount of groundwork to be done and the Spirit is one example of the type of work that we have to do if we are going to explore our planetary systems. These experiments are far, far less expensive than sending a human being to Mars and we will have, I would estimate, at least 20 and perhaps even 40 years of such experiments before we are ready to tackle the very difficult and expensive task of sending a human to another planet.

I congratulate once again the JPL crew for their work, and not only JPL, but all of NASA and all the scientific community in the United States. The scientists and engineers continue doing this work in generally anonymity. The great excitement we see them exhibiting as they succeed in their experiments is typical of what goes on in laboratories across the United States, and in fact, across the world, but which we, as laymen, never tend to see. Science is a great profession. It is fun, it is interesting, but especially it is important to the human spirit and important to the success of our Nation and the improvement of the prosperity and the general knowledge of this country. Thank you, JPL.

Mr. ROHRABACHER. Mr. Speaker, I yield myself the balance of my time.

First and foremost, Mr. Speaker, let me congratulate the gentleman from Tennessee (Mr. GORDON). He has been a terrific partner in these efforts that we have gone through in these last 5 years. To the degree that our country has had successful space missions and is developing technologies that will help us on Earth, it has a lot to do with the bipartisan spirit that we have had in our subcommittee and the great and hard work and responsible leadership that the gentleman from Tennessee has provided. He is moving up now. He will be missed.

The bipartisan spirit I talk about is so evident in everything that we do in this subcommittee. Let me note that there are no Democrats and Republicans, there are Americans in our subcommittee. We work together as such. We all believe that if America is to be a prosperous country, if our people are to live good lives and see our standard of living increase for average Americans, that we must remain a major power in space, we must develop the technologies and the science that is necessary to uplift humankind into the cosmos.

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If America is to remain at peace, if we are to live in peace, we must be a leading space power. When we meet the challenges of terrorism or the challenges of gangsters throughout the world, gangster regimes that would kill our people, that would harm us, that would threaten the stability and peace of the world, it is our technological edge that gives us the ability to thwart these threats. If we were not the number one power in space and instead that mantle would shift over to some despot or gangster regime or antidemocratic regime, for example, on the mainland of China where they still have the world's worst human rights abusers who are now making investments in space technology, we would not be safe and secure on this planet. The free people on this planet and the American people could not live in peace and security if despots held the high ground, which is space and space technology.

And, finally, if we are to remain a free people, if the United States and America is to remain free, which is our number one value, after all, that unites all Americans, we Americans of every race and every religion and every ethnic background are united by a concept of liberty and justice for all which we pledge to our Flag, but if we are to remain free and have liberty and justice for all, we must be the technological leaders in space because we must remain the society that leads humankind to conquer new frontiers. If we lose that part of the American character that pushes back the frontier and that chooses to lead mankind into places where it has not gone before and to explore that which has not been explored, if we lose that aspect of our character, we will not remain a free people for long.

So what we are doing when it comes to these great achievements like we are applauding today, we are fulfilling our mission that was set out over 200 years ago by our Founding Fathers to lead humankind into a better world and perhaps into the cosmos.

I thank my colleagues for the support they are giving to America's space program. I thank the gentleman from Tennessee (Mr. GORDON) and my friends on the other side of the aisle for being bipartisan and cooperative and all of us for being the type of Americans necessary to maintain that struggle that started with our Founding Fathers over 200 years ago. God bless them.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and agree to the resolution, H. Res. 490.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROHRABACHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## AGREEING WITH THE SENTIMENT OF THE SENATE REGARDING THE DEATH OF THE HONORABLE PAUL SIMON

Mr. DOOLITTLE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 489) stating the agreement of the House of Representatives with the sentiment expressed by the Senate in Senate Resolution 281.

The Clerk read as follows:

H. RES. 489

Whereas the Honorable Paul Simon became, at the age of 19, the Nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribune in Troy, Illinois, and subsequently built a chain of 13 newspapers in southern and central Illinois;

Whereas the Honorable Paul Simon used the Troy Tribune to expose criminal activities and in 1951, at age 22, was called as a key witness to testify before the United States Senate's Crime Investigating Committee;

Whereas the Honorable Paul Simon served in the Illinois legislature for 14 years, winning the Independent Voters of Illinois "Best Legislator Award" every session;

Whereas the Honorable Paul Simon was elected Lieutenant Governor in 1968 and was the first in Illinois history to be elected to that post with a Governor of another party;

Whereas the Honorable Paul Simon served Illinois in the United States House of Representatives and the United States Senate with devotion and distinction;

Whereas the Honorable Paul Simon is the only individual to have served in the Illinois House of Representatives, the Illinois Senate, the United States House of Representatives, and the United States Senate.

Whereas the Honorable Paul Simon was the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, Illinois, and taught there for more than six years in the service of the youth of our Nation;

Whereas the Honorable Paul Simon wrote over 20 books and held over 50 honorary degrees;

Whereas the Honorable Paul Simon was an unapologetic champion of the less fortunate and a constant example of caring and honesty in public service;

Whereas his efforts on behalf of Illinoisans and all Americans earned him the esteem and high regard of his colleagues; and

Whereas his tragic death has deprived his State and the Nation of an outstanding lawmaker and public servant: Now, therefore, be it

*Resolved*, That the House of Representatives agrees with the sentiment expressed by the Senate in Senate Resolution 281.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. DOOLITTLE) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is a resolution basically concurring with the sentiments expressed in Senate Resolution 281, a resolution regarding, really, the life of Senator Simon, who unfortunately passed away this last December at the age of 75. The Senator had quite a distinguished life of many accomplishments, was during his lifetime both a journalist and an author as well as a public servant. He was prodigious in his work product, passionate in his concerns for his constituents, and cared a great deal.

I must say he and I would not have agreed on anything probably except perhaps the desire to do the best we could for our country. He was an honorable public servant and someone who is fitting should be commended.

Mr. Speaker, I am pleased to rise today to offer for this body's consideration House Resolution 489, a bill stating the agreement of the House of Representatives with the sentiment expressed by the Senate in Senate Resolution 281 regarding former Illinois Senator Paul Simon, who regrettably passed away on December 9, 2003, shortly after undergoing heart surgery.

The Honorable Paul Simon was born November 29, 1928, in Eugene, Oregon. At the age of 19, Simon became the Nation's youngest editor-publisher when he accepted a local Lion's Club challenge to save the Troy Tribune newspaper in Troy, Illinois. In little time, Paul created a chain of 13 newspapers in southern and central Illinois that were notable for their hard-hitting investigative journalism, as was demonstrated when one of his papers, the Tribune, exposed syndicate gambling connections in Madison County, Illinois.

Paul Simon served our Nation in the U.S. Army from 1951–1953. Following his military service, Paul ran for state office and was elected to the Illinois House in 1954. He then was elected into the Illinois Senate in 1962. During his 14 years in the state legislature, he won the Independent Voters of Illinois' "Best Legislator Award" every session.

Simon was elected lieutenant governor of Illinois in 1968, and in this capacity, he became the people's ombudsman. He is widely credited with turning what had been a ceremonial position into a position focused on improving Government's ability to better serve its citizens.

After narrowly losing the 1972 Democratic gubernatorial primary to Dan Walker, Simon started the public affairs reporting program at Sangamon State University in Springfield, Illinois (now the University of Illinois at Springfield), and lectured during the 1972–1973 school year at the John F. Kennedy School of Government at Harvard University.

Simon was elected to the U.S. House of Representatives in 1974 and served Illinois' 22nd and 24th Congressional Districts for 10 years. During his service in the House, Simon played a leading role in drafting and enacting major legislation covering a wide range of issues, including education, disability policy, and foreign affairs. While in the House, he worked closely with former Speaker Newt Gingrich in establishing the Office of House Historian.

In 1984, Simon was elected to the U.S. Senate. During his years as a public official, Paul Simon was known for exceptional constituent service. He also was the Senate's pacesetter in convening town meetings. As a Senator, Simon held more than 600 town meetings throughout the state. He was also known for sporting fashionable bow ties, which became his trademark.

Prior to leaving the U.S. Senate, Simon ranked as Illinois' senior Senator. In November 1994, Paul Simon announced that he would retire from the Senate when his term expired January 3, 1997, ending 12 years of exceptional service to the people of Illinois and to the people of the United States.

Simon holds over 55 honorary degrees and has written 22 books. Paul Simon married Jeanne Hurley of Wilmette, Illinois, in 1960, whom he met while both served in the Illinois House. They had two children, Sheila and Martin, three granddaughters and one grandson. After his first wife passed away, Senator Simon married Patricia Derge in May 2001.

Please join me in honoring the life and service of this fine man and dedicated public servant by supporting House Resolution 489.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is fitting that we note today the passing of a distinguished former Member of this House, Paul Simon of Illinois. I thank the gentleman from California (Mr. DOOLITTLE) for offering this motion, and I also thank the gentleman from Illinois (Mr. COSTELLO) for introducing this resolution.

I regret that I did not have the privilege of serving with Paul Simon. He retired from the Senate 2 years before I came to the House. I may not have served with Paul Simon; but like millions of Americans, I certainly knew of him and admired him greatly.

Paul Simon's reputation extended far beyond the geographic borders of the Land of Lincoln. Through a distinguished career that began at age 19 as a newspaper editor and publisher and led him to seats in both houses of the Illinois general assembly, lieutenant governorship, and on to both Houses of the United States Congress, Paul Simon enjoyed a reputation of honesty, integrity, and diligence. Known for his trademark bowties, Simon championed reform and the cause of the less fortunate than himself.

Mr. Speaker, Paul Simon, the statesman, was a great American who made a difference during his long career in public life.

Mr. Speaker, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I thank the gentleman from California (Mr. DOOLITTLE) for yielding me this time.

On December 9, 2003, the citizens of Illinois lost one of the true giants in the storied history of politics in our State. Paul Simon was a leader who transcended political or ideological labels.

To be sure, he was a staunch liberal who fought for better housing, fair wages, a cleaner environment, and civil justice. At the same time, he also leaned conservative when it came to fiscal matters.

But it was the way he carried out the job that made Paul a revered figure in a State that is accustomed to larger-than-life figures. Paul Simon represented an approach to politics that is becoming more and more rare in today's world, an approach in which he not only respected the people he represented but he respected the people who were his peers and the institutions in which he served, including this House and the other body.

When I was first elected to the House in 1994, Paul was the senior Senator from Illinois, and he took time to reach out to me so we could become better acquainted and work on issues of mutual concern.

As a leading Member of the Senate, I am sure that he had many better things to do than getting to know a first-term Member of the House, but that was the way Paul did business. He knew that good relationships were important in politics and legislating, and I am a better Member of the House for Paul Simon's efforts to get to know me.

When Paul retired from the Senate following the 1996 election, he certainly could have landed some lucrative lobbying contracts, but he chose instead to continue influencing public policy through a different arena, one that could have a lasting impression on generations of future public servants, that is, teaching. From his perch as director of Public Policy Institute at Southern Illinois University, he continued to stay in the public eye, and he was able to carry on his advocacy for many of the issues he held so dear. He wrote prolifically on many issues during his time at SIU. He continued to travel the world to talk about the issues in which he so passionately believed. I would imagine he was as busy in his role with the institute as he was during his time in the Senate.

And to this day I am sure Paul Simon's approval numbers in Illinois are higher than any politician in our State.

Paul is someone who should be used as a benchmark, not only for future generations of leaders but for today's politicians as well. Paul Simon taught us that one can really get ahead through civility, common courtesy, and a respect for those with opposing viewpoints. That is a far cry from what many of our citizens believe today about their elected representatives. All of us could do this job a little better if we follow in the footsteps and examples of Paul Simon.

I might say that when I first got to the House, Paul recommended that I get involved in a program called Everybody Wins, which is a reading program where some of us branch out around the Capital and read as mentors to students; and if it were not for Paul's initiative for me to get involved in that program, which I have been involved with, and it is a great program here in Washington, D.C., I would not have been involved. But that is the way Paul Simon was. He was an example of not only a mentor for children but to all of us who have come to know and love him. And he will be missed in Illinois and certainly missed at Southern Illinois University. And I thank the committee for recognizing him and adopting the Senate resolution.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. COSTELLO), the sponsor of this resolution.

Mr. COSTELLO. Mr. Speaker, I would like to thank my friend, the ranking member, for yielding me this time.

Mr. Speaker, I rise today in support of House Resolution 489 to honor my good friend Senator Paul Simon, who sadly passed away on December 9, 2003.

Senator Simon was a good friend and a dedicated public servant. Paul worked as a newspaper publisher, public servant, author, and teacher. He was elected to the Illinois general assembly in 1954 and the Illinois senate in 1962 and was elected lieutenant governor of Illinois in 1968.

While a member of the Illinois legislature, Paul won the Independent Voters of Illinois' "Best Legislator Award" every session of the legislature.

Senator Simon served in this body for 10 years, beginning in 1974 when he was elected to the U.S. House of Representatives, then the United States Senate for 8 years and ran for President of the United States in 1988. Throughout his public service, Paul was known for his honesty and his integrity. That was his hallmark.

As a Member of the U.S. House and the U.S. Senate, he balanced fiscal conservatism with social liberalism. Paul was a champion of a balanced budget amendment and worked to overhaul the Federal student loan program so that students and their families could borrow money directly from the U.S. Government. Paul also led efforts to curb television violence, leading the industry to monitor the amount of violence on their TV screens. In addition, Paul was instrumental in the establishment of the National Center for Missing and Exploited Children.

Paul Simon was always concerned about the cultural isolation of U.S. college students and young Americans in general. One of his first books was "The Tongue-Tied American" on the need for American students to learn a second language. Paul sponsored several programs to increase international education and understanding in American schools, and he was working to create a foreign exchange program to allow more American students to study abroad.

As impressive as his legislative record was during his tenure in Congress, he never forgot his constituents and was known for exceptional constituent service. During his service in the U.S. Senate, Paul held over 600 town meetings throughout the State of Illinois to hear the issues that were important to the citizens of Illinois.

Paul's career began at age 19, when he became the youngest editor-publisher of the Troy Tribune in Troy, Illinois, in Madison County, Illinois. By 1966 he had built a chain of 13 newspapers in southern and central Illinois, which he sold in order to concentrate more time on public service and writing.

Upon his retirement from the U.S. Senate, Paul formed the Public Policy Institute at Southern Illinois University in Carbondale to share his wisdom and advocacy with the next generation of students. In addition to chairing the Public Policy Institute, he also taught classes in political science, history, and journalism at SIU.

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Senator Simon is survived by his two children, and Martin, his four grandchildren, Reilly Marie, Corey Jeanne, Brennan and Nicholas, and his second wife, Patti and her two children, Jennie and Bill. Jennie currently works right here on the Hill for our good friend and colleague, the gentleman from Georgia (Mr. NORWOOD).

Mr. Speaker, at Senator Simon's funeral, Senator TED KENNEDY said, "In another era, he would have been a founding father. He was that good. He will never be forgotten."

Senator Simon was a great man that served our country with honor and distinction. It is fitting that we honor him with this resolution today.

Mr. DOOLITTLE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, not very much will get me motivated enough to wear a bow tie in this world, but now I have done it two days in a row, and it is a Paul Simon tie. When he ran for President, at the funeral, at the wake, the lapel pins had the trademark bow tie. This is a Paul Simon bow tie that I have been allowed to use by the Tomasewski family of Washington County, and I thank them for that. It only took me about 4 hours to tie it, but, once I got it down, I kind of slept with it last night and did not change shirts.

Paul was a great man. A lot has been said and gone over with regard to his history, and I will highlight a few other points. But I am going to talk about the man of faith, the man of religion.

I am of the Lutheran faith. Paul comes from a strong family of Lutheran Church, Missouri Synod. His father was a missionary in China. That moral background and upbringing I think helped serve him well in the crusades that he fought in the future.

A lot of the pillars of my congregation in Holy Cross Lutheran Church in Collinsville remember Senator Simon fondly as a member of what was then called the Walther League, which was the youth group. They would meet throughout parts of Southern Illinois. And that friendship transcended partisan idealogy, as a lot of my colleagues have said today, because when Senator Simon walked into any room, whether you agreed or disagreed, you never questioned the integrity, the thought, the desire, the real passion that he brought to any issue. I think we would do well in memory of him to emulate that, to remember that, and to bring that back into the civil discourse that sometimes we do not have here on the floor of the House.

He was also a great crusader. Again, my colleague the gentleman from Illinois (Mr. COSTELLO) mentioned at 19 his getting a newspaper in Troy, Illinois, just down the road from both of us, and using that paper to reform government, to fight corruption. Madison County and St. Claire County was a bastion of illegal activities, of crime and gambling, and at a very young age he really put his life at risk by writing and exposing those that would break the law. That courage, developed at a young age, just led on to a very, very successful career.

When he went to into the legislature, he pushed for and his best known legislation was the State's first act to require open meetings by local governments under most circumstances, the Open Meetings Act, Paul Simon's signature issue, which helped bring the public closer to the real discussions of what elected officials are doing. Now, sometimes we may not like that, but for the discourse and knowing what is really going on, requiring notification, requiring people to have access to these meetings, it is real reform.

Upon his retirement, everyone knows he is a noted author, has written tremendously various issues, he did not retire. He went down to Southern Illinois University in Carbondale around his home in Makanda, and continued to work and in transforming the public policy debate around the world.

I was privileged to call him a fellow member of faith, a friend. I was able to travel with him on airplane rides. He remembered my mother when she had some health issues just around the time when he had health issues. They exchanged greetings and notes. He was just that type of guy that made us all proud.

We will miss Senator Simon, and hopefully the members of the Illinois delegation and the members of both Chambers of Congress will remember his years of service and really dedicate ourselves to some of the higher ideas that Senator Simon really called us all to be. I thank him for his service and I thank him for his friendship.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), the most distinct voice in the House of Representatives and one of the most distinguished Members.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Connecticut for yielding me time.

Paul Simon was absolutely the head of that part of the Democrats in Illinois that I have been associated with for so long. As a matter of fact, he was like the Seal of Good Housekeeping. That is, if you could get Paul Simon to say something good about you or endorse you, then it was the highest honor. You could not get any better than that.

I have always remembered when I ran for the House, Senator Simon said to me, "I don't endorse in primaries generally. This year I am going to make two exceptions. I am going to endorse DICK DURBIN for my seat, who has been my protegee and worked with me. I am going to endorse you for the seat that you are running for." I have always counted that as one of the high moments of my political career.

Someone mentioned all of the town hall meetings that Senator Simon would hold. I can remember attending many of those. In many instances, there might be only 15 or 20 people there, sometimes 10, and I would be amazed that this United States Senator would be at a small town hall meeting with 10 or 12 people, in an African American community, a little church, a library, and he would stay there two, sometimes three hours, just talking to the two or three people, trying to educate, trying to stimulate, trying to motivate.

I can remember all the small receptions that he and his wife Jennie and the rest of us used to attend, always sort of swimming upstream. The last communication that I had from Senator Simon was just before he died. I got a letter from him in the mail and an article from the Chicago Tribune saying congratulations, I commend you all for the work you are doing on behalf of ex-prisoners, people who are coming home from jail. That was Paul Simon, always seeking to assist the underdog, those that society would sometimes look at the other way at; Africa, food, nutrition, hunger.

At his funeral, as it was coming to a close, I remembered the words of a song that we sometimes sing when a person has done what they can do, that says, "If when you give the best of your service, telling the world that the Savior has come, be not dismayed when men don't believe you, he'll understand and say well done."

Senator Simon, well done.

Mr. DOOLITTLE. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is a pleasure to get up and speak in honor of Paul Simon. I first knew his brother, Art, through Bread for the World. I had been active in world hunger activities and in fact was a coauthor of a book regarding world hunger. When I read Bread for the World at that time I was very impressed with it. I knew that Senator Simon was Art's brother, so I was very pleased when I first had the opportunity to meet Senator Simon and have a discussion with him.

He was an honorable person, and, even though I never had close contact with him on a continuing basis, I was very impressed with his forthrightness, his thoughtfulness, his ability and his honesty. He set a high standard for all of us to follow.

I also appreciated the help of his wife, who was very interested in the Library of Congress. I was on the Committee on House Administration and served on the Joint House-Senate Committee on the Library of Congress, and she was a great help to me at various times in trying to achieve my objectives. They were a wonderful couple.

My last contact with Senator Simon was just 2 months ago, when I received a very kind, handwritten note from him. He had heard one of my speeches on the floor and sent me a quick note saying, in effect, "That is the kind of voice we need to hear more in the Congress." I thought that was an overwhelming act of kindness on his part, to take time at this point in life, with the difficulties he faced, to write to a relatively unknown Congressman from a neighboring State and express his appreciation.

This indicated what a wonderful person he was, the kindness and the thoughtfulness he had. I am just delighted to join in this accolade for him. He was a great man. We could use many more like that in the Congress.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri, the "Show Me State" (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I thank the ranking member from Connecticut for yielding me time.

Mr. Speaker, I rise in support of this resolution honoring the late Senator Paul Simon. It was my privilege to have known Senator Simon for most of my life. I have fond memories of watching Congressman Simon on the House floor many years ago when I was a student and a doorkeeper, and he has long been a source of personal inspiration.

When I first came to know Congressman Simon, he represented Southern Illinois and served with my father on the House Committee on Education and Labor. He was among the most active and effective Members in the history of this institution, and I was not surprised when I recently learned that in 1983, Time Magazine cited Congressman Simon for passing more amendments than any other Member of the U.S. House of Representatives.

Paul Simon served in the Illinois House of Representatives, the Illinois Senate, the U.S. House of Representatives and the U.S. Senate. Throughout his career, Paul Simon was famous for championing the causes of working people, children, the disabled and veterans. When he served in the Illinois legislature, he helped to create the State's community college system and the Illinois Arts Council. He also won the Independent Voters of Illinois Best Legislator Award every session in which he served.

While serving in the U.S. Congress, Paul Simon sponsored the Missing Children Act and the legislation establishing the National Center for Missing and Exploited Children. He also wrote the National Literacy Act, the School to Work Opportunities Act and the Job Training Partnership Act amendments. He was a leader in the reauthorization of the Elementary and Secondary Education Act and the establishment of the direct college loan program.

Deeply dedicated to the community that sent him to represent their interests in Washington, Senator Simon held more town hall meetings than any other Illinois senator and his office was legendary for its constituent services.

While in Congress, Paul Simon worked to enact legislation designating the first five federally chartered future high-speed rail corridors, which included the St. Louis-Chicago-Detroit/Milwaukee corridor, and to designate the Illinois-Michigan Canal National Heritage Corridor. He was also instrumental in expanding the Jefferson National Expansion Memorial, which is St. Louis's Gateway Arch National Park, to the State of Illinois.

□ 1200

He possessed a rare knowledge and understanding of the legislative process and manifested an extraordinary energy for public policy-making.

Senator Simon left us all way too soon. He lived a life dedicated to serving others, and he certainly left this world a better place for his time on Earth.

Mr. DOOLITTLE. Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. EMANUEL), former advisor to President Clinton.

Mr. EMANUEL. Mr. Speaker, I rise in strong support of this resolution honoring the memory and lasting contributions of Paul Simon.

I was honored to work on his election to the Senate, where he made all of the people of Illinois and America proud. When we look across Illinois today, we see that we have an Attorney General who worked for Paul Simon and started a career in politics working for Paul Simon, a Member of Congress, a State Senator, a county commissioner. Although he is very famous for those who say that John Kennedy touched a set of idealisms for people to go into public service, for a number of us in Illinois, regardless of our party, Paul Simon touched that chord of idealism; and we knew then that reaching for our ideals was possible by seeking a life in public service.

Despite winning five elections and winning elections in five different decades serving his State, his area, and his country in many different capacities, his character, integrity, and intelligence are what endure; and it is why Paul Simon today remains one of the most popular figures in the State of Illinois.

Long before they were fashionable, Paul Simon championed civil rights, education, and campaign finance reform. He saw in those areas his ideals being realized. In everything he did, he was guided by a deep, deep desire to help those who needed a voice. And for a number of us in Illinois, we can still hear his voice with "how are you today" and that deep sense that you were Paul Simon's person that he was talking to. And he always had a sense that he was not up here to be a vote, but to be a voice for our values, regardless of what party we came from. He taught many of us, and some of us, in fact, have come to this lesson hard in life, that you can disagree without being disagreeable.

After his retirement from Congress, he did not leave public service. He spent the remaining days of his life pursuing what he cared most about, which was education. As this resolution states, he remained an unapologetic champion of the less fortunate and a constant example of caring and honesty in public service.

Mr. Speaker, I thank my colleagues for the opportunity to recognize a true hero for many of us in Illinois. We will always remember Paul Simon and honor his enduring contributions to the State of Illinois and to this country. His memory will be a blessing to those who follow in his path.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY), my neighbor and good friend.

Ms. SCHAKOWSKY. Mr. Speaker, it gives me such great honor and pleasure to join in support of this resolution in memory and to celebrate the life of former Senator Paul Simon who was my friend and my mentor and my Senator and my role model.

Paul Simon was unique. He was the real thing, though. When we look at him with his bow tie and his suit, he was an authentic person. And those who might make the mistake of kind of relegating Paul Simon to the kind of politician of the past, that would be wrong. Paul Simon, although he had that kind of almost old-fashioned gentlemanly way about him, was someone who we can learn a lot from today. He had incredible courage. The thing that Paul Simon really understood was that it is not only important for your own personal integrity to stand up for your beliefs, but that it was also really good politics.

Paul Simon his whole life was an opponent of the death penalty, not always a popular issue in the State of Illinois; and it is an issue that inspired a lot of hot feelings about that. And yet people who would disagree with him on that or, like me, who disagreed with him on the Balanced Budget Amendment pretty strongly, nonetheless often would come up to Senator Paul Simon and say, you know, Senator, I do not agree with you on this or that, or even, I do not agree with you on most things, but I trust you. I am going to vote for you. I admire the way that you stand up for the State of Illinois and for the things that you believe in. It would be wonderful if more of us would do that.

I went to Iowa. We just finished the Iowa primaries. I went to Iowa for a month for Paul Simon in 1988 and, by the end, of course, everybody could say the speech with him. I could just hear that voice saying, the United States is a great country, but we can be an even better country. And he believed that so much. His desire, as he stated it: I wanted to do something where I could continue to contribute. I did not get into office just because I wanted a title; I wanted to get something meaningful done, and he did. He continued to do that. That is so true. He did not just want to be something; he wanted to do something.

So when he retired from being in the Senate, he continued in his role at Southern Illinois University and all the while prodding all of us. We heard mention of those personal notes. He wrote a book called "Tapped Out," dealing with the water crisis around the world; and he really wanted me to get involved in that. He would write me letters. Then he sent me the book. He said, now look, your name is in the forward of the book. It said, to someone who is going to be working on this issue. I knew what he was saying to me: you better work on this issue; you are in my book.

Paul, I am going to be working on that issue and so many more where you forged the path.

Mr. LARSON of Connecticut. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Speaker, I rise today to express my strong support for this resolution and thank my good friend and colleague, the gentleman from Illinois, for introducing it.

My friend Senator Paul Simon was a statesman, a respected leader, and an unwavering champion of the little guy; and he possessed a heart, a smile, and a baritone voice that could fill a room. He was truly one of a kind, a principled human being, a principled politician, a real reformer, and an unapologetic idealist whose words were followed by genuine and unrelenting action.

From his time as a young journalist rooting out corruption in Illinois, to the 14 years he served in the general assembly in Springfield, to his distinguished tenure in Congress, Paul never wavered in his fight for fairness and justice. He never backed down. No matter the odds, no matter the political ramifications, no matter how unpopular or lonely his positions, he remained fervent and passionate.

Paul was a role model for many of us in the Illinois delegation today and for many who continue to seek public office. I know he is a role model for me.

During his tenure in the Senate, Paul fought ardently and selflessly on the issues that made a real difference in ordinary people's lives. He always saw the good in people and used that good for the benefit and the betterment of our country. He stood up with us in the fight for immigration reform and on so many other issues important to my constituents and to this country.

But my friend's legacy transcends politics. Paul was a beacon of hope for anyone who wished to dream the American Dream. He embodied the type of heart needed to sustain the uphill battles required to make real change, and he was the consummate underdog and dedicated his life to public service. He was always for the underdog and giving a voice to the concerns of the voiceless. Paul simply would have no part in pandering to the special interests. To him, public service was about one thing, people, and he maintained that steadfast commitment to them.

We lost an irreplaceable friend, a teacher, and a mentor. He touched countless lives in countless ways, and we will never forget him.

But just remembering Senator Simon is not enough; just honoring him is not enough. He would have wanted us to do more. He would have wanted us to stand together, to fight together; and I think that is what this resolution is really all about. It is about recognizing and building on Senator Simon's accomplishments, his ideas, his life and, indeed, his legacy. We should not let this enormous loss be the end of his work. We all have a responsibility now in this Chamber and across this country. We must embody Paul's heart and his spirit. We must embrace his honesty and his integrity.

Mr. Speaker, this Congress and this country face many challenges in the coming months and years. I think we would be well served to pause and ask, what would our friend, Senator Simon, do? I am confident that by asking that simple question, we will set ourselves on the right course.

Mr. LARSON of Connecticut. Mr. Speaker, I yield the balance of the time to the distinguished gentleman from California (Mr. FARR).

Mr. FARR. Mr. Speaker, I am not from Illinois, but I have to tell my colleagues that Senator Simon was a man of all seasons, was a mentor and a teacher. And most importantly, when he talked, people listened. I remember when the Defense Language Institute, which is our premier language school in the world, and he was very dedicated to having Americans learn languages, and it was threatened for closure, he called President Clinton and said, do not take that off the list. Clinton said, why are you interested in a base that is in California? And Senator Simon said, because it is an intellectual capital for languages and we need to keep it that way.

A very impressive man. The country will greatly miss him. He was the epitome of politics, the greatness of politics in America.

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

On behalf of the Committee on House Administration committee chairman, the gentleman from Ohio (Mr. NEY), and myself, I would like to thank the ranking member, the gentleman from Connecticut (Mr. LARSON), and the author of the resolution, the gentleman from Illinois (Mr. COSTELLO), and the committee staff. Please join me in honoring the life and service of this fine man and dedicated public servant, Paul Simon, by supporting House Resolution 489.

Mr. WOLF. Mr. Speaker, I rise today in strong support of the resolution introduced today to honor the life and legacy of Paul Simon. I learned with great sadness of his death in December.

Senator Simon epitomized all that is best about Congress. He served in the House of Representatives and the Senate, and was a distinguished member in both chambers. His presence was a constant example of the importance of hard work, discipline, and compassion. Senator Simon believed that government could serve the people, and serve them in a positive way. He served his State and his Nation beginning in 1954, when he entered the Illinois State legislature. His service would continue until his death as a professor in Illinois, where he shared a lifetime of wisdom with the leaders of the future.

Senator Simon's season of service would take him to the House of Representatives, the United States Senate, and the campaign trail as a candidate for the presidency. His work included fighting against television violence, working for those without jobs, and trying to balance the budget. I was pleased to join with him in raising the issue of gambling's ill effects on families, individuals, and communities. He was concerned about the welfare not only of Illinois, but of the entire Nation.

Senator Simon's talents were not limited to Congress. In his lifetime, he wrote over 20 books and was awarded over 50 honorary degrees. He was cerebral as well as practical. Senator Simon lived a life of the mind as well as a life dedicated to enlightening and lifting up his fellow citizens. After he left the Senate, Paul Simon returned home, and taught at Southern Illinois University, to impart his wisdom to the next generation, to enlighten young minds, and to continue serving his state.

His life was one of constant service in the public interest. Senator Simon lived many lives in one—editor-publisher, legislator, public crusader, professor. That he did so much is impressive. That he did it all so well and so selflessly is inspirational. Congress and the Nation is a lesser place for his passing, but both were greatly enriched by his life and his example. Senator Simon will be missed, but through the lives he touched, the life he lived, and the lives he inspired, he will not be forgotten.

Our sympathies go to his family and our thanks to them as well for sharing this remarkable man with us.

Mr. TOWNS. Mr. Speaker, I rise today to join my colleagues in honoring the late Senator Paul Simon. Certainly, many of us recall his involvement, his active support for U.S. bilateral assistance to Africa and his work in the fight against apartheid in South Africa. Today, however, I want to pay special tribute to the Senator's long time advocacy for historically Black colleges and universities, HBCUs. As the chair for the Postsecondary Education Subcommittees in both the House and the Senate, he lent his unwavering support for these institutions during reauthorizations of the Higher Education Act of 1965 as well as adding a pivotal endorsement of the creation of an endowment fund for HBCUs. While Paul Simon is a colleague who will always be remembered as a supporter of the disadvantaged, he will also be remembered for his belief that the disadvantaged could be successful with the right kind of assistance from government programs. Senator Simon will be sorely missed but we are all better from having known and worked with him.

Mr. RUSH. Mr. Speaker, I rise in strong support of this resolution to commemorate my distinguished colleague, Senator Paul Simon. It is with great sentiment that I rise to honor Paul Simon for his life's accomplishments.

In the book of Isaiah, the prophet writes, "How beautiful upon the mountains are the feet of him who brings good news, who proclaims peace, who brings glad tiding of good things, who proclaims salvation, and who says to Zion, your God reigns." Through my personal experiences in working with Senator Simon, he was I believe, the epitome of those prophetic words from Isaiah. Paul, a son of a missionary, was a man who was known for his calm and comforting demeanor, a man that demonstrated a true testament of peace, and a man who believed in breaking barriers and shattering prejudices. I am not telling you what I think, but I am telling you what I know. I had the privilege to know him professionally and personally. Paul Simon was a Senator who earned the tremendous respect from all people who knew him. In my congressional district, he was revered by all. His calm temperament, his respect for mankind, and his unwavering commitment to fairness and equality was deeply admired in my community. He was vigilant in his fight for the struggle to protect and preserve civil liberties and human rights for all people.

Paul Simon was an icon for many political leaders such as myself and a "giant" in the history of the American democracy. During his tenure in Congress, Simon was a champion of education and a key advocate for literacy and lifelong learning. In the Senate, he was the author of the National Literacy Act, the School-to-Work Opportunities Act, the Job Training Partnership Act amendments, the 1994 re-authorization of the Elementary and Secondary Education Act and the direct student loan program. Senator Simon held numerous influential committee assignments, including serving as the Chairman of the Senate's Subcommittee on Africa.

Without question, Mr. Speaker, Paul Simon was one of the most effective Senators to have served the citizens of Illinois, and the American people.

Although Senator Simon has been called to answer his new "heavenly" assignment, he leaves with us his legacy and principles of nobility that will never be forgotten.

Mr. DOOLITTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from California (Mr. DOOLITTLE) that the House suspend the rules and agree to the resolution, H. Res. 489.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 5(c) of rule XX, the Chair announces to the House that in light of the resignation of the gentleman from South Dakota (Mr. JANKLOW), the whole number of the House is adjusted to 433.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
*Washington, DC, January 20, 2004.*
Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 20, 2004 at 5:55 p.m.

That the Senate passed without amendment H. Con. Res. 349.

That the Senate passed S. Res. 284.

Appointments:

Board of Visitors of the United States Military Academy;

Board of Visitors of the United States Naval Academy;

Board of Visitors of the United States Air Force Academy;

United States-China Economic Security Review Commission.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 492, by the yeas and nays;

H. Res. 491, by the yeas and nays;

H. Res. 490, by the yeas and nays, and

H. Res. 489, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

☐ 1215

## HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

The SPEAKER pro tempore (Mr. KLINE). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 492.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and agree to the resolution, H. Res. 492, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 1, not voting 33, as follows:

[Roll No. 2]

YEAS—398

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor

Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Hinchey

NOT VOTING—33

Abercrombie
Berman
Burr
Burton (IN)
Carson (IN)
Davis (CA)
DeGette
Delahunt
Doggett
Doyle
Dunn
Edwards
Everett
Flake
Frank (MA)
Franks (AZ)
Gephardt
Gillmor
Hayworth
Hoyer
Istook
Kucinich
Marshall
Miller, George
Nadler
Platts
Rahall
Reyes
Serrano
Sherman
Tauzin
Watson
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1239

Mr. SCHIFF changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINCHEY. Mr. Speaker, just to correct the record with regard to the first vote of the day, House Resolution 492, I noticed that I am recorded as having voted in the negative. That is in error. I am in favor of the resolution, and I wish the record to reflect that I intended to vote in the affirmative.

## HONORING MENTORS AND SUPPORTING EFFORTS TO RECRUIT MENTORS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 491.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the resolution, H. Res. 491, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 35, as follows:

[Roll No. 3]

YEAS—397

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—35

Abercrombie
Berman
Burr
Burton (IN)
Calvert
Carson (IN)
Cunningham
Davis (CA)
DeGette
Delahunt
Doggett
Doyle
Dunn
Edwards
Everett
Flake
Frank (MA)
Franks (AZ)
Gephardt
Gillmor
Hayworth
Hoyer
Istook
Kucinich
Marshall
Miller, George
Nadler
Platts
Rahall
Reyes
Serrano
Sherman
Tauzin
Watson
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in the vote.

□ 1249

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CALVERT. Mr. Speaker, on rollcall No. 3 I was unavoidably detained. Had I been present, I would have voted "yes."

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## RECOGNIZING AND COMMENDING ACHIEVEMENTS OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, THE JET PROPULSION LABORATORY, AND CORNELL UNIVERSITY IN CONDUCTING THE MARS EXPLORATION ROVER MISSION

The SPEAKER pro tempore (Mr. KLINE). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 490.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and agree to the resolution, H. Res. 490, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 43, as follows:

[Roll No. 4]

YEAS—389

Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—43

Abercrombie
Akin
Berman
Burr
Burton (IN)
Carson (IN)
Cunningham
Davis (CA)
DeGette
Delahunt
Doggett
Doyle
Duncan
Dunn
Edwards
Eshoo
Everett
Flake
Frank (MA)
Franks (AZ)
Gephardt
Gillmor
Goode
Graves
Gutierrez
Hayworth
Herger
Hoyer
Istook
Kucinich
Lucas (KY)
Marshall
Miller, George
Nadler
Platts
Rahall
Reyes
Reynolds
Serrano
Sherman
Tauzin
Watson
Waxman

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1256

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## AGREEING WITH THE SENTIMENT OF THE SENATE REGARDING THE DEATH OF THE HONORABLE PAUL SIMON

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 489.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DOOLITTLE) that the House suspend the rules and agree to the resolution, H. Res. 489, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 39, as follows:

[Roll No. 5]

YEAS—394

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach

Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—39

Abercrombie
Berman
Burr
Burton (IN)
Carson (IN)
Cunningham
Davis (CA)
DeGette
Delahunt
Doggett
Doyle
Dunn
Edwards
Eshoo
Everett
Flake
Frank (MA)
Franks (AZ)
Gephardt
Gillmor
Harris
Hayworth
Houghton
Hoyer
Istook
Jefferson
Kucinich
Marshall
Miller, George
Nadler
Platts
Rahall
Reyes
Serrano
Sherman
Tauzin
Walden (OR)
Watson
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1308

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. MARSHALL. Mr. Speaker, on rollcall Nos. 2, 3, 4, and 5, I would have voted "yes" on each (H.R. 492, H.R. 491, H.R. 490, H.R. 489) but I was unavoidably detained in a meeting concerning our effort in Iraq and Afghanistan.

## PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to a scheduling conflict, I was unable to be in Washington, DC, during rollcall votes 2 through 5. Had I been here I would have voted "yea"; for rollcall vote 2, "yea" for rollcall vote 3, "yea" for rollcall vote 4, and "yea" for rollcall vote 5.

## PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, being detained in my district today on official business, had I been present and voting, I would have voted as follows:

Rollcall 2, H. Res. 492, Honoring the contributions of Catholic education, "yes"; rollcall 3, H. Res. 491, Regarding the benefits of mentoring, "yes"; rollcall 4, H. Res. 490, Recognizing the achievements of NASA's Jet Propulsion Laboratory and the Mars Exploration Rover Mission, "yes"; and rollcall 5, H. Res. 489, Honoring the late Senator Paul Simon, "yes."

## PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, I was regrettably absent from the Chamber today during rollcall votes 2, 3, 4, and 5. Had I been present, I would have voted "yea" on rollcall 2, "yea" on rollcall 3, "yea" on rollcall 4, and "yea" on rollcall 5.

## PERSONAL EXPLANATION

Ms. WATSON. Mr. Speaker, on Wednesday, January 21, I was unavoidably detained in my congressional district and was unable to be present for recorded votes. Had I been present, I would voted in the following manner:

On H. Res. 492, Honoring the contributions of Catholic schools, I would have voted "yea"; on H. Res. 491, Honoring Individuals Who are Mentors and Supporting Efforts to Recruit More Mentors, I would have voted "yea"; on H. Res. 490, Recognizing and Commending the Achievements of the National Aeronautics and Space Administration, I would have voted "yea"; and on H. Res. 489, Stating the Agreement of the House of Representatives with the Sentiment Expressed by the Senate in Senate Resolution 281, I would have voted "yea."

## PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, on Tuesday, January 20, I was unable to be present for rollcall vote No. 1, the House Quorum Call. Had I been present, I would have voted "present" for rollcall vote No. 1.

Mr. Speaker, on Wednesday, January 21, I was unable to be present for rollcall vote No. 2, Honoring Catholic schools, rollcall vote No. 3, Benefits of mentoring, rollcall vote No. 4, Recognizing NASA's Jet Propulsion Lab and Mars Rover Mission, and rollcall vote No. 5, Expressing sorrow and respect for former Senator Paul Simon. Had I been present, I would have voted "yea" for rollcall votes No. 2–5.

## RESIGNATION AS MEMBER OF COMMITTEE ON FINANCIAL SERVICES, SELECT COMMITTEE ON HOMELAND SECURITY AND COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore (Mr. CULBERSON) laid before the House the following resignation as a member of the Committee on Financial Services, the Select Committee on Homeland Security, and the Committee on Small Business:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 20, 2004.*

Hon. DENNIS HASTERT,
*Speaker of the House, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Effective January 20, 2004, I hereby resign from the Committee on Financial Services, the Select Committee on Homeland Security, and the Committee on Small Business due to my pending appointment to the Committee on Energy and Commerce.

Sincerely,

CHARLES A. GONZALEZ,
*Member of Congress.*

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

## ELECTION OF MEMBER TO COMMITTEE ON ENERGY AND COMMERCE

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 495) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

*Resolved*, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON ENERGY AND COMMERCE: Mr. Gonzalez.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## EXPRESSING CONGRATULATIONS TO NEW RANKING MINORITY MEMBER ON COMMITTEE ON SCIENCE

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to congratulate, on behalf of all the members of the Democratic Caucus, our colleague, the gentleman from Tennessee (Mr. GORDON), whom the Democratic Caucus elected as the new ranking member on the Committee on Science. He is a proven leader on the Committee on Science and within this body, and I know that he will serve our Nation well in his new capacity.

## LEGISLATIVE PROGRAM

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I wish to address the House for the purpose of inquiring of the majority leader the schedule for next week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members' offices by the end of this week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday, the House will convene at 10 a.m. for legislative business. We plan to consider S. 1920, which extends Chapter 12 of the Federal Bankruptcy Code until July 1, 2004. In addition, we hope to consider S. 610, which would provide some important management reforms at NASA.

Finally, it is my understanding that our colleagues in the Senate are likely to pass the omnibus appropriations bill, possibly as early as tomorrow. However, I would like to make all Members aware that if the Senate does not act, we may be forced to move a long-term continuing resolution next week, as the present continuing resolution we are operating on expires at the end of next week.

I thank the gentleman for yielding and would be happy to answer any questions he may have.

Mr. LEWIS of Georgia. Mr. Speaker, reclaiming my time, I thank the leader for that information.

Mr. Majority Leader, when the Congress adjourned for the year last year, it failed to extend the Emergency Unemployment Compensation Program, leaving 90,000 American workers and their families every week, roughly one-half million workers by the end of this month, in the lurch. We have 200 Democrats who have signed a discharge petition that would bring to the floor legislation to extend this much-needed help to those workers.

Can the majority leader tell the House, tell all of us when he will schedule debate on this important matter?

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield.

Mr. LEWIS of Georgia. I continue to yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's yielding to me.

As the gentleman knows, he was here last night, the President mentioned last night that the third-quarter economic growth in 2003 was the strongest in 20 years and that housing starts and home ownership rates are up and at an all-time high; that financial markets are growing, after a long contraction; that interest rates are low; that factory orders are up; that unemployment is on the decline. Unemployment benefit claims have decreased actually every month since September, and the unemployment rate today is 5.7 percent, which is almost a full percentage point lower than the rate that we had in 1994 when a Democrat Congress and a Democrat President discontinued an expanded unemployment compensation program.

So with a growing economy and a recent precedent for managing these scenarios, it is clear to the majority that the best employment program is to keep growing jobs and paychecks instead of extending and expanding Federal programs.

Mr. LEWIS of Georgia. Mr. Speaker, is the majority leader telling us there is not a need to bring this legislation to the floor of the House for a vote when more than 200 Democratic Members have signed a discharge petition?

Mr. DELAY. The last time I checked, Mr. Speaker, 218 is a majority.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding to me, and I appreciate the distinguished leader's response in regards to this issue.

Let me just point out, if I might, that we now have 300,000 fewer people that are seeking employment because they have given up, and that brings down the unemployment rate when in reality it is higher than it has ever been. And the last time we did not extend the unemployment, the last recession, we did that when there was a significant growth in employment. We have had 1,000 new jobs created in the last month. We have a net loss of over 2.4 million jobs in the last 3 years.

I would just urge the distinguished leader to talk to members of both caucuses. This is an important issue. There are a lot of people who are being lost in this economy that need this help. And I would just urge the leader to consider scheduling debate on the floor on the extension of the Federal unemployment accounts. We have bills sponsored by both Democrats and Republicans on this issue. It is an important subject. And I thank my friend from Georgia for yielding to me.

## ADJOURNMENT TO FRIDAY, JANUARY 23, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, January 23, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ADJOURNMENT FROM FRIDAY, JANUARY 23, 2004 TO TUESDAY, JANUARY 27, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, January 23, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, January 27, 2004, for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF HONORABLE MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JANUARY 27, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 21, 2004.*

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through January 27, 2004.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

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## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## REGARDING THE NEW MEDICARE LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in last year's State of the Union address, President Bush called Medicare "the binding commitment of a caring society." Last night in his State of the Union address, the President said the Medicare prescription drug bill that was enacted last year "kept a basic commitment to our seniors."

The new Medicare law kept a basic commitment all right, but as the tens of thousands of seniors who have quit AARP would likely agree, the commitment was not to America's seniors. The new Medicare law means an additional $139 billion in profit to the drug industry over the next 8 years. The President did fulfill his commitment, a commitment he had to the drug industry. The new Medicare bill the President signed means an additional $14 billion in subsidies to the insurance industry over the next 10 years, again a commitment the President fulfilled to his insurance company backers and contributors. But the President's commitment meant virtually nothing to seniors, many of whom will not have access to any benefit until 2006 and after that will have access to only a very inadequate drug benefit. The new benefit will cover less than half of a senior's drug costs. The average senior would do better traveling to Canada to purchase her prescription drugs. Of course the Bush administration has been busy pressuring Canadian pharmacies to stop selling medicine to American consumers.

Again, the President's commitment to the drug companies won out. The reason drug prices are lower in Canada is because the Canadian government negotiates price with the drug industry. But the new Medicare law expressly forbids the U.S. Government from negotiating with the drug industry to bring drug prices down. Get that. This new drug bill prohibits the government from using its buying power, representing 40 million Medicare beneficiaries, this new law prohibits the government from negotiating with the drug industry to bring prices down. That is why the drug industry's profits are set to explode under the President's new Medicare privatization bill. Again, it is a commitment not to America's seniors but a commitment President Bush made to his drug company contributors. If seniors had asked the President and the Congress to shortchange them on drug coverage while giving the drug industry a free ride, it would be accurate to say that yes, he really has fulfilled his commitment to them, but that is clearly not what seniors asked us to do.

Medicare HMOs enjoyed a 118 percent increase in profits last year. Yet we are about to hand them an additional $14.3 billion. According to the General Accounting Office, we already overpay HMOs by 20 percent. This new law will ensure we shower them with more money, we waste even more taxpayer dollars subsidizing the insurance industry, again a commitment to the insurance industry and the President's financial contributors in the insurance industry and HMOs, a commitment he made to them when they were so supportive in his campaign.

Mr. Speaker, in the end, we have a President who always consistently makes a choice. If it is a choice between corporate interests and the public interest, this President chooses corporate interests every single time.

## AL QAEDA DEALS HEROIN TO FUND TERRORISM OPERATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I just returned from Pakistan's frontier where Osama bin Laden is likely hiding. We describe bin Laden as a terrorist. While that label applies, I think we can be more accurate. He has become a narcoterrorist.

During my mission, I learned that bin Laden's source of donated funds has been reduced. In response, bin Laden has become one of Pakistan's top heroin dealers. Kandahar trafficker Haji Bashir Noorzai provides 1,000 kilograms of heroin each month to bin Laden's organization. That provides al Qaeda with $24 million a year to fund his attacks against the West.

If we are to catch bin Laden and to wrap up his organization, we must attack his new source of income, heroin. This triggers a change in the policy of the international coalition fighting al Qaeda. We should make this change. We should raise the rewards for catching bin Laden and attack his heroin organization.

There are at least three major drug trafficking organizations now operating in Afghanistan, all with links to Pakistan: The Taliban, the HIG and bin Laden's al Qaeda. Last week, coalition forces made their first effort and hit a major drug lab in eastern Afghanistan that captured $100 million worth of heroin that could have supported terror against the West.

Next week, I will be offering legislation to increase the rewards for the capture of terrorists but to also expand the rewards program to involve the rewards program in capturing narco-terrorists, and also to loosen up that rewards program so that we can provide valuable commodities which speak much more directly to the rural families in Pakistan and Afghanistan, providing, for example, motorcycles, farm implements or trucks for the capture of these well-known terrorists. The terrorists are changing their source of financing and the United States needs to change its strategy to dry up that financing.

## INTRODUCTION OF UNITED STATES SEAPORT MULTIYEAR SECURITY ENHANCEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, in keeping with the President's message last night on the critical need for security enhancement around our seaports and airports, I am introducing legislation today, the United States Seaport Multiyear Security Enhancement Act, and I ask all of my colleagues to support it. This is a bipartisan issue. Seaport security continues to be an ongoing national concern that Congress cannot afford to ignore any longer.

The United States Seaport Multiyear Security Enhancement Act is much-needed legislation that seeks to provide a steady, predictable stream of funding for port security projects. In short, this legislation creates a port security grant program within the Homeland Security Department. Our Nation's 361 seaports are considered a major terrorist target. It is known that al Qaeda has strong ties to the shipping industry and that one of the aims of this terrorist network is to weaken the economic security of our country. Our Nation's coastline is our longest border, which is a 95,000-mile coast that includes the Great Lakes and inland waterways.

Protecting America's seaports is critical to the Nation's economic growth, vitality and security. Seaports handle 95 percent of our Nation's overseas trade by volume, support the mobilization and deployment of U.S. Armed Forces and serve as transit points for millions of cruise and ferry passengers. Maritime industries contribute $742 billion per year to the U.S. gross national product.

The United States Coast Guard has issued final regulations that call for immediate and long-term investment in securing our seaports. According to the U.S. Coast Guard, implementing these regulations that directly address our seaport security needs will cost $1.125 billion in the first year and $5.45 billion over 10 years. To date, security funding to our seaports has been woefully underfunded. Congress has provided $442 million in seaport security funding through three rounds of competitive grant funding and from the Office of Domestic Preparedness. Given our Nation's economic dependence on our seaports and our ongoing national security concerns, Mr. Speaker, seaport security funding and the need for Federal support for our Nation's security should be ongoing.

Given the enormity of these seaport capital infrastructure projects, my legislation seeks to do the following: Establish a multiyear seaport grant program that resembles the letter of intent measures established in the aviation security program. And it calls for multiyear grants and $800 million per year for port security grant funding. The program would be authorized for 5 years.

Mr. Speaker, this legislation is much needed. According to the Department of Homeland Security, to date, $1 out of every $10 requested for port security grants is funded. That is one out of 10. The continuing security and economic needs that face our Nation and our seaports should be recognized by the establishment of the U.S. Seaport Multiyear Security Enhancement Act, the legislation that I am introducing today. I ask all of my colleagues for their support of this very important piece of legislation.

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## DO NOT TRIVIALIZE NEED TO INTERNATIONALIZE IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, last night in his State of the Union address to the Nation, President Bush attempted to deride critics who have called upon him to broaden the coalition and internationalize the effort to provide security to Iraq and rebuild that war-torn nation. The President said, "This particular criticism is hard to explain to our partners in Britain." And then he named 15 other countries and cited 17 others.

I respect the contributions that these other nations have made in Iraq, some of which like Spain, Italy and Japan have also lost sons to the war in Iraq. But let us not be disingenuous on the subject of our allies in Iraq. With the exception of the United Kingdom, none are engaged in the arduous combat-related work that confronts the 130,000 American troops in Iraq who have endured over 500 dead and thousands of wounded among their ranks. And none carry the financial burden that the American taxpayer provides for the security of Iraq. President Bush should not trivialize the need to create a genuine international coalition capable of sharing the burdens of building a safe, secure and democratic Iraq.

I would like to have heard President Bush talk about how the United States needs the help, support and expertise of the United Nations, which has also paid in blood for our Iraq policy to ensure that the democracy-building and election process in Iraq are inclusive and successful. I would have liked to have heard President Bush talk about how the international community could help in the prosecution of Saddam Hussein so that his trial has credibility both inside and outside Iraq. I would have liked to have heard just one word from President Bush that indicates that he gets it, that he understands the United States must work with allies, NATO and the United Nations in order to secure the manpower and money necessary for a secure and stable Iraq. Certainly those of us concerned about the resources of our Federal budget understand this as we prepare to receive another supplemental spending request for at least $50 billion sometime later this year. That is $50 billion in addition to the more than $120 billion we have already spent so far on Iraq over the last year.

And, most of all, our troops on the ground understand this, including the members and families of our National Guard and Reserves who have served so valiantly, despite open-ended deployments and equipment shortages. But President Bush simply does not get it and last night he outlined how he will stay on the same go-it-alone course that has so alienated the rest of the world, diminished the credibility of U.S. foreign policy and intelligence, undermined international institutions, and left us resented rather than respected.

I do not believe the United States needs a permission slip to act when our security is genuinely threatened, but we now know that with Iraq, our security was never in imminent danger. There were no weapons of mass destruction. Instead, last night the President talked about "weapons of mass destruction-related program activities," whatever that means. There were no ties to Osama bin Laden, whose name the President never even mentioned last night.

☐ 1330

There was only a driving hunger to overthrow the Iraqi regime from the moment this administration entered the White House.

The unilateral and arrogant way in which the Bush administration has handled the Iraq war and its aftermath has resulted in a U.S. occupation that has cost us dearly in terms of human life and precious resources. It would have been nice if the President had even acknowledged last night the 500 American soldiers who have sacrificed their lives in Iraq and the thousands more who have been wounded.

Mr. Speaker, the exaggeration and the manipulation of intelligence and our changing rationales for our involvement have diminished the credibility and standing of the United States around the globe in ways that I truly believe undermine our security. Now we have a moral obligation to rebuild Iraq and to safeguard the Iraqi people, and we can only do that successfully with the help and support of the United Nations and the broader international community. It would have been nice if President Bush had taken just a few seconds in an hour-long speech to acknowledge that reality last night.

[From the Washington Post, Jan. 19, 2004]

### ARMS ISSUE SEEN AS HURTING U.S. CREDIBILITY ABROAD

(By Glenn Kessler)

The Bush administration's inability to find weapons of mass destruction in Iraq—after public statements declaring an imminent threat posed by Iraqi President Saddam Hussein—has begun to harm the credibility abroad of the United States and of American intelligence, according to foreign policy experts in both parties.

In last year's State of the Union address, President Bush used stark imagery to make the case that military action was necessary. Among other claims, Bush said that Hussein had enough anthrax to "kill several million people," enough botulinum toxin to "subject millions of people to death by respiratory failure" and enough chemical agents to "kill untold thousands."

Now, as the president prepared for this State of the Union address Tuesday, those frightening images of death and destruction have been replaced by a different reality: Few of the many claims made by the administration have been confirmed after months of searching by weapons inspectors.

Within the United States, Bush does not appear to have suffered much political damage from the failure to find weapons, with polls showing high ratings for his handling of the war and little concern that he misrepresented the threat.

But a range of foreign policy experts, including supporters of the war, said the long-term consequences of the administration's rhetoric could be severe overseas—especially because the war was waged without the backing of the United Nations and was opposed by large majorities, even in countries run by leaders that supported the invasion.

"The foreign policy blow-back is pretty serious," said Kenneth Adelman, member of the Pentagon's Defense Advisory Board and a supporter of the war. He said the gaps between the administration's rhetoric and the postwar findings threaten Bush's doctrine of "preemption," which envisions attacking a nation because it is an imminent threat.

The doctrine "rests not just on solid intelligence," Adelman said, but "also on the credibility that the intelligence is solid."

Already, in the crisis over North Korea's nuclear ambitions, China has rejected U.S. intelligence that North Korea has a secret program to enrich uranium for use in weapons. China is a key player in resolving the North Korean standoff, but its refusal to embrace the U.S. intelligence has disappointed U.S. official and could complicate negotiations to eliminate North Korea's weapons programs.

Richard Haass, president of the Council on Foreign Relations, said the same problem could occur if the United States presses for action against alleged weapons programs in Iran and Syria. The solution, he said, is to let international organizations such as the International Atomic Energy Agency take the lead in making the case, as has happened thus far in Iran, and also to be willing to share more of the intelligence with other countries.

The inability to find suspected weapons "has to make it more difficult on some future occasion if the United States argues the intelligence warrants something controversial, like a preventive attack," said Haass, a Republican who was head of policy planning for Secretary of State Colin L. Powell when the war started. "The result is we've made the bar higher for ourselves and we have to expect greater skepticism in the future."

James Steinberg, a deputy national security adviser in the Clinton administration who believed there were legitimate concerns about Iraq's weapons programs, said the failure of the prewar claims to match the postwar reality "add to the general sense of criticism about the U.S., that we will do anything, say anything" to prevail.

Indeed, whenever Powell grants interviews to foreign news organizations, he is often hit with a question about the search for weapons of mass destruction. Last Friday, a British TV reporter asked whether in retirement he would "admit that you had concerns about invading Iraq," and a Dutch reporter asked whether he ever had doubts about the Iraq policy.

"There's no doubt in my mind that he had the intention, he had the capability," Powell responded. "How many weapons he had or didn't have, that will be determined."

Some on Capitol Hill believe the issue is so important that they are pressing the president to address the apparent intelligence failure in the State of the Union address and propose ways to fix it.

"I believe that unanswered questions regarding the accuracy and reliability of U.S. intelligence have created a credibility gap and left the nation in a precarious position," Rep. Jane Harman (Calif.), the senior Democrat on the Permanent Select Committee on Intelligence, said in a speech last week. "The intelligence community seems to be in a state of denial, and the administration seems to have moved on."

Since last year's State of the Union, the White House has established procedures for handling intelligence in presidential speeches by including a CIA officer in the speechwriting process. The CIA is also conducting an internal review, comparing prewar estimates with postwar findings, and the final report will be finished after inspectors in Iraq complete their work.

But Bush and his aides have largely sought to divert attention from the issue. White House aides have said they expect this year's State of the Union speech to look ahead—to the democracy the administration hopes to establish in Iraq—rather than look back.

Officials also have turned the focus to celebrating Hussein's capture last month and repeatedly drawing attention to Hussein's mistreatment of his people. Officials have argued that if Iraq's stocks of weapons are still unclear, Hussein's intentions to again possess such weapons are not. Thirteen years ago, when the United States was a backer of Hussein, Iraq used chemical weapons in the Iran-Iraq war.

The administration "rid the Iraqi people of a murderous dictator, and rid the world of a menace to our future peace and security," Vice President Cheney said in a speech last week. Cheney—and other U.S. officials—increasingly point to Libya's decision last month to give up its weapons of mass destruction as a direct consequence of challenging Iraq.

Bush, when asked by ABC's Diane Sawyer why he said Iraq had weapons of mass destruction when intelligence pointed more to the possibility Hussein would obtain such weapons, dismissed the question: "So, what's the difference?"

The U.S. team searching for Iraq's weapons has not issued a report since October, but in recent weeks the gap between administration claims and Iraq's actual weapons holdings has become increasingly clear. The Washington Post reported earlier this month that U.S. investigators have found no evidence that Iraq had a hidden cache of old chemical or biological weapons, and that its nuclear program had been shattered after the 1991 Persian Gulf War. A lengthy study issued by the Carnegie Endowment for International Peace also concluded the administration shifted the intelligence consensus on Iraq's weapons in 2002 as officials prepared for war, making it appear more imminent and threatening than was warranted by the evidence.

The report further said that the administration "systematically misrepresented the threat" posed by Iraq, often on purpose, in four ways: one, treating nuclear, chemical and biological weapons as a single threat, although each posed different dangers and evidence was particularly thin on Iraq's nuclear and chemical programs; two, insisting without evidence that Hussein would give his weapons to terrorists; three, often dropping caveats and uncertainties contained in the intelligence assessments when making public statements; and four, misrepresenting inspectors' findings so that minor threats were depicted as emergencies.

Jessica T. Mathews, president of the Carnegie Endowment and co-author of the report, pointed to one example in a speech delivered by Bush in Cincinnati on Oct. 7, 2002. U.N. inspectors had noted that Iraq had failed to account for bacterial growth media that, if used, "could have produced about three times as much" anthrax as Iraq had admitted. But Bush, in his speech, turned a theoretical possibility into a fact.

"The inspectors, however, concluded that Iraq had likely produced two to four times that amount," Bush said. "This is a massive stockpile of biological weapons that has never been accounted for and is capable of killing millions."

Mathews said her research showed the administration repeatedly and frequently took such liberties with the intelligence and inspectors' findings to bolster its cases for immediate action. In the Cincinnati example, "in 35 words, you go from probably to a likelihood to a fact," she said. "With a few little changes in wording, you turn an 'if' into a dire biological weapons stockpile. Anyone hearing that must be thinking, 'My God, this is an imminent threat.'"

Steinberg, who was privy to the intelligence before President Bill Clinton left office, said that while at the National Security Council he saw no evidence Iraq had reconstituted its nuclear weapons program, but that there were unresolved questions about Hussein's chemical and biological weapons programs. "Given his reluctance to address these questions, you had to conclude he was hiding something," he said, adding that given the intelligence he saw, "I certainly expected something would have turned up."

"I think there are [diplomatic] consequences as a result of the president asking these questions [about Iraq's weapons holdings] and the answer being no" weapons, said Danielle Pletka, vice president for foreign and defense policy studies at the American Enterprise Institute, who believes the ouster of Hussein justified the war. "The intelligence could have been better."

Richard Perle, another member of the Defense Advisory Board, said the criticism of the Bush administration is unfair. "Intelligence is not an audit," he said. "It's the best information you can get in circumstances of uncertainty, and you use it to make the best prudent judgment you can."

He added that presidents in particular tend not to place qualifiers on their statements, especially when they are advocating a particular policy. "Public officials tend to avoid hedging," he said.

Given the stakes involved—going to war—Mathews said the standards must be higher for such statements. "The most important call a president can make by a mile is whether to take a country to war," she argued, making the consequences of unwise decisions or misleading statements even greater.

Indeed, she said, the reverberations are still being felt, even as the administration tries to put the problem behind it. A recent CBS poll found that only 16 percent of those surveyed believed the administration lied about Iraq's weapons. But she said there is intense interest in the report's findings, with 35,000 copies downloaded from the think tank's Web site in just five days. "It is too soon to say there was no cost" to the failure to find weapons, she said. "I think there is a huge appetite for learning about this."

## SOLUTIONS FOR SKYROCKETING HEALTH CARE COSTS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last year's 9½ percent increase in health care spending and costs was the largest in 11 years. Our health care spending per capita doubles that of European nations; yet 43 million Americans have no health care coverage and millions more receive inadequate care.

Many Americans listened to the State of the Union address last night in hopes of hearing solutions to skyrocketing prescription drug costs and insurance costs, driven largely by the uninsured who show up in hospitals and emergency rooms seeking care, forcing all of us who do have health care to pay what I call an uninsured premium, which is one of the great causes of our health care inflation in this country.

Unfortunately, the President's speech did not propose new ways to tackle these problems. The President touted his Medicare bill but ignored the fact that that bill does nothing to address skyrocketing prescription drug prices. We pay in this country 40 to 50 percent more than Canadians and Europeans pay for the same prescription drugs.

To address the worsening problem of the uninsured, the President referred again to a refundable tax credit worth $1,000. The reality is in the marketplace it is impossible to find plans, individual plans, for $1,000 worth of any health care coverage, coverage none of us in Congress would take at all.

Until we commit ourselves to market-based solutions that embrace the principle of competition and choice, we will not bring down health care prices and costs. Access problems will only get worse for the uninsured and insured.

By asking our taxpayers to spend $400 billion on a Medicare prescription drug bill while paying the most expensive prices in the world, we are shortchanging our seniors, and we are shortchanging our taxpayers. They deserve the common decency and courtesy to get the best prices in the world, not the most expensive prices.

By not taking steps to lower all health insurance costs through market-based, cost-effective solutions, we are compromising the care all Americans receive who are struggling to try to pay for the premium increases and cost increases in their health care system.

Prescription drug spending increased by 15.3 percent in 2003. In Europe, where there is competition and choice for medications, prices on average are 40 percent below what they are here in the United States. In every other industry, food, software, cars, consumer electronics, worldwide competition keeps prices down here in the United States; yet for pharmaceutical drugs, we have a closed market, and we pay the most expensive prices in the world.

Polls show that more than two thirds of Americans think they should be able to purchase drugs from Canada and Europe; yet the final Medicare bill did not include these provisions. President Bush should work with Congress this year to lower prescription drug prices through greater reliance on competition and market forces and not threaten to veto such legislation. To do this, we should continue to work for market access legislation similar to the Pharmaceutical Market Access Act, which passed the House last year.

We should also expand the limited provisions in the Medicare bill to increase access to generics. We should remove the provision on the Medicare bill that prohibits the Secretary of Health and Human Services from doing both negotiation, setting up a Sam's Club-like entity of Medicare and using the 41 million seniors who purchase prescription drugs to reduce prices, just like the Veterans Administration and just like private plans.

The other major skyrocketing health care cost for the rest of us is the uninsured, and this is not just a problem for the poor. The fastest-growing group of people who are working without health care are people who earn $50,000 to $75,000 a year. The uninsured in this country who work is a middle-class problem.

Today, all insured Americans pay an uninsured premium in their taxes and their insurance policies, but all the while the uninsured go without coverage. By addressing the health care needs of the uninsured, the entire system will work more efficiently, more cost effectively. Instead of trying to solve this problem with a tax credit that forces the uninsured to shop in the inefficient and expensive individual market, we should shape a policy for the uninsured around the principles of market competition.

I will propose legislation this year that provides the uninsured a voucher, a health care voucher, to purchase health insurance through a subsidiary of the Federal Employees Health Benefit Program, the same program where Members of Congress and the United States Senate and members of the administration get their health care. This plan will use the efficiencies of the group health insurance market to provide comprehensive insurance and reduce prices, while giving people a voucher. It also will keep the prices in a competitive range to the tax credit the President proposed.

There is nothing wrong with the health care system that competition and choice cannot fix.

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## THE WAR IN IRAQ AND WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

Mr. HOEFFEL. Mr. Speaker, last night the President gave his State of the Union address to the Nation and to the Congress; and he brought up, rather surprisingly, weapons of mass destruction. The President said that American inspectors have "identified dozens of weapons of mass destruction-related program activities" in Iraq.

Mr. Speaker, I do not know what a weapons of mass destruction-related program activity is. I would like to find out. I do know this: it is not weapons of mass destruction. We have not found weapons of mass destruction in Iraq. David Kay, the American inspector, has not found them. The international inspectors did not find them.

Like many Members of this House, I voted in favor of the war in Iraq. I did so in order to disarm Saddam Hussein of weapons of mass destruction. I am glad that we have defeated Hussein. I am glad he is in our custody. We and the Iraqi people are better off with him in custody. He was a murderous tyrant. But we have not found the weapons of mass destruction, and it is clear that an extraordinary amount of exaggeration and deception occurred from the White House on the subject of weapons of mass destruction before we went to war in order to win congressional support for going to war.

The President talked last night about our international coalition. The President would like us to believe that we have a broad-based and effective international coalition in Iraq to move forward with securing what is still an unstable country and to move forward with reconstruction. He listed a long number of nations that have supplied some number of troops to the efforts in Iraq.

The fact is that well over 90 percent of the troops in Iraq are American. About 95 percent of the money being spent in Iraq is American taxpayer dollars, well over $160 billion to date. The fact is that we did not turn effectively to our traditional and historic allies and move forward with the international community in order to build a coalition to defeat Hussein in Iraq.

The President, when he won his authority to go to war, made a number of commitments. He said that he would exhaust diplomatic options before going to war. He did not. He said he would allow the international inspectors the opportunity to complete their work in Iraq. He did not. He said he would go to the United Nations and build a coalition, and he did not. And now the President would still have us believe that we are on a successful hunt and are turning up weapons of mass destruction in Iraq as part of a broad-based coalition in that country, and neither of those statements is true.

The fact of the matter is, Mr. Speaker, that the arrogance, the unilateralism, and the cowboy diplomacy of the President and the White House have made our challenges in Iraq much harder than they should have been and have made our war on al Qaeda and terror riskier and harder than it should be.

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## JOB CREATION AND THE BUSH ADMINISTRATION'S POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, last evening the President of our country addressed us here in the House Chamber, and it is always a great historic moment when that happens. But subsequent to his address, he left on Air Force One this morning for our home district and landed there at taxpayer expense in Air Force One, 6 weeks before the Ohio primary. With his campaign coffers loaded, I am a bit surprised that he did not use campaign funds for his visit today. He moved from the Toledo Express Airport to Owens Community College in order to talk about worker training or job training, which is one of the topics that the President addressed in his address last night. And one of the questions I would ask the President is his administration has cut job-training funds over the last 3 years and though Ohioans welcome any job-training funds this administration finally sees the light of day to produce, I am wondering if the President could not also concentrate on job creation so that jobs are there for workers who receive the training.

It was somewhat ironic that in this morning's Toledo Blade, the major daily in the region, it was pointed out that though the President is talking about job training at Owens College, the headline reads "Owens lays off training employees before Bush's visit," and one of the several workers who has been handling workforce development at Owens College says she has worked there for 7 years and has been given a pink slip and is this not ironic. Another worker says, "I've been informed that my position has been eliminated." She had been employed at the college for 25 years and started there as a student in 1978. She said, "I'm 5 years from retirement. I really had thought after all this time I'd finish my career at the college and I'd still be a benefit" to the college. "It's just really hard for me to believe."

The other names of those who have been pink-slipped at Owens College I will place in the CONGRESSIONAL RECORD.

This morning, as the President spoke, in his remarks he talked about job training. And Terry Thomas, the executive director of the Ohio Association of Community Colleges, which represents Owens College along with 23 other technical and community colleges in the State, added that there has been little funding for workforce development in Ohio; so any money from the government would help.

I would also like to place in the RECORD that the Bush administration and the Taft administration, both Republican administrations, have had a devastating impact on the State of Ohio where we have had now over 300,000 people out of work and 167,000 manufacturing jobs just in the last 3 years disappear from our State; and while all this is happening, hundreds of millions of dollars that I have voted for here in Congress have not been used by the State of Ohio. Indeed, there is over $242 million still available for job training and workforce development on deposit here with the Federal Government under programs that have been severely cut back by this administration, and the State of Ohio is not spending those dollars. There are severe problems in Ohio, and it is one of the reasons that Owens College cannot do as good a job as it might do simply because of poor performance by our State government as well as cutbacks in these workforce development programs here at the Federal level.

Mr. Speaker, the Bush administration nationwide has the worst record of job creation since Herbert Hoover, since the Great Depression.

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Over 2,700,000 Americans are without work today. The President did not even use the words "extending unemployment benefits" in his remarks last night. What a tragedy.

Few States have been more severely impacted by the failed Bush administration policies than our State of Ohio. So it is an honor for us to receive a President of the United States, but, really, he should be coming to help us. He should be coming to release the dollars that I had voted for here at the Federal level, and, most of all, helping us with job creation.

He is landing in a major corn producing State in Ohio. He could be helping us with transitioning America to fuel independence. Our farmers want to build ethanol plants and biodiesel plants in order to help this Nation break its dangerous addiction on foreign petroleum. Why does he not help us? When over 60 percent of the petroleum that fires this economy is imported from some of the most dangerous places in the world, we need his help.

Our State has been devastated by Republican economic policies at the national level and at the State level. Community after community has seen its jobs destroyed. The soaring Federal budget deficit and unemployment ranks deserve the President's attention. I am just so sorry he could not help us with job creation and workforce development when he visited our district today.

[From the Toledo Blade, Jan. 21, 2004]

### OWENS LAYS OFF TRAINING EMPLOYEES BEFORE BUSH'S VISIT

(By Ryan E. Smith)

Just days before President Bush's visit today to Owens Community College to tout job training programs at such two-year schools, at least six Owens employees who handle work-force development have been given pink slips, The Blade has learned.

The timing of the news, so near the presidential visit and expected speech about proposed federally funded job training grants for community colleges, was not lost on Kathy Munger.

Ms. Munger, who has worked at Owens for seven years, is one of those given a pink slip. "It's very ironic," she said.

Although some of those who received the two-week notices on Friday may be able to relocate in other departments. Ms. Munger, a training coordinator, and three other employees interviewed by The Blade said they will no longer have jobs.

"I've been informed that my position has been eliminated," said Pam Pullella, director of special projects who has been employed at the college for 25 years and started there as a student in 1978.

"I'm five years from retirement," she said. "I really had thought that after all this time I'd finish my career at the college, and I'd still be a benefit. It's just really hard for me to believe."

Others with the college's Center for Development and Training who confirmed to The Blade that they have received pink slips were Dr. Joseph Conrad, director of health and wellness; Jim Kronberg, director of spatial projects; Donna Brecht, records specialist, and Veronica Rice, records specialist. All work on the Perrysburg Township campus except for Mrs. Brecht and Ms. Rice, who are part of the college's Findlay operation.

Owens President Christa Adams called the personnel action a "realignment," but could not say last night whether any of the movement would result in layoffs.

She and other officials were busy preparing for the President's visit and could not be reached for further comment.

Earlier in the day, Owens officials refused to discuss any of its work-force programs with The Blade.

The affected employees who spoke with The Blade said they believe the cuts at the Center for Development and Training are not the only ones to occur at the college. They said they were given no reason other than restructuring.

Dr. Conrad, who has been at the college for almost eight years, said he worries about whether the programs will be able to function adequately with the reduction in personnel.

"It has to be detrimental," he said. "We don't have the manpower to continue the level of service to the community."

Mrs. Brecht, 40, who said she helps put together classes and make sure there are enough instructors, indicated the move will leave Findlay's Center for Development and Training with only half its manpower. She said she will not be bumped to a new position because she is the "low man on the totem pole."

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TOLEDO, OHIO.—President Bush promoted his job-creation and worker-training goals Wednesday in Ohio—a state hit hard by manufacturing losses and one that is key to his 2004 campaign.

Hours after his State of the Union speech, Bush touted his proposal for new job-training grants channeled through community colleges at one of the state's fastest growing community colleges.

He called for $250 million for programs to match workers and employers during his speech at Owens Community College.

"There's no better place to do that than the community college system," he said.

In addition to offering classes that help workers learn a new skill, community colleges often work with businesses to train their workers to use computer software or other skills.

"It's what we're all about," said Terry Thomas, executive director of the Ohio Association of Community Colleges, which represents 23 technical and community colleges.

But he added that there has been little funding for work force development, so any money from the government would help.

Owens Community College has seen its enrollment increase for 26 consecutive semesters. It now has about 40,000 full- and part-time students at its campuses in Toledo and Findlay.

Job training and counterterrorism proposals were among several plans Bush said Tuesday night that he would offer in his 2005 budget—a blueprint to be released Feb. 2 that will be constrained by record deficits expected to approach $500 billion this year.

Even as Democrats scrapped among themselves over who would oppose him in November, the State of the Union address touted his administration's successes: the toppling and capture of Saddam Hussein, revival of economic growth, and passage of major tax cuts and a Medicare prescription drug benefit.

The address contained few major new proposals, underlining the limitations of a budget burdened by deficits and a campaign year in which far-reaching legislative accomplishments probably will be hard to come by. After calling last week for a resumption of human flights to the moon and eventually sending astronauts to Mars and beyond, Bush didn't mention space exploration in his speech.

From Congress to the presidential campaign trail in New Hampshire, where next week's presidential primary will be held, Democrats balked. They said Bush had ignored the job losses, ballooning budget deficits, diplomatic reversals and growing ranks of Americans without health insurance that have characterized his administration.

Bush touted a cluster of issues sure to energize conservative voters who are the core of the Republican Party.

He said he would support a constitutional amendment defining marriage as being between a man and a woman if courts struck down a law mandating that. He asked lawmakers to renew expiring portions of the USA Patriot Act that strengthen the investigative reach of law enforcement agencies, double funds for abstinence education and codify his administration's award of federal grants to religious charities.

He also took a swipe at Democrats who have challenged the path he took in Iraq, who have said his tax cuts were an unnecessary boon to the rich and that his Medicare expansion and education initiatives were inadequate.

He said the nation needed to stay the course against terrorism and admonished those who would "turn back to the dangerous illusion that terrorists are not plotting and outlaw regimes are no threat to us."

"We have not come all this way—through tragedy and trial and war—only to falter and leave our work unfinished," the president said.

By far, the most expensive proposal in his speech was one he has made repeatedly: Making his already enacted cuts in personal income and other taxes permanent. That has a price tag estimated at $2 trillion, and an uncertain fate in Congress, considering projections for year after year of huge budget deficits.

Bush also called for more money—likely to be relatively small amounts—for spreading democratic institutions abroad, helping students performing poorly in math and reading, training prisoners for future employment and testing for drugs in schools.

He proposed tax breaks to help low-income people afford health care, and renewed his call to let people divert part of their Social Security taxes into retirement accounts whose investment they would control.

Congress is unlikely to touch an overhaul of politically sensitive Social Security at least until next year, after the elections.

## RESPONDING TO STATE OF THE UNION MESSAGE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I, too, like many of my Democratic colleagues this afternoon, would like to respond, if you will, to the President's State of the Union address, which, of course, he gave to the Nation last night from the House podium just right behind me here.

Unfortunately, Mr. Speaker, thanks to what I consider extremist policies of President Bush and the Republican leadership here in Congress, the priorities of the American people, priorities of good jobs, better access to healthcare and the best education for our children, are not being addressed, either at the White House or here by the House Republican majority, and certainly the President's speech last night did nothing to convince me that any of these priorities will be addressed in the forthcoming year.

The problem, as I see it, Mr. Speaker, is that President Bush and Congressional Republicans continue to cater to America's elite, to the wealthy. There is no doubt our Nation's millionaires have fared well over the past 3 years under President Bush and the elite have seen their taxes dramatically cut. But the hard-pressed middle-class face a weak job market that, thanks to President Bush's economic priorities, show no signs of improving in the immediate future.

So even though the President talks about economic recovery, it may be economic recovery when you look at the stock market quotations, but it is not when you look at jobs and the possibility for real job creation that would actually help the average American.

The President's efforts to provide billions of dollars in tax breaks to our Nation's millionaires will saddle our children and my children with massive deficits. So not only is his policy not creating jobs, but his policy is creating more and more debt.

President Bush and the Congressional Republicans have squandered historic budget surpluses. When President Bush took office, we had a surplus for the first time under President Clinton. But because of the collapse of fiscal discipline, now we are faced with a $5 trillion national debt over the next decade, which has been brought about, in my opinion, by President Bush and the Republican policies here in the Congress.

One only has to revisit the President's last two State of the Union addresses to realize how out of touch the President is with what policies will really jump-start our Nation's economy. I would like to spend a little time this afternoon trying to compare some of the statements that President Bush made in the last couple of State of the Unions before last night to try to point out how really out of touch he is, and how what he mentioned last night is not going to get us to where he says we are going to go.

Two years ago, President Bush touted his second round of tax cuts by declaring in his State of the Union address, "My economic security plan can be summed up with one word: Jobs."

Instead of creating jobs, on President Bush's watch, our Nation has witnessed the greatest job loss in a recovery since the Great Depression of the 1930s. A few months of modest job creation that we have had over the past few months cannot hide the abysmal performance of the labor market over the past 3 years.

According to a State of the Union report from the Center for American Progress, long-term unemployment is close to a 20-year high because the labor market is so weak. The labor force participation rate in December 2003, just this past December, was at its lowest level since December 1991, a dozen years ago.

At every turn, the President has passed up opportunities to pass what I call high-bang-for-the-buck stimulus to jump-start job creation, and instead favors inefficient, ineffective, long-term tax cuts for the most well-off.

If you really want to create jobs, then you use the Federal budget and the power of the Federal Government to stimulate and jump-start jobs, job creation. Instead, we have this inefficient, long-term tax cut proposal which, as you heard last night, the President wants to continue, and, according to the Center for American Progress again, the report, in 2002, with our economy in desperate need of a jump-start, the administration pushed to retroactively eliminate the corporate alternative minimum tax, a provision which would have provided a $254 million tax break to Enron. But what did it do for job creation here in the U.S. for the average guy? Nothing.

Let us consider the words that President Bush spoke last year during his 2003 State of the Union address. Again, we are going to go back one year. He said, "We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other presidents and other generations."

That is what he said a year prior to last night. But, despite this promise, President Bush's policies over the last 3 years led our Nation to a record $450 billion deficit. This deficit is a major problem in terms of job growth, job creation, and even the long-term stability of the economy. Everyone recognizes that the President and the Republicans pushed up the debt to unheard of heights.

Again, I want to put this deficit problem in perspective, to go back to this report from the Center for American Progress. It found in the report that 5 years from now the average family's share of the national debt will be more than $84,000, compared to a projected $500 per family when Bush took office.

So when the President took office, the national debt, if you look at it per capita, was very low. We were actually in a surplus. We just had a national debt that had been inherited from before, but we were actually in a surplus. Now that national debt has grown to more than $84,000 for the average family's share. It is an incredible figure when you think about it, and it makes it really impossible for us to talk about the Federal Government playing any kind of role to create jobs or to improve the economy when we have such a huge deficit.

Our Nation's fiscal situation is so dire that the International Monetary Fund issued an unusually strong and stark warning about the threat that rising fiscal and trade deficits in the U.S. pose to the financial stability of the world economy. This was just a couple weeks ago when the International Monetary Fund issued this warning.

In a departure from what he previously had said, the President last night, if you took notice, actually did say that the deficit was a problem. I think he finally came around to the point where he cannot just ignore it, because if you think about it, prior to last night he was saying, "Oh, it doesn't matter. We can continue to have larger deficits, growing deficits. It doesn't make any difference."

But last night he finally acknowledged the fact that the deficit was a problem, and he did express concern over the size of the deficit and he basically reasserted his commitment to cut the deficit in half in the next 5 years.

But that is, again, his rhetoric. He is saying that, he is acknowledging for the first time in the last 3 years that the deficit is a problem, and he is saying he wants to cut it in half over the next 5 years, but if you look at the policies that President Bush put forward last night, the reality is they are only going to increase the deficit. They are not going to cut the deficit, they are going to increase the deficit.

Again if you go back to this report from the Center for American Progress, the President proposed at least $3 trillion in new tax cuts last night and spending over the next few months. So between the tax cuts that he talked about last night and the new spending he talked about last night, we are talking about a huge increase in the deficit, not a decrease.

I can say that, and I would like to detail a little more this afternoon why I say that what he is proposing last night in terms of tax cuts and new spending is going to increase the deficit rather than cut it in half over the next 5 years.

First let us talk about the $1 trillion proposal to privatize Social Security which the President mentioned. I have to tell you that I do not like the idea of privatizing Social Security in any way. I do not think the whole idea of privatizing Social Security is a good thing, but the President mentioned it, and I want to give you the fiscal consequences.

Partial Social Security privatization under the President's proposal last night would, all by itself, require at least $1 trillion in extra funds over the next decade. That is from the New York Times yesterday, January 20.

What about the new tax cuts? The Congressional Budget Office estimates that the cost of President Bush's proposals last night to make his tax cuts permanent at roughly $1 trillion. That is from the Washington Times, September of this year.

What about the mission to Mars? He did not mention in his speech last night the mission to Mars, but he has, over the last week, talked about how he wants to propose this mission to Mars. While the White House has tried to fudge the total cost of the Mars proposal, a similar proposal was floated way back in 1989, over 20 years ago, and at that time the cost was projected at $400 billion to $500 billion. With inflation, that is about $600 to $700 billion today. Again, where is that money going to come from, without us going further and further into debt?

He also proposed a missile defense system. Despite a GAO report advising against moving forward with an untested missile defense system, the Bush administration is moving forward and they talk about a missile defense system that would cost as much as $273 billion. That is from a GAO report of June earlier this year, the Center for Arms Control and Nonproliferation.

Also the war. Again, the President made his presentation about the war in Iraq and the war against terrorism and linked it to it. But on top of the $166 billion already spent on the war in Iraq, the President is expected to propose a $50 billion supplemental bill to pay for Iraqi war costs. The bill probably will not come up maybe until after the November election, but that is another $50 billion for the war in Iraq, which, again, is costing us a tremendous amount of money and driving us further into debt.

Lastly, and I know in the scheme of things you might say this does not add up to much, it is only $1.5 billion, but the President's proposal to promote marriage, Bush administration officials have been working with various conservative groups on this proposal, and it would provide at least $1.5 billion for training to help couples develop interpersonal skills that sustain healthy marriages. That is from The New York Times last week.

Well, again, maybe $1.5 billion does not sound like much in the scheme of things, but $1.5 billion to promote marriage? Promotion of marriage is certainly a good thing, but do we have to spend $1.5 billion and go further into deficit to promote marriage? I do not think so. I do not think that is a good expenditure of Federal funds.

So my point is, the President addressed the issue of the deficit last night. He said he is going to cut it in half over the next 5 years, but everything he proposed last night, tax cuts, spend in various areas, all adds up to a significant increase in the deficit. So the rhetoric does not go along with the reality.

How can the President say he plans to cut the deficit in half at the same time he proposes $3 trillion in new tax cuts and spending? I think he has got to level with the American people. The only way he can really address the skyrocketing deficit is to roll back the components of his tax cuts that, again, as I said earlier, in my opinion, disproportionately benefit the very wealthiest.

The President's suggestion that his tax cuts have been only a minor factor in the fiscal deterioration, actually he said the opposite, that the tax cuts have been a factor in turning the economy around. I would say they have been actually a major factor in our fiscal deterioration and certainly in the deficit creation. They are the largest single contributor to the deterioration of our budget outlook.

Mr. Speaker, when you look at the President's speech, keep these statements in mind about what he said in the past in his State of the Union versus what he is saying now, and I think he has a long way to go to prove to the American people that his economic proposals will not only benefit the wealthy, but also middle-class Americans.

I wanted to spend a little time. I know some of my colleagues earlier this afternoon talked about the ill-fated Republican Medicare prescription drug bill, and, again, the President touted that last night and said how great a thing that was. I have to be honest and say that I think it was pretty obvious if you looked around the room last night, around the House Chambers, that his Medicare prescription drug bill fell on deaf ears.

Obviously since it was passed back in November and the President took it to the people, and our colleagues on both the Republican and Democratic side went home, they found, to no surprise of mine or most of the Democrats, that this was not a proposal that people felt was accomplishing anything, and, in fact, might actually hurt Medicare because of the effort to privatize.

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So when the President talked about his prescription drug proposal last night, I noticed there was very few applause, even from the Republican side of the aisle; and I do not think anybody stood up. I think it is testimony of the fact that both sides of the aisle think it is not a good proposal and that the public does not like it.

Now, what is the reason? If we think about it, what they did was to suggest they were somehow giving people a prescription drug benefit when in reality what they were really doing was changing the Medicare program for the worse. If we look at the actual coverage for prescription drugs for seniors under that bill that was signed into law a month or so ago, it provides woefully inadequate prescription drug coverage.

There is a giant gap in coverage in which seniors receive no assistance with costs between $2,200 and $5,100 annually. About half of all seniors will not have any drug coverage for part of the year. It does nothing, the Republican Medicare bill does nothing to reduce the cost of prescription drugs. The bill prohibits Medicare from using the bargaining power of 40 million seniors to negotiate lower drug prices, which we are going to see as the drug companies continuing to reach huge profits, and yet seniors will continue to get the major price increases which at times have amounted to 18 percent annually on the drugs that they need just to remain healthy.

In addition, the Medicare bill forces seniors into private plans through either HMOs or PPOs. The other day the President announced he was going to give the HMOs and these private health plans a huge influx of money to try to entice them back into the Medicare program. But I have to tell my colleagues that in my own State of New Jersey, we have had 200,000 seniors in New Jersey that were dropped by HMOs pursuant to Medicare in the time since the HMOs were allowed to participate in the Medicare program.

Mr. Speaker, I could go on and on. I think the bottom line is that we lost a tremendous opportunity last year to pass a prescription drug bill that would actually be meaningful for seniors. We as Democrats simply proposed expanding Medicare to include prescription drugs. One would stay in their traditional Medicare, one did not have to join an HMO, and we would expand Medicare in the same way that we provide coverage now under part B for doctor bills. One would simply pay $25 a month. One would have a $100 deductible. Twenty percent of the cost of drugs there would be a copay, and the other 80 percent would be paid for by the government. And the Democratic proposal would have specifically mandated that the administrator of the Medicare program bargain to reduce costs for prescription drugs to the average senior.

But we tried that. The Republicans rejected it. We are now faced with this essentially worthless Medicare bill that does not really do anything to help seniors with their drug bills.

The last thing I wanted to do today, and I see one of my colleagues is here and I would like to have him join me, but the last thing I wanted to say is in the time when we were back in our districts in December over the Christmas holiday and New Year's, the one issue that continued to rise to be brought to my attention, to be raised by my constituents was the increased cost of health insurance. We know that more and more Americans do not have health insurance; but even for those who do have coverage, because they get it on the job or if they have to buy it on their own, are very concerned about the rising costs and the fact that they may not be able to afford health insurance or their employer might not provide it in the future.

So that is why the President last night mentioned the crisis and said that there was a problem out there, but what he failed to mention is that the situation has gotten worse. There are about 4 million Americans that have lost their insurance coverage in the last 3 years since President Bush has been in office. If we think of what he proposed last night, a $1,000 tax credit is really going to be meaningless for most of those who do not have insurance now. We know that if you do not have health insurance and you want to try to go out and buy it on the private market, a $1,000 tax credit is not going to be any significant help to you.

So the President's proposals last night, whether they were the affiliated health plans or the tax credit, is basically the same old proposals that he has been shuffling around for the last 3 years or so; and they are not going to do the job of providing Americans with health coverage, neither those who do not have health insurance or those who are afraid of losing it.

Again, I worry, because I see the President talking about the problems that are out there, suggesting that somehow he is going to do something about it; but when we look at the specifics about what he is going to do or what he is proposing, it does not add up to any meaningful effort to provide health insurance, to increase the number of jobs, to reduce the deficit, all the things that are so much of a priority right now.

Mr. Speaker, I see my colleague, the gentleman from Michigan, is here; and I would like to yield to him.

Mr. STUPAK. Mr. Speaker, we are talking about the President's State of the Union address last night. From where I was sitting, my perspective, I am from Michigan, from the northern half, and I was really surprised that the President never mentioned the urban areas of this country. About 60 percent of the people in this country live in cities. He did not articulate any type of a plan or approach to help those areas that are dealing with many, many problems. Especially since the National Conference of Mayors is in town this week, I thought at least there would be some mention about urban areas: what can we do to help them with their urban sprawl, with infrastructure needs, green space, or even just helping them cope with these homeland securities which cost these cities millions of dollars. When we get elevated from yellow to orange or orange to red, whatever system they are using now, it costs them a lot of money. The cities, like the States right now, are financially strapped for cash. How do they pay for this? If it is a requirement of the Federal Government, should we not just help them out? I was surprised that he did not touch on the cities.

I was also very, very surprised, and maybe it is the record of this administration, that he did not even mention veterans. Why would he not mention veterans? We are creating veterans every day in this country with the war in Afghanistan and Iraq, and he never even mentioned them. Probably because we saw proposed $20 billion cuts in veterans health over the next 10 years; that is what his budget proposal shows. It would really eliminate and cap the number of veterans who can access the VA system. We have a cap on it right now because there is not enough money in the system. So maybe the President did not want to talk about veterans because his record in that area has not been very good.

So I would hope that we in this upcoming Congress can put a little more attention on the veterans issues. The Democratic Party and the Democrats in their response, and others, I saw coming up with bold new ideas on how to move this country forward. As the gentleman from New Jersey was saying, some of the stuff we have heard over the last 3 years was just warmed over and put in the State of the Union; but we have different ideas, bold ideas, new ideas that I think are important. It would be my hope that in this session of Congress, Democrats and Republicans can work together to move forward some of these initiatives.

Some of the initiatives that the President did bring up did tweak my interest, let us say, like the health insurance. The gentleman and I both sit on the Subcommittee on Health of the Committee on Energy and Commerce, and we have both spent a lot of time on that. Homeland security, I thought we would hear more about that, like fully equipping the first responders, the police, the fire, the emergency medical people.

Increased protection on the border. I come from northern Michigan, right there at Sault Sainte Marie, Michigan, crossing back and forth to Canada. Before September 11, most of our stations were not manned 24 hours a day. We have made some increases. We have more immigration officers, more Customs officials, more border patrols, they are all now under Homeland Security. But what happened was we put money out there to increase the number of people there; but last Labor Day, the first part of September, they were laying people off. They were supposed to be protecting our borders.

So I wish the President would have spent a little more time saying, look, there are some things we should do in homeland security, especially those of us who have a northern or southern border. It is critically important to us. We know all the cargo ships and containers that come into this country by ship or plane or trucks, we are only inspecting 2 to 3 percent of that cargo. We can do better than that with all of the modern technology and equipment we have. It does not cost that much.

There is no reason why we cannot implement a program. We have the technology. We sat through those hearings where they have shown us the technology to look for biological, radiological weapons and environmental weapons that may be in these containers. Why are we not doing it? If we want to talk about really being safe, that is one area we could improve. I mean, a 2 to 3 percent inspection, that means 97 to 98 are going through uninspected, really makes us susceptible to any kind of an attack, bioterrorist, chemical, or nuclear in this country.

So the Democrats have also put forth a proposal to do this, to increase that. That is not asking that much. We even know the cost of these machines, like big x-ray machines that can scan cargo holds and cargo containers. Why are we not talking about that if we want to really be secure here at home?

Taking a look at the economy and jobs, with all due respect to the President, more tax cuts is not going to solve this problem. In the last 3 years, if we take a look at the total package of the tax cuts that have been passed by this Congress, it is about $2 trillion. And if they really created jobs, our economy would not be in the slump we have.

Take my State of Michigan, we are a manufacturing State, and we have been hit terribly under these Bush economic policies. Since the President took office, and I am going back now to August of last year when they claimed we had this big increase in the third quarter of last year, well, in my State of Michigan we lost over 130 manufacturing jobs. They are not coming back. Those jobs like Electrolux in Greenville, Michigan, they are going south. They are going south of us. They are taking their tax cuts, and they are going to Mexico and other areas; and it is going to take out about 2,700 jobs in the little town of Greenville, Michigan. Throughout my district, there has been a number of them who have lost jobs. They go south. We have lost 130 manufacturing jobs. Let us face it, they are not coming back.

The President said, well, this tax increase would create these jobs. If we take a look at it, going back to my State of Michigan, 46 percent of the people received less than $100 with the last Bush tax cut. How does that help anyone, and how does that create new jobs?

Mr. Speaker, we have so many needs in this country, and the Democrats have come up with a proposal to stimulate this economy, to get jobs moving. We actually put forth a proposal, never were we allowed to bring it to the floor for a vote, because the Democratic proposal was a good one. We supported targeted tax cuts. There should be some for middle class and working families, you bet you. We are there and willing to do it. But our economic and tax cut plan would have created 1 million jobs immediately. How were we going to do that? Invest back in our infrastructure, our port security that I spoke of; and we would have done this by taking money out of the trust funds and not add one penny to the deficit, not one penny to the deficit, but create a million jobs, invest here at home, invest in our airports, our water ports, to protect them from terrorism; and we could create jobs doing that; and, again, we would not have added anything to this deficit which is exploding out of sight.

Democrats do have a better way.

There are a number of things that we can and should be doing. We are willing to work with the President, but they also have to be willing to work with us. By that I mean the gentleman from New Jersey spoke a lot about the Medicare bill with the prescription drug plan. We notice when we had those hearings and we had, they call it the conference committee, no Democrats were ever invited to it; we were not even told when they were. So it was not like we got together; we were not even invited to the table to discuss it. In the House here, the person who probably knows more about Medicare and prescription drugs is the gentleman from my home State of Michigan (Mr. DINGELL). He has been here and been involved in every Medicare bill since Medicare was created in 1965; he was not even included in the discussions or even asked his ideas.

So these proposals, we are willing to work with them, but they have to include us. The tax cut bills, we were not included on that. The Medicare bill, the energy bill which failed in the Senate, we were not included on that. We need better understanding, and we need a better working relationship with this White House and with the majority party in this Congress.

The gentleman from New Jersey mentioned prescription drugs and the Medicare plan. Just getting access to prescription drugs is a battle for many of us. If we take a look at it, our plan, the Democrat plan basically said, use the purchasing power of the Federal Government to help lower these costs; in fact, the Secretary of Health and Human Services, Mr. Thompson, negotiate a lower drug price for us so we can pass it on to the 40 million recipients in Medicare so it does not cost them so much. The bill passed by Republicans expressly prohibited it. The bill also expressly prohibits the Secretary or average Americans from going to Canada or Europe to get lower cost prescription drugs.

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One are forbidden from doing it. If one are really interested in lowering the cost for the American people and for our seniors, these two common sense approaches, why is not that part of the Medicare bill to keep the cost down?

And I bring up this Medicare and prescription drugs because the President said last night he will give tax incentives to help people to afford health insurance. Well, that is wonderful, but we need some incentives to keep those costs down. If he did not allow us to come together to lower the cost, negotiate lower prices for prescription drugs, is he really going to allow in the bill the associated health plans to allow businesses to come together to negotiate lower prices down? If we look at the track record, the answer is no. If we are not going to do it on prescription drugs, why would we suddenly want to do it on these associated health plans.

If one really takes a look at the associated health plans, why are they somewhat popular? Well, because underneath the associated health plans, there are two major problems. They do not necessarily come and band together. Each small business in that plan is its own entity and can lead it or drop it whenever they want. So we cannot guarantee that unity, the cohesiveness would stay there.

The second big problem with these associated health plans that the President brought up is that small employers, besides cut and run for a better deal, they do not have to follow state mandates. Every State says, look, if you offer health insurance in our State, here are some basic rules you have to follow, basic things we want you to do: Prenatal coverage, mental health coverage, immunization coverage, emergency room access, things like that.

These associated health plans that the President brought up last night they do not have to do that. They work outside the State requirements. So they can pick and choose in this State we do not want to offer this or maybe we do not want to do a prenatal care. Maybe we do not want the mental health part of it.

So one is paying a lot of money for half a plan as dictated by the insurance industry and not the needs of the people in that State in which one is selling that insurance.

I like the ideas that the President brought up. If they are willing to work with us, I am sure we can work out some ideas. Democrats believe that a health care coverage plan should include all Americans. We believe the health care coverage should be continuous, that one is not wondering from year to year am I going to have the coverage, but there should be a continuation of coverage.

We believe health care coverage has to be affordable for families and individuals. We believe that health insurance should also be something as a society we all can afford.

And last, but not least, we should also make sure that health insurance actually promotes health and wellbeing like prevention programs, prenatal care, and access to high quality care that is effective, efficient, safe, timely, and patient-centered and is equitable, people are getting a reasonable return for the money they are spending on health insurance. I do not think that is asking too much.

These are some old ideas that are Democrats are willing to put forth: Accessible health insurance, affordable health insurance, make sure it is adequate to meet the needs of the society one is trying to serve and will always be there in the future so someone is not cut as soon as they have a claim.

So, again, we are willing to work with the President, but he has to reach out to include us.

It was interesting, we talked some more about it when the President was talking about the energy bill and how we should do this. And I think he said, if I quote him right, he said something like "I urge you to pass legislation to promote conservation." I notice he did not say, "I urge you to pass an energy bill that is also concerned about our environment." That was left out. I did not find the environment anywhere in the President's nine pages, this little book that we received with his remarks in there. Probably because in the last couple years, we have been fighting on the floor to keep a strong Clean Air Act, keep a Clean Water Act, protect our national forests and oppose drilling in ANWR and some of these other areas, and fully fund Superfund, which cleans up and reinstates the polluter-pay principle, one of the things we all believe in.

But that Superfund, unfortunately, we used to get a royalty off the oil and gas drilling in this country and a percentage of that would go and fund Superfund. Well, since the new party took over, the majority took over in 1995, we have not put any money in the Superfund. And there are many Superfund sites in the Great Lake State of Michigan. We have many Superfund sites around the State, around our Great Lakes that should be cleaned up.

So if one is going to talk about energy policy, let us restore enough money for that energy policy. At least fund the Superfund to clean up Superfund sites and reinstate the polluter-pay principle. I think that is something we should all be able to agree with at least in principle.

I was disappointed also when the President said the No Child Left Behind Act is opening doors to opportunity to all of America's children. But as we know too often, and ask any school administrator, the Federal Government with the Leave No Child Behind did not fully fund it. For instance, Title I has a shortfall of billions of dollars.

If one takes a look at this last budget, to meet the requirements of this new testing that the President spoke of and all these other requirements that Leave No Child Behind Act, we should fund these programs. We are putting regulations on these schools. They are expected to perform, but yet they are not receiving Federal money to do this. While he may have increased funding for education, it has not kept pace with requirements that the Leave No Child Behind Act is requiring our schools to do. So we would like to see it fully funded.

And I also believe the other thing we should do if we are going to fully fund education from K through 12 is IDEA, Individual Disabilities Education Act. IDEA, the Federal Government passed that before this President was in office, and it was also a promise the Federal Government would fund it at 40 percent. At best, we are funding it at 18 to 19 percent. We are not even funding half of what we promised to fund when it came to K through 12 education. So, again, I think the ideas are there, but one has to put the funding there.

If one is going to do education, if we don't want to leave a child behind, if we want to test them to see if they are meeting the skills, give the schools the resources to adequately do it and not short change them. Unfortunately, that is what has happened in the last few years. In the last fiscal year we are short $8 billion nationwide to fund education.

I do not disagree with what the President says but let us fully fund the education. So I really think that the President put forth some ideas. I think they fall short in some areas. We are willing to work with him, the Republican party, the majority party in this House, but they have to include us in some of these programs.

Democrats do have a better way. We do want to see a number of things happen. We want to see, like, homeland security. We talked a little bit about that. But let us fully fund our first response people. Let us improve our domestic nuclear security and protect our communities against a terrorist attack. We can do this by doing inspection of cargo. It is something so simple that we could do, the technology is there. We even know the cost.

We have sat on the Committee on Energy and Commerce and we have laid out the cost and how much every one of these machines are, how many port of entries we have. We have close to 400 in this country where cargo comes in through ships from other countries. We know where. We know what the cargo is. Let us detect and make sure there is nothing coming in here. I think that is of even greater importance now as we have increased activity around this world in terrorism. And it is something we should be able to do. There is no reason why we cannot.

There are so many other things we could do. Like I said, I was really surprised that the President did not even mention them in the State of the Union address. Democrats we believe that we should ensure full payment of both retirement and a disability compensation to a half a million disabled American veteran retirees. We should do that immediately. Right now the way the law is if one has a military disability pension and a retirement from them, they deduct dollar for dollar if one is receiving disability from their retirement pay. They have earned both of them. They should be fully funded. Why could not we do that for them?

We should fully fund the veterans health care. We should permit an increase in bonuses for soldiers in combat. This is interesting. We had the motion on the Floor here during our debate on the $87 billion for Iraq to provide a $1,500 bonus for every man and woman who fought in Iraq or Afghanistan. $1,500 out of $87 billion. That tied 213–213 and the amendment did not pass. I could not believe it.

And here we are talking about the great job our men and women in the armed services are doing for us. And they do. But give them a little bonus. Most, and I should say a large number of people in Iraq are from the Reserves and the National Guard, they left their good paying civilian jobs when their country called upon them to go fight in Iraq. So we want to give them a $1,500 bonus to help ease that financial concern at home. And it ended up in a tie in the U.S. House of Representatives. I cannot believe it. That was basically a party line vote. The President and the administration and Republican party will not support us so it ended up in a tie.

There are so many more things we could do. Democrats do have bold new ideas. We would like to be part of the process. We urge the majority party and the President to work with us. We have a new year here, a new session just starting. We look forward to working with them. But as I said earlier, when we have these conferences and these ideas coming through Congress, all we ask is for an opportunity to have our amendments put forth before this floor, put together a substitute that we would be allowed to vote on. But, unfortunately, as we have seen on these major issues like Medicare, energy bill, the appropriations bills, we are just completely excluded.

That is almost unheard of in a country of this stature which is a true democracy that the minority party, in this case Democrats, representing 49 percent of the country, are not even allowed to put forth the proposals or amendments on the House floor. I know that upsets a lot of people and certainly upsets all of us.

Even if we do not have the votes to pass it, at least let our new ideas come forth on this Floor and be argued and debated and let the American people make up their mind on this legislation.

So I pleased to come down here and join my colleague. I look forward to doing that throughout the year as we have in the past working on this. There are other issues, and I look forward to working with him on them.

We have an opportunity, and I hope the President and his party will work with us, so we can move this country forward because the economy is not where we want it to be. We are struggling. As I said, Michigan alone lost the most manufacturing jobs of any State. We are hurting back in Michigan. We need some help.

There are some things we can do, but another tax cut is not going to jump-start our economy in Michigan. It may be good for Wall Street, but it is not very good for Main Street where we do create the jobs. We have heard it so many times in the media that this is a jobless recovery. Well, the economy seems to be looking good on Wall Street. And IRAs and even 401(k)s and other things may look a little better, but for folks back home they are not employed, they are not working, it is not helping them.

In Michigan, at the last tax cut we got less than $100. 46 percent of the people in Michigan got less than a $100 in the last Bush tax cut. It is not going to help us out. Let us put some people back to work immediately. Adopt the Democratic plan which says we can put a million people back to work immediately by working in infrastructure, roads, bridges, port security, airport security, without adding to the deficit. We can do it by taking money out of the trust funds.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from Michigan not only because of what he said today, but also because of all the work he does, particularly on the committee that we are both on, the Committee on Energy and Commerce. But I was listening to what he said. He was talking about mostly in the context of his State, Michigan. But everything that he said applies to my State as well, and probably to the rest of the country.

One of the things he mentioned that I wanted to comment on was this whole effort to exclude the Democrats. He mentioned that, for example, with the Medicare prescription drug bill we were not invited to the conference to discuss the bill. Even the gentleman from Michigan (Mr. DINGELL), the senior Member of the House, the ranking member on our committee, was excluded.

And when I talk to my constituents, and obviously my colleagues have the same reaction, they are shocked to find out that they elect somebody to come down here and just because they are of a particular party, that is, in the majority, that they have so little say. And we witnessed it earlier.

At the end of the day, when we have the little colloquy between the gentleman from Texas (Mr. DELAY) and usually it is the gentleman from Maryland (Mr. HOYER) on our side about the schedule, today a couple of our Democratic colleagues brought up the fact that the Republicans have refused to even consider a debate on the issue of extending unemployment compensation. And the Republican Majority Leader, the gentleman from Texas (Mr. DELAY) made it quite clear that he was opposed to extending unemployment compensation. But it was not enough that he said that he was opposed to it, he had to go further and say that he was not going to allow a debate on it.

And the reason he said, sort of in a sarcastic way, he said something about the fact, "Well, I think the Democrats said we have 208 members on a discharge petition to bring this bill up." And the gentleman from Texas (Mr. DELAY) said, "Well, last I heard, 218 is the majority." So what he essentially was saying well there may be 208 Democrats out there that are signed on and want to debate this issue, but since they are in the minority, even only by 10 votes, we are not debating it. That is the kind of thing we get.

I do not want to disparage him, but this is what we get all the time. The Democrats are not in the majority so there will be no debate. The Democrats are not in the majority so they will not be a party to the conference. The Democrats are not in the majority, so we are not really interested in their point of view.

Particularly last night, listening to the President's State of the Union Address, I noticed that many of the commentators said it was a very divisive speech, that there was no effort to reach out and say maybe we do not agree on this issue whether it is health care or job creation or whatever, but even though we do not agree, let us get together and try to work it out in a unified way.

□ 1430

Never was that suggested. It was almost as if this was my way or the highway. It is a very bad development in the way that we operate around here, and I think it is important that the gentleman mention it. I appreciate that the gentleman mentioned it.

The other thing I wanted to say just in terms of comparing what the gentleman said about Michigan versus New Jersey, so many soft things you mentioned are true for my State as well. I thought it was very glaring that there was absolutely no mention in the President's speech about any environmental concerns, as if the environment did not even exist as an issue. In the past he has always tried to touch upon it a little. Even though he has a terrible record, in my opinion, and has been cutting back on environmental regulation and enforcement, he would at least mention it. It was not even mentioned.

As the gentleman said, my State of New Jersey has more Superfund sites than any other State, and my congressional district has the most Superfund sites in the State of New Jersey. And it is very upsetting to my municipalities because many of these Superfund sites that are terribly toxic, we have one in Edison, New Jersey, that was the site where they produced agent orange, the herbicide, during the Vietnam War. It is in the stage now where they are gradually cleaning it up. But because they are told there is no money left in the Superfund, that may have to stop, actually has stopped on occasion, and then started up again when the money was available.

That is what we are facing, the crisis with the hazardous waste clean-ups because there is no money left from the Superfund because the President did not want to renew the tax on the oil and chemical industry that would pay for the clean-up.

The gentleman talked about the ports. Obviously, one way that is very effective in terms of creating jobs is to spend money on infrastructure, on homeland security. New Jersey, like Michigan, is a State that has a lot of port activity. Most of the cargo that comes into the port of New York actually comes into New Jersey, the majority of it. I have heard from so many of the inspectors about how so little of the cargo is inspected.

We had a situation in December while we were not here in Congress where our governor had to announce that he could not, there was a proposal because of the bad state of the roads in New Jersey to increase the gasoline tax, and he decided not to do it because he knew that a tax increase would probably not pass and there would be a lot of political opposition to it, so he decided not to increase the gas tax. But we face a crisis in our transportation infrastructure.

If we can get an infusion of funds from the Federal Government to help with our bridges and our highways, not only would we be able to fix them up and make transportation easier; but it would create a lot of jobs, and we do not get this. All we get is more tax cuts and there is no way that, either in the short or the long run, that that is going to be job creation.

The thing that really surprised me, and I do not know where the gentleman stands on this issue, last night the only thing that I thought the President mentioned about job creation was the need for more free-trade agreements. He signed all these free-trade agreements over the last couple of years, and that is a major reason why so many of the jobs have gone south, not only to Mexico but to China and other countries.

Here he is again saying, okay, we need more of these free-trade agreements. Free trade is all right, but we have got to have some kind of a program to enhance our manufacturing base before we just sign all these agreements and let everybody take away all our manufacturing jobs. It is just amazing to me.

We could keep going on, and I do not want to necessarily keep repeating what the gentleman said, but I just want to say that so many of the things that the gentleman mentioned have direct application to my State, and all we keep getting is more tax cuts for the wealthy, more debt. And somehow the suggestion on the part of the President is that that is helping with the economy, when I think it is doing the opposite.

I do not know if the gentleman wanted to add anything else.

Mr. STUPAK. Mr. Speaker, the gentleman spoke a little bit about the trade agreements. Now they are trying to push the Free Trade Agreement of the Americas. In the past year we have done the Chilean Trade Agreement, Singapore. We have done a number of them, but yet we still see jobs leaving this country.

When we talk about it, everybody says, well, we will enforce the laws that are on the books, but look at what just happened with steel. The International Trade Commission found unanimously, six-nothing, that there was illegal dumping of steel goods in this country. By illegal dumping I mean they are selling it in this country at less than what it cost to produce it in China or Brazil or the Ukraine or wherever it was, and they dumped it here. And the President said, all right, since you have harmed our industry, we will help our steel industry and the iron ore miners that I represent in Northern Michigan. We will put a tariff on it.

That lasted 18 months and the President pulled out of the agreement. Now we no longer have these tariffs again, and you will see steel starting to get dumped once again in this country.

So when the President says, I need more trade agreements to open up the global market and we will enforce the laws, the first one we have seen where he has actually taken a high-profile case, the steel industry, he is going to hold it for 3 years, 3 years at 30 percent. Three years those tariffs would be on. It would be a 30 percent tariff.

And then what happened half way through it because of pressure from some of our trading partners, the President decides to abandon the tariffs. He promised the steel industry 3 years to get back on its feet. There has been consolidation. There has been more efficiency in the steel industry. Our mines, and I had a couple mines up there, they have consolidated to cut costs to be more competitive. We make the best steel in the world. And we have all worked together.

He said 3 years. We have laid out a 3-year plan to revitalize the steel industry in this country. That lasted 18 months. So when the President says that, with all due respect, he sort of loses a little credibility in my mind when he wants to bring out further trade agreements, not just a Free Trade Agreement with the America which would be all the way down to South America; but he is also talking about a Middle East trade agreement which would include the Middle East, including Iraq. We have had a trade agreement this last year with Jordan.

There are trade agreements all the time. And no matter where you fall on it, you decide for or against them, but when you find clear-cut violations like in the steel industry where the International Trade Commission by a six-zero vote unanimously says, they have dumped illegal steel in this country and hurt our industry, we have a right now to bring in to remedy the situation. The President does it for 3 years, and he pulls out after 18 months.

So I have little faith that any future trade agreements, when there are violations, they will say, oh, we are getting pressure from our trade partners, therefore, too bad. I talked about Michigan. We lost the most manufacturing jobs of any State under this President. Those jobs are gone. Those were good-paying jobs. What do you replace them with? Service industry jobs, minimum wage, jobs with no benefits.

While we are losing these jobs and have record unemployment in Michigan, we are at 7 percent unemployment, what did they do on overtime in the budget bill that we passed here? The reason why many of us did not vote for it, they have a clause in there that you do not have to pay overtime anymore.

One of the hallmarks of employee rights in this, if you work more than 40 hours you get overtime. Under the President's proposal, they will overhaul the overtime rules that would cause in Michigan alone over 300,000 workers to lose access to their overtime pay.

The President says, it does not affect those who have a collective bargaining agreement. Guess what? As soon as that collective bargaining agreement expires, what is the employer going to say? I do not have to pay overtime anymore. The Federal law has changed; you guys are out of luck.

That is what we cannot have. So, again, we are willing to work with this President. We are willing to work with the majority party. We even bang on their door when they do not invite us to the prescription drug or budget. We bang on the door. And besides sending the Capitol Police, I wish they would ask us to sit down and let us work together. At the end of the day, after we have our voice, after we are heard, whether it is on the House floor or in committee, if we do not have the votes on the proposal so be it. That is the democratic process. But at least give us access to this process. We do represent 49 percent of the people in this country; and, hopefully, after November it will be more than 49 percent.

We just want access, to have an opportunity to have a fair debate with the American people on these proposals, whether it is the President's health insurance proposal, his trade agreements, his environmental policies. We are happy to debate. But do not stick these proposals in these massive omnibus budget bills that no one reads and no one has time to look at, and we run it over to the Senate and rubber stamp it over there and we come back and the President signs it. Because there are many things in there that do affect the well-being of the American people in the gentleman's district and mine. We certainly have a right to be heard on each and every one of those issues.

Mr. PALLONE. Mr. Speaker, I agree and I appreciate the gentleman coming down here.

I wanted to say one last thing. The manufacturing sector is very crucial in terms of job creation and job retention, for the gentleman's State, for my State, and all over.

The thing that is amazing about it is when I listened to the President last night, when we look at other countries, whether it is Canada or Western Europe or certainly true for China and the Asian countries, they have a national policy that basically dictates trying to create jobs.

If there is going to be a free-trade agreement with Singapore, for example, I am sure that Singapore has figured out how they are going to gain and benefit. If they are going to lose jobs, they will retrain people to create more jobs in another sector.

If you listened to the President last night, it is almost like, that is not my job, that is not my responsibility. He talked about job training, but he did not suggest how job training would be worked in such a way to train for a new job.

We talked about the manufacturing sector. In New Jersey, in my district, we consider ourselves sort of like a little Silicon Valley, the IT sector; health care is a big sector. And even those jobs are now being lost overseas. We have radiologists complaining about how the radiology is being done in Asia, or the IT sector where the computer jobs are going overseas.

So we have to have some kind of national policy with regard to job retention and job creation. And he does not even mention that. That is not our job. Washington, the President, the Congress have nothing to do with that. So when he talks about job training, I am like, well, what are you training for? You do not give us any details on how somebody is going to be trained to go work for a job that is available. It is very disconcerting.

Mr. STUPAK. Mr. Speaker, as I mentioned throughout this Special Order today, Michigan has lost so many manufacturing jobs, more than any other State. We actually got together, the congressional delegation, and the Democrats in particular, along with our governor, Governor Granholm, and actually put together a proposal, a HELP proposal as we called it: Health insurance, employment benefits, liabilities of the pension fund so they have a pension when they retire, and then a U.S. dollar policy. We laid out a very thoughtful document and sent it up to the White House and the President and asked them to at least comment on it and join with us because no economy in this world can exist without at least a strong manufacturing base; and we are losing it so quickly in this country, especially the last few years.

So we put forth our proposal called HELP. Unfortunately, we have not heard anything back from the White House. I know they have been on break. Now we have the budget wrapped up, so maybe we will take a look at it. But there are, Governor Granholm, some of us in the House and at least on the Michigan Democratic congressional delegation, trying to do something because we feel strongly that if you do not have a strong manufacturing base, service industry is fine, high-tech, all that is fine, but you still need a basic manufacturing base to your country. So we put forth a proposal. Again, we are willing to work with the President on that because we do have to keep good-paying manufacturing jobs here in this country. They cannot all go south, and we have to do some things to help out pensions, health care, employment benefits and the value of the dollar as a big impact on our goods overseas.

So we hope that we can work with this administration and this President in addressing those concerns we have on manufacturing.

Mr. PALLONE. Mr. Speaker, I agree. I just want to reiterate in closing what the gentleman said again about the need to work with Democrats. Really, the hallmark of this administration, and also the Republican leadership in this House, has been to exclude the Democrats and not have us be part of the debate. That has got to change because otherwise I think we will never get to a situation where we can have consensus proposals for job creation, for health care, on the environment that are really going to be meaningful. I think that Congress suffers from the fact that this bipartisanship has essentially disappeared under the Republican majority.

Mr. Speaker, I thank the gentleman again.

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## AMERICA'S DRUG POLICY

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Mr. Speaker, the subject of this Special Order, and I hope to be joined by several of my colleagues, is going to be narcotics policy in the United States and a number of success stories we have had.

We often talk about the problems and challenges as chairman of the Subcommittee on Drug Policy, the committee that has oversight over all drug issues but also authorizing over the Office of National Drug Control Policy, so-called Drug Czar, Director John Walters. We have authorizing and oversight on all drug issues.

Before I get directly into the subject of this Special Order, I wanted to say a few words about last night's wonderful address on this floor and to this assembly.

If the President had included every single thing of importance and everything we have in our budget, we would still be sitting here this morning. So I first want to thank the President for finishing his speech in 60 minutes.

My colleagues were sharing many concerns that I share as well. That is why our budgets are this thick. That is why we debate all year long on appropriations. But the goal of the State of the Union address is to set a basic vision for where our country is headed; and I thought President Bush did a remarkable job of outlining the major challenges that we face.

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We are not a county or a city council. We are not mayors. We are not governors. First and foremost, this body and the President of the United States and the United States Senate have to do international policy. States and local governments cannot do things like the challenges we faced after 9/11 in trying to root out terrorism in Afghanistan, root out terrorism in the funding and the harboring of terrorists in Iraq, to try to break up these networks worldwide, and the President definitely had his focus on the one thing that only the President can lead in and that was our national security. He said, very eloquently, after the first World Trade Center attack and the bombing occurred there, the people were served with subpoenas, they went through our court process, but then the terrorist groups came back and hit us even bigger. We cannot just issue subpoenas. We have to tackle the problem head-on.

He also said in response to some critics that we are not going to get a permission slip to protect the American people. We each took an oath of office to uphold the security of the American people, every Member of this body and the President of the United States, and in spite of all the criticism, it would have been easier to make some compromises last night on some of this stuff but he held firm because he would prefer to win, but if it is necessary to protect American security, he will do what is necessary, and if the people do not understand it and reject him, he can look at himself in the mirror and said I did my best job, I did my best job to defend the American people. I upheld the Constitution to do that. He showed his boldness last night in defending his policies.

By the way, both sides stood up and cheered. On these issues, there was not a my-way-or-the-highway approach. I saw both sides of the aisle standing on almost all of his statements on international security, on Iraq, on Afghanistan. I saw bipartisanship. Not every Member of the other party stood, but most did and most supported, at least many of them, the war resolution itself.

Let me mention a couple of other specifics. For example, I support veterans assistance, too. In my district, I do not have any active bases. I have lots of guard and reserve units, and I voted for and support the continued effort if we are going to use guard and reserve like the military to try to address pay concerns, and we are not going to have an active voluntary military unless we improve pay and health service and all sorts of things for the veterans.

I am on the Select Committee on Homeland Security. I strongly believe we have to do more on the domestic side of homeland security, but fortunately, by disrupting, as the President pointed out, by disrupting the terrorist bases, by disrupting the financial assistance that they have, the places to hide out, they are continuing to try to penetrate us the same ways because they do not have the training grounds in Iraq. They do not have the training grounds in Afghanistan. They do not have the financial networks. They do not have places to hide out right now so we have been able to intercept them, which buys us time to help along the Canadian border, along the Mexican border, to try to get better and faster equipment in our harbors because the cost would be horrendous to try to defend every child care center in America, to try to defend every single harbor, to slow us down so that our goods in the United States go up way in prices as we try to ship them in and out, as we try to check 100 percent at the border. It just cannot work right now.

As we move these machines in, for example, many of these machines at the airport cost $1.5 million each. One cannot walk down to Wal-Mart and pick them up. It takes a while for the companies to make them, to implement them at the airports, but because we have disrupted those bases, because they do not have places to hide out, we have not been hit on our soil. Because of the brave men and women in our Armed Forces, they are taking the bullets that were intended for us here.

So we have time to develop our domestic homeland security because of the initiatives the President has done. And the fact is, I know those who would like to throw the incumbent party out of office do not like to admit this, but the economy is recovering, and the economy is recovering in spite of 9/11. In spite of the weakness that occurred after 9/11 in the markets exposing the fraud and cheating of companies like Enron and others who are manipulating the markets, in spite of the uncertainties of war, the economy is coming back, and it is coming back more efficient, and the jobs are increasing not at a fast enough rate.

Underneath that we have some problems. That is why we have the job retraining because we are having reshifting. I hope we address the Chinese currency question and the unfair trade policies of China that are ripping the guts out of my District just like they are in other places and unnecessarily causing adjustments. The President pointed out we needed an energy bill and we need new health care bills because when we talk about jobs, when we talk to industry and the people who create the jobs and the investors, they want the tax cuts. If the Democrats succeed in raising the taxes, they will kill the recovery because when they say they do not like the President's tax cuts, what they mean is they do not want to vote to extend them, and if we do not extend them, as the President said last night, it is an increase.

So, if they increase the taxes, does anybody really believe there will be additional investment to keep our economy recovering? Do people really believe if we increase the taxes on inheritances that small businesses will not disband and continue to sell out to foreign corporations because of inheritance taxes? Do people really believe if we raise capital gains taxes again that people will expand their companies and add jobs in their companies? Do people really believe that if we increase their income taxes, and as the President said last night, everybody who pays taxes got a tax cut. The only people who did not get a tax cut are the people who do not pay income taxes. They did not get an income tax cut because they do not pay income, but if you pay income, you got a tax cut, and by giving more dollars to people, people were able to invest and now help lead the stock market recovery.

After 9/11 if we had not given the $600 to individuals, I just cannot imagine where our economy would be, and then the child tax credit, can my colleagues imagine the pressures on families trying to deal with health care and housing costs and clothing costs if all of the sudden the Democrats succeed in taking back the tax credits? We will have a disaster in the economy. That is why the President talked about taxes last night and health care last night and some adjustments; and he talked about Medicare, too, which is important with seniors.

The only area where we did not really have bipartisan support was when the President addressed social issue. When he talked about abstinence education, it was really disappointing to see that become a partisan issue. Since when has abstinence before marriage become a partisan issue? That was really sad. Since when did the Defense of Marriage Act, which even President Clinton signed, that said marriage should be between a man and a woman forever, when did that become a partisan issue? When did drug testing and drug prevention programs become partisan?

I am concerned about the divides on the social issue area because, in fact, we had the bipartisan support for the Medicare bill. It could not have passed if we had not had literally dozens of Democrats for that bill. The tax bill would not have passed without Democratic support. We would not have been able to pass the war resolution without Democratic support, but on things like faith-based, on abstinence education, defending marriage in the United States, we do need to have bipartisan support. We need help from the other side. We cannot just have those issues be Republican issues, and it was really disturbing last night to see that division, and when it is viewed as the President interjecting partisanship, if he raises the subject of abstinence education, my lands, how is that partisan? If we say I believe marriage should be between a man and a woman that is partisan?

Those people who criticize faith-based organizations as being partisan have a problem right now. Where has the consensus and the moral foundations of America gone? I thought the President laid that kind of comprehensive vision, not the particulars that will come in the budget, but the comprehensive vision of a strong America that stands up against evil in the world, wherever it is coming from, an America that is founded on letting people keep their own money, of trying to create job creation, not have Washington drive everything, not having lawsuits drive our economy but having the people that are investing in it drive the economy, and a moral, Judeo-Christian-based foundation in America that treats people decently and accommodates all kinds of religious diversity as people move into our country but understands that faith plays a key role in our Nation. That was the vision he laid out.

Now it is our job as Congress to take his budget that he proposes to us and get into the specifics of how we fund the National Guard and what we do in the national parks. I have worked with my colleague from New Jersey on fish and wildlife issues, on human rights issues. We do that stuff on a regular basis, but last night we had an amazing presentation on the basic vision of where we are going in America, and I was excited by that speech.

One of the things the President also addressed was a few new anti-narcotics initiatives, but I think a lot of people missed something he said right at the beginning of his new initiatives on drug testing and prevention and trying to correct steroid abuse in the United States, and that is, that we have had a drop in illicit drug usage in the United States of 11 percent in the last 2 years. It is an extraordinary thing.

I get a lot of flak as chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources. The drug legalizers groups, and groups funded by George Soros that masquerade as large citizen groups but get their money mostly from George Soros and his few allies who are billionaires to try to legalize drugs in the United States, hiding behind so-called medicinal marijuana which is not medicinal at all, and heroin needles, distribution, free heroin clinics and all this type of stuff, really predominantly a drug legalization movement funded by George

Soros and his allies. Those groups do not like me. They do not like anything that comes out of our committee, and they are constantly harassing us.

They opposed and were just really crushed when the ONDCP, the Office of National Drug Control Policy, and the National Ad Campaign passed this House by voice vote. They were just crushed because they had this idea that there was going to be this big uprising and drug policy would be defeated, but the fact is we have done drug policy in a bipartisan way. The gentleman from Maryland (Mr. CUMMINGS), who is the ranking member of the subcommittee, he and I do our best to work together on all issues, to draft the bill together. He had multiple amendments. The gentleman from California (Mr. WAXMAN) and I often do not see eye to eye on other things, as the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the full Committee on Government Reform, and I do see eye to eye, and we have our differences at times with the gentleman from California (Mr. WAXMAN) and the gentleman from Maryland (Mr. CUMMINGS), but we realized on drug policy we needed to stand together and worked to address the evils. By doing that, we have had a reduction.

Often, I will come to the House floor and talk about the problems of Oxycontin and the rise in meth and the struggles in Colombia and Mexico and Canada and in Afghanistan, but the truth is if all we hear is the struggles, we miss the part of the success story, that in fact, the money we have been spending, by raising the struggles, by raising the problems, the money we have been spending has actually been working.

Those who are libertarians, or I would call liberal-tarians, whether they be far right or far left anti-government people, want a line and say government programs never work. No government programs can tinker at the edges. Job creation predominantly comes from the private sector, but incentives can help, that in education it should be mostly at the local government but had we not addressed through IDEA and certain civil rights legislation many people in American would not have had a chance, and the Federal Government needed to directly step in. Clearly in housing, had the Federal Government not stepped in in certain areas, there would not be some of that social safety net. That is not the primary. From a concerted perspective, I think it is secondary, but in some groups, it was very primary and important.

Same thing in narcotics policy. We have most law enforcement is State and local. Most treatment is State and local or private sector through insurance. Most of these things are done through the private sector, but the government plays a critical role, and let me read a few of the accomplishments this year through the Office of National Drug Control Policy.

One of the most visible is the national campaign against marijuana which is probably why there has been such an outcry and an angry frustration with some of our policies, because the one thing they do not want to happen was marijuana. So let me address that a minute.

We hear, and as I started to point out, about all the negatives and then we start to think it is not working, but in fact, we have made progress. We have these peaks that drug use in the United States went up in the 1960s, dropped, went up again, dropped under Reagan, went up again. By the way, we would have to reduce drug use in the United States 50 percent to get it back to where it was when President Clinton took office. We can argue with subgroups in that and some went up higher than others and some drugs went up higher than others, but we are making progress now partly because, quite frankly, we had a balloon when our national policy from 1992 to 1994, our national policy was hear no evil, see no evil, do no evil.

From that perspective, what happened was is the President started joking about I did not inhale. They cut the drug czar's office from 120 people down to 23 people. They cut the interdiction money going to South America by dramatic amounts, and guess what, cocaine and heroin flooded into our country. Marijuana flooded our streets. The stigma went off like it did in the 1960s. The grades of marijuana went up in their potency from 5 to 8 percent THC to 15 to 25, in some places, 40 percent THC, where marijuana is as potent and as dangerous as cocaine and sells for that amount in the streets. Those changes in 1992 and 1994 were dramatic.

President Clinton, to his credit, after the Republicans took over and after a little bit of arm twisting, brought in General McCaffrey to head the drug czar's office, gave him dollars, and since 1995 we have had pretty steady progress for 8 years. The first couple of years were more to flatten out the trends, then to get like a 2 percent, and last year, there was an 8 percent reduction in marijuana. People who say the national ad campaign does not work are wrong. The fact is, by educating people, not just hammering off over the heads and saying, look, you are going to wind up forever destroyed if you use marijuana, no, not everybody who does winds up destroyed, but you cannot get at cocaine, heroin, meth, oxycontin and other abuses as a whole unless you get at marijuana, because marijuana and alcohol abuse, but for the other hard drugs, marijuana basically is an entry level drug.

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For every 10 marijuana users, one, or maybe two, counting high-grade marijuana, will move into a harder drug. If you have 100, you will have 10 over here. If you have a thousand, you will have a hundred over here. If you have 10,000, you will have a thousand over here. The percents stay roughly the same.

Because once you are introduced, a certain percentage will become addicted, whether psychological or physical. A certain percentage will want a higher hit, a bigger and longer impact of the narcotics. And the next thing you know, you have more addicts.

So to make a really dramatic reduction, Director Walters decided to go at marijuana. So the national ad campaign showed all kinds and they studied particularly target youth groups. I hear a lot of people say, I do not see a lot of those ads, or I do not particularly like those ads. Well, guess what, 53-year-old white guys like me are not the primary target. Not saying there are not 53-year-old white guys who are abusing cocaine, but we are not the prime target. We are trying to get people at the entry, at the gateway coming in and getting addicted. By the time you are 53, if you are addicted, you need a treatment program. And we are working with the treatment programs and trying to do that. What we need to do is get at the people as they are coming into the system.

I see I have been joined by my colleague, the gentleman from Pennsylvania (Mr. PETERSON), and he has been a leader in the drug-testing area. If I can, let me make a brief introduction on the drug testing.

Last night, the President proposed an initiative for $25 million for drug testing. The gentleman from Pennsylvania has been looking at this issue for some time. I worked on this when I was a staffer over on the Senate side with Senator Coates years ago. So let us say this as point blank as we can. Drug-free prevention programs and treatment programs will not work without drug testing. You have to have an accountability. The President last night said that as part of our prevention treatment programs we are going to put in some measurement sticks, just like he talked about in education and just like he talked about in other areas, and one of those things is drug testing.

Mr. Speaker, I yield now to my friend from Pennsylvania to talk about a little of that and whatever other issue he wants to talk about.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I want to commend my good friend from Indiana (Mr. SOUDER), who is the leader in Congress on this issue. I want to commend him for these efforts because these are not issues that are pushed by the power brokers in this country or pushed by the big PAC givers. These are the issues that are at the heart and soul of America's kids and who, I feel, have more peer pressure today to deal with the drug issue than any generation before them.

This used to be a city issue. For years, maybe decades, the cities have been infected with drugs. But I hear the experts today say there is not a community in America that does not have a drug problem. Now, one of the problems we have is a lot of those communities do not realize the severity of the problem and sometimes kind of just want to look by it as long as it has not impacted them or their families or their neighborhoods.

I represent a huge rural district in Pennsylvania, one of the largest rural districts in the eastern part of the country, and I have hundreds and hundreds of small towns. I have not talked to a youngster in my office that does not tell of the severity of the drug issue in their school and the easy availability, marijuana being available in middle school. Sometimes kids will actually smoke a marijuana cigarette before they smoke tobacco because it is easier to buy. They do not have to have an ID card. Stop and think about that.

Jonathan Walters, the Drug Czar, was with me in my district about a year ago and is doing a wonderful job. I will never forget the face of a young lady, 16 years old, who lived in a small town of about 6,000 people. This is an area you would think would not be infested with drugs. When she was 14 she was using three bags of heroin a day. The young people in that school were driving into north Philadelphia and they were buying pure uncut heroin.

The tragedy of that is that usually heroin is the drug for the end-of-the-line user. When people got hooked on heroin, they had worked their way all the way up the food chain. Heroin is such a powerfully addicting drug, it is usually just a matter of time until their life is over. But here we have 14-year-old and 15-year-old and 16-year-old teenagers who are into heroin. I have probably 10 or 15 communities in my district that have known heavy heroin use in kids.

The power of it is that it is uncut pure heroin that is affordable and available. And the problem with that is it is so addictive that the drug counselors tell me if you have any kind of an addictive personality you may never lick the habit. Now, this young lady, I said to her, what is your wish? Well, she said, my wish in life is that I had never touched it. I am on my second rehabilitation program, and I hope I can stay drug-free. I do not want to ever do drugs again.

But the addiction is so powerful, and when you take young people like that, who are not even mature as an adult yet, and give them uncut heroin, or uncut cocaine, or the one that has been terribly impacting my region also, which is methamphetamine, where it is manufactured in laboratories out in the country, in homes and garages and barns and buildings, it is about as addicting as heroin and about as powerful. And I am told many times people who may be first- and second-time users will fight that addiction the rest of their life.

So those who think testing is an intrusion of privacy, I want to plead with you that testing is the only way parents know, it is the only way a family knows, it is the only way schools know what your child is doing. And if you have it to where schools participate voluntarily and parents approve of their kids being tested, I would test all kids that parents would allow the test. Leave it a freedom of choice of the family, but I would make it a negative check-off where everybody gets tested.

Now, that is not where most are at today. But I listened to the debate at the Supreme Court when they expanded from sports activities to all extracurricular activities, and some schools have gotten creative and said kids driving their cars to school, because assuming you drive your car to school, you are more likely to be bringing drugs in here.

I had an argument with a nationally well-known figure, and if I mentioned his name you would all know him, but he was arguing on a national television show against testing, so I said to him, well, if my memory is correct, 15 or 20 years ago the military had a rampant drug problem, and random testing fixed it. He stopped, he paused, he said, yes, I was there. I was a part of that. I had never related it, but you are right. I change my position at this moment. I would support random drug testing.

So today I introduce the Empowering Parents and Teachers for a Drug Free Education Act. The gentleman from Indiana (Mr. SOUDER) joined me and the gentleman from Nebraska (Mr. OSBORNE). That is a band of three. But I think it is legislation whose time has come.

I cannot tell you how excited I was last night when the President put sufficient emphasis on this. It is not about privacy. It is about helping young people who are now being exposed to drugs that are so powerful that if they use them once or twice they may be addicted the rest of their lives. So it is preserving their life.

It is not about drug enforcement. It is about when you find a youngster that has drugs in their system that the parents get involved, and then the schools get involved to first help them with this problem. A youngster into drugs without help will soon be too far down the road that they will literally owe their life to the drug dealers.

When you look at who the drug dealers are, we know today for a fact that terrorism is often funded by drug dealers. The drug dealers of America in our small towns are the scourge of this country. They are the low life who care nothing about the future of our youth, care nothing about the future of this country. They are just interested in the mammoth profits they make selling this poison to our young people.

I will never forget the discussion I had last year with my granddaughter Nicole. We were going shopping after Christmas, returning some things and spending some of her money she had gotten for Christmas, and we always get on this subject. And she said, Pop, why are you so concerned I will get on drugs? I am a good student. I am doing well in school, she said. I am not going to do drugs, Pop. So I said, well, who do you think will entice you to do drugs? She said, oh, some creep at school or somebody that will come. I said, no, Nicole, that is not who will introduce you to drugs. The person who will introduce you to drugs is one of your best friends, like Jacquelyn, whose boyfriend or friend has, maybe at a party where she has had a couple of beers, even though that is not legal, but her judgment is impaired and she tries them. When she tries them and has gotten into that habit, she is going to want her best friend, Nicole, to be with her.

It is not some creep that introduces our kids to drugs. It is somebody who is their friend. It is somebody who they have an established relationship with. I guess the thing that scares me, and that I wish school superintendents would be more scared of, and I wish parents would be more fearful of is that their child, without any doubt is going to have numerous opportunities to do drugs. Even if they are not an avid drinker, even if they are not into the other things where they are more likely to, there will be a time. So we must help these young people.

In the workplace today it is common practice. You sign a form, and in most cases they say we will be randomly drug testing. That is the way of the work world. In the military, you will be randomly drug tested. And I find there is no tool to help get drugs out of our schools. If I were president of a college, I would have on the application form that you will be randomly drug tested. And I would promise the parents that brought them there that my first goal would be to run a drug-free college. It would be difficult, but it would be my number one goal. Because those are still those formative years.

The kids tell me that the age at which they are asked to do drugs is getting younger and younger and younger. And when you get down to 8th and 9th graders, who are not that mature yet, who are more vulnerable, and the drugs are more available to them, and they are more potent than they have ever been, a lot of them are pure and uncut, and at that those young ages, if they try once, they may never lick the habit.

I thank my colleague for the chance to join him.

Mr. SOUDER. Mr. Speaker, I would like to yield to my friend, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I would like to join my fellow colleagues today in applauding our President last night for his position on drug testing, and I would certainly agree with what my colleagues have just said, because young people today are faced with this onslaught.

First of all, we have a media around them, entertainment media, et cetera, that actually breaks down their ability to make the right decisions for their lives in the long run, and drug testing would not only go a long way in terms of just identifying a young person whose parents need to know that they are vulnerable and are perhaps making some wrong choices in their life, but drug testing also gives these young people an added incentive to say no.

Without drug testing, if you are talking about your daughter going to a party or something and having a few beers, there is nothing she can say to the person proposing using drugs except, well, that is wrong and we should not do that; my parents have told me that is wrong. And that is about as neat a thing to say at a party as I guess let us listen to Bing Crosby music or something like that. But if there is drug testing in school, young people will know what to say. And what to say is I cannot take this drug because I may be tested for drugs in my school tomorrow. And if I get tested for drugs and I am positive, my parents will know about it.

And as far as I am concerned, any young person who is found to have drugs through drug testing, and there should be drug testing in our schools from junior high all the way through, not only should their parents be notified but the student should be able to then face an extra hurdle to jump over before graduation. And that hurdle should be a class that they need to take that will demonstrate to them the evils and the threat that drugs have for them as an individual. We need to let this child, who is now a young person, sit through a few films and some personal stories about how drugs have destroyed the lives of other young people and make that mandatory if that young person tests positive for drugs.

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They would have to get a passing grade. And I would suggest that if someone has tested positive for drugs before they get their degree, they have got to test so they are not on drugs. In other words, we have got to provide positive incentives for young people not to get involved in this type of behavior in the first place. Again, I would applaud our President for taking a positive approach. I have some disagreement with some of my other colleagues as to how effective the war on drugs is and how effective just focusing on enforcement or interdiction is. I do not think they have been effective at all. That is why we have got to try this personal approach, personal responsibility, focusing on identifying those people who are vulnerable, especially focusing and identifying people who might make us vulnerable. Airline pilots, doctors, people who our lives are in their hands, they all should be drug tested, but then especially testing young people to make sure their parents can know that there is a challenge and giving an incentive for these young people to say no when they are offered these drugs.

I would join you both in applauding our President and hope that we can stimulate people across this country to look at drug testing as a positive alternative rather than some sort of threat to privacy. The only way it would be a threat, I would say, to civil liberties is if drug testing is mandatory and then we believe that we are going to prosecute young people for using drugs. That would be self-incrimination in my point of view, but I do not think that is what is being advocated here. What is being advocated here is drug testing in order to facilitate some type of outreach program to get someone so they are not using drugs.

Mr. SOUDER. I wanted to reiterate the gentleman's last point. This is a prevention and interdiction tool to help reach people before they become heavy addicts. That is why it is targeted at the schools. There is a body of law that has to be followed. This program will be thrown out in any school that does not follow the body of law. In 1989 and 1990 in the omnibus drug bill, my former boss in the Senate, the junior Senator from Indiana, whose name I guess I cannot say here on the floor, that we had an amendment based off of a high school in West Lafayette, Indiana where the baseball team had an outfielder who got hit on the head with a fly ball. And he was a very good fielder. The question was, how did he miss a fly ball?

A similar thing happened, I think, to the third baseman. In that process, they decided to drug-test their baseball team. They found that one-third were high. So they decided to put in a policy of drug testing on athletes and then cheerleaders. We took that as an allowable use then in the drug-free school bill, in the 1989–1990 bill, and put that in as an allowable use. It was then attempted to be expanded in Texas and a few other States student-wide. The court initially just upheld where there was extra risk in athletics and then as our colleague from Pennsylvania pointed out, it broadened it in a recent court case to go to the next step. But in the legislation it was very explicit.

We also did this in the drug-free workplace. We did it on truck drivers' testing. The test has to be either a total classification or purely random. They cannot say, "That guy has long hair. I think he's doing drugs. I'm going to test him. I'm not going to test this." In a company you need to test the management and the owners, not just the employees. You have to have equitable treatment, including us in Congress should be testing ourselves, even though technically we are exempt from this. If we are going to put it on government employees, we ought to be doing it ourselves in our offices.

The second thing is related to that, the type of tests and how you do the tests are by law required. If you are going to use a urine test, there are standards of how you keep that, how you sort it, how you mark it, that you have a second test so you do not get any false positive with it. Hair tests and follicle tests are much better and harder to mix up. There ought to be a logical appeals process with it. In other words, if you deprive people of their civil liberties in the process of this, even students in loco parentis, you got a problem. But the fact is, if you do it right, it is the best prevention and identification deterrent.

To share one of the stories from my district, I was at a school which was doing it in athletes. I like drug testing, like both of my colleagues, and proposed that it ought to be used more widely. The student body president objected and said this is a violation of my liberties. A couple of other people objected. And then one student got up and said that he had been abusing marijuana, got caught, his life had been going downhill, that that forced him to confront it just like the gentleman from California referred to and said he talked to his parents, got his life straightened around and he believed drug testing would be good.

Then somebody else from the student government objected again and a couple of the other students spoke up. And when we were done, the principal and superintendent came over and said, "We're implementing school-wide drug testing because every single person who spoke up against it has never had a drug violation or suspected but every one of the kids who spoke up for it had either had a problem or we wondered if they did." They were crying out for help, for accountability from adults in a society that does not care. That is another aspect of it. If they think they are going to go to jail, they are not going to speak up, but if they think somebody is going to reach out and love them and help them, I believe, and I believe our policies in the United States need to be focused not on legalizing the behavior, but we recognize that very few actually go to court for one-time marijuana use.

You cannot be our age and have gone through the 60s and the 70s without knowing lots of people who did marijuana, and I do not personally know anybody quite frankly who went to prison for just smoking marijuana. If they went to prison for that, they were probably involved either in multiple parties or dealing or driving somebody or something more extensive. As a practical matter, that is what we are trying to bust. My colleague from California and I have strong disagreements about Colombia policy and some other things, but on this type of thing in prevention and the treatment programs, quite frankly, these treatment programs that take all this money and do not want to measure whether their clientele are abusing when they come out, hey, that is a big problem. I thank my colleagues.

Mr. ROHRABACHER. If the gentleman will yield, as I said, I believe that the interdiction effort and the efforts, punishment, et cetera, have not succeeded. One of the reasons that it has not succeeded in our society, what we have is laws on the books that supposedly make something illegal, yet we have, by our own actions not put a societal stamp of disapproval. In fact, by not having drug testing and by not having, as Ronald Reagan used to say, a Just Say No mandate, or a societal norm that is unaccepting of drug use as personal behavior, what we have done is we have got laws that are unenforced, so officially supposedly it is against the law, but at the same time, the norms of society are accepting drug use. I think that drug testing will make sure that young people know absolutely fully well that society has a stamp of disapproval on drug use. Right now it is very nebulous as to whether or not our society is against people using drugs or not. This would be a clear message to young people, saying that society is so much against it, we are even going to test you and if you are using drugs, we are going to send you through a special program to make sure that you know how harmful this can be, and so there is no question in these young people's minds.

The gentleman is right. Young people are looking out for guidance. Frankly I believe that if you threaten them, and I know we disagree on this, if you threaten them, sometimes it is almost titillating for kids to get around those type of rules where the sheriff comes up and we're going to put you in jail or something. But when you have to say you are not going to get your driver's license if we find out that you have been using drugs, you are not going to graduate, there is no getting around that. That is a real life stamp of disapproval. I think this would be very effective.

Again the gentleman is right on target for congratulating our President and applauding him for making this an emphasis in his State of the Union speech.

Mr. PETERSON of Pennsylvania. I have had young people and other people who were opposed but most of the young people who come in my office support drug testing. They would like to see that down pressure on their friends who are struggling with the decision-making process.

Several years ago I was discussing this issue with a radio commentator on a big city talk radio program. He was making fun of me, according to the people who were listening to the station, prior to me coming on, that we are going to talk to the Congressman that wants our kids to fill a cup with urine and just was kind of making light of it. At the end of that discussion that day after I was off, one of my staff was listening, he said, you know, I was pretty opposed to this idea, but after the discussion, if I had a 12- or 14-year-old boy, and I don't, would I want testing or would I not and he had a long pause and he said, you know, I think the Congressman convinced me. Just the matter of having a discussion.

We have other tests. We have the hair test, which I think is one of the best because it reaches back. If you tested in September, you know the activity for months before, because the hair holds the drug. You have saliva tests, you have sweat tests, of course you have the blood tests, the urine tests. There is lots of testing today. One of the deterrents to schools doing it is the cost, especially in a small rural school district with there is not much extra cash to go around. That is what is so vital about the President's program saying, hey, if you decide, if the parents in your community talk to your administration and say we would like our kids tested and you develop a testing program, we're going to help. That is what this is about. This is not a mandate. I know in my district, I am going to be selling it. The young people want me to sell it. We need to encourage parents and community leaders to encourage school boards to move out and say, let's do everything we can do to make our school drug free. I have superintendents who are there. I have lots of superintendents who are afraid of the issue.

But I have had a couple of superintendents who have said they bring in dog teams, they bring in a drug enforcement officer, they bring in people who tell about the lives of people who got addicted to drugs and how their life was really over. Parents would have the right to veto if they did not want it. That keeps us out of the ACLU and the courts. In my view, I think there are a lot of things we can be doing, and what we are doing it for is the kids.

Joe Paterno is a strong proponent of drug testing. He has been coaching young men for a long, long time. On my very last time with him, as I went to leave the room, he said, Pete, you keep pushing that drug testing. I want to tell you, over my years of coaching, and I have been drug testing for some time, one year I let up and the next spring camp I saw some of my boys back from last year who I suspicioned may have at times been on drugs, and I hadn't tested much that year and I saw more signs, because as a coach he knew, he could tell by watching their play in spring camp whether they had been using drugs or not. I do not know how he told.

He said, I want to tell you, I'll never make that mistake again. I continue to do more and more and more testing because testing works.

Mr. SOUDER. I thank both gentlemen for talking about drug testing. I want to put this a little bit in the context, because that was a critical part of the State of the Union last night to talk about that in particular, but once again as the President said at the front of that section, that, in fact, we have had a reduction in drug use in the United States. That is partly because we have a holistic policy that the drug testing is a key component of the accountability and the measurement.

As both of my colleagues have pointed out as well as myself, but particularly the gentleman from California, it is a stigma part that one of the things. I have been to Colombia now about 10 times and in multiple countries, particularly in the Andean region, where because of our demand, because we cannot control our demand, we are disrupting and overturning democracies that have been there for hundreds of years.

In Colombia, I think it was actually in Ecuador, in Guayaquil, a young student came up to me and said, why do you keep picking on the Andean nations? When I went to school in the United States, I saw no stigma at all. You could get dope in any college, you could get it from anybody. Why don't you put some stigma?

That is partly why I offered the amendment that is a very unpopular amendment but basically says if you get convicted of a drug crime and you are taking money from the taxpayers of the United States you're going to lose your loan. We have had arguments about how that has been interpreted and I do not agree with how it has been interpreted and we are trying to fix that but the bottom line is if you take somebody else's money, you should follow the laws of the United States. We cannot go to Colombia and say stop growing this stuff if we do not do things here like drug testing and that.

In Colombia, interestingly in this past year, we have had the most successful year yet, we are still struggling but we have had the most successful year yet in stabilizing at least large sections of that country. We have, in addition to having sprayed all but some concentrated areas of coca, which is why the attacks are getting so vicious, why we had some Americans shot down, why we have had our planes taking more hits than they ever have because we are not spraying the whole country anymore, we are spraying concentrated areas that are hard to get to and the drug dealers are digging in to fight to keep us from eradicating. but we have had the best spraying year.

One hundred fifty municipalities now have a government presence in them instead of just having the right-wing terrorists come through who originally were trying to protect the towns but were not government units and the left-wing FARC which provides protection for the drug growers fighting with each other. terrorizing the individual people. There is now a government presence since President Uribe took over in 150 municipalities that did not have it. They have had more than 300 projects and 25 departments benefiting displaced persons. rehabilitating child soldiers, providing legitimate employment opportunities. It is part of our Andean initiative to make sure that we do not just spray, we do not just eradicate but what are we doing for the people who are being disrupted because of our habits. our habits and western Europe.

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Then the question is if we cannot get it there, we have got to get it in interdiction. Because of pulling a lot of our Coast Guard units in and some of the other things in around Homeland Security. we have had some gaps; but we have been doing reasonably well, particularly on the south border. For example. a couple of DEA busts along with the stigma on LSD, when we can tackle it, much like we are trying to do with meth and OxyContin hopefully too, this is the pattern of emergency room, when somebody comes in, do they mention that they were high on LSD? As we can see, it has dropped from 5,000 in 1999 to 891 in 2002.

In my home area in northeast Indiana. we had a similar drop. We had a jump up in LSD. We battle it hard; we interdict it. The DEA did a major undercover bust with it. We had publicity on attacking LSD, and when we put on the stigma combined with enforcement. it will drop.

Meth is a huge challenge. and it is a growing challenge. Even though all of us see the little labs, I want to make just a brief education point on meth because most Members here, if we ask them what is the fastest-growing category, everybody would say meth, but it is actually still only 8 percent of drug use, and 80 percent of the meth is coming from superlabs in California and Mexico even though we are seeing all these arrests in our district. because the labs we have in Indiana and rural Pennsylvania and others are dangerous and addictive and threatening the kids in those labs. but they are only cooking for themselves and maybe two other people. whereas the superlabs will ship it to thousands of people. California has been the leader in passing child abuse laws; and other States need to emulate that, that if they have a lab, because of the terrible deaths of kids getting exploded by their parents cooking and the dangers of the superlabs, but we need to focus on meth and crystal meth and ice and all the different variations like we had on LSD to get this kind of trend and keep the law enforcement pressure on with the stigma pressure and with an education and prevention pressure.

One other thing. We are doing an OxyContin hearing in Orlando. They have had a series of deaths in that city because of overdoses on OxyContin. It is a difficult issue because they can have legitimate uses. Just like in meth, it is tough to regulate out of Brussels and out of Amsterdam and through Canada because ephedrine is not illegal. It has legal uses too. But the fact is we have to have the courage to stand up to some drug companies that do not want us to talk about the dangers of misuse of some legitimate drugs.

The President last night boldly addressed steroids. We heard, particularly those of us who are baseball fans, some questions being asked about records that were falling; and out of that process we learned more and more that in multiple sports that the success stories were because people were artificially pumping themselves up. As that pressure spread and as we listen to the stories of athletes in junior high and high school, the sad stories of these kids who are afraid they cannot get college scholarships, who are afraid they cannot be pro athletes, who are afraid they cannot advance unless they cheat, unless they alter their body, who are even more vulnerable than the baseball, football, basketball. wrestling. boxing stars who pump themselves up who have millions of dollars to get physician advice, who still destroy their bodies, now imagine being a young person who is still growing. who is filling out, who does not get the medical advice, and is putting their life at risk, not just damaging their body but putting their life at risk. And the President had the courage last night, like the gentleman from Nebraska (Mr. OSBORNE) and others here in this body, to talk about the abuse in athletics and how we have to tackle that. Just like the gentleman from Virginia (Mr. WOLF) and the gentleman from Florida (Mr. MICA) and others have been leaders in trying to raise the issue of OxyContin here and the meth caucus in this Congress to try to address the meth questions, we have to work at the stigma.

One other thing in this general category. If we continue to succeed in the eradication, if we continue to succeed in the interdiction at the borders, if we continue to succeed in arresting the dealers and those who are working with that. if we can up our prevention efforts and if we can put through drug testing and an accountability provision in. we still have to worry about those who are addicted. And the President last night had a couple of references. One is, in drug treatment, he has an expansion of drug treatment. We have been increasing that rapidly here; and we need to continue to do that because. quite frankly. if we do not stop the number of people coming in. we cannot. as Nancy Reagan so eloquently said, win a war just by treating the wounded. At the same time. we still have to treat the wounded. And if we can rehabilitate those who are addicted. we have a major impact on the drug problems in the United States. And the President proposed a faith-based initiative.

But he did one other thing. I support mandatory sentences for certain crimes because I do not like how the legal system is letting certain people off based on how rich they are or what color they are and getting to make up what sentences they have based on their legal representation. There ought to be the same accountability. If one is a dealer. this is what they get. If one is a multiple user, if one is driving somebody to a drug bust. this ought to be their penalty. Our crime reductions in the United States. in the streets of the United States, and 75 to 85 percent of all crime is drug and alcohol related, are because we locked more people up: but our prisons are jammed. Many of those people are now coming out of their sentences, and the question is what are we going to do? They are starting to re-enter our economy. They are going to be back, and if all they learned was to how to be a better criminal. if their kids, who now lost their mom or dad because they were in prison and did not get any help. instead of being able to pull themselves up out of their situation, are now destroyed, we are in deep trouble in society.

One of the other initiatives that the President announced last night was a major initiative to deal with housing kids of prisoners and initiatives in reentry courts. There are a number of programs around the United States ranging from drug courts and looking for accountability of how to get drug courts that Director John Walters is trying to do and to get more patterns with it: but it is an innovative thing with an accountability, with the judge that people are working through. The drug testing is part of that. trying to include faith-based groups that put a religious and friend and volunteer accountability with it. But we also need to look at real problems of people not wanting to hire people when they are coming out of prison. people not yet wanting to let them in their apartment complex when they come out of prison.

The gentleman from Illinois (Mr. DAVIS). who is on our subcommittee and is my colleague from Chicago from the other party, I am cosponsoring his legislation for trying to deal with the housing that often people who are coming out of prison face. The President understood that in addition to the Andean initiative, in addition to boosting the DEA, our critical anti-drug area, in addition to working with Homeland Security to make our borders secure from narco-terrorism and providing drug money to terrorists around the country that we have to do something to help rehabilitate those who have been in prison and we need to help them both from a personal standpoint, as they deserve it as a human soul, and from a practical standpoint for the rest of us as they are coming out of prison. They have been locked up. Our crime rate has been down. Are we really prepared for the changes we are going to see if we have not invested in those people?

I yield to the gentleman from Pennsylvania.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I recently visited a prison in my district, a Federal prison; and 80 percent of those there were addicted to a drug. I believe the figure was 60 percent were there because they were selling drugs. That is a huge figure, $35,000 per person to incarcerate people. We certainly can afford to invest in drug treatment and in prevention.

But I wanted to mention the issue of methamphetamine again. The gentleman talked about the big labs in California. I come from a very rural area. There is hardly a month that goes by that in our local community, a small town, the local paper talks of another meth bust, another lab found.

And I want to tell the Members the story of Suzie. Her name is not Suzie, but I want to protect the family. I remember vividly when Suzie moved to our area. She married a person locally who was very successful, a family. She was pleasant. She was attractive. She was smart. And as years rolled by, I had heard that Suzie might have a cocaine problem. I did not know. But I do know this: over a year ago, or maybe it was 2 years ago now, there was a major meth bust in our region, and it was proven that she was one of the kingpins. She was the person who was buying the material, a lot of the material to make methamphetamines, at the hardware store: lye, paint thinners, a lot of chemicals that one would not think have anything to do with ingesting in one's body. In fact, in my region the drug stores have all the Sudafed-type health medicines behind the pharmacy because they do not allow them out there because they are being purchased by people who come in time and time again and get them because that is a main ingredient to make meth. So it shows us the problem is rampant. It took 4 years to get the kingpin. DEA, the State drug team, the local police worked 4 years to get the person. And Suzie was the person who helped them nail him because before they never could get the kingpin. And he is now in prison, I think, for 40 or 45 years. But residue is he has taught so many people how to make high-quality meth that we remain a meth production area. And the police tell me they just do not know how to get their arms around it because every time they turn around, they hear another lead, they go check, they find another meth lab. I mean, they are everywhere.

So that is a story of a destroyed life. The final page on Suzie is I got to know her pretty well because she was volunteering in the nursing homes and the personal care homes and my mother was there, and she was always very nice to my mother and we talked a bit. And I always wanted to sit down with her and talk with her about how it happened because she was going out also speaking to school groups. Several months ago on a Sunday morning, after friends had talked to her on Saturday night and she was in good spirits, she was found hanging in an old pump house in the woods, dead. Suzie lost her life because we heard, the kingpin said, and I do not know if they can ever prove it, but the kingpin said she will not live long. Suzie did not live long. She was a person in her late 40s. She was a mature woman. She was attractive. She was smart. But she got hooked on drugs. And if a person her age can get hooked, how vulnerable are our eighth, ninth and tenth graders as they are still growing and working to become adults? And that is why drug testing is so important. It is about protecting kids, not about penalizing kids.

Mr. SOUDER. Mr. Speaker, I thank the gentleman for his comments, and this is not a matter of condemning Americans. It is a matter of trying to develop a fully holistic policy to try to reduce drug and alcohol abuse. The fact is the President of the United States in his amazing address last night again acknowledged he overcame his addiction, or at least overuse of alcohol. One of my favorite commentators, Rush Limbaugh, had to battle with an addiction with OxyContin. Clearly, it strikes all types of people. It is not just the stereotypical people. And we need to reach out to people who are hurting and try to help them recover. We need to make sure that part of that is eliminating the temptation as much as possible, trying to keep the prices high enough, the supply low enough. We need to try to make sure there is an accountability on the dealers and those who are using it so they know if they want public money, whether it is if they are going to a public school, that there is going to be an accountability and somebody watching them for their own good and that there is also going to be help there in treatment and follow-up if they need it. Does the gentleman from California want to make a comment?

Mr. ROHRABACHER. Mr. Speaker, I do have some disagreements with the gentleman as to the best way to attack this problem, but I certainly agree that we should make sure that young people understand just how serious the problem is for them and that there would be no greater method of telling them and putting a stamp of disapproval on it than making sure they have to have a drug test.

But the gentleman referred to on the chart there some of the decrease in drug use that we have had over the last 2 years, and I think that a lot of that can be attributed also to a stamp of disapproval that the young people understand that our society has given just in the last few years. In the last administration, I think that it could be accurately said that people who were out fighting this problem were faced by an administration that trivialized the use of drugs as to what kind of threat it was when the President talked about not inhaling and such. And some of us who have had pretty wild youths in our time looked at that and said this man is not being serious, and the young people looked at the President and said this is not being serious, and our administration's seriousness on this has had a lot to do with the reduction in the use of drugs.

Mr. SOUDER. Mr. Speaker, I thank the gentleman for his comments.

Mr. PORTMAN. Mr. Speaker, last night the President highlighted the success of our Nation's drug strategy. I applaud the President for the success of his strategy and for highlighting this issue in the State of the Union Address. Across the Nation, the latest study found there has been an 11-percent decline in drug use by 8th, 10th, and 12th grade students over the past 2 years. This finding translates into 400,000 fewer teens using drugs and is the first real decline nationally in 12 years. Our own local survey done by the Coalition for a Drug-Free Greater Cincinnati has shown similar results over the past 3 or 4 years. This is very encouraging news for parents, teenagers, teachers and everyone else who cares about the welfare of kids.

As the President mentioned last night, community involvement is critical to successful drug prevention. Community coalitions are the heart and soul of drug prevention and community action on this important topic. Coalitions help all of us to come together—parents, teachers, coaches, religious leaders, volunteers, law enforcement—to encourage youth to understand that any drug use is not only unacceptable but harmful. Having fewer youths use drugs is important because we know that if young people can abstain from drugs before they graduate from high school, they are much less likely to have drug problems later.

The Drug-Free Communities Act is an essential tool that many of our communities utilize to fight illegal drug abuse. Instead of creating new Federal bureaucracies, this program sends Federal money directly to local coalitions working to reduce the demand for drugs through effective education and prevention.

Community coalitions are groups of citizens—parents, youths, business, media, law enforcement, religious organizations, civic groups, health care professionals, and others—who are working on local initiatives to reduce and prevent substance abuse. These coalitions are engaged in a wide variety of activities and strategies specifically tailored to the needs of their communities.

We know that coalitions are making a difference. Due go the great work of the Coalition for Drug-Free Greater Cincinnati, there was a 41-percent decrease in marijuana use and 23-percent decrease in alcohol use among 7th graders from 1993 to 2000. In a similar region where a coalition did not exist, there was a 33-percent increase in marijuana use and no change in alcohol use. The coalition, which I founded 8 years ago, is a comprehensive, long-term effort to mobilize every sector of the Greater Cincinnati community to take an active role in preventing substance abuse. It brings local community organizations together with business leaders, parents, teens, clergy, law enforcement, and school officials to implement antidrug initiatives, and has become a model for dozens of communities nationwide. I know that there are similar coalitions in more than 5,000 communities nationwide doing this good work and they need our support.

The positive results highlighted today indicate that prevention tools like community coalitions work to create safe neighborhoods and a better future for our young people.

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## GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from Indiana?

There was no objection.

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## PROVIDING HEALTH CARE FOR ILLEGAL ALIENS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, I would like to commend my colleagues for that last special order, for the way that we are going to make sure that the young people in this country understand that drugs pose a threat to them is to have just this type of presentation in Congress and this type of discussion, serious discussion, with them as to the threat that drugs pose to their well-being.

With that, however, I would like to now, in my hour, raise a discussion on another issue that I believe is perhaps the most serious threat to the well-being of the American people. I have introduced a bill today that will give my colleagues a stark choice. They can do what will help big business, but will, at the same time, do great damage to the American people as a whole; or they can support the legislation that I am proposing, which will be a big step toward eliminating the greatest threat to the well-being of the American people.

Drugs is certainly a threat, but I will tell you that I believe the greatest threat to the American people as we stand here today is the still uncontrolled flood of illegal immigration into our society. All the other problems that we have, including drug use in our own country, are exacerbated by this uncontrolled flow of illegal immigrants into the United States of America. If we do not get control of this, it will surely destroy our country as we know it in the years ahead.

Yes, we can absorb legal immigrants in a fairly high number. I am proud that we have a little more than 1 million legal immigrants coming into our country every year, one-half of one percent of growth or so of our population. Certainly we can absorb that kind of immigration flow. But what we have had in these last 15 years, and especially in the last 10 years, is a massive increase in the flow of illegal immigrants into our country.

Perhaps it can be traced back to the 1986 amnesty bill that passed through this Congress and was signed into law, unfortunately, by my President, President Ronald Reagan. That bill was hard-fought on this House floor, and I understand that my colleague, Mr. Dan Lundgren, is the father of that portion of the bill that insisted on amnesty for those illegal immigrants that were already in the country.

Once that amnesty took place, once this legislation was passed in 1986, the word went out throughout the whole world that if you get to the United States, you are going to get the benefits of the people of the United States, and you can outwait the American people because we have such good hearts that there will be another amnesty, and yet another. The flow of illegal immigration after 1986, instead of decreasing, dramatically increased. Surprise, surprise.

No, the people who passed that need to take responsibility for their actions. That piece of legislation has caused great damage to us. In California, our schools, the education system, is under incredible pressure. Our criminal justice system is almost breaking down under the weight of illegal immigrants, with 30 and 40 percent of those who are held in incarceration at times being illegal immigrants. Our healthcare system, our emergency rooms are breaking down under the pressure and the strain of illegal immigrants. And that is what leads me to the legislation which I introduced today.

This legislation that I introduced today flows directly from a confrontation that I had with the leaders of this body over whether a provision should have been included in the Medicare reform bill that provided $1 billion in order to pay for the emergency healthcare for illegal immigrants in those States where illegal immigration is most prevalent.

I opposed that and I was not going to vote for the Medicare bill because of that, but the leadership in the House agreed that if I would vote for the Medicare bill, that I could write legislation that would, in some way, mitigate the damage that I felt was inherent in providing U.S. tax dollars officially to pay for services, health services, for people who have come to this country or are currently in this country illegally.

I voted for the Medicare bill. I voted for it before it went to the Senate. When it came back from the Senate I only voted for it with this understanding. So today the bill that I place into the hopper is in direct relationship to the Medicare bill that passed through this House, that, yes, indeed, took care of the prescription drug needs of many of our seniors, but, at the same time, did include an extraneous provision for providing $1 billion in healthcare for illegal immigrants.

With that, I would say that the hospitals and emergency rooms on our Nation's borders, especially those in California, are certainly now going broke trying to treat illegal aliens who are streaming into their facilities. And there is no doubt about this pressure. There is no doubt about the horrible impact that it is having.

But the reasons are twofold for the pressure on these hospitals and emergency rooms. Illegal aliens, first of all, normally, or at least quite often, if not normally, we do not have the exact statistics because they are operating in a black area of our society, we do not know all of the statistics about what illegal aliens have or do not have, we assume they are normally working at jobs with no healthcare benefits. Couple that with the fact that Congress insists and the law now insists that hospital emergency rooms treat every patient who walks through those doors of their emergency room, that they must be treated according to law.

America, with those two realities facing us, number one, that people who come here illegally generally are working at jobs without healthcare benefits, meaning the people who run the businesses do not provide them healthcare, but the taxpayers end up providing the health care, coupled with the fact that the emergency rooms feel that they are required by law to take care of anyone who walks through the door, what we have done is created a situation where

America has now become the HMO to the whole world.

We are taking care of illegal immigrants, any illegal immigrant, who can get to our country and get to that emergency room. Sometimes we are not talking about just emergency treatment, about what common sense would tell us is emergency treatment; we are talking about extended cancer treatments, we are talking about treatments for diseases that are congenital, we are talking about diseases that someone clearly had when they came to the United States. We are talking about diseases that require hundreds of thousands of dollars, and sometimes even up to $1 million, in treatment.

With this Medicare bill that we provided, $1 billion for the emergency healthcare for illegal immigrants, that is the first time any money has been spent to provide services for illegal immigrants in our country, so this is a watershed. This is that moment.

In doing that, did that same bill try to fix the situation by enforcing our immigration laws on the border and insisting that these immigration laws be enforced if we provide that $1 billion? No, that was not in the bill. Did Congress try to fix the situation by saying that emergency rooms can turn away patients who are not in immediate danger of dying? To me that seems what an emergency is. An emergency is if someone is in immediate danger of dying, or if they are in immediate danger of something happening that will at that moment create a circumstance in their life or create something that is irreversible, a health reality in their life that is irreversible.

But, no, we did not put any restrictions on the emergency care rooms turning away patients because they really were not in emergencies, or just treating a case to a small degree until those people could go back to their own countries and get the rest of the treatment needed to become well. No, none of this was included in that Medicare bill. But $1 billion was.

The bill included no provisions to lower the cost of caring for illegal aliens by enforcing the law and deporting them. After all, if the taxpayers and the American people are going to end up paying for the healthcare of someone who has come into this country illegally, just ignored our laws or thumbed their noses at our laws, and now they are in need of some health treatment and they come to us asking us to take money out of our pocket, those people, if they are here illegally, after they are treated, at the very least, they should be deported.

That was not in that legislation either. The bill added $1 billion of funding for the healthcare of illegal aliens and did not even ask the hospitals to identify the illegal aliens they are treating, to identify them so that INS could deport them or take some action against them for being in our country illegally.

It did not do any of those things. What it did do is begin the process of shoveling tax dollars in the direction of providing services, officially providing services for people who are in this country illegally.

I will tell you now, there is no one in this body that does not know and understand that a $1 billion program like this starting off, just opening the door, is going to end up being a $50 billion program 10 years down the line. So it is time for us to act right now, before this $1 billion becomes $4 billion, which then becomes $10 billion, which then becomes $20 billion. It is time for us to use this moment, this opportunity, with the passage of the Medicare bill, to support legislation in the Congress that will at least be a first big step toward trying to see if we can get this illegal immigration issue under control, at least in the area of healthcare.

What I am proposing is very simple. The legislation that I just dropped into the hopper is not so complicated that people cannot understand it. First of all, it is totally voluntary. A hospital that does not want to receive Federal money under the program in that Medicare bill does not have to participate in this. So that is the first principle.

I would prefer that we make it mandatory, but this legislation is going way over to the other side in order to reach out and make this reasonable by saying if you are not going to get the Federal money for the illegals, if you are not going to apply for that, then what is required in this bill will not be required of you. But for the hospitals who do want that Federal funding, the bill is very easy to understand for these hospitals that want that Federal funding.

The hospital needs to ask patients if they are a citizen of the United States. How about that? How about that? They are going to have to ask, when they ask all those other questions when you go into that emergency room, they just have to ask are you a citizen of the United States? If the patient says yes, no further action is required of the hospital in terms of verifying whether that person is a citizen.

By the way, others can follow up on that. Others can follow up later to see if this person is or is not a citizen.

But if the patient says no, and he or she is not a citizen, the hospital then is required to ask what country the patient is from and what is their immigration status. If the patient is a documented alien, meaning that patient is here legally and is a legal immigrant, nothing needs more to be done, because nothing that I am proposing and our outrage about illegal immigration is not in any way an attack on legal immigrants. People who have come to this country legally have every right of every other citizen, and I know a lot of people now are trying to blur the difference between illegals and legals. That is doing a great disservice to the legal immigrants in our country. Most legal immigrants, I might add, are outraged by illegal immigration and by the fact that we provide services to illegal immigrants.

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In fact, sometimes the legal immigrants and U.S. citizens end up having less bestowed upon them by our government than do the illegal immigrants. A U.S. citizen, for example, has to pay outside tuition in California to go to a junior college, but an illegal immigrant does not have to pay outside tuition. That was something that was passed by the California legislature.

If the alien is illegal, once he comes into the hospital, going back to this emergency room treatment, if the alien is illegal, the hospital must ask about the immigrant's employer and a biometric indicator, meaning a photo or a fingerprint, must be taken, to be determined by the Department of Homeland Security of whether it should be a thumb print or a picture; but that is what they have to do if this person who comes into the emergency room is an illegal immigrant and states for the record that he is an illegal immigrant. So we need to know who they are working for, and we need to know exactly what country they came from and get a fingerprint or a picture.

The hospital then uploads this information into a database that is now being set up by the Department of Health and Human Services and, of course, the Department of Homeland Security. Thus the information that we have collected will become available to the Department of Homeland Security and these other government agencies for national security purposes and, yes, for the purposes of immigration enforcement. There is nothing that would suggest that that information could not be used to immediately begin deportation proceedings against an illegal immigrant who is coming into our hospitals to get thousands of dollars, if not tens of thousands, if not hundreds of thousands of dollars of free medical care from the taxpayers of the United States.

Thus we have the information available that is not now available if my bill passes. And at that point, I would hope that our Immigration and Naturalization Service and this administration and the people of the United States begin to demand that people who are in this country illegally be deported, especially if they have used tens of thousands and millions of dollars of public services like health care while they are here, because what they have done is taken that money directly from the well-being of the American people, their host.

This is wrong. It is wrong for us to permit our health care dollars that our seniors do not even get the type of coverage that we would like them to have, our veterans do not get the coverage we would like them to have; but yet we permit illegal immigrants to come into our emergency rooms, and without even any responsibility to be deported because they have come here illegally, they end up, oftentimes consuming, as I say, tens of thousands to hundreds of thousands of dollars of treatment.

This procedure of just asking are they legal or illegal and if they are illegal, getting this information, is not a burden on the hospital. It is just a couple of more questions to be asked routinely in the process in which they are already being asked questions before they treat patients. Once the hospital determines that a patient is undocumented, they take a simple fingerprint or a photo and then they just upload this information onto a government database. That is it. This is not a complicated process, although we are going to hear in the months ahead how horribly complicated it is and how people will have to wait there for hours to be treated and they will die by the thousands if they are just asked to do those two simple little tasks, along with the other questions that they ask people when they go into an emergency room.

Well, so far, my bill, what I am talking about, is very simple for the hospitals to comply with. But let me note there are some other significant provisions of this bill. The first is, the Department of Homeland Security, when it gets this information, the bill does suggest that they should begin deportation proceedings. And as I say, that will only happen if we make sure, because it is already on the books that someone who is here illegally, there should be deportation proceedings, but that law is not being enforced. We add this to the law again, and we hope and we pray that those people who are in decision-making positions in our government will start enforcing the law or change the law. But the way it is now, to permit this massive flow of illegal immigration into our country and the flagrant violation of the law that is going on, it degrades the respect for the law throughout our society.

So this is only common sense, that if we know that an illegal alien is in the United States, especially one that is consuming resources that are taking health care resources away from our people, they should be deported; and their own country should be taking care of them.

Secondly, and this is a provision of the bill, any employer, when they find out who the employer is, that is one of the questions they have to ask. Any employer who has not called the employment verification program, and again, this is going to be a nationwide program that will be in place in 2005, a program that will verify an employee's legal status, if any employer whose employee has gone into the emergency room and been treated and thus consumed all sorts of tens of thousands, if not hundreds of thousands, of dollars, then if we find out that the employer has not called the employment verification program when he hired this illegal in the first place, well then, that employer will be liable for the illegal alien's emergency room costs.

We have businessmen who now exploit illegal aliens in order to give them a pittance of pay and no benefits. These employers, if they are not giving them benefits, they expect the taxpayers to pick up the health care costs. I am sorry, under this bill that is going to go back to the employers. The employers, if they are going to get the benefit of using these illegals, they are going to have to pay at least for their health care and not expect the U.S. citizens, their fellow U.S. citizens to pick up the cost, their cost of hiring this employee. So this is only fair.

Employers claim that American citizens, of course, will not take the jobs that illegal immigrants take. But of course they will not take the jobs, especially if employers are not going to provide health insurance. If you are not providing health insurance, it is pretty hard to attract qualified American job seekers, and no businesses will be providing health care insurance for Americans if they can hire illegals and the taxpayers end up picking up their health care costs. This has been an incentive, illegal immigration has been an incentive for less wages and for less benefits, for the fact that a lot of employers do not offer health care anymore; and that can be tied directly back to the fact that we have a flow of millions and millions of illegals who are willing to work without health care benefits; and, of course, everybody is relying on the taxpayers just to pick up the bill. This lack of health insurance ends up putting the burden of an illegal alien's health care on the shoulders of the American taxpayer. That is wrong and we have to change that. This bill will change that.

I might add that this provision will initiate an eruption of opposition to this bill specifically for that, because we have had big business in this country who has gotten used to having the taxpayers pick up the health care costs that they should be providing their own employees, and they have been able to attract employees by hiring illegal immigrants. It keeps down wages and keeps down benefits.

Employers should pay the full cost for the illegal alien labor that they hire, including health care costs of illegal aliens that they run up in emergency rooms. And this is not, I would say, a huge burden on employers, although they are going to claim this. All we are talking about is that when an illegal alien or someone comes to them, whether it is apparent they are an illegal alien or not, comes to them for employment, that one of the things they do when filling out the paperwork for this new employee is call one phone number, one phone call to a Federal agency, make one check on the name of this potential employee, and if they do that and check and find out that this person is here legally, they have indemnified themselves from this liability and they will not have to then pay for that emergency room care. But if they do not even make that one phone call, why should we taxpayers pick up the bill? These employers obviously are trying not to verify that someone they are hiring is illegal, and then they are not giving them health care and we pick up the costs. Where does that come from? Right out of the same pot of money that takes care of our seniors, our own veterans, our own women and children in the United States of America. There is a limited amount of health care dollars. We should be spending it on our legal residents, whether they are legal immigrants and/or U.S. citizens.

So, anyway, I do not see how any employer can possibly object to just taking one step, a very quick step, to see if their future employee is here legally or not.

Third in the bill, and this is a very important factor in this bill, this bill does something that is important to the whole formula in that it limits the emergency care that a hospital is required to give. Because right now what we have is an illegal alien comes in, any type of health care that is required that is an emergency, that is deemed to be an emergency, we end up giving extensive health care way beyond just someone's life or death situation or someone's situation where their health status would be altered forever if a treatment is not given at that moment. No. We go way beyond that so often. What we suggest is the hospital is required to give just the care that is required to medically stabilize the illegal alien's condition, and it would stabilize them to the point that they can be deported back to their home country.

Now, we have seen, as I just said, we have seen illegal aliens obtaining organ transplants, advanced cancer treatments. There was a fellow in my district from El Salvador, it must have been about 10 years ago now, and this man had had $300,000 worth of cancer treatments. He was not a citizen; he was not even a legal immigrant. He was an illegal immigrant, and we had spent $300,000 on this man. That is a crime. If someone goes in and steals $100 from a grocery store, they are going to go to jail. Yet we permit people to illegally come into this country and take hundreds of thousands of dollars of treatment. The American taxpayer, as I say, cannot be the world's HMO. It is going to break us. It is already affecting the health care available to our own citizens in a very detrimental way.

Again, let me repeat: the American taxpayer cannot be the world's HMO. An illegal alien should be transported back to his or her country to receive any extraordinary care. Emergency care should only be for the temporary emergency where life is threatened at that moment. It is emphatically the responsibility of the illegal alien's own country to care for him; it is not the responsibility of the taxpayers of the United States or the Treasury of the United States Government. The foreign countries who our illegal aliens are coming from need to take care of their own citizens, not export their problem to the United States.

Let us note now for the record there are many, many incidences of people coming here specifically to get health care treatments. They come here and they are on a visa or something like that. That has got to stop, and especially if they have come here illegally and expect to get those same kinds of health care treatments. It is wrong. We should not do that, and it is hurting the well-being of our people.

Now, we are going to hear about how mean spirited it is to enforce our immigration laws and how mean spirited this proposal is. This bill will probably just generate the most incredible opposition and people pulling their hair out and saying how horrible we are. The motive behind this bill is a positive motive, and there is nothing wrong with loving your family and taking care of your family and taking care of the citizens of the United States and those people who are here legally. There is nothing wrong with having that motive.

□ 1615

But our motives will be attacked as if we hate other people from other countries. And they will try to blur the difference between illegal immigrants and legal immigrants. No, this bill is motivated out of love. And certainly there is nothing wrong with anyone taking care of his family rather than giving money away to the point that his own family's health is not being taken care of.

And the fact is that some people are saying now, well, we cannot afford not to have these illegals around because we are used to cheap labor, as if cheap labor is something that is good for the American people. Well, as health care costs show, that labor really is not all that cheap when you include all the costs.

Illegal immigrant labor, there are lots of costs related to it that we are picking up as taxpayers that the businessman does not have to shoulder. Big business has shown that they are not interested in paying American wages and giving benefits to their workers if they can get away with hiring illegals who will work for lower wages. What big business wants is a huge pool of international labor so that corporations can force down wages.

Illegal immigration is having a horrible impact on all these government services that I am talking about, especially the health care. The legislation that I introduced today specifically deals with that. But let us note that the wages of all Americans are being affected and the benefits being offered to all Americans by their employers are being affected by illegal immigration. American workers, no matter how competitive, cannot compete with Chinese slave labor or a Nigerian standard of living.

Huge corporations then are using the poor and desperate of the world because we are not enforcing our immigration laws to force the American middle-class to accept poverty as a price of holding a job. Well, we hear time and time again, well, Americans will not work for these lowly paid jobs. Well, that is nonsense. There are no jobs that Americans will not do. There are no jobs. I can repeat that. There is no job that an American will not do but there are lots of jobs that Americans will not do at the wages that are being offered for those jobs.

The answer to the labor shortage is not to import poor people from Bangladesh or to permit a flood of illegal immigrants into our country, but instead to raise the wages and benefits of the U.S. working people. We have a lot of people in this country who can work who are not going to work at those wages certainly because those are poverty wages. We have got a lot of businesses who will hire illegals now rather than hiring a person who is disabled and training that disabled American, that disabled veteran, perhaps, to do a job that can be beneficial to the country and he or she can earn his or her own way but the business will not do it. Instead they will hire an illegal immigrant who will work for half the price and does not require any special training because of a disability. And then if there is a disability on the job, the employer just waves good-bye and the taxpayers pick up all the costs.

The National Research Council in 1997 did a study showing immigration was responsible for a 44 percent drop in the wages for our people in the United States who were high school dropouts. Look, I do not like that some of our people are high school dropouts. I am sorry some of our people are at that lower end of the income level. But those are the people who are being hurt the most by illegal immigration.

The average immigrant has less than a high school education and so this makes perfect sense. It is Economics 101. If you increase the labor supply at that level where you have illegal immigrants coming in here who have less than a high school education and they are competing with our people who have less than a high school education, or are less educated people at the lower income of our country, guess what? If you increase the supply of those people coming in, the wages will drop for those people who are already here, meaning our own people, legal immigrants and American citizens.

This has meant misery in many blue collar households who actually in this last 15 years since this 1986 amnesty they have seen their wages drop and their standard of living decrease because we have been insisting on importing uneducated illegal immigrants, or at least insisting that the flood of illegal immigrants coming into our country not be stopped. This has hurt millions of our own people, people who maybe now have been working at a higher standard of living but are not now working at a higher standard of living because illegals have taken that job at a lower wage and kept the wages down.

A good example of that is perhaps in my own case. When I was younger I worked as a janitor. The people who work as janitors today have perhaps the same income about the same level of income as I had when I worked as a janitor 30 years ago. I guess it might have been more than 30 years ago now, more like 40 years ago. Well, guess what? We have had an enormous increase in our standard of living in the GNP in those' 40 years. Why should janitors not be making more money? Well, I will tell you why. Because if they would have not had a flood of illegal immigrants, you would have had machines and technology that would have been developed making that janitor much more efficient. Maybe he could clean 30 toilets or 100 toilets a night instead of 15 or 20. And that man could or woman could have been paid more money as a janitor. But instead what we have hired is illegals. And there has been no technology development that would make up for that.

And thus we have kept the wages of janitors down, those janitors should be American citizens earning a wage that would permit them to buy their own home, or at least to live at a decent standard of living. Instead we have a flood of illegals in and those people are not living well now because they are having to compete with people who have come here, the poorest of the poor from everywhere. That is not fair to the American people who shoulder the burdens of freedom all over the world and shoulder the burdens of keeping our country the way it is. And they are hurting because of this flow of illegal immigration. The same National Research Council showed that the average immigrant household in California used $3,463 in taxpayer services. That is back in 1997.

If you were looking for why California has such a huge deficit, that is, and have a deficit bigger than all other 50 states combined, illegal immigration is probably the answer. This taxpayer funded largesse includes in California health care, education, police services.

And let us talk a little bit about the cost for each of these services. The American Hospital Association reported that its member facilities provided $21 billion in uncompensated health care services last year. Since illegal aliens accounted for 43 percent of those without health insurance in the country, we can assume that at least $9 billion of that total is attributable to illegal aliens. $9 billion. That is what business is calling cheap labor? This is cheap labor. $9 billion of costs added on to the American taxpayers?

All along the border from Texas to California dozens of hospitals have closed their emergency rooms because they can no longer survive the financial hemorrhaging caused by giving free health care to illegals. And do not underestimate the drawing power of free care. This brings people across our borders. Remember Jessica Santillian, an illegal alien who died after receiving not one but two heart transplants and a lung transplant in North Carolina. The Santillian family paid $5,000 to be smuggled across the border to get care knowing that it would take years to get any type of operation at all if they stayed in Mexico. There are American citizens who desperately need organs. They are being knocked out of line by a family and by families who break our law.

Then many of these families are coming here specifically to obtain a transplant or to obtain some sort of sophisticated health operation. This is a crime against our own citizens when we let that happen. It is not that we do not like that poor family in Mexico but we need to make sure that we keep the promise to our own citizens first before we expend our resources to those who have come here illegally from another country. And then, of course, the other country does not have the incentive to use their resources to build up their health care for their own people.

What about the children of illegal aliens? The total K–12 school expenditure for illegal immigrants cost the States $7.4 billion annually. That is enough to buy a computer for every American student, America's junior high schools.

Are you worried about school overcrowding? Hear anybody talk about overcrowding? You hear about that all the time. If the left wing teachers unions were not so allied with this cause of the illegal immigrants, we would find out exactly what is causing the crowding.

Let me note this, and this is a very incredible statement, without school-age illegal immigrants, the children that we are talking about, the children of illegal immigrants, school enrollment would not have risen at all during the past decade. Let me repeat that. School enrollment would have remained flat if it was not for unrestricted illegal immigration into our country.

So when one hears them talking about crowded schools, the answer is not to just spend more and more resources taking it away, again, from the other things that we need in our society in order to provide this service for illegal immigrants which then attracts even more illegal immigrants who care about their families and want their families to get this same largesse so they come here in even greater numbers.

But by far, the most disturbing is the impact illegal immigration is having on crime in California. In Los Angeles, 95 percent of all outstanding warrants for homicide involve illegal aliens. Do you get that? In Los Angeles, 95 percent of all outstanding warrants for homicide involve illegal aliens. And up to two-thirds of all fugitive felony warrants are for illegal aliens. Illegal aliens commit crimes in the United States and then they flee the country.

Oh, as an aside, in California we have a particular problem, some of those flee to Mexico. And even when the criminal alien is known and their whereabouts are known to Mexico, the Mexican courts refuse to extradite them. By far the most outrageous case was that of David March, a Los Angeles County sheriff who was gunned down by an illegal alien who fled to Mexico and then only to have Mexico refuse to extradite a man who had blatantly murdered a police officer in California.

Almost 30 percent of Federal prisoners are now foreign born; 36 percent of illegal alien criminals are released from Federal prison; 36 percent of illegal alien criminals were released from Federal and several state prisons with no deportation review. You get this? Thirty-six percent of those illegal aliens in our prisons and jails get out with no review as if they should be deported. But yet they are here illegally; 80 of these illegal alien criminals have been arrested for new crimes.

Now, stop for just a minute and think about this: It is not just the cost of incarcerating illegal aliens, expensive as that is, which is $22,500 a year, for hundreds of thousands of illegal aliens. What is the cost to the American taxpayer of all of this? That $22,000, yeah, that is to the taxpayer, but what about their theft of property? What about the murders, the rapes and the assaults perpetrated by these criminals who come here illegally? And our government is so ineffective and so captive to corporate interests that we have permitted this massive flow of illegal immigration that is keeping down the wages of our people and is resulting in hardship and resulting in people suffering throughout our country. We do not even deport these criminals. When they are criminals we do not deport them when they get out of jail. These are not simple illegal aliens looking for a better life when they get out of jail, these are hardened criminals, many of them with ties to vicious drug gangs and violent criminal cartels and they are not deported? What is going on here?

And our system, rather than allowing a swift and certain deportation, in many cases simply released these predators into the American population so they can rub elbows with our families at the movie theater.

My friends, there is nothing conservative about a policy that has permitted this type of illegal immigration into our society with these horrific consequences to the American people.

But even more worrying are the implications in our war against terror. Several drug cartels are getting into the illegal alien smuggling business. The cartels will help smuggle anyone into the United States who pays. These vicious organizations have no hesitation about smuggling terrorists into the United States. And once in the United States, terrorists simply disappear into the huge sea of other illegal aliens.

□ 1630

Do we need this cheap labor that we are talking about? Is it really cheap labor?

I am telling you that the cost is too high. The price of overcrowding of schools, the price of collapsing emergency rooms, the rise of vicious crimes in our society, the holding down of the wages of our people, our working people, this is wrong. This is a price that we are paying. Our people should not be forced to pay this price simply because our government is not enforcing the law. But more importantly, is the United States willing to go the way of South America?

What kind of country are we producing when we permit millions of people to flood into our country every year? What is going to happen? And we keep wages down for our own people. We are creating a society with a wealthy privileged few on top and a huge class underneath who are barely surviving? Why are we doing this? Why are we permitting our country to be restructured where we have opportunity for all and our systems are working that can provide health and services and education services to our people? Why are we doing that?

Because America's big companies want a huge pool of cheap labor to drive down American labor costs to the level of China and Latin America and because the left wing of the Democratic Party wants to use illegal immigrants as a weapon for political power. That is it. The unholy alliance between the left wing of the Democratic Party and the big business wing of the Republican Party. I am sorry. That is clear.

Those of us who represent neither of those groups should start getting together and making sure we solve this problem.

These corporations that I am talking about have no stake in this country. Many of these great big corporations want to keep our labor. They go overseas the first time they can. They end up investing in Communist China, the world's worst human rights abuser. They are setting up factories in Vietnam. Then they insult our intelligence as well by asking us to give them an export-import bank guarantee on their loans so that when they set up these manufacturing companies overseas, the taxpayers will guarantee them. So they can set up the manufacturing there and use the cheap labor in order to put our people out of business. Our people get out of those manufacturing jobs and what happens? They end up competing with guess what here at home? A flood of illegal immigrants who are willing to do their job cheaper and they end up being unemployed.

What heartache, what misery this causes so many families in the United States of America. We are talking about alcoholism and drug use and family abuse. This is caused by the type of tensions by people who cannot get the jobs that their fathers and mothers had years ago, and they cannot be expected now to ever buy a new home or a new car. They are always worried a tire might go out because they cannot afford to fix the tire.

This is what we have relegated half of the American people to. It is wrong. Now do not get me wrong. I am for capitalism. I am for free enterprise. I am actually for free trade in a way because I believe in free trade between free people. I do not think our government should be promoting free trade and subsidizing our people going overseas to any country. Certainly, we should not be talking about developing the economies of China and other dictatorships; but I do not see anything wrong in trading with Australia and other free countries.

Also, this is not capitalism that we are talking about. I am for free trade and I am for free enterprise, but free enterprise does not mean that you artificially import labor into your country to keep labor costs low. That is ridiculous; that is not part of the free enterprise system.

The working people of this country are willing to fight and die to preserve the freedom of this country in order to be confronted with the idea that their wages are going to be kept down by a flood of illegals coming into our country and an unwillingness to enforce the immigration laws. That is absolutely wrong. That is absolutely wrong.

Democracies cannot survive without an educated middle class. And illegal immigration is destroying the viability of the American middle class. Our Founding Fathers envisioned a middle class of small tradesmen, of farmers who would have an education and the ability to govern themselves and to be independent factors in our economy. In fact, as we have seen over and over, a huge mass of desperate and poor and poorly educated people will quite often turn to the siren song of communism under certain circumstances like that where there is no hope.

We are creating an underclass in America, a permanent underclass of illegals and of our own people. These people, when they get desperate, they listen to the rantings and raving of communism or the bellicose musings of fascism. Democracy is based on a well-educated and prosperous middle class. It has been America's greatest strength. To preserve this Republic, to protect the American middle class, we must stop the importation of cheap labor. We must stop the fact that we have a massive flow of illegals into this country. We keep the wages down and distort the progress that would be coming to the people on the lower levels of our economic tier here in our country.

Instead, the people in the lower levels of our economy are not rising. Their incomes are going down. Their expectations are going down. Their frustrations are going up. And they do not know why, but they do know that all the jobs are taken by people who are working for dirt wages and that their fathers had better jobs at better pay that were meaningful jobs.

Now, where do we start to turn this around? We can start by getting control of the health care that we provide those who come into this country illegally. At the very least let us stop right now. We have started a program, the first time that our country is spending any money officially to provide a service for people who are here illegally. That Medicare bill provides $1 billion for illegal alien health care services. It will be $50 billion 10 years from now if we do not do anything about it.

So let us do something about it now. Let us start turning the situation around now by focusing on this legislation that I drop today that will mitigate any bad impact of providing this billion dollars for emergency health care for illegals by making sure that we have these provisions, these provisions that will see that they are identified, their employers, identified, that a deportation proceeding moves forward if they are treated, and that the amount of treatment that they can receive when they are here illegally is limited to a life-threatening situation rather than providing extensive care for diseases that are not a crisis at that moment. We can start turning it around right now.

I would urge my colleagues to join me in this vital legislation to limit the health care to illegal aliens so that we can have that money available to the American people. I am going to be vilified for this. I know that. I had all sorts of press calls and everything after the leadership made the agreement with me to have this bill come to the floor. I know I am going to be vilified. I know people are going to say I am a mean, nasty person and that I do not care and that I am a racist or something like that. I am not and I have love in my heart for everybody.

I know that even the people who come here illegally are wonderful people, 90 percent of them are wonderful people. They just want to increase their own standard of living, a way to treat their family decently. But we cannot do this for the entire world. We cannot expect to see our own people suffer and to try to equalize them to every poor person in the world, and this will bring more and more people here. And if we care and we have love for our families, having love for your family and having love for the legal immigrants and the legal U.S. citizens that are here, that love for those people does not mean you hate someone else. That means you care for your family and you will take care of them first. That is what care means.

So I would ask the people who are reading this in the CONGRESSIONAL RECORD and my colleagues to look at this legislation. Let us turn the situation around now. Let us speak out. Let us make sure that we stand up for what America is supposed to be for. It is a land of opportunity, yes; but it is a land where one thing ties us together. We are Americans and we come from every race, every religion, every ethnic group. Here we are. We have come from every country in the world, and we have a proud immigrant heritage; and we are not shutting that off. I am not suggesting that we cut off the legal flow of immigrants into our country and we do about a million a year, which is more than all the rest of the world combined.

So what we need to do is to make sure that we take the people who are here legally and people who are U.S. citizens and recognize who ties us together as a Nation. Other countries have their own religion. Other countries have a traditional ethnic group or a race that makes them what they were; but what ties Americans together is a love of liberty, of freedom, of justice, of people who come here to be part of this American Dream.

Well, if we do not care about each other, if that spirit of caring does not, we do not have an ethnic tie to keep us together. We do not have one religion because there are people of every religious state here in America. That one religion does not keep us together. It is a love of liberty and justice and a commitment to opportunity and a caring for us all as all Americans as a family. We care about us.

What is the United States? United States. It is us. And just because we are saying that we are going to focus on caring about us does not mean that you have hatred in your heart towards someone else. And please, please open your hearts and open your consciences. Look at this issue, and I think you will see this is based on positive motives. We have to end the massive flow of illegal immigration into this country, or we will hurt the people that we care about. It will hurt us. It will hurt the United States if we continue down this path. The quickest way to turn it around is to start with this legislation, and it is going to be tough and there is going to be a lot of name calling: but I would ask you to join with me and let us save America and let us leave the other countries so they start providing a better life for their people overseas, rather than just trying to use us as an escape valve so they can send people who are dissatisfied here.

If we quit serving as that escape valve, they will have to have health care in Mexico and these other countries where they are coming here from overseas illegally. If we just keep taking people in, they will have lost their incentive.

So I ask my colleagues to look at this legislation. I thank you for providing this time.

## APPOINTMENT AS MEMBER TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Pursuant to section 491 of the Higher Education Act, the order of the House on December 8, 2003, and upon the recommendation of the minority leader, the Chair announces the Speaker's appointment of the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term:

Mr. Robert Shireman, Oakland, California.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. DUNN (at the request of Mr. DELAY) for today on account of illness.

Mr. HAYWORTH (at the request of Mr. DELAY) for today on account of traveling with the President.

Mr. PLATTS (at the request of Mr. DELAY) for today on account of attending a funeral.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARDIN) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

(The following Members (at the request of Mr. KIRK) to revise and extend their remarks and include extraneous material:)

Mr. ISSA, for 5 minutes, today.

Mr. SHUSTER, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

## ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 44 minutes p.m.), under its previous order, the House adjourned until Friday, January 23, 2004, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6275. A letter from the Secretary, Department of Education, transmitting the annual report of the National Advisory Committee on Institutional Quality and Integrity for Fiscal Year 2003, pursuant to 20 U.S.C. 1145(e); to the Committee on Education and the Workforce.

6276. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995; to the Committee on International Relations.

6277. A letter from the Under Secretary of State for Political Affairs, Department of State, transmitting a year-end report on efforts in implementing Plan Colombia; to the Committee on International Relations.

6278. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004–19 on Waiver of Restrictions on Assistance to the Republic of Uzbekistan under the Cooperative Threat Reduction Act of 1993, and Title V of the FREEDOM Support Act; to the Committee on International Relations.

6279. A letter from the Deputy Secretary of Defense, Department of Defense, transmitting the Department's FY 2003 Performance and Accountability Report; to the Committee on Government Reform.

6280. A letter from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting the Office's final rule—Governmentwide Debarment and Suspension (Nonprocurement) (RIN: 3206–AK30) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6281. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30397; Amdt. No. 445 ] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6282. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30392; Amdt. No. 3079] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6283. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30391; Amdt. No. 3081] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6284. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Clarion, IA [Docket No. FAA–2003–15726; Airspace Docket No. 03–ACE–68] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6285. A letter from the Secretary of Labor and Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the Corporation's 2003 Annual Report, pursuant to 29 U.S.C. 1308; jointly to the Committees on Education and the Workforce, Government Reform, and Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. MILLENDER-MCDONALD:

H.R. 3712. A bill to improve seaport security; to the Committee on Transportation and Infrastructure.

By Mr. COSTELLO (for himself, Mr. SHIMKUS, Mr. JOHNSON of Illinois, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. EMANUEL, and Mr. KIRK):

H.R. 3713. A bill to designate the Federal building located at 250 West Cherry Street in

Carbondale, Illinois the "Senator Paul Simon Federal Building"; to the Committee on Transportation and Infrastructure.

By Ms. DELAURO (for herself and Ms. Lee):

H.R. 3714. A bill to provide better protection against bovine spongiform encephalopathy and other prion diseases; to the Committee on Agriculture, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. Frost, and Mr. Owens):

H.R. 3715. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. Davis of Alabama, and Ms. Hart):

H.R. 3716. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. Markey, Mr. Tauzin, Mr. Dingell, Mr. Bilirakis, Mr. Barton of Texas, Mr. Stearns, Mr. Gillmor, Mr. Bass, Mr. Greenwood, Mr. Burr, Mr. Blunt, Mr. Shimkus, Mr. Terry, Mr. Weldon of Pennsylvania, Mr. Wolf, Mr. Smith of Texas, Mr. Green of Texas, Mrs. Wilson of New Mexico, Mr. Gordon, Mr. Whitfield, Mrs. Bono, Ms. McCarthy of Missouri, Mr. Wynn, Mrs. Cubin, and Mr. Pitts):

H.R. 3717. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language; to the Committee on Energy and Commerce.

By Mr. GOODE:

H.R. 3718. A bill to amend the Internal Revenue Code of 1986 to allow State government employers to contribute to section 403(b) pension plans; to the Committee on Ways and Means.

By Mr. NADLER (for himself, Mr. Greenwood, Ms. Slaughter, and Ms. DeGette):

H.R. 3719. A bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

By Mr. PETERSON of Pennsylvania (for himself, Mr. Osborne, and Mr. Souder):

H.R. 3720. A bill to authorize the Secretary of Education to make grants to local educational agencies and private schools to establish drug-free school demonstration programs, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PETERSON of Pennsylvania (for himself, Mr. Berry, Mr. Sanders, Mr. Acevedo-Vilá, Mr. Paul, Mr. McHugh, Mr. Shuster, Mr. Case, Mr. Hoeffel, Mr. Pearce, Mr. Michaud, Mr. Renzi, Mr. Boyd, Mr. Latham, Mr. Boozman, Mr. Moran of Kansas, Mr. Cannon, Mrs. Emerson, Mr. Sweeney, Mr. Quinn, Mr. Davis of Tennessee, Mr. Ross, Mrs. Capito, and Mrs. Cubin):

H.R. 3721. A bill to amend title 49, United States Code, to repeal the essential air service local participation program; to the Committee on Transportation and Infrastructure.

By Mr. ROHRABACHER:

H.R. 3722. A bill to amend section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to impose conditions on Federal reimbursement of emergency health services furnished to undocumented aliens; to the Committee on Energy and Commerce.

By Mr. SESSIONS:

H.R. 3723. A bill to designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Vaughn Gross Post Office Building"; to the Committee on Government Reform.

By Mr. SHAYS (for himself, Mrs. Maloney, and Mr. Simmons):

H.R. 3724. A bill to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures; to the Committee on Financial Services.

By Mr. WEINER:

H.R. 3725. A bill to prohibit United States military assistance for Egypt and to express the sense of Congress that the amount of military assistance that would have been provided for Egypt for a fiscal year should be provided in the form of economic support fund assistance; to the Committee on International Relations.

By Mr. WEINER:

H.R. 3726. A bill to authorize the grant program under which the Secretary of Homeland Security makes discretionary grants for use in high-threat, high-density urban areas, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JENKINS:

H.J. Res. 86. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. MENENDEZ:

H. Res. 495. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. BAKER (for himself, Mr. Tauzin, Mr. McCrery, Mr. John, Mr. Jefferson, Mr. Alexander, and Mr. Vitter):

H. Res. 496. A resolution commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game, and commending the Southern University Jaguars football team for winning the 2003 SBN Black College National Football Championship; to the Committee on Education and the Workforce.

By Mr. BURR (for himself and Mr. Taylor of North Carolina):

H. Res. 497. A resolution commending the Wake Forest University Demon Deacons field hockey team for winning the 2003 National Collegiate Athletic Association Division I Field Hockey Championship; to the Committee on Education and the Workforce.

By Mr. HOEKSTRA (for himself, Mr. Ehlers, Mr. Upton, Mr. Dingell, Mr. Camp, Mr. Conyers, Mr. Knollenberg, Mr. Kildee, Mr. Smith of Michigan, Mr. Levin, Mr. Rogers of Michigan, Ms. Kilpatrick, and Mr. McCotter):

H. Res. 498. A resolution congratulating the Grand Valley State University Lakers football team for winning the 2003 National Collegiate Athletic Association Division II Football National Championship; to the Committee on Education and the Workforce.

By Mr. HOLT (for himself, Ms. Eshoo, Mr. Reyes, Mrs. Tauscher, Mr. Larson of Connecticut, Mr. Waxman, Mr. Lantos, Mr. Conyers, Mr. Spratt, Mr. Turner of Texas, and Mr. Moran of Virginia):

H. Res. 499. A resolution requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame; to the Committee on Intelligence (Permanent Select), and in addition to the Committees on Armed Services, International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PICKERING (for himself, Mr. Pitts, Mrs. Wilson of New Mexico, Mr. Terry, Mrs. Jo Ann Davis of Virginia, Mrs. Cubin, Mr. Istook, Mr. Burgess, Mr. Whitfield, Mr. Sullivan, Mr. Akin, and Mrs. Bono):

H. Res. 500. A resolution expressing the sense of the House of Representatives that the Federal Communications Commission should vigorously enforce indecency and profanity laws pursuant to the intent of Congress in order to protect children in the United States from indecent and profane programming on broadcast television and radio; to the Committee on Energy and Commerce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. LANTOS introduced a bill (H.R. 3727) for the relief of Maria Del Refugio Plascencia and Alfredo Plascencia-Lopez; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. Goodlatte.

H.R. 58: Mr. Payne and Mrs. Capito.

H.R. 290: Ms. Waters, Mrs. Jones of Ohio, and Mr. Farr.

H.R. 327: Mr. Paul.

H.R. 331: Mr. Grijalva.

H.R. 375: Mr. Peterson of Pennsylvania.

H.R. 394: Mr. Jackson of Illinois.

H.R. 434: Mrs. Biggert, Mr. Keller, and Mr. Gibbons.

H.R. 466: Mr. Visclosky.

H.R. 476: Mr. LYNCH and Ms. NORTON.

H.R. 502: Mr. TOOMEY.

H.R. 527: Mr. GORDON.

H.R. 832: Mr. DEUTSCH.

H.R. 839: Mr. PITTS, Mr. CHABOT, and Ms. MILLENDER-MCDONALD.

H.R. 852: Mr. HOLT, Mr. STUPAK, Mr. ANDREWS, and Mr. KIND.

H.R. 857: Mrs. JONES of Ohio.

H.R. 876: Mr. CUMMINGS, Mr. MEEK of Florida, Mr. JOHN, Mr. CASTLE, Mr. SMITH of Washington, Mr. DELAHUNT, Mr. WALSH, Mr. FATTAH, Mr. GREENWOOD, Mr. HOEFFEL, Mr. WELLER, Mr. OWENS, and Mr. DAVIS of Tennessee.

H.R. 883: Mr. CUMMINGS.

H.R. 885: Mr. FLAKE.

H.R. 920: Mr. CUMMINGS.

H.R. 936: Mr. DOGGETT.

H.R. 962: Mr. LANTOS and Mr. MCGOVERN.

H.R. 965: Ms. CARSON of Indiana and Mrs. JONES of Ohio.

H.R. 972: Mr. ENGEL.

H.R. 1154: Mr. SIMPSON.

H.R. 1225: Mr. CUMMINGS.

H.R. 1264: Mr. FOLEY.

H.R. 1268: Mr. WEINER.

H.R. 1322: Mr. WEINER and Mr. UDALL of New Mexico.

H.R. 1336: Mr. CLAY, Mr. GREENWOOD, Mr. MCHUGH, Mr. SHIMKUS, and Mr. LAHOOD.

H.R. 1426: Mr. COLE.

H.R. 1499: Mr. MILLER of North Carolina.

H.R. 1532: Mr. LATOURETTE, Mr. PETRI, Mr. EHLERS, and Mr. SIMMONS.

H.R. 1546: Mr. KINGSTON.

H.R. 1563: Ms. BORDALLO, Mr. MARKEY, Mr. KIND, and Mrs. WILSON of New Mexico.

H.R. 1582: Mr. RYAN of Ohio.

H.R. 1608: Mr. BOUCHER, Mr. KING of New York, Mr. LAHOOD, and Mrs. CHRISTENSEN.

H.R. 1639: Mr. OLVER, Mrs. DAVIS of California, and Mr. OWENS.

H.R. 1746: Mr. SHERMAN and Mrs. WILSON of New Mexico.

H.R. 1776: Mr. ANDREWS.

H.R. 1811: Mr. KIND, Mrs. KELLY, Mr. DEFAZIO, and Mr. VISCLOSKY.

H.R. 1824: Mr. NEAL of Massachusetts, Mr. UDALL of Colorado, and Mr. MCHUGH.

H.R. 1956: Mr. JACKSON of Illinois and Mr. WEINER.

H.R. 1997: Mr. BALLENGER.

H.R. 2053: Mr. LAMPSON.

H.R. 2060: Mr. VAN HOLLEN.

H.R. 2133: Mr. SCHROCK and Mr. TIBERI.

H.R. 2173: Mr. LANTOS, Ms. NORTON, Mr. WATT, Mr. WEINER, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. WEXLER, Mr. HOLT, Mr. CLYBURN, Mr. JEFFERSON, Mr. RAHALL, Mr. HOEFFEL, and Mr. PLATTS.

H.R. 2176: Mr. FOLEY.

H.R. 2263: Mr. HENSARLING.

H.R. 2318: Mr. MATHESON.

H.R. 2323: Mr. GORDON.

H.R. 2403: Mrs. MCCARTHY of New York.

H.R. 2404: Mr. GOODE, Mr. GILLMOR, and Mr. ROTHMAN.

H.R. 2490: Mr. SWEENEY and Mr. LANGEVIN.

H.R. 2509: Mr. HAYWORTH.

H.R. 2519: Mr. CASE, Mrs. CAPITO, Mr. TURNER of Ohio, and Mr. CASTLE.

H.R. 2527: Mr. WEINER and Mr. UDALL of Colorado.

H.R. 2568: Mr. MCINTYRE and Mr. PAYNE.

H.R. 2625: Mr. ANDREWS and Mr. DICKS.

H.R. 2699: Mr. MOORE and Mr. GREEN of Wisconsin.

H.R. 2760: Mr. FRANK of Massachusetts.

H.R. 2768: Ms. MCCARTHY of Missouri, Mr. KANJORSKI, Ms. LOFGREN, Mr. REYES, Mr. YOUNG of Florida, Mr. GEORGE MILLER of California, Mr. BILIRAKIS, Mr. OBEY, Mr. DICKS, and Mr. ROTHMAN.

H.R. 2797: Mr. GOODE.

H.R. 2809: Mr. PRICE of North Carolina.

H.R. 2810: Mr. PRICE of North Carolina.

H.R. 2900: Mr. WELDON of Pennsylvania and Mr. CRANE.

H.R. 2959: Mr. BISHOP of Utah, Mr. LAHOOD, and Mr. PLATTS.

H.R. 3058: Mr. TURNER of Ohio and Mr. NEUGEBAUER.

H.R. 3092: Mr. ABERCROMBIE.

H.R. 3104: Mr. WOLF and Mr. EMANUEL.

H.R. 3125: Mr. BURTON of Indiana.

H.R. 3139: Mr. GREEN of Texas and Mr. MEEHAN.

H.R. 3190: Mr. GINGREY and Mr. RYUN of Kansas.

H.R. 3193: Mr. KELLER.

H.R. 3213: Mr. HENSARLING.

H.R. 3225: Mrs. CUBIN and Mr. ENGLISH.

H.R. 3242: Mr. HINCHEY, Mrs. MILLER of Michigan, and Mr. ABERCROMBIE.

H.R. 3246: Mr. ENGEL.

H.R. 3247: Mr. STUPAK.

H.R. 3277: Mr. SOUDER, Mr. NEUGEBAUER, Mrs. BLACKBURN, Mr. PETERSON of Minnesota, Mr. RUPPERSBERGER, Mr. BILIRAKIS, and Mr. CULBERSON.

H.R. 3281: Mrs. JONES of Ohio.

H.R. 3306: Mr. VAN HOLLEN.

H.R. 3313: Mr. HENSARLING.

H.R. 3329: Mr. PITTS.

H.R. 3350: Ms. ROS-LEHTINEN, Mrs. JONES of Ohio, Mr. ROTHMAN, Mr. SNYDER, and Mr. HOLT.

H.R. 3352: Mr. JACKSON of Illinois.

H.R. 3389: Mr. MOORE.

H.R. 3412: Mr. GOODE, Mr. GREEN of Wisconsin, and Mr. PALLONE.

H.R. 3425: Mr. SERRANO and Mr. MORAN of Virginia.

H.R. 3438: Mr. LANTOS, Mr. MCINTYRE, Mr. ISAKSON, Mr. HOLT, Mr. WEINER, Ms. JACKSON-LEE of Texas, and Mr. UPTON.

H.R. 3446: Mr. MCNULTY, Mr. MCDERMOTT, Mr. BAIRD, Mr. MOORE, Mr. HOEFFEL, Mr. WEINER, Ms. MCCOLLUM, Mr. WEXLER, Mr. WAXMAN, Mr. SHAYS, Mr. WU, Mr. FATTAH, Mr. HOLT, Mrs. NAPOLITANO, Ms. NORTON, Ms. JACKSON-LEE of Texas, Mrs. JONES of Ohio, Mr. KIRK, Mr. OWENS, and Mr. NEAL of Massachusetts.

H.R. 3473: Mr. CAMP, Mr. WICKER, Mr. PLATTS, Mr. NEUGEBAUER, and Mr. PASTOR.

H.R. 3484: Mr. TIBERI.

H.R. 3527: Mr. SHAW.

H.R. 3545: Ms. ESHOO, Mr. CASE, Mr. GEORGE MILLER of California, and Mr. OWENS.

H.R. 3550: Mr. DELAHUNT, Mr. MCNULTY, Mr. NEAL of Massachusetts, Mr. DAVIS of Alabama, Mrs. MCCARTHY of New York, Mr. BRADY of Pennsylvania, and Mr. SMITH of Washington.

H.R. 3561: Mr. RAMSTAD.

H.R. 3574: Mr. BURR, Mr. HAYWORTH, Mr. JOHN, Mr. BRADY of Texas, Mr. SHADEGG, and Ms. HOOLEY of Oregon.

H.R. 3591: Mr. TERRY.

H.R. 3599: Mr. OWENS.

H.R. 3605: Mr. KILDEE and Mr. COLE.

H.R. 3619: Mr. BECERRA, Mr. INSLEE, Mr. FRANK of Massachusetts, Mr. BERRY, Mr. EMANUEL, Mr. CROWLEY, Ms. ESHOO, Mr. ENGEL, Ms. ROYBAL-ALLARD, Mr. STUPAK, Mr. FILNER, Ms. KAPTUR, Ms. MCCARTHY of Missouri, Mr. STRICKLAND, Mr. ROSS, Mr. CUMMINGS, Mr. MCDERMOTT, Mr. LIPINSKI, Mr. LARSEN of Washington, Mr. NEAL of Massachusetts, and Mr. MORAN of Virginia.

H.R. 3642: Mrs. NAPOLITANO, Mr. WEXLER, Mr. RANGEL, Ms. NORTON, and Mr. OWENS.

H.R. 3673: Mr. FRANK of Massachusetts, Mr. FARR, Mr. WAXMAN, Mr. SERRANO, Mr. WEXLER, Mr. PAYNE, Mr. CLAY, Mr. VISCLOSKY, Mr. MCDERMOTT, Mr. UDALL of New Mexico, Ms. WOOLSEY, Mr. LARSEN of Washington, Mr. SMITH of Washington, Mr. PRICE of North Carolina, Mr. TIERNEY, Ms. ESHOO, Mr. BOYD, and Mr. HOLT.

H.R. 3676: Mr. OWENS and Ms. WOOLSEY.

H.R. 3684: Mr. FROST, Mr. HOLT, Ms. MCCOLLUM, Mr. WEXLER, Mr. OWENS, Mr. FRANK of Massachusetts, and Mr. KILDEE.

H.R. 3687: Mr. TAYLOR of Mississippi, Mr. BARTLETT of Maryland, Mr. MCCOTTER, Mr. OSBORNE, Mr. BALLENGER, Mr. WALSH, Mr. NORWOOD, Mr. BOOZMAN, Mr. COLLINS, Mr. FORD, Mr. AKIN, Mr. PEARCE, Mr. BURR, Mr. BROWN of South Carolina, and Mr. WICKER.

H. Con. Res. 9: Mr. BARTLETT of Maryland.

H. Con. Res. 15: Mr. SOUDER.

H. Con. Res. 99: Mr. JACKSON of Illinois and Mr. KILDEE.

H. Con. Res. 226: Mr. MCNULTY.

H. Con. Res. 269: Ms. MCCOLLUM.

H. Con. Res. 285: Mr. KINGSTON.

H. Con. Res. 324: Mr. MATHESON and Ms. HOOLEY of Oregon.

H. Con. Res. 326: Ms. WOOLSEY and Mr. TANCREDO.

H. Con. Res. 332: Mr. MICHAUD.

H. Con. Res. 344: Mr. OWENS and Mr. WEXLER.

H. Con. Res. 348: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEKS of New York, Mr. FROST, Ms. BORDALLO, Mr. CANNON, Mr. MCNULTY, Mr. KILDEE, Mr. SHIMKUS, Mr. PEARCE, Mr. FRANK of Massachusetts, Mrs. MUSGRAVE, Mr. OWENS, and Ms. GINNY BROWN-WAITE of Florida.

H. Res. 157: Mr. ALLEN.

H. Res. 313: Mr. SHAYS and Mr. NADLER.

H. Res. 402: Mr. LUCAS of Kentucky.

H. Res. 466: Mr. PRICE of North Carolina, Mr. ENGEL, Mr. WEINER, Mr. ACEVEDO-VILÁ, Mrs. NAPOLITANO, and Mr. EHLERS.

H. Res. 479: Ms. MCCARTHY of Missouri, Mr. UDALL of New Mexico, Ms. SOLIS, Ms. NORTON, Mr. OLVER, Mr. DAVIS of Illinois, Ms. WOOLSEY, Mr. OWENS, Ms. CARSON of Indiana, Mrs. KELLY, and Mr. CLAY.

H. Res. 481: Mr. BURNS, Mr. DAVIS of Tennessee, Mr. ROSS, Mr. GOODE, Mr. SOUDER, Mr. BEAUPREZ, Mr. WICKER, Mr. SESSIONS, Mr. BOEHLERT, Mr. LATOURETTE, and Mrs. MUSGRAVE.

H. Res. 482: Mr. GREEN of Wisconsin, Mr. RYUN of Kansas, Mr. BONNER, Mr. BRADY of Texas, Mr. BAKER, Mr. GUTKNECHT, Mr. CALVERT, Mr. KELLER, Mr. WALSH, Mr. BOOZMAN, Mr. KINGSTON, Mr. GOODE, Mr. MILLER of Florida, Mr. DEMINT, Mr. TURNER of Texas, Mr. EVERETT, Mr. FORD, Mr. MATHESON, Mr. HAYWORTH, Mr. RAMSTAD, Mr. DAVIS of Tennessee, Ms. BORDALLO, Mr. DEAL of Georgia, Mr. BARRETT of South Carolina, Mr. COLLINS, Mr. MCHUGH, Mr. HILL, Mr. PETRI, Mr. LINDER, Mr. PLATTS, Mr. GOODLATTE, Mr. AKIN, Mr. KLINE, Ms. GINNY BROWN-WAITE of Florida, and Mr. TIBERI.

H. Res. 489: Mr. HYDE, Mrs. BIGGERT, Mr. GRIJALVA, and Mr. STARK.

H. Res. 490: Mr. MILLER of North Carolina, Mr. SMITH of Texas, and Mr. WU.

H. Res. 492: Mr. RENZI, Mr. ENGLISH, Mr. GUTKNECHT, and Mr. TOOMEY.

# SENATE—*Wednesday, January 21, 2004*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Everlasting God, our light and our salvation, You are our strength and shield. We thank You for Your great and precious promises. You have promised to supply our needs and to lead us toward abundant living. Thank You also for the promise of Your eternal presence.

Lord, forgive us when we surrender to those influences that draw us downward. Bless the Members of this body. Teach them that Your hand is on the helm of human affairs and that You still guide Your world. Bless our military people who daily risk their lives for liberty. Console those who grieve, who count the empty places and long for the sound of a voice that is still. Lord, renew our strength and give us the courage to carry on. We pray this in Your strong name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the conference report to accompany H.R. 2673, the Omnibus appropriations bill. A number of Senators will want to speak on that measure over the course of today, as well, I am sure, to make comments on the President's State of the Union Address last evening. The time until 6 p.m. today will be equally divided for debate to accommodate those statements.

Although yesterday we were unable to invoke cloture, I do hope we will be able to finish this important funding legislation prior to finishing our business for the week. I will continue to be in discussions with the Democratic leader with the hope of reaching consent to allow the Senate to work its will on the Omnibus conference report.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I look forward to having further discussions with the majority leader with regard to taking the next legislative step with regard to the Omnibus bill. I am sure we will be able to reach some understanding as to how we might complete our work on this legislation.

I do think it is important, as we said yesterday, for the Senate to focus its attention on some of the issues we cited yesterday as real policy concerns. There were procedural concerns about how we got here, but the policy concerns are the ones that can be addressed and can be fixed. If we are not able to fix them in this legislation, I certainly want to assure my colleagues we will look for other vehicles and other ways to address each of these issues over the course of the next several weeks and months.

I will have more to say about that later in the day, but I will certainly work with our majority leader in addressing the schedule and providing options for ways in which we can complete our work on this bill perhaps this week.

I urge colleagues to recognize the opportunity the day presents to discuss some of these issues. I know there are many on our side who intend to do that. The time is equally divided. We certainly intend to use the time that will be allocated to this side throughout the day to discuss many of these issues.

I yield the floor.

Mr. REID. Mr. President, while the two leaders are here—I have not had an opportunity to discuss this with either of them—floor staff has indicated when the majority leader finishes his statement Senator DORGAN is here wishing to speak. Following that, Senator REED of Rhode Island would like to speak, and then Senator BOXER. We understand if there are Republicans, we will alternate, but I wanted to give them the roll of those who indicated they would like to come prior to Senator BYRD and Senator MCCAIN speaking this afternoon.

Mr. FRIST. Mr. President, we can talk during the speeches, but my understanding is we will alternate back and forth.

Mr. DASCHLE. Yes.

Mr. FRIST. I will make a stronger statement probably for 30 minutes, and after that we can alternate back and forth.

## APPOINTMENTS

The PRESIDENT pro tempore. The Chair announces the following appointment made on January 6, 2004, during the sine die adjournment:

Pursuant to the provisions of Public Law 108–136, on behalf of the Democratic Leader, the appointment of the following individuals to serve as members of the Veterans' Disability Benefits Commission: Mike O'Callaghan, of Nevada, and Rick Surratt, of Virginia.

## RECOGNIZING 2004 AS THE "50TH ANNIVERSARY OF ROCK 'N' ROLL"

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 285, submitted earlier today.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 285) recognizing 2004 as the "50th Anniversary of Rock 'n' Roll."

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALEXANDER. Mr. President, I rise today in support of the resolution commemorating the 50-year history of rock 'n' roll. Senator FRIST, the sponsor of this resolution, and myself are both from the State where rock 'n' roll was born—Tennessee. On July 5, 1954, Elvis Presley recorded his first record, "That's All Right," at the legendary Sun Studio in Memphis and rock 'n' roll was officially born.

Memphis being the birthplace of rock 'n' roll should be of no surprise, since rock 'n' roll isn't the first genre of music to be officially born there. During the Civil War era another musical tradition was born from the sons and daughters who followed freedom up the Mississippi River. The soul-wrenching folk melodies of black Southerners laid the foundation for what would become the blues. Memphis has a vast history of being the center of American musical innovation.

The heart of this music innovation is grounded in the cultural life of Beale Street. It was Beale Street where W.C. Handy, a wandering black musician and composer, was the first to put down on paper the sometimes grim but always hopeful fix of field hollers, gospel songs, cotton-baling calls, and African tribal songs. Forty years later, Beale Street and those same rhythms infected a young, aspiring musician named Elvis Aaron Presley. Elvis Presley came to Sun Records to make a record for his mother and ended up forever changing music and society.

Sun Studios is the place where Sam Philips created his Rockabilly dynasty with Carl Perkins, B.B. King, Roy Orbison, Johnny Cash, Jerry Lee Lewis and Elvis. Rock 'n' roll evolved in the 1950s from rhythm and blues, and was characterized by the use of electric guitars, a strong rhythm with an accent on the offbeat, and youth-oriented lyrics. Last July, Senator FRIST and I joined Secretary of the Interior Gale Norton in a singing ceremony, which designated Sun Records recording studio as a National Historic Landmark. Sun Records in Memphis, TN, is the true home of the blues and the birthplace of rock 'n' roll.

No other city in the United States can claim equal influence on the music of this Nation.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 285) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 285

Whereas Elvis Presley recorded "That's All Right" at Sam Phillips' Sun Records in Memphis, Tennessee, on July 5, 1954;

Whereas Elvis' recording of "That's All Right", with Bill Black on bass and Scotty Moore on guitar, paved the way for such subsequent Sun Studio hits as Carl Perkins' "Blue Suede Shoes" (1955), Roy Orbison's "Ooby Dooby" (1956), and Jerry Lee Lewis' "Whole Lotta Shakin" (1957)—catapulting Sun Studio to the forefront of a musical revolution;

Whereas the recording in Memphis of the first rock 'n' roll song came to define an era and forever change popular music;

Whereas the birth of rock 'n' roll was the convergence of the diverse cultures and musical styles of the United States, blending the blues with country, gospel, jazz, and soul music;

Whereas the year 2004 provides an appropriate opportunity for our nation to celebrate the birth of rock 'n' roll, and the many streams of music that converged in Memphis to create a truly American sound known throughout the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes 2004 as the 50th Anniversary of rock 'n' roll;

(2) commemorates Sun Studio for recording the first rock 'n' roll record, "That's All Right"; and

(3) expresses appreciation to Memphis for its contributions to America's music heritage.

Mr. FRIST. Mr. President, the resolution just agreed to is a resolution recognizing the year 2004 as the "50th Anniversary of Rock 'n' Roll." Indeed, it was 50 years ago in a small recording studio in Memphis, TN, that a young Elvis Presley recorded his first record. It was called "That's All Right." And at that point, rock 'n' roll was born. That recording by legendary producer Sam Phillips at the now famous Sun Studio in Memphis paved the way for such subsequent hits which titles we all know: Carl Perkins' "Blue Suede Shoes" in 1955, Roy Orbison's "Ooby Dooby" in 1956, and Jerry Lee Lewis's "Whole Lotta Shakin" in 1957. These early hits catapulted Sun Studio and Memphis to the forefront of that musical revolution.

Throughout the 1950s, the unique sound, tremendous vision, and incredible talent coming out of Memphis, TN, with such artists as Elvis Presley, the "King of Rock 'n' Roll," B. B. King, Johnny Cash, Jerry Lee Lewis, and Carl Perkins, just to name a few, became the hallmark of that Sun Studio and later the hallmark of American rock 'n' roll music.

Indeed, some of the most meaningful contributions to American music were made at that Sun Studio. It is where our country, in many ways, came together and spoke with a new, a uniquely American voice that was and still is heard around the world.

The fact that rock 'n' roll was born in Memphis is no coincidence. That city's location on the banks of the Mississippi River made it a place where the diverse cultures and musical styles of our Nation came together, where they converged, blending the blues with country and with gospel and with jazz. That merging of cultures and styles continues today.

The year 2004 provides the opportunity for our Nation to celebrate the birth of rock 'n' roll and those many streams of music that converged in Memphis to create a truly American sound known throughout the world.

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## PRESIDENT'S ADDRESS TO CONGRESS

Mr. FRIST. Mr. President, at this juncture, on this second day of the new session of the 108th Congress, I will spend a few moments reviewing a bit but also looking ahead, setting the stage for what we are likely to expect in this body.

Last night, the President of the United States delivered a powerful challenge to the U.S. Congress and to the American people. He told us the state of the Union is strong and confident. The substance of the talk last night reflected just that.

There is much to celebrate as we enter this second session of the 108th Congress. Perhaps most important is the capture of Saddam Hussein. It was only 1 month ago that the world woke up to those astonishing images—the President described it last night—of Saddam Hussein in a hole and now in a cell. They were images of that dirty and dishevelled dictator emerging out of that spider hole.

Our brave and resourceful soldiers caught the "butcher of Baghdad." As the President said last night, Saddam Hussein now is in a cell, a military prison, awaiting his fate. He will be brought to justice by the Iraqi people whom he so mercilessly terrorized, and he will be judged as the entire world looks on.

Today, because of the war on terror, the capture of Saddam, the death of his two sons, and the destruction of his wicked regime, America and her allies are safer and more secure. As we enter the new year, we are also stronger. America's vibrant economy is beginning once again to hum. The Federal Reserve confirms that the recovery we began to observe last fall is gaining momentum each and every day. Worker production is up. Industrial production is up. Exports are on the rise. Home construction is booming. More Americans than ever own their own homes. Their total household wealth is approaching historic highs. Businesses are investing. Manufacturing is at its highest level in 20 years. In short, those tax cuts, those jobs and growth packages are working.

The first round of tax cuts indeed helped end that recession that began in the year 2000. The second round of tax cuts put America on a path to solid growth. Americans today have more money to save, invest, and spend as they, as individuals, choose. Business owners have more opportunities today to realize their entrepreneurial spirit and potential. America is moving forward because President George Bush and the Republican-led Congress believed in that creativity, in that ingenuity, in that common sense of individuals, the American people. The risk-taking, willingness to invest, irrepressible optimism of the American people is in truth what has turned this economy around from recession to where today we are in the midst of the fastest growing economy in not just the last 5 years, 10 years, or 15 years but the fastest growing economy in this country in the last 20 years, since 1984.

As the President pointed out last night, now is not the time to rest. We cannot really rest until that economic recovery is complete. Every American who is looking for work should be able to get a job and should be able to get that work. Thus, we have to have smart pro growth fiscal policy to lead this country to job creation.

Looking to the future—and our obligation is to look to the future—there are critical structural problems that we in this body need to take head on, not to shy away from but to go right after, to tackle head on.

The one area that is critical to job growth—the President mentioned it last night—is tort reform. Over the last decade, class action lawsuits have exploded. State court class action filings have skyrocketed by over 1,300 percent in just the last 10 years. It is really not just the statistic, not just the figure.

but it is the result. The result of this glut of claims is to clog our court system, our State courts. They simply cannot handle them all. It is inefficient in terms of government. It wastes taxpayer dollars. It stifles the innovation to which I just referred. That innovation and that entrepreneurship that is so crucial to taking a growing economy and translating it into job growth is stifled, is shackled, is handcuffed by this glut of claims.

Last night the President also mentioned medical liability, another aspect of tort reform. The President said "frivolous lawsuits," and it was wonderful for me to see the Members of Congress stand up, but now we need to act. We cannot just talk about it; we need to act. Those frivolous lawsuits are exploding health insurance premiums. So when we are talking about the 44 million people uninsured, and we are talking about the cost of insurance and frivolous lawsuits are driving those premiums sky high out of the reach of hard-working men and women, we must respond. We must address it directly.

I encourage my colleagues to talk to their own doctors and ask them what the impact of this exploding malpractice, medical liability is doing to their own practice, how it affects the quality of care. I was just in a town meeting 3 days ago with physicians. I just come straight in. Being a physician I can sort of cut through a lot of the conversation. I said: What is the biggest problem today in terms of the quality of care that you give that patient coming into the room?

It was pretty amazing. That group of physicians, without any hesitation, just one after another, said medical liability, medical malpractice premiums; I cannot afford it; it affects quality; it affects access; it affects the way I practice medicine in a negative way.

Being a doctor, I receive letters about this problem from doctors all over America. It is real. The problem is increasing, and thus we in this body must respond to it. It is driving doctors out of the practice of medicine. When babies are being delivered, in some States the tax on that baby is as much as $1,000 the mom or family has to pay, somebody has to pay, at the end of the day. That $1,000, being a tax, goes to medical liability service. It hurts access to care. It hurts the quality of care. It is threatening our health care system. It is costing the country billions of dollars.

As a physician, I am concerned about the care and the quality end of it, but even though the numbers are hard to calculate, if we just stand back and look in the aggregate, it is expensive. Well-researched reports predict that if we reform the medical liability system, make sure that there is equity, fairness, and appropriate compensation, if we have appropriate reform, we will save the economy anywhere from $70 to $126 billion a year. Just the Federal Government would save about $14.9 billion over 10 years through savings just in the Medicare and the Medicaid programs.

So when we are talking about what is the biggest issue in health care today, clearly this issue of the uninsured and the cost of health care must be put on the forefront.

Staying with this whole area of tort liability, I very much would like to address the issue of asbestos litigation. Right now things are out of control. A very good law has run amok over time and the intended consequences no longer are being accomplished, but they are unintended consequences which are hurting America.

The torrent of asbestos litigation has wreaked havoc on the victims of asbestos. Many of them develop either cancer or a type of cancer called mesothelioma. It has wreaked havoc on Americans' jobs. Companies are going bankrupt. About 20 companies have gone bankrupt from the cost of this out-of-control asbestos litigation system over the last 2 years. And it is wreaking havoc on the economy. The approximately 600,000 claims that have been filed already have cost $54 billion in settlements, judgments, and litigation costs.

The sad thing is that even with all of these billions of dollars that are being spent in the system, the current asbestos tort system has become nothing more than a litigation lottery. A few victims receive adequate compensation. But far more, far more today, the way the system is constructed, the way it has evolved, suffer long delays for unpredictable awards, for inequitable awards—if they receive anything at all. This is the victims, the people who have been hurt by asbestos.

It is a system where, if you look at it, there is only one real winner. It is not who was intended to win in the initial legislation or the laws or the regulations: that is, the victim or potential victim of exposure to asbestos. No, the only one real winner today is the plaintiffs' trial lawyers, the only certain winner. They are taking about half of every dollar that is awarded to victims. So you have a victim, you have a system with a lot of money going to it, but only 50 percent of it ends up going to the victim. The other 50 percent gets lost in the system. There can be a system where there is fair and adequate compensation both for the lawyers and especially for the victims.

While the attorneys collected their fees, the asbestos-related bankruptcies have already cost about 60,000 Americans their jobs. These job losses are unnecessary. If we act and update and modernize the asbestos tort system and bring everybody to the table, and do it in a bipartisan way, we can stop this unnecessary job loss—60,000 jobs to date. For those who lose their jobs, the average personal loss in wages over a career is as much as $50,000. That is in wages. That doesn't even include the losses in health benefits as well as in lost retirement.

Remember, when I say 20 companies in the last 2 years have gone bankrupt, these are big companies, big employers. About 60 companies have gone bankrupt over the last two decades because of the asbestos-related matters.

So passing this asbestos reform will create enormous economic benefits. It will benefit the victims themselves. The certainty that flows from the bill itself will also stimulate capital investment which will go to preserve existing jobs and create new jobs. Again, I mention a bipartisan spirit. We have to have everybody at the table. We began the work in the last session. I would like to finish it in this session in a bipartisan spirit to accomplish this reform.

In early February we will be turning to the highway system. It will be shortly—February 2, hopefully, somewhere, depending upon when we finish the appropriations bills, which I hope we will finish this week—that we can turn to America's highways. It is another jobs issue. It is also an infrastructure issue. It is a safety issue. It is an issue we will address in this body. It is estimated the highway bill, from a jobs perspective, will help create as many as 2 million much needed jobs, and it is easy to understand why.

We are blessed in many ways because this country is interlaced with 4 million miles of roads and highways. Our transportation infrastructure is estimated to be worth about $1.75 trillion. We are blessed in many ways.

It is interesting that every $1 billion we invest in transportation infrastructure turns around and generates, for every $1 billion investment, $2 billion in economic activity. That, of course, translates into jobs.

Our roads, our ports, our railroads are that infrastructure, that transportation infrastructure that is fundamental to our Nation's economic success. If things are so good, we are so blessed, why do we have to have a highway bill? Because if we look at that infrastructure, we see much of it is deteriorating or is becoming painfully crowded. Probably people listening to me now over their radios as I am talking are sitting in line in their cars. Commutes that used to take 10 minutes now take 20 minutes or that used to take 30 minutes now take an hour. Some people are probably sitting in bumper-to-bumper traffic as I speak, not during just rush hour but throughout the day.

From a safety standpoint—I have to put it on the table because it is another reason we have to address this highway bill early—we have more accidents.

There is less time to spend with families as you spend more time in the car. There will be about 23.6 billion hours spent by Americans in delays, it is estimated. Americans waste 5.7 billion gallons of fuel just sitting in traffic in these delays. We can't ask our fellow citizens to join the great American workforce and then simply sit idly by and allow our roads to decay as that daily commute stretches from a few minutes to 30 minutes to 60 minutes—indeed, to hours.

It is a jobs issue. It is a quality of life issue. It is a safety issue.

Last year we addressed similar types of issues. We addressed the issue of spam with legislation, the Do Not Call phone registry. We just hit the issue of spam head on. This year we need to upgrade our transportation system. We are losing billions of dollars in lost productivity and billions of hours stuck in traffic.

It is that image of being stuck in traffic that kind of moves me to a topic that is unfinished business, that we worked hard on but we were unsuccessful with in the last session. It is an issue that affects every single American, every one of my colleagues, every one of my colleagues' families, everybody listening to me, their families—and that is energy. Our Nation simply does not have a comprehensive energy policy that addresses the unfortunate dependence on foreign sources of oil and energy today, a dependence which is increasing. It used to be 30 percent, 40 percent, 50 percent. Now it is up to 60 percent dependence on oil from overseas—an energy plan.

A lot of this reminds me to at least comment on what happened last summer. Fifty million people suffered the biggest blackout in American history. It came at an instant from New York City to Cleveland to Detroit to Toronto; tens of thousands of citizens were trapped at that instant, trapped in elevators and subways, trapped in trains, and they were stranded on dark city streets. We saw just with a sort of snap of the fingers in that instant the potentially fatal consequences of operating on a grid, upon which we are all so dependent, that is outmoded, that is outdated, that can crash at any time.

The Senate must respond. Our Congress must respond. It is our responsibility to respond, to act—not just talk, not just try, but to respond and pass legislation that addresses in a comprehensive way energy supply and conservation and renewable resources and the uses of more efficient types of energy.

We have to address what people are beginning to feel in the last several weeks, especially with the cold wave and the cold streak that has hit New England in historic proportions, and that is the cost of energy and the cost of oil and natural gas. U.S. chemical companies are closing plants. They are laying off workers. They are looking to expand production abroad. All because of what? The cost of high energy prices. We will import approximately $9 billion more in chemicals than we exported this year. American consumers are getting hit with higher and higher energy prices.

Small businesses are struggling just to contain these rising energy costs. It is our responsibility, this body, the Senate, to act. We acted in the last Congress. We came two votes short. Now it is incumbent upon us to go back and address that challenge before us.

I should add, not only will the energy plan lower prices, it, too, will have a real impact on jobs and on the economy—on thousands of jobs. It is estimated that the energy package will create about a half a million jobs. The Alaskan pipeline alone will create at least 400,000 jobs.

Hundreds of millions of dollars will be invested in research and development and new technology. All of this will create jobs. Engineering will create jobs in math, chemistry, physics, and science. Reforming the litigation system, upgrading our highways, and passing a comprehensive energy plan will lead to more jobs and higher economic growth.

We also must think beyond our borders in relation to what happens within this country, what happens within other countries, and address the energy issue of trade—specifically trade with Central America and Australia. Free trade is essential to the creation of jobs and to growing the economy.

Two weeks ago, I had the opportunity to spend 2 days in Mexico City where I met with representatives from the senate there. I had the opportunity to look back over the last 10 years of NAFTA. Indeed, under those 10 years of much freer trade with Mexico, the value of two-way trade between the United States and Mexico tripled. It went up three times—from $81 billion to over $230 billion. While I was there, I was talking to my legislative counterparts in the senate. And I was talking to President Fox. It was apparent to me that free trade does much for growth and economic opportunity.

But it also does much more than that. They described to me how elections there have become much freer and much more open at the state level and at the national level. We also need to make sure those trade agreements that we are part of are fair and equitable—that they strengthen the rules of international trade, and we will work hard in this body to achieve that right mix of benefits and obligations.

In addition to these types of structural reforms, we will continue to pursue strong fiscal policy and deficit reduction.

Again, the President mentioned last night the importance of this fiscal responsibility. In about 2 weeks, the President of the United States will deliver a budget to this body. We will work with that budget to accomplish that fiscal discipline. The President last night laid out a plan to cut the deficit in half over the next 5 years.

Now that the economy is beginning to hum once again, thanks to the tax relief package and the jobs and growth package of the President from 2001 and 2003, we must turn our attention to reducing the deficit. The deficit depends in part on revenues and in part on how much we spend. To grow those revenues, we have to focus like a laser, which the President has done and which we in this body have done growing the economy. Now is the time to focus on that spending.

We are also committed to promoting fairness in the Tax Code. Last summer we passed a tax bill to provide additional tax relief for families with children. We created a uniform definition of a child. Instead of five confusing and conflicting categories in terms of defining a child, the Tax Code was simplified to make it easier for folks to fill out the forms and get the tax relief to which they are entitled.

Tax simplification: We will not solve all of it this year, but I pledge this body—working with the appropriate committees—to work along the line for tax simplification. We will continue to pursue reforms that make the Tax Code clearer, more understandable, and less burdensome for America's tax filers. We will address the issue of Internet tax, for example. We will work hard to pass manufacturing tax incentives.

Each of these will reduce the burden that the Government imposes on American workers and on American businesses. They, too, are critical to adding jobs to the economy. Reducing taxes on manufacturing profits especially will increase the competitiveness of American businesses by creating a fairer and a more sound system of taxing income. We will work hard this year to lower manufacturing taxes and streamline the Tax Code; all of that as we focus on taxes because taxes ultimately is not about dollars but about people—people who go to work every day, who start businesses, who hire new workers, who contribute to their communities, who raise their families, and who expand the economy.

Tax relief and tax reform grow the range of opportunities for people to make the very best choices for themselves and for their families, whether that is to spend their hard-earned dollars on a dishwasher or whether it might be to take the family on a vacation.

For some families, however, the choices are stark. They are not thinking about even a new dishwasher. They are not thinking about a vacation. They struggle just to pay the bills. Often health insurance for their loved ones is a necessity they do without.

The President last night mentioned the importance of addressing the cost of health care today. Forty-four million people are uninsured in this country. It varies between 40 million and 44 million. Whatever the figure is, it is too high. The primary cause is the cost of health insurance. It is one of the most daunting policy challenges facing our Nation.

As a physician, it is clear to me that if somebody does not have health insurance they simply don't get good care or high-quality care. They do not tend to get things that are important in preventing diseases such as preventive services. The uninsured are four times less likely to receive needed medical and health treatment. The uninsured are five times less likely to obtain prescription drugs. The uninsured are four times more likely to enter the health care system through the emergency room.

The lack of affordable health care coverage is also one of the key factors accounting for the health care disparities among minorities—addressing specifically access to quality care.

As we heard last night, the President offered specific proposals. He didn't just say we need to address the problem by saying we are going to take care of everybody no matter what it costs and sort of stick one's head in the sand about the issue or overpromise. The President offered very specific proposals which we in this body should consider.

Refundable tax credits for low- and middle-income Americans are important. It means that people who are on the margin and can't afford health care insurance all of a sudden have a pool of resources to be able to buy that insurance.

He proposed to expand the number of community health centers and to increase access to this new entity of health savings accounts where you, in essence, own your health savings account. You are able to put in money tax free and take it out tax free. You control that health care dollar.

He introduced the concept last night of making the premiums deductible, to encourage and to make it more affordable to have these health savings accounts.

We have to control costs through, as I mentioned earlier, addressing head on the frivolous and unnecessary medical lawsuits.

The President mentioned promoting association health plans—again, a specific proposal. It will be debated on the floor of the Senate.

But the point is the President says we need to reduce the cost of the health insurance policies. He feels very strongly that one of the answers would be lowering the cost by allowing association health plans to enter the market and to compete.

In this body, I have asked Senator JUDD GREGG to lead a Senate Republican task force to explore ways in which this body can respond to the uninsured—this daunting challenge which is before us.

America is a strong nation. America is a compassionate nation. We are committed to protecting the most vulnerable before us. The President last night mentioned immigration policy. The reception to his immigration policy statements from a few weeks ago has been very mixed. We know that. A lot of people are getting phone calls from constituents. But the point is the President says this is a problem, and the reality is we have 8 million people or 9 million people in this country who are in the shadows. We don't know who they are or where they are or what they are doing. Our immigration policy is outdated. It must be addressed.

Indeed, in this body we must address immigration policy. I have asked my chairmen of the appropriate committees to come together and see what the appropriate response is in discussing, pulling together and addressing what the immigration policy might be and to report back.

It was feared that the President's plan was either amnesty or welfare. But the President was very direct last night. This year we will work to find ways to improve the system.

In 2004, we will also work to build on the success of the No Child Left Behind Act and the education bill. We are committed to improving Head Start and making sure that every child in America learns.

We will also address the Individuals with Disabilities Education Act in this session, and to get education out of the courtroom and into the classroom focusing on the individual—to focus on individuals themselves who have disabilities and to make sure they have that opportunity to learn. We will examine how we can expand access to higher education. The President last night mentioned the support for community colleges. If you are a minority or your family is poor, you are less likely to attend college. We must examine how to close this gap so that college is within reach for all children, regardless of race, regardless of income. We will work hard in this body this year to make sure, from Head Start all the way up through college, every child in America has that opportunity to learn and to achieve.

Our commitment to opportunity also brings me to mention welfare recipients as they work to gain independence and self-reliance. Since the enactment of the historic 1996 welfare law, 5.4 million fewer people live in poverty than when the law was passed. Caseloads have declined by more than half. Families once trapped in the clutches of government dependency are now on those first rungs of the economic ladder.

It is by no means an easy climb, but these hard-working Americans are succeeding for themselves, they are succeeding for their families. Today, 2.8 million fewer children live in poverty. Among African-American children, poverty has dropped to its lowest level ever.

Welfare reform is working. It is working because it is based on the belief that everyone can succeed if given the chance. This year, in this body, we will work to extend the promise of welfare reform which is at its heart the promise of the American dream.

As we move America forward on the domestic front, we must also continue to meet international challenges to the safety and security of the American people. There are many but none more important than the war on terror. The fight against terror will be a long and difficult struggle, unlike any struggle this Nation has known before. Let there be no mistake about it; we are at war, but we will prevail. Already we have made tremendous progress. After years of indifference to the threat of terrorism, the U.S. Government has, under the leadership of President Bush, made enormous strides in taking the fight to the terrorists. In just 2 years, America has toppled two terrorist-sponsoring regimes. In just 2 years, America has liberated millions of people. In just 2 years, America has brought avowed adversaries to the table of peace. Our bold, tough, unwavering leadership has yielded spectacular results. As the President said last night in the State of the Union Message, "No one can doubt the word of America."

Previously recalcitrant rulers are beginning to coöperate in the war on terror. After seeing our troops roll into Baghdad, the Libyan dictator, Muammar Qadhafi, called the Italian Prime Minister and said: I will do whatever the Americans want because I saw what happened in Iraq and I am afraid. Libya will now dismantle its nuclear weapons programs and join the Chemical Weapons Convention.

With the military defeat of the Taliban regime in Afghanistan and Saddam's regime in Iraq, American diplomacy has been further strengthened toward ending the nuclear ambitions of North Korea and Iran. North Korea and Iran now feel the combined pressure of the international community to abandon their nuclear ambitions. I am confident in time they will.

Finally, change wrought by war has given old adversaries an opportunity to lay aside their grievances and begin the work of peace. India and Pakistan have agreed to peace talks. Syria has established diplomatic relations with Turkey. In each case, the opportunity to pursue a new course of peace between these historic antagonists is a direct result of the United States determination to oppose international terrorists and the regimes that sponsor them.

This is not to say the war against terrorism has been won. We are far from that. Yasser Arafat continues to cling to the tools of terror, frustrating the latest efforts for peace in the Middle East. In Colombia, a courageous new government fights a stubborn terrorist movement. But with clear-eyed determination we can find solutions to these conflicts as well.

Victory in the war against terrorism is inevitable because of the leadership of our President, because of the perseverance of our people and, most of all, because of the courage and sacrifice of our men and women in uniform. Every day they serve the Nation, our service men and women give this Nation their very best. They are not the first, but they are the latest generation to take up and bear arms, to travel from home and loved ones and risk all so we may live in safety, so we may live in peace. They deserve our deep gratitude.

I take one final moment to pay a special thanks to the 101st Airborne which is based in my home State of Tennessee and also in the adjoining State of Kentucky. Under the leadership of MG David Petraeus, a friend, the 101st is doing extraordinary work. You may remember it was the 101st that found and dispatched Uday and Qusay Hussein in Mosul. Since then, the 101st has moved more quickly than any other American unit in training guards and policemen for the new Iraqi civil defense guard.

They have also shown that the Iraqi people have tremendous generosity in their relationships with the United States. They have demonstrated the generosity through their action, through the action of the 101st Airborne, the generosity, the heart displayed by our service men and women in helping Iraq rebuild its infrastructure, rebuild its civic institutions and, even more fundamentally, the pride and hope of the people in Iraq, that pride and hope in the future. Together with the support of the Congress and the American people, the 101st is helping plant the seed of democracy in the heart of the Middle East.

There is yet much to be done, but it must be said that none of these developments was even imaginable 3 years ago. Because of the extraordinary leadership of President Bush and the courage of our men and women in uniform, America is safer. Millions of people around the world are for the first time free.

Strengthening our homeland security, prosecuting this war on terror, addressing domestic issues such as education and health care and tort reform are just a few of the issues we will address this year. The President's judicial nominees will get the up-or-down vote they deserve. We will not allow a small minority of Senators to thwart our constitutional duty to advise and consent.

Look for action to protect unborn victims of violence, child custody protection, gun liability, bankruptcy, and many other legislative efforts.

We have laid out an ambitious agenda, one worthy of a great nation, one that will require strong, bipartisan work. We will be aggressive. We will fulfill our duty to serve the American people and make our Nation strong.

Some cynics say in a narrowly divided Congress, especially during an election year, that we are doomed to gridlock, that we can accomplish little. I strongly disagree. I believe everyone in this Chamber will do what is right and what is best for the American people and that is to move America forward.

There is much to be done and there is no time to waste. I thank my fellow Senators for their dedication. I look forward to another extraordinary year in the Senate.

I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the leadership time is reserved.

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

> A conference report to accompany H.R. 2673, making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies for the fiscal year ending September 30th, 2004, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 6 p.m. will be equally divided between the chairman and ranking member of the appropriations committee or their designees for debate only.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to consume as much time as I will.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I listened to my colleague, Senator FRIST, who is the majority leader. I have great respect for him. His call for bipartisanship is certainly welcome. I say to him and to others that those of us who serve in the Senate come here wanting to do good things for our country. We have a passion for good public policy that will advance America's interests.

But I must say, in the past year or so the evidence of bipartisanship is hard to find with respect to the way the White House and the majority in this Senate have dealt with the minority. We would welcome true bipartisanship.

I must also point out, while I think there are areas where we have made progress in this country, there are some very significant issues with which we must deal.

We have the largest budget deficit in history, and, no, it is not because of a war, it is not because of a recession. We had testimony at a hearing yesterday that said the largest part of this deficit is as a result of recurring tax cuts, very large tax cuts, the bulk of which went to the largest income earners in this country. If you earn $1 million a year, good for you; you are very fortunate. You, also, under this administration's tax plan, get nearly $100,000 in a tax cut each year as well.

We have a very large and growing Federal budget deficit, the largest in history. The President proposes increased defense spending, increased homeland security spending, and then decreased revenue. I went to a really small school, but mathematics is still the same. One and one equals two. That fiscal policy equals very large budget deficits.

We have a responsibility—all of us, Republicans and Democrats—to our children to put this fiscal policy back on track. This President inherited a large and growing budget surplus. We now have the largest budget deficit in history, and we must fix it.

We have the largest trade deficit in history, and we have to fix that. This administration is negotiating new trade agreements that, incidentally, will once again ship more American jobs overseas. It makes no sense to me for us to do that. We do have a global economy, but we ought not set American workers and American businesses up for competition against those around the world who will work 12-year-olds 12 hours a day for 12 cents an hour and then ship their products to the store shelves in America. That is not fair competition for American workers and American business. That is only about larger profits for multinationals. We need a better trade policy and to reduce those trade deficits as well.

We have many problems, significant problems, we have to address. I welcome bipartisanship. I hope Republicans and Democrats, who seek the same goal, who have the same interests and urges to improve this country, can work together.

But I want to talk a little about this Omnibus appropriations bill and describe why some of us are concerned about the lack of bipartisanship at the end of the last session and about the partisanship, especially that was exhibited. I want to talk about things that were put in this Omnibus appropriations bill, or things that were taken out, and how that was done, and why that was done, and why we think it is bad public policy.

First, let me talk about country-of-origin labeling. That is just a slogan. Not many people, perhaps, know what that is about. Let me describe it.

Upton Sinclair in 1906 wrote a book called "The Jungle." He was describing what happened in America's meatpacking plants. They had a rat problem, and so what they did to control the rats was they would take loaves of bread and lace them with poison and lay them around these meat plants so the rats would eat the poison. The rats would die and they would put the bread and the rats down the same hole, and out the back of those packing plants came sausage sent to the American consumer.

Well, Upton Sinclair wrote about that, exposed it in a book called "The Jungle." That led to tough new laws, inspections, saying you cannot do that. This is about the health and safety of the American people and the health and safety of America's food supply.

Country-of-origin labeling is about labeling food in this country. The necktie I am wearing has a label on it. I looked at it this morning. All neckties have labels. Why? Because they are required to have labels. I know where this necktie was made. In fact, I know where the shoes I am wearing were made.

But not everything is labeled. And especially in the advent of a case of mad cow disease, discovered in the State of Washington, with a cow that came into this country from Canada, or the case of the people who died from hepatitis in this country, and the hundreds who remain ill by hepatitis as a result of spring onions that came into this country from Mexico, the American consumers ought to have the right to have their food labeled.

Mr. President, I ask unanimous consent to show a piece of meat on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This happens to be a steak. I would ask if there is anyone who could tell me where this particular steak came from? The answer is no. It is not labeled. Did it come from Canada? You do not know. Did it come from Mexico? You will not know. Guatemala? No. This meat is not labeled.

Let me read something about a packing plant in Mexico for the interest of the consumers in this country. In May of 1999, one inspector paid a surprise visit to a meatpacking plant in Mexico. This is what he said he found: "Shanks and briskets were contaminated with feces . . . diseased-condemned carcass was observed ready for boning and distribution in commerce." But then the Mexican officials went to work to restore that plant's ability to sell meat into America. The Mexican plant regained its export license. It switched owners. It changed its name. It sells meat into America. And USDA has never returned. It has never again been inspected.

Do you want to know whether this meat came from that plant? I do. The American consumer ought to know.

This Omnibus appropriations bill contains something that is pernicious on this issue. We passed a law that is the law of the land that requires food labeling, meat labeling, and the Department of Agriculture will not implement it. This appropriations bill, with no debate and no discussion in the Congress, put a provision in this appropriations bill that says we shall delay, by 2 years, the implementation of this act. Why? Because they want to kill it. Why? Because the big packing plants got to them, and they don't like this.

The USDA says it is hard to implement. Nonsense. We can drive a vehicle on the surface of Mars and we cannot put labels on meat? Total nonsense. This is about big interests versus others. It is about consumers and farmers and ranchers being together in whose interest it is that we label meat and food.

On the other side are the big grocery manufacturers, the big packing houses that have fought this tooth and nail, and this administration and the majority in this Congress who listen to only one voice; and that is the biggest interests—the bigger interests. They are the winners. They are always the winners in this fight.

So the country-of-origin labeling provision in this bill is wrong. It was never debated. It was never agreed to. It ought to come out. Those who went into a room and wrote these provisions and stuck them into this appropriations bill ought to go back into the same room and fix it. We do not know which room it is. We do not know who they are because this was a partisan exercise. They did not invite Democrats. It was a partisan exercise. What they did is they served big business interests by sticking this sort of nonsense in the bill. That is country-of-origin labeling.

Let me describe something else. How about overtime? This is not about meat. I will put the meat away. I thank the Presiding Officer for allowing me to show a piece of steak on the floor of the Senate. There is not one Member of the Senate who would know where that meat came from because it is not labeled. It might have come from a plant in Mexico. It might have come from Guatemala. You do not know. I do not know. We do not know, but we ought to know. That is what the majority wants to prevent us and all consumers from knowing; and that is why they are wrong.

Let me talk about overtime. Let me talk about workers in this country. Do you know, for 65 years we have had a kind of pact in this country, a rule and a law that says if you want to work somebody overtime, you have a responsibility to pay them overtime pay? It is called the 40-hour workweek. We say, if you want to tell your employees you are going to work overtime, 10 hours of overtime every week, yours is a 50-hour week, you have a responsibility to pay them overtime pay.

The Department of Labor is now preparing to decide that they are going to change the overtime rules. Why? To make it easier for business to work people overtime without having to pay them. People whose judgments I respect say that up to 8 million Americans would be required to work overtime with no pay under this provision.

So we in the Senate and in the House, on a bipartisan basis, put a provision in this appropriations bill that says you cannot do that, Department of Labor; you cannot do that to the American worker. Guess what. In that same closed room, they took that provision out. It was bipartisan, voted on in both the House and Senate, but big business didn't like it, so it is gone. It is just gone.

The American workers deserve better than that. Do we really want to say to 8 million workers out there that we don't care about their families, about their income needs? We just care that after 65 years we want to change the overtime requirements so if their employer wants to work them overtime, they can. They don't have to hire more people. Why would they have to do that? They could just work people 50 hours a week because it doesn't cost any more. They can work them 50 hours a week with no overtime pay, or they can get rid of their job and hire somebody else.

For 65 years, we have had this overtime rule. These folks want to change it and hurt up to 8 million American workers.

That is in this Omnibus bill—the exclusion of the provision that Republicans and Democrats in the House and Senate put in. It was wrong to do that. They ought to put that exclusion in so we can block these rules and stand on the side of the American worker.

Let me talk about one more: Broadcast ownership. I will tell you why I am talking about these. It may be that those who do this have ear plugs; maybe they hear nothing. I don't know. I have told often of my hometown of 400 people, a tiny town in the southwest ranching country of North Dakota. I used to go down to see a blacksmith, John Krebs. I was fascinated to watch him work. He wore these big gloves and he had this forge. He would pump that thing and get a fire going, and then I would watch him put a piece of steel in this fire. The steel would heat up until it was almost white hot, and they would take it out with a big tool and go over to an anvil and start to pound on it and bend it.

You can bend it when you put heat on steel.

That is a lot like politics. When you apply heat, that is when things bend in politics. That is what this is about, trying to apply heat to those who went into a room and said we are going to get rid of meat labeling, or we are going to let the Labor Department tell 8 million people they have to work without overtime pay for more than 40 hours a week, or broadcast ownership, which is interesting for me.

Broadcast ownership. Who owns America's radio and television stations? That is a big issue. We voted on that issue in the Senate and in the House of Representatives. The judgment and decision we made was taken out of this conference after the conference made the decision and closed the title by unanimous consent. I was a conferee; that is how I know. The conference report on this Omnibus bill dealt with what both the House and Senate had decided, and that is that we will restrict to 35 percent national ownership, the ownership of television stations. And that was standing up to the big interests, taking on the big broadcast interests. We did it, Republicans and Democrats together. We passed legislation in both the House and the Senate, with Republican and Democratic support.

When we finished, we went to conference. Sitting in the conference, when we came to that title, I asked the chairman of the conference: Let me understand what you now intend to put in this conference report because they were about to close the title. I said: On the broadcast ownership issue, will this conference report include the 35-percent restriction that passed the House and Senate on a bipartisan basis? The answer was that, yes, it includes the position of the House and Senate, the 35 percent. I said that I will then have no objection to closing this title. Bang, the gavel came down, the title was closed, and the conference resolved that issue. It was done.

Mr. President, that is not what is in this bill. That is not what came from the conference. I was driving down the road in my car about a week later and I heard on the radio that the Senate was negotiating with the President on a different number. That is what is in this bill. Apparently, conferences don't matter. The gavel doesn't matter. The chairman closing a title doesn't matter. None of it mattered. None of it was on the level. What is in this conference report expands the ownership capability of broadcast ownership in television and radio—television with respect to this issue—in a way it abridges the decision made first by the House, then by the Senate, then by the conference.

I would like just one person to explain to me that process, or the rules that allow that process to bring that to the floor of the Senate. What is this about? It is about whether you are going to stand up in this country for broad-based economic ownership, or whether you believe in the area of broadcast properties—those who determine what we see and what we hear and read, which increasingly are just a few people in this country—whether you believe they ought to be bigger and bigger and bigger. One company now owns over 1,200 radio stations in this country. I could bring out charts about all the broadcast properties in television and radio. You would see there is this orgy of mergers and acquisitions and a dramatic and damaging concentration.

That is what this fight was about in the Senate and House. In fact, the Senate passed a resolution of disapproval that I, along with Senator LOTT and others, on a bipartisan basis, passed in the Senate—a resolution that disapproved the entire Federal communications rule dealing with expanding the ownership capabilities of the big groups for radio and television and allowing cross ownership of newspapers and broadcast media. We passed that resolution of disapproval in the Senate that would disapprove the entire rule. That is now pending in the House of Representatives at the desk. It is only about 10 signatures short of passing there. They have, I think, 208 signatures.

You know what. Somewhere in a closed room, with just a few folks deciding, they abridged the decision by the House, the decision by the Senate, and explicit decision by the conference committee of which I was a member, with respect to broadcast ownership in television. I think that is a horrible policy choice, aside from the fact that, in my judgment, it casts aside all the rules as to how we do business.

It is fundamentally wrong for this Congress to weigh in and say, by the way, the sky is the limit; own everything you want. Let's have one company owning 3,000 radio stations. Let's have two companies owning all the TV stations. You know that the FCC rule says that in one big American city it will be just fine if you own three television stations, eight radio stations, the cable company, and the major newspaper. That is fine.

It is not fine with me. It is not the way things ought to be in this country. Yet it doesn't matter how we vote in the Congress. What matters is what a few people stick in an omnibus report that comes to us, which contains provisions that were not debated and not supported by either the House or the Senate. Why? I will tell you why. On virtually all of these issues, the White House says if you mess around with what we don't like, we will veto this.

We have compliant folks who bow and say if you say "veto," let us take it out. By all means, let us satisfy the White House, forgetting, I guess, that there are separate branches in the Government. We are not the White House.

The President has not vetoed a thing since he has been President. If he wants to, that is fine. Does he want to make his first veto the country-of-origin labeling, or the issue of overtime? Does he want to make his first veto broadcast ownership limits? Maybe he wants to explain that to the American people, when the question is whose side are you on? The answer from the White House must always be that they are on the side of the big interests. Maybe he should explain that. But we will never, apparently, confront those issues of the veto threats because in every circumstance in this Omnibus, things were put in, or things were left out that thwart the will of the U.S. Congress.

What happened here is arrogant, just plain arrogant. So if you wonder why we are upset, I have explained three of them: overtime, country-of-origin labeling for food, and broadcast ownership. There are six or eight. I could go through more, but I will not. This is wrong, what happened to this conference report, flat wrong.

The majority leader is a good man. I am proud to serve with him. When he says to us let's have some bipartisanship, I say to him absolutely. But what they did on a partisan basis is arrogant.

There are provisions in this conference report that shouldn't be here, and provisions that should be here that were taken out. It was arrogant. They know it. This is not something we are going to allow to happen again. This place cannot and will not function this way.

I want this to be a bipartisan institution as well. While we might disagree from time to time, and we have people of good character having a raucous debate, that is just fine. This country will get, in my judgment, the benefit of what all of us have to offer if we have a good debate. I think Republicans have something significant to offer our country, as do Democrats.

There are times when we have aggressive debate about issues, and we pick the best of a competition of ideas. There are other times when we work together where we are near unanimous agreement. But this is not the way to work. This mistreats the minority. We are a significant minority at this point, just a vote short of a 50/50 Senate.

What happened here will not be allowed to happen again. I say that to the White House and to the majority. We insist on some semblance of bipartisanship.

Let me make one final point. Not only on this but on other issues, the majority decided not to have conferences. They would have what is called "a virtual conference," in which they would conference with themselves and exclude Democrats. That will not happen again in this Congress either. We will not appoint conferees unless there is a commitment from the chairman of the committee that the conference will meet with both members of the conference, Republican and Democratic caucuses.

Even more than that, we will not allow again something like this to happen: seven appropriations bills put in one omnibus and then in the middle, a little folder is stuck in that abridges the rights of the majority and minority with respect to specific votes in the Congress. It is not the right way to do business.

I accept the majority leader's call for bipartisanship. As far as I am concerned, sign me up on things on which we can work together. I want to do that. People of good will should do that for the good of this country. But we cannot call for bipartisanship unless we renounce the tactics that created this conference report with respect to overtime, country-of-origin labeling, broadcast ownership, and other issues. Those people have a voice in this Chamber as well—people who work hard, people who are consumers. They have a right to be heard in this Congress, and they were not with respect to those provisions in this Omnibus bill.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a concurrent resolution which I shall send to the desk correcting the enrollment of the omnibus conference report restoring the media ownership language to that which the conferees had originally agreed to; that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

Mr. BOND. On behalf of the Republican leadership, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DORGAN. Mr. President, my colleague from Missouri and my colleague from Rhode Island are waiting. I thank them for their indulgence. I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that after I finish my remarks, the Senator from Rhode Island be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I have come to speak about the Omnibus appropriations bill. I say to my good friend from North Dakota, sometimes it is frustrating. We spent 8 years with an administration of his party, and there were many times we had to change appropriations bills. We had a very frequent presence from the Office of Management and Budget, and in order to get bills signed, we had to accede to Presidential requests.

In this bill, obviously, there are some very important provisions. When we are talking about country-of-origin labeling, the concern that comes to many of us in livestock-producing States, cattle producers and hog producers, if you are a small independent operator and you don't have a totally integrated operation, you have a very difficult time getting a total life history of every animal you might want to feed out and sell.

The ability of a large integrated operation which goes from cow calf to feeding, finishing and slaughtering, they are in a great position to live with the country-of-origin labeling. There are some real problems, which is why we asked for a delay in the implementation of the country-of-origin labeling. There had been a new proposal for an animal identification system which would make that prospect possible. In the absence of that, many of the individual small cattle ranchers and hog producers in my State think it would be impossible for them to sell their animals.

There are some conflicting needs. Those had to be resolved and, like any measure, an Omnibus appropriations bill has provisions in it that some people don't like. Certainly, in almost every appropriations bill on which I work, there are provisions I don't like. But we have to get it passed by both Houses. We have to get it signed by the President.

I am here today to urge that, No. 1, we move quickly to adopt the Omnibus appropriations bill and that we get on and work on a bipartisan basis without delays, without having to invoke cloture to pass appropriations bills for the coming year.

With respect to the Omnibus appropriations bill, I wish to call the attention of my colleagues to some very important provisions. There are problems that are happening every day because we were not able to pass the Omnibus appropriations bill in December. We worked on a bipartisan basis. The distinguished ranking member of the VA-HUD Subcommittee, Senator MIKULSKI of Maryland, and I put together what is a very difficult bill, but we think it is a very important bill. Probably the most significant part of it is for medical care.

The Omnibus appropriations bill provides $28.3 billion in funds, including third-party insurance collections. This amount is $3.1 billion over the fiscal year 2003 enacted level and represents a 12.3 percent increase over the previous year's enacted level, the one that will have to stay in effect if we continue to work under a continuing resolution.

At this point, our problem is we either pass this bill or go back to a continuing resolution. The figure of $3.1 billion less for the current year means great hardship, great delay for our VA health care, among other things.

Make no mistake, these funds are urgently and desperately needed by veterans, especially for those who return from Iraq and the global war on terrorism.

If my colleagues visit, as I have, VA facilities, the Washington VA, and the VA facilities in my home State, anyplace they go they will find there is a tremendous delay in the ability to care for and take on veterans who qualify under the greatly expanded eligibility scope the Congress has mandated on VA. There is a great delay in taking care of many of these people.

According to a VA analysis, there are 15,813 service members who served in Operation Iraqi Freedom who have been separated from military duty as of September 22 of last year. Among these service members, almost 2,000, or 12.5 percent, have sought VA health care during 2003.

Every day we hear unfortunate and sad news of American soldiers killed in Iraq. As illustrated by the VA analysis and scores of news reports, there are thousands of service members who were fortunate to live but were wounded in combat. As reported last October 1 by USA Today:

> At least seven times as many men and women have been wounded in battle as those killed in battle.

As these wounded service members are discharged from the military and confront new and challenging hardships in piecing together a new life, most of them will depend upon the VA to meet their needs. I personally met some of these service members when I visited Walter Reed Hospital last month. I visited the VA facilities. I visited service members, such as Phillip Ramsey from Kansas City, MO, who was badly wounded in Iraq and will ultimately require extensive, long-term care from the VA system as well.

Further, we know that the demand for VA medical care is not going to lessen. We have already seen the VA medical care system being overwhelmed by the staggering increase in demand for its medical services.

Since 1996, VA has seen a 54-percent increase, or 2 million patients more, in total users of the medical care system. Further, the VA projects that its enrollments will grow by another 2 million patients from a current level of 7 million to 9 million patients in 2009. Getting the funds that we have approved in the Senate, approved in the conference committee, approved on the floor, and signed by the President is absolutely essential.

In addition, construction projects for new medical facilities and improvements to existing facilities will not go forward without this Omnibus bill passing. Under a year-long continuing resolution, the VA would not be able to begin funding construction for new facilities in Las Vegas and Orlando. Further, funding for the development of 48 high-priority, new, community-based outpatient clinics, and a number of new nursing homes will be curtailed.

In the years I have worked with the VA in my current position, providing community-based outpatient clinics is the most effective, humane, and efficient way of delivering service to VA-qualified veterans who would otherwise have to travel perhaps as much as hundreds of miles to get primary and routine care.

In another area, for 2003, pharmacy costs rose over 11 percent, and the VA is continuing to see increasing demands for prescriptions each month. The continued rising demand for prescriptions is stripping funds from other priority areas as VA continues to operate under last year's funding level. Furthermore, the VA provides a high priority to the highest quality of life long-term care for each of its elderly veterans. The VA planned to expand its program by over 20 percent this year, but the VA will not be able to expand its long-term care services under a continuing resolution funding authority. This, in my view, is not the way we should treat the men and women in uniform who have served America.

The VA has made significant strides in improving claims benefits processing, but the VA's efforts would again be curtailed under a continuing resolution. The VA is currently on track to reach their goal of no longer than 100 days to process these claims, down from 233 days, which it was previously. They are trying to get there by the end of 2004. However, with a continuing resolution level at the 2003 level, the current year, the Veterans Benefits Administration would have to cut 500 full-time employees. Such a reduction would be catastrophic to the timeliness of claims processing and the expeditious delivery of benefits such as pensions to the needy, education benefits, and home loans.

At a continuing resolution for 2003 funding level, the VA cemetery services would be critically impacted and would result in delays in awarding shrine commitment contracts, awarding grants for State veterans cemeteries, and a reduced level of staffing that would negatively impact cemetery maintenance.

America's veterans rely on the VA to provide the services they need and have earned. Now is not the time to reduce funding levels, and that is one reason I urge my colleagues to approve this Omnibus bill.

In HUD, Housing and Urban Development, under a continuing resolution, the Section 8 Voucher Program for the needy who get housing through a voucher provided by the Federal Government would be $2.1 billion short. That would result in tens of thousands of low-income families without rental subsidy assistance and potentially displace them. Certainly, that is not something we want to see done. That is another reason we have to pass the Omnibus bill.

For the Federal Housing Administration single family and multifamily insurance fund programs, the continuing resolution's limitations for the mutual mortgage insurance and general insurance/special risk insurance programs will be hit well before the end of the fiscal year. That would result in a suspension of new mortgage activities for a wide variety of home ownership and multifamily housing programs.

Moving on to NASA, our space program, under a year-long continuing resolution space science activities would be reduced by approximately $425 million from the amount included in the 2004 Omnibus appropriations conference report on the VA/HUD and independent agencies. Space science would be forced to accommodate the reduction by cutting missions that are currently in the pre-development phase, both technology and advanced concepts, which would likely result in delays to missions on origins, solar space exploration, and Sun-Earth connections.

ASA is also relying on the 2004 omnibus level for the space shuttle program in order to accommodate return to flight requirements. If forced to operate under a full-year CR, the ability of the space shuttle to accommodate these return to flight requirements would be reduced by nearly $60 million.

Finally, the Corporation for National Community Service would be forced to limit grant awards to AmeriCorps programs throughout the country since the CR does not provide adequate funding to reach the President's goal of 75,000 volunteers. Under a year-long CR, the corporation would only be able to support between 45,000 and 47,000 members, about 40 percent less than provided under the Omnibus appropriations bill.

We went through a period of problems that have occurred in the Corporation for National and Community Service. Senator MIKULSKI and I worked to help them straighten out the problems. On a bipartisan basis, they have had strong support for getting back to the great work of the many volunteer programs, including AmeriCorps. Without this funding, there would be a drastic setback and we would find that the level of activity would be significantly reduced.

These are just some of the reasons, from the perspective of the VA/HUD and Independent Agencies Subcommittee bill, which is included in the Omnibus bill, why I hope colleagues on both sides of the aisle will agree we need to get on with this bill and go to work on the current year's business. We have far too little time to deal with all of the things we must deal with, and I hope we could get on with the job.

Mr. REED. Mr. President, I express my deep concern about several provisions contained in this omnibus legislation. Many of these provisions were in direct contradiction to the bipartisan actions of this Senate and the House of Representatives. It is alarming to me that in an Omnibus appropriations bill that the will previously expressed by both the House and the Senate would be contravened so arbitrarily and so dramatically. I am concerned about the process, as well as the specific issue that I come to speak about today.

First, tucked into this massive spending bill are several out and out gifts to the gun lobby. Some were included in a controversial House amendment and another was slipped into the bill later by the Republican leadership without a vote by the House and Senate conferees. That is highly unusual and, in terms of procedure, very dangerous to the functioning of this body and, indeed, to the constitutional obligations we must perform.

These provisions, with respect to guns, reduce law enforcement's abilities to carry out their responsibility to enforce our Nation's gun laws, and they do not provide any benefit to law-abiding gun owners. The other people who benefit from these provisions are criminals and prohibited purchasers, those who should not have firearms, according to the laws of this country. Again, I hear time after time that all we should do with respect to gun safety in this country is just enforce the laws. This is the mantra of the NRA and of the gun advocates. But how can you enforce the laws if law enforcement authorities are required to destroy information they obtain through the gun sales procedures under the Brady Act?

From the beginning, this attack on law enforcement's authority has been highly suspicious. According to a report in the Washington Post on July 21, 2003, Representative TODD TIAHRT, in the words of the Washington Post "surprised many of his fellow Republicans" when he offered an amendment in the House Appropriations Committee. In fact, Representative FRANK WOLF, who chairs the Commerce, Justice, State Subcommittee on Appropriations, objected to the amendment, saying he had not had time to review it prior to its presentation. But Representative TIAHRT refused to withdraw the amendment and he won passage on a 31-to-30 vote, over the opposition of Chairman WOLF and Appropriations Committee Chairman BILL YOUNG.

Meanwhile, Mr. TIAHRT assured his colleagues that the NRA had reviewed the language. He said, "I wanted to make sure I was fulfilling the needs of my friends who are firearms dealers" and that the NRA officials "were helpful in making sure I had my bases covered."

This insertion of language over the objections of the subcommittee chairman and the full Appropriations Committee chairman, at the behest of the NRA, to take care of your friends who are firearms dealers is not what we should embrace in this Omnibus appropriations bill.

In the conference between the House and the Senate, appropriators modified several of the provisions on a bipartisan basis of the original amendment offered by Representative TIAHRT. But the Republican leadership later inserted a most objectionable item over, presumptively, the objections of the committee chairman and the subcommittee chairman. The provision would require the FBI to destroy approved gun sale records within 24 hours.

The 24-hours-records-destruction provision would put more guns in the hands of criminals by preventing the FBI from discovering and correcting erroneous gun sales under the National Instant Criminal Background Check System.

Currently, approved gun sale records are retained for 90 days to allow the FBI to perform audits of the National Instant Criminal Background Check System, to ensure that if criminals or terrorists or other prohibited purchasers have acquired such a weapon incorrectly, and contrary to law, that these mistakes can be corrected, that the guns can be retrieved. This is not an imaginary problem. The General Accounting Office found that the during the first 6 months of the 90-day retention policy, the FBI used retained records to initiate 235 firearm retrieval actions, of which 228, or 97 percent, could not have been initiated under the next-day destruction policy required by this Omnibus appropriations bill.

Let me repeat that. In a 6-month period, the auditing of these records enabled retrieval of 235 firearms that were in the hands of prohibited persons—criminals, people who were spouse abusers, the whole category of perpetrators who are prohibited from having firearms because of their records—235. If this rule were in effect then, they would have recovered 7, leaving 228 with dangerous individuals whose conduct has already underscored their unworthiness to carry a firearm. They would have had these weapons. I can't see any other result of this policy than to put more weapons in the hands of identified criminals or identified violent individuals.

No one in this country is walking around saying let's give violent criminals more guns. Again, the mantra is: Just enforce the laws. Make sure those criminals don't have access to weapons. This provision cuts at the heart of all the rhetoric and all the hyperbole about "just enforce the laws" and "guns don't kill, criminals kill," and exposes a grotesque miscarriage of justice. That is why organizations such as the International Association of Chiefs of Police and the FBI Agents Association oppose this provision.

But that is not all that is included in this Omnibus appropriations bill. The bill would also prohibit the ATF, the Alcohol, Tobacco and Firearms Bureau, from finalizing a proposed August 2000 rule that would require gun dealers to conduct an annual physical inventory of the weapons in their possession. The purpose of the proposed rule is to allow dealers to go ahead and identify missing and stolen firearms and report them to the ATF in a timely fashion.

You would think every responsible dealer in this country would conduct periodic inventories and, as soon as a weapon was discovered missing or stolen, their first instincts would be to contact authorities. But we know that is not the case because this community of Washington, DC suffered through a string of sniper killings months ago that traumatized not only Washington but the entire Nation, and this string of sniper killings can be traced back to a weapon at Bulls Eye Shooter Supply, the gun seller where John Allen Muhammad and Lee Boyd Malvo obtained the assault rifle used in these attacks. After the snipers were apprehended, the gun was recovered and was traced back to Bulls Eye. What did they say? They had no record of selling the gun. They didn't even know the gun was missing until the shooting spree was over. The snipers' gun was just one of more than 238 firearms missing from Bulls Eye's inventory during the previous 3 years—a dealer who is missing 238 weapons in a 3-year period, one of which turns out to be the murder weapon in one of the most heinous assaults in the United States in many years. The ATF proposal requiring dealers such as Bulls Eye to conduct annual physical inventories is still pending. We should be urging them not to suspend this rule but to enact this rule. What could be more commonsensical, more obvious, after the sniper killings in Washington, than allowing the ATF to promulgate a rule so there is at least a physical inventory and requirement to report missing weapons?

We have learned nothing from the deaths of these people. We have learned nothing from the death of Conrad Johnson, a bus driver sitting in his bus reading his paper at 6:30 in the morning, supporting his family—his wife and his children—who was killed by these snipers.

This, to me, is preposterous. Yet here we are, trying to take an omnibus bill, holding billions of dollars in appropriations for all the programs my colleague from Missouri talked about that we all support—holding them hostage to provisions like this, to provisions that fly in the face of our experience and that undercut all the rhetoric when we talked about learning from the mistakes of the past, from ensuring that criminals don't have weapons, from enforcing the laws. We are undercutting the ability of law enforcement to do their job.

Finally, this bill prohibits release of any information regarding firearms production or sale that is required to be kept by gun dealers or manufacturers. In addition, no information or records regarding multiple handgun sales—where two or more handguns are sold to the same buyer within 5 days—or crime-gun-tracing information that is reported to the ATF could be reported to the public. No, let's throw a cloak of silence over all of these laws, eviscerate the regulation, and prevent any disclosure of information that should be public.

ATF has in the past made this information available under the Freedom of Information Act, but this information has been used to highlight some of the discrepancies and difficulties and deficiencies in our gun laws. As a result, the gun lobby doesn't want it out: No information, no knowledge, no problem. That is not right. There are problems here, problems we should address responsibly, and we are undercutting a responsible approach to ensuring that the present laws on the books are enforced. So the next time someone stands up and says just enforce the laws, remember you can't enforce the laws if you don't know how they are being enforced—and that is the purpose of this provision—and you certainly can't require law enforcement authorities to enforce laws when they are prohibited from having the information to do that.

This is an important right for the public to know, particularly with respect to firearms tracing from crime scenes. As a result of publicly available information, there have been identified several firearms dealers who were the source of a preponderance of weapons at crime scenes. That is valuable information, not only to law enforcement authorities but to the general public, and that information should be public.

We are facing numerous problems about gun violence. We have the threat of terrorism. Last night the President spoke repeatedly about terrorists. This is a situation made to be manipulated by terrorists who want firearms. If the record of their purchases is destroyed in 24 hours, if there is no requirement for an inventory of weapons, think of how we are setting out a situation that can be exploited, not just by criminals but by people with even more malign designs on this country. We are doing it and we are doing it in the middle of the night, figuratively speaking. None of these issues was fully debated, particularly the destruction of records within 24 hours. Procedurally we should reject it. Substantively we should reject it.

There is another issue we should be concerned about that many of my colleagues mentioned, and that is the overtime rule for American workers.

Last year, the administration announced its proposal to significantly weaken overtime protection. The proposal would take away from many hard-working Americans their ability to earn enough to support their families. The timing of this proposal is even more egregious. It comes during a period when more and more Americans are struggling to make ends meet and while the country is bleeding jobs overseas.

It was announced this week that IBM was going to hire 15,000 people this year. The only problem is that they are only going to hire about 1,500 in the United States.

Yet for those people who are struggling to find jobs, to keep jobs, and to better their lives, we are telling the employers they do not have to pay overtime. It doesn't make sense to me. It doesn't make sense to this Senate because on September 10, the Senate passed a measure to prevent millions of American workers from being stripped of their overtime. We acted in a bipartisan fashion. In doing so, we reaffirmed our support for protecting these hard-working Americans.

Unfortunately, safeguards to overtime pay were stripped out at the President's request, again leaving Americans vulnerable.

At a time when the President is talking about job growth and providing additional benefits to families, why does he want to weaken the laws designed to create jobs and to protect hard-working Americans? We know what is happening today. Employers are not hiring full-time workers. They are extending the hours of their existing workforce because of the pressures they face. When you lower the number of people who qualify for overtime pay, that is an incentive to continue that practice of simply extending the hours of current workers and not hiring new workers. This will go against our hopes by all. I believe, that this year our economy can start hiring people again—not simply adding a few hours to the workday of existing workers. But certainly those few hours of additional work deserve to be compensated by overtime. This law cuts it. About 11 million workers receive overtime pay. Many understaffed fields such as nursing are required by law in many communities to pay mandatory overtime. Yet under this rule, that mandatory overtime would not in all cases be compensated.

Other workers rely on this extra income simply to make ends meet. The people who are in danger of losing their benefits are health care workers and technicians, paralegals, restaurant workers, draftsmen, therapists, retail managers, news reporters, police officers, firefighters, and even military reservists.

What I find most objectionable is that this proposal basically says that reservists who are coming back who have had certain kinds of training in the Armed Forces are no longer considered eligible for overtime pay. This is preposterous. These individuals could literally have left their employment a few months ago to respond to the call of the Nation in a time of danger and receive some training while they are in the military, or have that training before on the weekends as a reservist, and now find themselves penalized for the training they received in the military in terms of getting overtime pay. That is preposterous. That is what this rule would do. It could affect thousands of military reservists. That is not only unfortunate in individual cases, but that is a stunning snub to Americans who are risking their lives in serving their country collectively.

I again am amazed that such a proposal would even be submitted, and I am more amazed that we would, today, be prepared to vote on it in this Omnibus appropriations bill.

American workers work more hours than any others in the world—1,900 hours per year. Yet, still, they need more to get by and to make ends meet.

I am amazed that the administration would continue on this track of undercutting overtime in the United States, and I am extremely disappointed. Rather than trying to undercut the wages of Americans, we should be looking for ways to increase the wages of Americans.

I think these two provisions are problematic. Many more of my colleagues have spoken about that and have called into serious question both the procedures that brought us here and certainly the substance of these proposals.

At this time, in conclusion, I would like to propound a unanimous consent request.

I ask unanimous consent that the Senate proceed to the immediate consideration of a concurrent resolution which I shall send to the desk correcting the enrollment of the omnibus conference report; the resolution strikes the language which requires the FBI to destroy gun purchase background check information after 24 hours; that the current resolution be agreed to, and the motion to reconsider be laid upon the table.

Mr. McCONNELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REED. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, this is a time of challenge, and it is time for the Senate to step up to meet those challenges.

As the President carefully outlined last night, because of the filibuster in the Omnibus appropriations bill we find the Senate almost 5 months into the fiscal year still wrestling with the remaining funding bills from the year in which we are currently involved. We started a new calendar year trying to finish the business of last year. The Omnibus legislation is finished, and it is ready to pass except for the filibuster. With its passage, the Senate will finally complete last year's business.

To be sure, much of the Nation's business was accomplished by the Senate last year. We had hoped to be able to finish the appropriations business last December. In fact, last year the President called for an economic growth package to create jobs. The Senate passed it, and that plan is clearly working.

Last year, the President called for a Medicare drug plan so that our seniors would never have to choose ever again between groceries and needed prescription drugs. The Senate passed it and that help is on the way for our seniors.

Last year, the President called for full funding for homeland security. The Senate passed it, and America is safer.

Last year, the President called for funding of the liberation and reconstruction of Iraq. The Senate passed it and freedom is rising.

In normal times, that would be indeed a phenomenal record. But these are not normal times. These are times of unprecedented challenges.

The Senate's historic pattern of studious delay is out of touch with these demanding times in which we find ourselves.

This filibuster needs to come to an end. To that end, each Senator must ask themselves the following questions about the funding of the Government: Should funding for most Federal departments and agencies be at the levels we agreed to in the last budget resolution, which we negotiated with the President, or should it be funded at a lower level and perhaps not at all? Should we fund the FBI at $320 million less than we planned, even though most of that goes to their counterterrorism activities? Should we fund embassy security at the State Department with the extra $15 million we agreed it needs for safety? Should we improve food security by providing the Food Safety Inspection Service with the additional $20 million we agreed to? Should we keep faith with those who have borne the brunt of battle in the war on terrorism by providing veterans medical care with the extra $3.1 billion we agreed to?

These questions obviously answer themselves. Instead, we wrestle with these questions still as we try to fund these programs. As we try to fund the Government for this year at the levels agreed upon in last year's budget resolution, we cannot begin to set the budget priorities for next year. The

Senate cannot meet the demands of tomorrow if we are, today, revisiting the agreements of yesterday.

The demands of tomorrow are not going to go away. As the President stated last night: We may believe the danger of terrorism is behind us. That hope is understandable, comforting—and false.

The President is right. We have done much to improve America's security: our economic security, our health security, our homeland security, and our national security. But it is false hope, indeed, to believe we have done all that can be done or should be done. Economic security is improving as the economy grows and the unemployment rate declines. Health security has improved with enactment of a prescription drug benefit in Medicare for seniors and enactment of health security accounts for workers.

While homeland security has also improved, more must and can be done, but not if we are wrestling with the FBI budget of last year.

The national security needs in the coming years require our full attention, but that is not possible if we are still fighting to fully fund the State Department embassy security for last year.

Thomas Jefferson advised us that eternal vigilance is the price of freedom. Ever since he stated those words, America has tried to assess how they apply to us at a particular time and as we confront a particular challenge. The President has assessed the unprecedented challenges of our times and provided unprecedented leadership.

Our Nation has responded to the challenges as well. From issues of security to issues of prosperity, our country is moving forward behind the President's leadership.

The Senate should respond as well. But when we delay this bill for no reason other than for delay itself, we are not meeting the challenges of our time. This is a bill that should have been passed months ago.

There is a price for delay. We see it in the reduced funding of the FBI, embassy security, food security, and, of course, veterans health benefits.

We cannot yet see the price we will pay tomorrow for our delay today, but it is surely there. We delay setting the priorities for next year and building upon the security we have achieved in the last 3 years. We delay making our Nation safer and we delay making our economy stronger.

In these times of challenge, the time for delay is over and the time to act is now. It is my hope and the hope of many Senators on both sides of the aisle that tomorrow we will be able to wrap up the business of last year, finally, and get this important Omnibus appropriations bill down to the President for his signature so we can begin the work of the year in which we currently find ourselves.

The Senator from New Mexico is here. I yield the floor.

Mr. DOMENICI. Mr. President, I thank Senator BOXER who was entitled to go next. Before she got down here, we intervened and asked her if it would be possible I go ahead of her. So I will be next. We are trying not to break the commitment of one side and then the other side, but I will not be here if I cannot speak now. I am on my way to New Mexico to meet the President, ultimately in Roswell, NM.

Mr. President, I said yesterday to a large group of Senators that it is about time now to speak about the energy situation in America since we have a bill before the Senate that missed, in terms of filibuster, by two votes. That means that in normal times that bill would have passed handsomely.

What is happening around here, if you do not get your way, instead of voting on a bill, you threaten to filibuster. The American people have probably seen more 60-vote issues in the Senate in the last 5 years than in modern history. Almost every issue is turned into a 60-vote issue by a threat to filibuster. That was done on the Energy bill.

My friends, I can state what is happening but most of it is right in front of your face. We have the worst case scenario in much of the energy-consuming areas of the country, from the Rockies to New England, with the coldest 10- to 20-day period since the winters of 1977 and 1978. It was 14 degrees at my house this morning a block and a half from the Hart Building. Accuweather is predicting within 2 weeks we could have the coldest weather we have seen in 25 years.

Some people love the cold. Some people love the snow. But the point is America should not be brought to its knees economically and otherwise because we have a cold winter. We are looking at a point in time not too far down the line when the major sources of energy for Americans will be so expensive that the American people will wonder what happened.

I am stating what is happening: Three or four Senators will not let us pass an Energy bill. That is what is happening.

Yesterday, natural gas was over $6.50. To put that in perspective, when I first came to the Senate people—people can look at me and guess how long that was; some would say I look as if I have been here 100 years; some might say 15 years. I have been here 31 years. Ten years after I came here, we were talking about deregulating natural gas and the price of natural gas was 38 cents. Compare that to $6.50.

We can look around the world and see what is happening. The great big monster economy called China has decided they do not have enough energy for their growth. They cannot find a way to quench their thirst for oil. Nobody knew that. It just came upon us. China, the fastest growing economy in the world, has put the word out: Buy oil. And even more than that: Buy the oilfields. Go invest money with oil companies and start owning the oil in the world. The underlying theme is China's thirst for natural gas, as well as to fuel its industrial revolution.

Yesterday, China reported economic growth of 9.9 percent. When there are over a billion people—1.3 billion or 1.4 billion—and they finally decide to take on some aspects of capitalism, they are producing overwhelming amounts of goods and services for themselves and for the world. Whether their leaders call themselves Communists or not, they love dollars and they love to produce things and sell to the world. They are a huge problem. But China is not alone. The population and economic growth is creating a voracious new demand for energy and the world is following in our footsteps.

The bottom line is we are allowing ourselves to become increasingly dependent upon imported energy. We used to say "imported oil." Now I can say "imported energy" because we are beginning to import, or will have to soon, natural gas, liquefied natural gas. We will have to buy that from overseas. And we ourselves will become dependent upon foreign natural gas just as we have grown dependent on oil but it will happen quicker and be more devastating.

Yesterday, unknown to most, a terrible event occurred with reference to the production of LNG, natural gas's substitute. A plant blew up in Algeria. Who would have been worried about it? Why would a Senator from New Mexico even have read about it 10 years ago? Well, we did not care about it because we did not use it. But a plant blew up. Forty-three people died, and all the production of LNG went out the window. Now, that is not our production. I should not be here crying about their losing it. But what I am telling you is, they are not producing LNG to give it away. They are producing it to sell and to sell to us.

The bottom line is, we are allowing ourselves to become dependent upon imported energy. The EIA predicts that 36 percent of all our energy will come from overseas by the year 2025; up from 26 percent in 2002. Just think of that.

I believe some of my colleagues who do not like the current Energy bill and who want to duck and hope the energy prices will come down are going to just wait and see. They will not be coming down; they are going to go up. And when the question is asked, what did we do about it, it is going to be easy for some of us. We are going to say there was a chance to pass a bill, and because of two Senators it did not pass. Two Senators decided they would not vote for cloture, so the Energy bill, which would have done a lot of things which I will quickly outline in a moment, was not passed.

First, let me tell you about a couple things that we hear about often that the bill does not have in it. The bill does not have a change in the CAFE standards on automobiles. Because of that, some of my friends on the other side of the aisle, including the distinguished junior Senator from New Mexico, say this bill should have that in it and we have shirked our duty.

Let me say to all of you, what do you do when one House of the Congress does not want something? And what do you do when you cannot pass it in the Senate, you cannot pass CAFE standards in the Senate, and if you passed it in the Senate, the House will not take it? Let's talk it up. It might be something we ought to be doing, but you cannot do it. Does it mean we should quit, and it does not mean that is enough to kill a bill?

Secondly, MTBE liability. You all know what that is. It is in the bill because the House insisted upon it. Is it the end of the world? I do not think so. Is it enough to kill an energy bill? I doubt it.

A renewable portfolio standard means one group wants to not only give a wonderful tax credit to windmills and solar energy, but they want to mandate a percentage each State must produce. That is what these words mean: renewable portfolio standard. It is a mandate of a percent. Isn't that interesting? Every State does not have wind, but they are mandated to produce a percent of their energy from wind. Can you imagine what is going to happen administratively? They are going to have to buy credits or they are going to have to do something, because this law would do that.

Frankly, the Senate did not want it, and the House did not want it, but a few people said: We will not vote for the bill unless that is included. How do you put it in when over half the people in both bodies will not vote for it? Certainly, the House told us, in 30 seconds: Do not talk about a percentage, a mandate. We will never put it before the House. We do not want it. That is the end of it.

Now, we all know ANWR is still hanging around, we all know the giant issue of offshore drilling is still hanging around, and they are not in this bill.

Like it or leave it, the bill represents the current consensus position of the Congress. If we were looking at 51 votes being necessary, which is what you usually need, this bill would be over with, the points of order would be done with, and we would be on our way to doing what it does.

I believe the deal before us is the only one that does enough, that can currently be reached. I do not believe it is possible to go back to the table and negotiate a different agreement. Why? Because whatever we bring to the floor will be debated ad nauseam.

The last time we tried to pass a bill to go to the House with, you all remember, there were 370-plus amendments pending up there at the desk when we struck a deal with the Democrats to take last year's bill. Remember that? That meant they were not very interested in helping us get a bill then. That is something I direct at a number of Democrats who might not have thought they were doing that, but that is what they did. Luckily, the minority leader said: Why don't you take last year's bill, and I told our leader, BILL FRIST: Take it. I think they could not imagine we would take it. We took it and went to conference. And then, of course, we could negotiate around all the bills.

(Ms. MURKOWSKI assumed the Chair.)

Mr. DOMENICI. I know if we are going to be able to get 60 votes for this agreement—I do not know if we are going to be able to, but, frankly, there is part of me that is quite all right with that. As prices and imports rise, Members are going to begin to reconsider their position. They are going to begin to reconsider their opposition to domestic production. I believe at some point, if we do not take intervening steps, we will be forced to open ANWR.

I say to the occupant of the chair, which you have been advocating since the day you arrived, and for the many days you were in your State legislature, unless we get control of this situation, I think we will find ourselves confronted with that decision, sooner rather than later.

As much as we possibly can, without a new political consensus about energy, this bill addresses the following problems. This is a minimal list.

One, it makes regulation of the electricity grid predictable so new investment can flow into the transmission system. It is a huge part of our problem.

Two, it encourages massive new construction of windmills—60 gigawatts is expected, at a minimum, of new wind power, about 10 times the current amount. Why? Because this bill makes the production tax credit permanent. And listen up. It expired as of January 1. It is not there for those who are building windmills. They know it is gone. It is in this bill. It is there for biomass and a lot of other things.

Now it makes a new generation of clean coal possible through tax credits and research and development. As gas prices climb, we are going to burn more coal. I would like that to be as clean as possible, and this bill makes that possible.

It results in more domestic oil and gas production.

It will result in the construction of perhaps four nuclear powerplants. Some other things have to happen, but it opens the door.

Frankly, I believe that for this world crisis I have been talking about, of everybody wanting more energy, there are only a few ways to dampen the impact of that on the world. One of them is going to be new, modern, different nuclear powerplants. No doubt about it, that is going to be one of them. America led the way. We ought to continue leading the way.

This bill will result in encouraging the use of hybrid cars because there is a big tax credit for them. In fact, those companies that are exploring them believe they could never sell them without the credit provided in this bill.

It massively expands our use of domestically produced ethanol, meaning our farmers will be more in command of their future and their destiny than ever before.

Needless to say, bills do strange things. This bill is more for the farmers than anything else we have ever done. Everybody knows it. I asked yesterday in the presence of 30 Senators, those who have big farms and much corn production, would you tell me what the most important issue in your State is? Is it ethanol? Every farm State Senator in that room said it is the No. 1 issue in their States.

How many times have we taken the floor of this Senate since Senator REID and I have been here, when Senators have come and said: We have to do this for all the farmers? It just happens that the farmers are in this bill. It is going to produce a substantial amount of gasoline because ethanol is an additive that will expand the use of gasoline immensely. So throw it away because you don't like some provision or you believe what many have been saying about this bill—that it has too much pork in it.

Well, I can tell you that if we have time available at another time, we will talk about the pork. I will tell you about one piece, and it has been written many times because one Senator used it on the floor twice. It has to do with a new plant that might be built in my State, which will be the construction of a new plant for highly enriched uranium. We only have one such company in America. Shameful. We used to have all that market. This company that exists now doesn't want a new one built. They have sent to Senators and newspapers around the country an unsigned document where they maliciously and erroneously talk about that plant. Some people have refused to use it, thank you, because they didn't sign it. Nobody signed it. But somebody used it on the floor of the Senate and said that New Mexico stood to gain $500 million to $700 million, and what a shame that such pork is in the bill.

That isn't even in the bill. Read it. It says anybody who wants to build a new plant of that type, two things will happen—it says anywhere, not just New

Mexico. The license will be approved in 2 years and, second, if they want to make an agreement for the Federal Government to dispose of their waste, they can make one, and they will have to pay the Federal Government full price. What this company—which wants no competitor to be built—did was price out what you might have to pay the Government, and then said we are giving it to a State—a total unequivocal fabrication.

Many of the other so-called lard matters in this bill have been matters that have been around here for years for States that produce much of our oil and gas. They finally got a chance to have some equity done to them. When you finally get there and you have the best package you could ever put together, I don't know why we have Senators who find excuses. I think it is because they don't believe there is anything that can be laid to rest on their shoulders in terms of what they have done for this great country and what they have failed to do.

I actually believe that of all the things domestically that the President of the United States mentioned, and all the things we will be debating, there is nothing more important than what we do about our energy availability for future generations. It is No. 1 in my book. You have not heard much from me because, after working for months on it, I was shocked that I could not get 60 to vote to get around a filibuster. I believe sooner or later those who have done this to this bill will pay the piper politically. I say to our President: I believe you ought to be pushing this bill a lot harder.

Some worry about its cost. Let me tell you, the cost of this bill is infinitesimal compared to the cost to future generations of not producing natural gas from Alaska, leaving it up there instead of bringing it down here, and all the things like that which are in this bill. It is absolutely crazy. Costs, say some, are too much. If everything has to be paid for, and it goes the way it says, it is $1.6 billion a year. Do you know what that means? Americans spend $400 billion a year on energy. If that is going up 10 percent, when the rest of the domestic product is only growing at 2 percent, that would be an 8-percent differential. Just do the arithmetic. Eight percent times 400 is $32 billion a year in cost growth being put on the backs of hard-working Americans.

It is time we talk real sense about this. I will not let it go. But you all know there is only so much you can do and only so much of yourself that you can give to an issue. You have one thing growing up after another that people invent and argue about, and that same person just fails to want to argue about the validity of the entire bill. It is truly something that we would look at America and say we love democracy and we love to vote, but this is one that it sure would be good if some of these things could be done by the President of the United States. Not so. Can't be. We have to go do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, Senator BYRD has time that has been reserved. He has indicated to me that he is going to speak for 2 hours. He will be here at 12:30 to begin his important discussion about the bill now before the Senate.

I understand the intensity and sincerity of the feelings of the Senator from New Mexico. As Senators know, he and I have worked together for many years on the Appropriations Committee, the Energy and Water Subcommittee, which is a very important part of our Government. He has been chairman, I have been chairman, and we have worked together and developed a tremendous amount of affection for each other. I repeat that I know how strongly he feels about this legislation. There may be some who feel differently about this bill, and whether their feelings are as intense as his is not important. But there are people who feel very strongly about this and they have problems with this bill. I hope before this year's end we can work toward having an Energy bill for this country.

There are things in the bill that are extremely important to the State of Nevada. I have personally told Senator BAUCUS and Senator GRASSLEY how I think they have done remarkably good work, generally speaking, with the tax provisions of the Energy bill. So I hope that at some time we have the ability to work something out on this legislation. I know I will make myself available to the Senator from New Mexico to see if there is a way we can narrow the gap. As the Senator from New Mexico knows, there may be two, three, or four Senators who are crucial to coming up with finality to this bill. If we can work something out to satisfy those individuals and not lose some on the other side, maybe we can do something.

I want to say this, though, to my friend from New Mexico, not in relation to the Energy bill but to the underlying bill. The Senator went to some length talking about things that both bodies did not agree on and people are upset that it is not in this Energy bill. Well, I can understand why the Senator from New Mexico, being the legislator that he is, cannot understand why if the House and the Senate by their bodies assembled have not approved legislation, how in the world you think the conference committee can stick it in when both bodies have not agreed to it. With the omnibus bill, you have the opposite situation. In the omnibus bill now before the Senate, you have the Senate and the House duly assembled who have voted overwhelmingly to support provisions, and the President and his minions go to the conference committee and say you are going to take these things out or you are not going to get a bill.

Are they things that don't matter? No. They are very important. For example, overtime. The President wants people who make more than $22,000 a year to not be eligible for overtime pay. The House and the Senate said we don't agree with the President, and we passed legislation by virtue of amendments in this body and in the House which said you cannot do that, Mr. President. The President said: I don't care what you have done in these two legislative bodies. I want it out.

Now, if that wasn't bad enough, he goes to an issue that is so important—and I repeat on the Senate floor today that Monday night we had a little family gathering, which we call "family home evenings." We had our children and we went to this Caribbean restaurant with my three grandchildren who live in Washington, and my daughter and son-in-law, Landra and I. My little 13-year-old granddaughter has had mononucleosis. She has been sick and has missed a lot of school. She came to dinner. She is feeling better. She attended school yesterday. She was real hungry Monday night. One of the things with mono is you don't have an appetite. She was hungry. She ordered something she really liked, steak and fries. It had a fancy name for it, but that is what it was. She ordered steak and fries.

While we were in conversation, I heard her say to her brother who is 8 years old: Aiden, would you like some mad cow? Here are my grandchildren. They know this is bad. We know there is no way to prevent the beef that goes into this restaurant from coming from Argentina, Mexico, or Bolivia. I don't know where else they raise beef. Canada. We know they raise beef there. Even my grandchildren are concerned about mad cow disease.

In the bill that we wanted to come before this body, there was a provision in it that said you have to have a country-of-origin labeling on the meat that is sold to consumers. The President said: I don't care what the House and Senate have done; they passed these overwhelmingly, but I don't care because I want to take care of my corporate friends, and my corporate friends say country-of-origin labeling is not good; I don't care about mad cow or hoof-and-mouth disease; if you want a bill, you take this out. The Republican leadership in the House and Senate said: OK, Mr. President. And they took it out.

So now this bill, which will probably pass tomorrow, does not have that provision in it. Country-of-origin labeling is not in the bill.

I don't think that is a real good deal. It is too bad. But he did the same thing with how much ownership these big broadcasters can have.

I didn't come here to talk about this, but with what Senator DOMENICI said about if you don't put something in a bill, how do you expect it to be stuck in conference. I say if you put stuff in a bill that is passed by two duly assembled bodies, how in Heaven's name can the President in conference demand it be taken out? He has done it, especially on issues that deal with the average American: overtime and labeling of beef. It is another example of this President being the President for corporate America and not the people who work for those corporations.

Yesterday, the New York Times reported that the administration wants to increase Medicare payments to insurance companies and HMOs by a record 10.6 percent. This handout, which is five times as large as the typical increase, was mandated by the new Medicare law that passed this body by one vote.

The Congressional Budget Office estimates those extra payments to private plans will total more than $500 million this year and over the next decade $14 billion; $14 billion extra, added on that the taxpayers are going to shell out to insurance companies and these health care providers.

We could do a lot of things with $14 billion. Instead of this handout, maybe there are ways we could use the $14 billion to help Nevada. People in Nevada need health insurance. There are in America today 44 million Americans who have no health insurance, and Nevada is at the top of the list. We could cut health care costs paid by patients, improve the care they receive, and expand coverage. For example, the direct benefit created by the new Medicare bill is confusing and certainly inadequate. Instead of wasting $14 billion on this handout, we should use that money to give seniors the drug coverage they need and not give it as a sop to the insurance industry.

Under the new Medicare law, a senior must spend $810 out of pocket per year before he or she will receive a penny from Medicare. And a senior who spends $5,000 a year on drugs will be stuck with almost 80 percent of the bill. Essentially, this law will penalize our sickest seniors, the very ones who need help the most.

The new law has a huge gap in coverage. Listen to this. Once a senior spends $2,250 on prescription drugs, he or she will have to pay the full price for drugs until they get up to $5,100. Obviously, these people who are using $2,100 worth of drugs are sick. That doesn't matter. There is a hole, a big hole until they hit $5,100. They pay it all. But they have to continue to pay premiums the whole time.

Instead of a handout to the insurance industry, we could use the $14 billion to protect senior citizens who will actually be worse off under the new Medicare bill. In Nevada, 15,000 seniors stand to lose the coverage they currently receive from former employers, and our poorest seniors in Nevada, those who receive both Medicaid and Medicare, will be forced to pay a copay under the new law, something they don't have to do at present. This will create a new expense which will be a significant burden for those with chronic conditions and disease who are struggling to make ends meet on fixed incomes.

We can use the money to provide a drug benefit now instead of waiting 2 years while our seniors struggle with the rising cost of drugs. It took less than a year to start the entire Medicare Program, and that was before we had computers. Surely, we can add a drug benefit in less than 2 years.

Finally, we need to expand health care coverage. As I said, there are 44 million people in our country who don't have health care coverage at all. In Nevada, a sparsely populated State, 600,000 people under age 65 were without health insurance last year. Most of these people, including children, are working families. They go to work every day, but they can't afford the peace of mind that comes with health insurance, so how can we afford an HMO handout of $14 billion?

My youngest son who is a lawyer and worked here in Washington got a new job in Las Vegas. He is educated. He has two little girls and, in a matter of days, is going to have a third little girl. He could afford the gap coverage until he got his new job. Most people couldn't do that. For just I think 2 weeks he had to pay $1,200 to have coverage for his family. Most people can't do that. Most people have these big gaps, and they are stuck when an automobile accident or something happens to them in the way of illness and they have no insurance.

I want to make it clear that I am not opposed to private health care plans in Medicare. I have received letters from senior citizens in Nevada who told me they are enrolled in Medicare HMOs, and they have told me they are happy with the care they receive.

I am not opposed to competition. Make no mistake; competition is a good thing. It is a strong incentive for efficiency and productivity. I think this administration has a different definition of competition than I have.

They are all in favor of competition when it comes to a worker in a national park who might be making $30,000 a year. They think people like that should compete with private contractors to keep their jobs. But when it comes to big corporations, such as HMOs, the administration doesn't like competition. Why else would a company such as Halliburton get a billion-dollar contract without even submitting a bid? That is not competition.

Why does the new Medicare bill contain a provision that expressly forbids the Government to use its bargaining power to negotiate prices with drug companies? Is that how the free market is supposed to work? No. Now we have a handout for insurance companies.

We were told it would be good to let private companies compete with traditional Medicare because they would be more efficient which would allow them to provide better care and less costs.

While I am talking about privatizing, don't forget last night the President again in his State of the Union Address talked about privatizing Social Security. I have to hand it to him, he has a lot of nerve because it is rare I find anyone who wants to privatize Social Security. He had some buzz words, but that is what it all meant.

These private companies that compete with traditional Medicare now have their hand out for a 10.6-percent increase because they say it is the only way they can continue to serve Medicare patients. That does not sound very efficient to me. It does not sound like competition. It does not sound like a great deal for seniors who are struggling to buy medicine or for taxpayers. It certainly does not sound like real competition.

This HMO handout to the insurance industry and the managed care entities is an example of the way the administration has one set of rules for the big-money interests, the corporate interests, and another set of rules for people who work for these corporations.

Competition is OK for ordinary folks, but the fat cats get sweet deals like the HMO handouts.

This is a case of misplaced priorities, just like the misplaced priority of spending $14 billion on a corporate handout instead of using it to improve health care for ordinary Americans. This is just one more reason we need to work to fix the problems in Medicare so seniors will have the coverage they deserve. I hope the administration will take another look at its priorities and reconsider this ill-advised HMO handout. According to the State of the Union last night, he has his veto pen ready in case we try to do it.

Before I yield the floor and before Senator BYRD speaks, we have been gone for a few months and it is good that I remind myself on occasion how I have been educated in the years I have been in Congress, now more than two decades, by the senior Senator from the State of West Virginia. Better than any movie, any ball game, any recreational activity that I can think of, I have had more fun learning from the Senator from West Virginia. I still look back with almost reverence to his lectures on the line-item veto, on why it should not be done and why we would be like the Roman Empire. It would be the beginning of the end of legislative power. It would be the beginning of the end of this great Government that we so much admire.

I remind the Senator from West Virginia, those lectures—and I call them lectures because they were done by someone who knows as much as any professor about the Roman Empire—they were done so well that at the University of Nevada Las Vegas, the head of the political science department taught a course based simply on the lectures of the Senator from West Virginia. So whether he is talking about Iraq, as he has done so well, about homeland security, about the energy policy in this country, about the State of West Virginia and what needs to be done with transportation and what needs to be done in this country, all of these many subjects have been lots of fun for this Senator from Nevada. I have been educated, and I am a better Senator and a better person and the State of Nevada has done better by me as a result of learning so much from the Senator from West Virginia.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished Democratic whip for his gracious comments. He has been an inspiration to me. I once served as the majority whip in the Senate. I counted myself a good whip, but remember those lines: You are a better man than I am, Gunga Din.

Well, this whip from Nevada is the best whip that I can recall in my long service in this Senate, and I am a former whip.

The distinguished Senator from Nevada mentioned ball games. No ball game ever changed the course of history. With all due respect to those who like football, basketball, and baseball—and I like them, too. I used to enjoy playing baseball in the sandlot back in the days when Babe Ruth and Lou Gehrig were in that great murderous lineup, the New York Yankees. I can remember September 1927 when the sultan of swat, Babe Ruth, broke the record with 60 home runs that year.

The Senator's mention of the line-item veto is of interest. I was right in what I had to say about the line-item veto. I know certain Senators whom I personally asked to vote against that line-item veto, and they did not. They did not heed my admonishments, but the Supreme Court of the United States called that law invalid. Thank God for the Supreme Court of the United States in that instance.

I thank the distinguished Senator.

Mr. President, this afternoon I want to talk about the 2004 omnibus conference report on those bills. The Senate opened the second session to the 108th Congress not many hours ago. While the year on the calendar has changed from the last time we met in this Chamber, the Senate finds itself handcuffed by the same authoritarian dictates from the same Bush administration that last year led to some of the most fierce partisan passions that this Senate has seen in decades. Gone is the traditional spirit of cooperation. Yes, the man in the White House who said that he was going to change the tone in Washington, he changed that tone all right. It is the worst that I have seen in my more than 51 years in Congress. Gone is that traditional spirit of cooperation. Gone is the belief that the needs of the Nation are above the needs of any political party. In their place is an agenda driven by pure rank, raw partisanship. This is a tragic turn for this historic Chamber, a tragic turn for these United States of America.

Hope for a bipartisan Medicare prescription drug benefit was bright at the start of this Congress, but by the time the conference report returned to the Senate for final passage, all that was left was a prescription for protecting the pharmaceutical industry and a drug benefit that is a sham for American seniors.

Progress on an energy strategy for the country began in a cooperative effort but quickly the Democrats were locked out while industry lobbyists were welcomed in to write the conference report with the executive branch.

The fiscal year 2004 appropriations bills have suffered a similar fate. Between June 26 and September 4 of last year, the Senate Appropriations Committee reported all 13 appropriations bills, bills that were the result of bipartisan cooperation between the chairman and the ranking member of each subcommittee and those subcommittee members. The bills were tight and lean because of unrealistic budget limits, but Senators worked in tandem to craft balanced legislation. Despite the efforts of the chairman of the committee, the senior Senator from State of Alaska, progress on the bills waned, and as a result we faced the grim Frankenstein aberration of an Omnibus appropriations conference report.

I warned the Senate that such an Omnibus appropriations bill could grow limbs like trees, limbs like an octopus, limbs that never were contemplated by the Senate. I warned Members on both sides of the aisle that they could not control the outcome when the seed of an omnibus bill was planted in a closed conference. I warned that a Senator's right to debate controversial legislation would be lost. Finally, I warned that such an omnibus bill would invite the White House to the table.

Never was the White House invited to the table when I was chairman of the Senate Appropriations Committee—never. It is all right for them to be in an outside room but not at the table, no. I warned that such an omnibus bill would invite the White House to the table and that the Congress would once again forfeit its constitutional right to write legislation. Negotiations on that legislation started well enough. The House and Senate Appropriations Subcommittees worked on their respective pieces of this mammoth bill. The conferees held an open session under the able leadership of Senate Chairman TED STEVENS and House Chairman BILL YOUNG, and several of the chapters of this behemoth bill were settled. But this tale does not have a happy ending. No, this chariot, drawn by tall horses, quickly turned into a pumpkin. Have you heard that before? It quickly turned into a pumpkin, pulled by rats before the clock struck midnight.

The White House decided—the White House—the White House decided that bipartisan negotiations were unacceptable. The White House pulled the plug on the conference and took it behind closed doors. The Republican congressional leadership bowed, bowed down to White House pressure. Suddenly, Democratic Members of Congress had no voice in the legislation. Senator GRAHAM, the Democrats had no voice, suddenly, in the legislation they had only days before helped to move to the verge of passage.

In the back rooms of the Capitol, the White House sat down with the Republican leadership and with fat-cat lobbyists representing big corporations and produced an unamendable 1,182-page, $328 billion conference report. They produced a conference report that turned the legislative process on its head.

You think Speaker Joe Martin, Republican Speaker of the House—Joe Martin of Massachusetts—would have stood for that when he was Speaker of the House? Do you think John Taber of New York, Chairman of the Senate-House Appropriations Committee, would have stood for that in his day? No.

Four of the bills contained in this omnibus did not have a recorded vote in the Senate. That is all right. A voice vote or a vote by division are just as legal and legitimate as is a rollcall vote. But one of the bills, the Commerce-Justice-State bill, was never even debated, never even debated in the Senate, let alone adopted by a vote of the Senate.

Shame. Shame on us for letting that happen.

So there you have it. The Commerce-Justice-State bill was never even debated in the Senate, let alone adopted. Scores of provisions were included in the so-called Miscellaneous Appropriations Act portion of the conference report that were never debated, never debated in this Senate. What has happened to the legislative process here under the leadership of the Republican administration, the Bush administration? Under pressure from the White House, provisions that were approved by both the House and Senate have been dropped. Get that. Under pressure from the White House, provisions that have been included, that were provisions included in both the House and Senate, have been dropped.

A point of order could be made under rule XXVIII that would kill this conference report. Under pressure from the White House, controversial provisions that were written as 1-year limitations when they were before the House or Senate have been mutated into permanent changes in authorization law. This conference report includes an across-the-board cut never debated here in this Senate, an arbitrary cut that would apply to legislation already signed into law. It would cut homeland security. It would cut counterterrorism efforts. It would cut education and health care. This across-the-board cut would reach back into laws that agencies have been operating under for 4 months.

In the view of the White House, the United States can afford $1.7 trillion in tax cuts. When it comes to the Medicare bill, we can afford $12 billion for subsidies for private insurance companies. When it comes to the Energy bill, we can afford over $25 billion of tax cuts and $5 billion of mandatory spending for big energy corporations. But when it comes to initiatives funded in these appropriations bills, initiatives that help ordinary Americans every day, the President insists on cuts.

He didn't say anything like that in his big speech last night. No, he didn't say anything about that, a cut of 0.59 percent would reduce funding for No Child Left Behind programs by more than $73 million, resulting in 24,000 fewer children being served by title I. The across-the-board cut would reduce veterans medical care funding by $159 million, resulting in 26,500 fewer veterans receiving medical care.

The President lauds the military, as he should. He applauds the soldier, the sailor, the airman, the marine. But when it comes to veterans, 26,500 fewer veterans will receive medical care, or 198,000 veterans not getting the prescription drugs they need. Was anything said about that in the speech last evening? Not a word.

The across-the-board cut will chop funding for homeland security initiatives. How many more baggage screeners will be laid off, resulting in longer lines and less security at the airports? How many fewer flights will have air marshals on board? Nothing said about that in the State of the Union speech. No, no, no. How many more containers will come into this country uninspected? How many more illegal aliens will be able to remain in this country or how many more will be able to sneak into this country? Not a word said. How many potential terrorists will never be investigated because of cuts in the FBI? The Bush tax cuts will cost $293 billion in the calendar year 2004. More than $1 out of every $4 being spent on those tax cuts is going to the top 1 percent of taxpayers in this country. They didn't put me in office. No, those on that side of the track didn't put me in office. The Bush tax cuts—let me say it again—the Bush tax cuts will cost $293 billion in the calendar year 2004.

More than one out of every four dollars being spent on those tax cuts is going to the top 1 percent of taxpayers in this country. Are you in that category? Are you, Senators, in that category? I don't know. But I know a lot of people who sent me here who are not in that category.

Taxpayers with incomes that average about $1 million per year will receive an average tax cut of $85,000 in the year 2010, while those taxpayers earning less than $73,000 will receive at best 1 percent of what a millionaire will receive and at worst a paltry $98 in the year 2010.

How will we pay for this? Oh, that will be somebody else's problem. This President will be back on his ranch in Crawford, TX, living it up and having it good. What about your children and my children? They are going to be left to pay for this.

How will we pay for it? With cuts in education, cuts in veterans' programs, and cuts in homeland security.

In the dark of night, behind closed doors, the White House filled this conference report with favors for big corporations. Everywhere you look, you find the interests of corporate America coming first and the needs of working Americans coming in last.

The Senate approved a provision to block for 1 year the administration's plan to take away the rights of as many as 8 million employees to earn time and a half for extra hours worked. This administration produced a rule so biased toward industry that it even included advice to corporations on how to avoid additional wages.

Yet the Senate provision—what happened to it? What happened to that Senate provision? It is gone, obliterated under the darkness of night, taken out.

At the request of the food marketing industry, rules to allow Americans to know where their food, such as beef and vegetables, is grown are delayed for 2 years, breaking the balance crafted as part of the 2002 farm bill.

During the consideration of the 2002 farm bill, the Senate included a provision—the Senate; that is, us—included a provision to ensure that American consumers were provided with information about where their food originates—where it comes from. This so-called country-of-origin requirement became law and was immediately attacked by industry forces. When the smoke of the agriculture conference cleared, we found that industry forces had worked overtime to slip out of their statutory requirements. The country-of-origin issue was not even allowed to be discussed at the conference. The decision whether to keep or whether to kill the country-of-origin requirement was made behind closed doors after the conference was adjourned subject to the call of the Chair. I was in that conference. It was adjourned subject to the call of the Chair. They didn't have any use for me anymore. I was locked out. Senator BYRD can go home now. He will not be in on the decision. We don't need you there. You can go home now subject to the call of the Chair. Of course, the call never come.

Roy Acuff used to sing, "I called and I called but nobody answered. I called and I called but nobody answered."

Democrats of either the House or the Senate were not in the room.

I wonder how many of our listeners remember the first question that was ever asked in the history of man. What was the first question that was ever asked? It was asked in the cool of the day when God walked through that garden of paradise, the Garden of Eden, which we think was located somewhere between the two great rivers in old Mesopotamia, the Tigris and the Euphrates Rivers. God walked in that garden looking for Adam and Eve. But he couldn't find Adam. So he asked the question: Adam, Adam, where art thou? That is the first question ever recorded. Adam, where art thou? Well, Adam and Eve were hiding behind bushes and figleaves. Adam, where art thou?

Well, Democrats in either the House or the Senate were not in that room. So when their constituents ask, where were you, where were you, Senator GRAHAM? Where were you, Senator BYRD, you who has been in Congress 51 years, where were you then? Where were you on that day?

The Democrats were locked out. We were locked out. We weren't included.

I will tell you one thing. That was never done when I was chairman.

Now we find that the delay in implementing the country-of-origin law is not just for 1 year, as the House provided and the Senate opposed, but 2 years. And that is not all. The House provision only placed a limitation on the labeling requirement for meat products. Now the agreement coming out of conference expands the limitation to all the other commodities covered by the law such as fruits and vegetables. American consumers may have thought they were going to know where their food came from, but the majority has made sure that those facts will remain a hidden secret in the deep freeze.

Also, the 1-year limitation on the FCC media ownership rule was turned into a permanent cap at 39 percent.

The practical effect of changes demanded by the White House is to protect Rupert Murdoch's FOX television network and CBS-Viacom from having to comply with the lower 35 percent ownership caps, the congressional version of the bill that was put in place.

The White House is boosting special corporate interests. Why not? Look at the millions that are poured into political coffers by those special corporate interests. The White House is boosting special corporate interests at the expense of the people's interest for balanced news and information. Protections for Federal workers that were agreed to on a bipartisan basis in the public conference that would ensure fair competition with the private sector disappeared in the backroom.

The White House sent its troops to the Hill last week to press the Republican leadership to reject entreaties from Members on both sides of the aisle to make any changes to this Frankenstein of a bill.

This "my way or the highway" roughshod politics over the principled approach to Congress is incredible, especially from a White House that has done so much to undermine the credibility of this Nation and its Government.

One year ago, the President used the State of the Union Address before this Congress, this Nation, and the world to make his best case for taking the Nation to war in Iraq under the doctrine of preemptive strikes, under the doctrine of preemption.

In the State of the Union Address and in other speeches, he and others in the administration told Congress and the Nation that Saddam Hussein had weapons of mass destruction that were an imminent threat to this Nation. We were told that Saddam Hussein was trying to develop nuclear weapons. We were told that American troops would be received as liberators. We were told that Saddam Hussein was aiding terrorists, such as the al-Qaida. What an incredible tale. What an incredible squandering of the credibility of our Government in the eyes of the world.

For this President, there seems to be no limit to his appetite for rhetoric, no recognition that there is a difference between his rhetoric and reality.

Yes, he promised Americans to leave no child behind, but this omnibus bill would cut funding by $6 billion below the level authorized for title I in the No Child Left Behind Act which this President signed with such promise in January of 2002. This omnibus bill would leave behind 2.1 million children who are eligible for title I educational services.

The President promised to secure our homeland and yet this bill would cut funding for port security and border security. On November 14, 2002, the Senate passed the Maritime Transportation Security Act without a dissenting vote. The vote was 95 to 0. The bill was signed into law by President Bush on November 25, 2002, during a celebratory White House ceremony. On that day, the President said: We will strengthen security at our Nation's 361 seaports, adding port security agents, requiring ships to provide more information about the cargo, crew, and passengers that they carry.

Despite these requirements, the President has requested no funding for port security grants and this omnibus bill would cut the funding that Congress added last fall. Sixteen million cargo containers arrive in the United States by ship, truck, and rail each year. One hundred forty million passengers travel annually by ship each year. Thousands of employees work at our ports each day. Millions of citizens live in and around our port community. A terrorist attack through our ports would produce billions of dollars of losses to our economy.

Was a thin dime requested by this President? No. No, the President did not request a dime.

On November 19, 2001, the President signed into law the Aviation and Transportation Security Act. The act created the Transportation Security Administration and mandated that all cargo on passenger aircraft be screened. The administration has never requested sufficient funding to meet the goals of the law. In order to bridge a $900 million funding shortfall that it created for fiscal year 2003, the administration proposed delaying advanced firearms training for Federal air marshals at the same time that intelligence reports indicated an enhanced threat to aviation and the potential for hijacking planes transiting the United States.

Regarding air cargo security, the administration has met the requirement of screening air cargo by expanding a program referred to as the Known Shipper Program. This program does not actually physically screen cargo going into the bellies of jumbo passenger aircraft but relies on paperwork to protect our citizens. Congress added $35 million above the President's request to enhance the deployment of detection equipment, research other methods to screen cargo and otherwise expand air cargo security. This omnibus bill would reduce that funding.

The Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 101–173, was signed into law by President Bush on May 14, 2002. The act authorized funding for enhanced hiring of immigration inspectors and agents as well as for improvements to immigration facilities. The President did not request the authorized funds to hire additional immigration personnel, nor did he request funds to make the authorized improvements to immigration facilities or to hire the required number of Border Patrol agents. The omnibus bill would reduce funding for Border Patrol efforts.

Just last month, 4 days before Christmas, Homeland Security Secretary Tom Ridge announced that the Nation's terror alert level was being raised to orange. He said the strategic indicator, including al-Qaida's continued desire to carry out attacks against our homeland, was perhaps greater than at any time since September 11. He went on to say that information indicates that extremists abroad are anticipating near-term attacks that they believe will rival or exceed the scope and impact of those we experienced in New York.

The President promised a safer nation when he created the new Homeland Security Department. But his Secretary says we are in greater danger than at any time since September 11, 2001. At the same time, the administration urged Congress to cut funding for Homeland Security.

In May of this year the President signed into law a bill authorizing $15 billion over 5 years for international programs to combat HIV/AIDS. On July 12, while in Nigeria, the President said: The House of Representatives and the Senate must fully fund this initiative, for the good of the people on this continent of Africa.

To "fully fund this initiative" requires $3 billion. The authorization bill, which the President explicitly referenced in his speech, authorized $3 billion in fiscal year 2004. Yet the President only requested that the Congress provide $2 billion for the program. This omnibus bill, after the across-the-board cut, would provide less than $2.4 billion for the Global AIDS Program, over $600 million below the level promised.

Democratic Senators, including myself, on three separate occasions offered amendments that would have ensured that HIV/AIDS funding reached the $3 billion level. All three of these amendments were defeated by the Republican leadership working with the Bush administration.

Rhetoric and reality are two different things. Now we understand that the President will be promising to put a man on Mars. Somewhere along the way the tail has begun to wag the dog.

The legislative process is being steered from the Oval Office. The legislative branch is being used not as the Framers envisioned, to serve as a check on the executive branch, but instead as a tool to check off accomplishments on the President's political agenda.

Whose fault is that? Shame on us for letting ourselves be used. Shame on us for letting ourselves be used. Shame on us for putting political party against the best interests of the Nation. Shame on us for putting political party above the Constitution of the United States. This is not the way the Senate should operate.

I fault no individual Senator for bringing us to this point, but I do fault the system that places meaningless message votes and staged photo-op debates before the business of the Nation. I fault politicians for their weakness, for their failure to uphold their oaths to support and defend the Constitution of the United States against all enemies, foreign and domestic.

Shame on us. In my 50 years in this Congress, I have never, never before seen such a Milquetoast Congress, a Congress that would cede power.

This Constitution says Congress shall have power to declare war. Yet this Senate stood speechless—speechless—when we voted in 2002 to shift this power to determine when, where, and what military forces should invade a sovereign Nation. The Senate had little to say.

That was not the Senate that was here when I came here. No, not the Senate that was here when I came here. Everett Dirksen stood at that place. Lyndon Johnson stood at that desk. There was Norris Cotton, George Aiken, Jacob Javits. Those were men. There was Senator Russell of Georgia, who stood at this place, right here at this desk, Richard Russell. Lister Hill stood there. John Pastore of Rhode Island stood here. No, not those men. They are gone.

But the Constitution is not gone. The Constitution is still with us. And many times have I stood at that desk where the Presiding Officer sits today, put my hand on the Bible, as it were, and swore to support and defend the Constitution of the United States—not to support this President or that President, this party or that party. I did not have any oath of that kind. I did not take any oath of that kind. I never will take an oath of that kind.

How many of us can say we have stood by that Constitution? How many of us would have to say: Oh, I have bent—I have bent, when my party, when my President—the President is the President for all of us. He is not just my President.

But I say that we have become far too deferential to all Presidents, too deferential to all Presidents. Presidents are just hired hands like the rest of us. They are here only for a while. Then they go. I have seen 11 administrations go, and I hope I get to see another one. But we act, when we come here, as though we swear to support this President or that President, a President from the Republican party or a President from the Democratic party. Why? They are mere hired hands who are here for a little while, like the rest of us.

No President sends the Presiding Officer here. No President can send that Presiding Officer home. Why so deferential to Presidents?

Under the Constitution, we have three separate but equal branches of Government. How many of us know that? How many of us know that the executive branch is but the equal of the legislative branch—not above it, not below it, but equal? Why do we treat Presidents as though they were kings, clothed in royal purple?

The real losers in this scenario are the American people. They are not well served by a Congress that fritters away opportunity after opportunity to probe, to analyze, to exercise its independent judgment on the urgent issues of the day in favor of rushing to do the bidding of the executive branch. Shame on us. Fie on us.

The people of West Virginia and this Constitution that I hold in my hand have made me a U.S. Senator. No President made me a U.S. Senator. I came to Congress when Harry Truman was President. He did not make me a Member of Congress. Of course, I was indebted to him for coming to West Virginia and speaking on my behalf and on behalf of my colleague, Jennings Randolph, at that time. But I did not expect that to make him my boss. I admired Harry Truman. I did not like him for some of the language that he used in public, but I still admired him, and admire him to this day as a President who had courage. But he was just a President.

So I have served with 11 Presidents—not under any of them. No, no President sends me here. And by what right do the people of West Virginia send me here if I am going to bow and scrape to a President? They expect me to speak up, and that is what I have tried to do, in the presence of Presidents, yes, but they put their pants on just like I put mine on; the same old way, no different.

Under our Constitution, our Founding Fathers had the wisdom to establish three separate, equal, coordinate branches of Government. That is under this Constitution. This Constitution—perhaps one does not think about it often, but when one stops to think about it, this Constitution has something to do with every minute, every hour, every day of every life in this country in one place or another, and in some instances more than one place.

This Constitution impacts your life, your life, and your life. Every day that you are here on this planet, this Constitution has a bearing on it. And then some would treat this as a piece of paper and put political party above the Constitution of the United States. When I do that, send me home and say: Good riddance.

This is the Constitution of the United States. Many times I have sworn by oath before God and man, with my hand on the Bible, the King James version of the Holy Bible, to support and defend this Constitution. Yet we treat it as a piece of paper. We use it only when it is of a particular benefit to us. But every day, in some way or in some ways, this Constitution bears upon your life. It may be in the delivery of your mail. It may be in the hard surfacing of the roads upon which you drive. It may have something to do with the flights that you are about to depart upon. Yes, it is this Constitution.

In this country, we don't say: God save the King. God save the King. God save the President of the United States. No. We say: God save the Constitution of the United States. This Constitution saved Congress from its error when it passed the Line-Item Veto Act. This Constitution did that.

Under the Constitution, Congress writes the laws. The President executes the laws. Under the Constitution, the power of the purse rests here, right here—not downtown, not down at the other end of the avenue, but here.

Most of the people who were in the Thirteen Colonies, in the 13 States, when the Constitution became a constitution, were British subjects. It took hundreds of years and blood spilled at the tip of the sword for Englishmen in 1688 to write that meetings of Parliament that should be held often, that there would be freedom of speech in the Parliament and in the House of Commons. Those were the men who placed the powers of the purse in the hands of the elected representatives of the people of England in Parliament. That is where the power of the purse rests, here in the legislative branch. We ought never to let the executive branch forget it. Yet we cower. We act like poodles when it comes to standing up against the Chief Executive of the United States.

Who is he? With all due respect, whether he is Republican or Democrat, this is the Congress of the United States. This is the people's branch, this body and the other. Under the Constitution, the Congress determines how to write our laws, how to protect Members' rights to debate the important issues of the day. This omnibus bill leaves those pillars of our constitutional system in shambles. It is our duty as the people's representatives to protect those pillars of our constitutional system of government.

In 1999 and in the year 2000, when President Clinton, a Democratic President, a President of my own party, supported efforts by the Republican Congress to produce Omnibus appropriations bills, I came to this floor to decry our loss of our right and our duty to write legislation. I came to this floor to stand up for Congress's power of the purse. It made no matter to me—not any, no matter—that this was a Democratic President calling for omnibus spending legislation. I stood up for the rights of this Senate as I do today.

In 1993, there was a great effort to include President Clinton's comprehensive health care reform plan in a reconciliation bill. Proponents of the

President's proposal hoped that such an approach would shelter the proposal from extended debate in the Senate. My own majority leader, George Mitchell, came to me. I said, no. My own colleague from West Virginia in the Senate pleaded with me. I said, no. President Clinton, a Democratic President, called on the telephone, called on me to support this effort. I said, no. I said, no. Without regard to party, I felt compelled to protect Members' rights to a full debate.

I said: This is a comprehensive health bill. The people need to know what is in it. We Members of the Senate need to know what is in it. That is why we have the Senate, to debate and to amend. No.

And so I turned my face like flint to the request of my own friend and the President of my own party. No.

Did he think less of me? I doubt it. He thanked me. He understood what I was saying. I will say it again. How many on that side would say that to a President of their party? But with President Bush, he insists that members of his party march with him step by step. I can remember a great Republican Senator who refused to march step by step. That was Senator Mark Hatfield. He was scorned by many on that side of the aisle because he stood alone against a political party, his party. He was no coward for doing that. He was a man.

President Bush insists that members of his party march with him step by step. Today, on the other side of the aisle, voices for a strong and equal Congress fall silent.

Last week Senator FRIST wrote to Senators and urged them to vote for the omnibus conference report because if the omnibus fails, then the only alternative, he said, is a full-year continuing resolution that would force the agencies for the seven outstanding appropriations bills to operate at last year's level. He argued that such a continuing resolution would produce deep cuts for food safety, veterans medical care, highway funding, and the Global AIDS Programs.

However, the Senator presents the Senate with a false choice. If the omnibus is not approved, the Senate has other options to move forward. If the only alternative is a full-year continuing resolution, then that is the choice of the Republican leadership. It would be another example of putting political posturing before the needs of the American people.

There is a clear alternative, and that is to sit down and work out a compromise that can overwhelmingly pass the Senate. If our distinguished and illustrious majority leader, Mr. FRIST, had the will to do so, such negotiations could be completed, who knows, maybe even in 1 day. However, in its current form, I cannot vote for this bill. I cannot vote for this conference report that so ravages our constitutional process and puts corporate interests ahead of the people's interests. I cannot vote for a bill that undermines our credibility, undermines the credibility of the United States Senate with the American people. I urge Members to vote no when the Senate votes on the adoption of the conference report.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, it is a tough act to follow of the Senator from West Virginia. Is there any specified allocation of time for debate this afternoon?

The PRESIDING OFFICER. No special allocation of time, except that Senator McCAIN is to be recognized at 2 o'clock for an hour.

Mr. DURBIN. I thank the Chair.

Mr. President, I thank the Senator from West Virginia for his eloquent words, which I followed on the floor and through the television before I arrived on the floor. It is always a pleasure to hear him speak to the issues that we are challenged with as a nation.

Last night, I joined many Senators and Congressmen to walk across the Rotunda to attend the 21st State of the Union Address, which has been my honor to witness as a Congressman and as a Senator, to be on the escort committee to bring in the President for this historic moment and to hear the President's words as he addressed America, as he does each year. It is a rare chance for him to speak unencumbered to the Nation directly and to really express the feelings in his heart.

Part of what the President said I thought was particularly timely and poignant. It drew bipartisan response and applause—particularly the part where he saluted the men and women in uniform. We have many debates on foreign policy here. Senator BYRD and I view it the same way, that perhaps our country is on the wrong track when it comes to this policy of preemption and going it alone in the world. Having said that, we both understand, as every Member of the Congress does, there are men and women in uniform who are literally risking their lives at this moment for this country. While politicians and elected officials debate the policy, we should never forget the courage, sacrifice, and dedication of those men and women in uniform, how much it means to their families that they know we stand behind them and we will not deny them the resources they need to perform their mission safely and to come home safely and as quickly as possible.

I point out one aspect that has come to my attention over the 2-month break when the Senate was in recess. I joined a couple Senators and I went out on my own to visit Walter Reed Hospital last November and meet with these wounded soldiers. It is a wonderful thing to see these brave young men and women. Also, it is sad to see some of the injuries they have sustained. Most of them wear ceramic vests that protect them in combat, but they don't protect their limbs. Many of those there are amputees who have lost a hand, an arm, legs, or, in the case of one soldier, both hands, or suffered a head injury.

Having spoken to them and asked them the circumstances of their injury, I usually said: Is there anything I can do for you? It was interesting to me how many had the same response. It wasn't personal. They didn't ask me for a favor. They said: Don't do me a favor, but do a favor for the men and women I served with. We need to have more protection in combat, particularly with Humvees, which are today's jeeps that are so prevalent in the war in Iraq. Humvees were built to be light and fast for a desert war, and now they perform a different function. They move troops through Baghdad and Fallujah, which are dangerous areas. Sadly, many of these Humvees have canvas sides. If one of these terrorists fires a rocket-propelled grenade at it, it whistles right through the vehicle causing great injuries and damage in the process. The same thing is true with the homemade bombs. So the wounded soldiers at Walter Reed said time and again that they need more armor-plating on the Humvee vehicles.

I thought this was something a Senator ought to look into. So I came back to my office and contacted the Department of the Army and said: How many Humvees in Iraq today don't have armor-plating? They said that 8,500 do not. So I said: Is it a priority to make armor-plated doors for these? They said it is the highest priority. They said: Senator, there is good news. Half of them will be built in your State at the Rock Island Arsenal, which has served America since the Civil War. I knew the men and women there were anxious to get involved and to prove themselves and to serve our Nation again, as they have time and time again in times of conflict.

During the break, I went to the Rock Island Arsenal and saw the first two armored doors for Humvees come off the assembly line. The employees were working around the clock and could not have been prouder. I said to the officer in charge at the Rock Island Arsenal: This is great. You are supposed to build about 8,000 or 9,000 of these armor-plated doors. How long will it take you to get these 9,000 armor-plated doors into Iraq on the Humvees? He said: Senator, if we work night and day, we can get this done in 2 years. Two years.

I thought to myself, what am I missing here? In World War II, we would build a bomber in 72 hours. We would build a ship in 30 days. Why is it going to take 2 years to build the armor-plated doors for the Humvees? He said: I am sorry to tell you that there is only one plant left in America that makes the steel that can protect these soldiers with armor plating in the Humvees—one plant left in America. I thought about that last night when the President said to us that jobs are growing in America—manufacturing and industrial jobs are growing in America. I have to say to the President, as I look at Illinois, that is not the case. We are losing jobs. We are losing manufacturing jobs. We have lost 20 percent of our manufacturing jobs in the last 5 years and continue to do so.

Many jobs are going to China. China is a country where jobs are growing but, sadly, at the expense of American workers. China has an unfair trade policy related to the currency valuation of their local currency.

Now, the Secretary of the Treasury, who was there last night, protested this in China, but they have done nothing about it. So they have a 15- to 40-percent price advantage over American manufacturers. What it means is that manufacturers, large and small, are losing business to China. So when the time comes, when we need a steel mill to produce the armor for the Humvees so our sons and daughters come back with limbs intact and safe, we find ourselves at the mercy of these foreign producers.

Today, for every dollar of goods exported from the United States to China, we import $6 worth of goods from China, and one company in America—one company alone—imports 10 percent of all of the Chinese exports to the United States. One company sells 10 percent of all of the goods and products sent by China to the United States. That company is Wal-Mart. Wal-Mart, yes. It is in your neighborhood and in your hometown.

A few years ago, they proudly said "made in America" at Wal-Mart. But it doesn't say that anymore. Last week, if you watched the cable channels, you saw Lou Dobbs talking about exporting America. Frankly, that is a sad reality today.

So when the President talks about all the new jobs coming into America, I don't see it. For my money, a jobless recovery is no recovery at all. What good is it to talk about productivity? What good is it to talk about economic growth if we have lost 3 million jobs under the Bush administration? That is a fact of life.

I told you the story of the Humvees. I will tell you one other.

In my apartment in Chicago, at 4 o'clock on Saturday, I received a phone call. It is interesting that I received a similar call 3 weeks before. The voice on the other end of the phone said: Mr. DURBIN, this is Nancy, and I am happy to inform you that your Discover Card is on the way to your apartment.

I said: Nancy, I didn't order a Discover Card.

She said: Yes, but you have qualified for one and we are going to send you a credit card.

I said: Nancy, may I ask you a question? Where are you calling from?

She said: Delaware.

I said: What city in Delaware?

She said: Just a minute.

I heard papers shuffling. I said: New Delhi?

She said: No, Bangalore.

As you know, that is a city in India. I tell you those stories because I think they demonstrate the anxiety and concern of Americans from one coast to the other.

The President may believe that we are deep into a recovery. The President may see new jobs coming, but America looks at the current evolution of our economy with concern. We are giving up our basic industries. We are giving up manufacturing to the Chinese, and now we are giving up service jobs to India and other countries.

IBM announced 4,000 jobs will be lost in the United States for computer programs that will be sent overseas to India. If you buy a Dell Computer and you need instructions on setting up your computer and you call the 800 number, you will generally speak to someone in India.

The question that raises is this: What will be the job for the next generation of Americans? What occupation or profession would you recommend to a young person for a future in America?

There are some that are obvious, but when you look at how we have built this country with a strong middle class, raising good strong families with strong values, you have to wonder, with the challenges we are going to face in the years ahead, whether this administration and this Congress are looking at the state of the American economy honestly.

What was President Bush's proposal last night to deal with the future of America's economy? He made it clear. He believes that if you make the tax cuts for the wealthiest people in America permanent law, then, in fact, we will have a strong economy. In other words, if you will give more money to the wealthiest people in America, somehow the economy lifts and everyone will succeed.

History is not on his side. In fact, this anemic recovery in which we are presently involved is proof positive that his tax cuts did little or nothing to stimulate this economy and creating a deficit of historic proportions. This President took a surplus in the Treasury and turned it into the biggest deficit in the history of the United States. He took over from an administration that had created over 20 million new jobs, and this President, unless something dramatic happens in the next few months, will go down in history as having lost more jobs under his administration than any President since the Great Depression—3 million jobs lost in America. And his answer to get America back on its feet and working again: Give the wealthiest people in America a tax break.

The President, when he talks about the tax cuts, zeros in on the $300 for individuals, $600 for families, the marriage penalty, but he ignores the biggest tax breaks, which are not included in that group but go to the wealthiest people in this country. Those are the ones who have brought us into this deficit situation.

To make matters worse, the conference report to accompany the Omnibus appropriations bill, which we have before us, includes a provision which says when it comes to those currently working in America, people who are struggling to keep their jobs and to keep their families together, this bill contains a provision which will eliminate overtime pay for 8 million Americans.

Mr. President, 8 million Americans today working overtime hours—away from their families, to make ends meet, to put some money away for college education, to deal with medical bills they can't handle otherwise—because of language insisted by the Republican leadership in the White House and in the Congress will lose their overtime pay.

That is the record of the Bush administration when it comes to jobs: 3 million jobs lost; 8 million working Americans denied overtime pay.

What does it mean? It means these men and women who are working these jobs will be told by their employers: You will show up and you will work instead of 40 hours this week, you will work 50 hours this week, and the extra 10 hours you work, you will be paid the same hourly wage, and if you don't like it, leave.

Perhaps that is the President's vision of America. From my point of view, that is not a vision that most families would appreciate. If we truly value work and we truly value families, wouldn't we take a different approach?

Didn't we hear the President last night talk about the family values of America and protecting those traditional values? While he spoke, we were considering a bill that says for 8 million Americans, the likelihood that your family will succeed is diminished, and it is reduced because we believe employers, at least those who support this bill, believe that employers should make more money at the expense of their employees.

We have had overtime pay since 1938. The Fair Labor Standards Act required employers to pay time and a half, and usually Presidents, Democrats and Republicans, would extend overtime protection and overtime benefits to more and more employees. This President will go down in history as the first to take overtime pay away from working Americans—8 million Americans.

The administration's proposal would strip 8 million workers of their overtime rights, including 375,000 workers in my State of Illinois. For workers who receive overtime pay, that overtime compensation usually accounts for 25 percent of their paycheck. The administration's proposal would slash the paychecks of 8 million hard-working Americans by 25 percent.

I haven't spoken about increasing the minimum wage in this country, which this administration has steadfastly opposed and Republicans in Congress have adamantly opposed. So at $5.15 an hour, more and more low-income workers find themselves falling behind and have to take a second job.

I went to a high school in Du Page County over the break. Du Page County is a great diverse, strong, and generally prosperous county in my State, just west of Chicago. When I sat down with the educators, we looked at No Child Left Behind test scores, and I said: Why is it that only 92 percent of the students took the test for No Child Left Behind at this high school?

The principal said to me: Senator, a lot of our kids are from poor families, single parent families, and they have brothers and sisters. If a little brother or a little sister gets sick and can't go to day care that day, mom is going to have to stay home from work and give up her paycheck or that older brother is going to have to stay home and watch the sick baby. That is what happens. He said that is reality.

Think about that kind of life where the sickness of the baby keeps an older brother out of school: where the mother, making $5.15 an hour, doesn't work an 8-hour day, but perhaps a 12- and 14-hour day or, if she is lucky, she has a job that used to pay overtime for those extra hours and now, because of the Bush administration's proposal, she is about to lose her overtime. She is struggling to keep her little family together under extraordinary circumstances, and we make it worse.

We do not increase the minimum wage. We do not protect her right to earn overtime pay, which has been on the books for over 65 years in America. Is that an administration with family values, sensitive to families and what they face?

What kind of employees will be hit hard by the President's determination to cut overtime pay? Let me give you a few categories: Police officers, firefighters, and safety coordinators. The International Union of Police Associations estimated this proposal will take overtime pay from 50 percent of those law enforcement officers currently guaranteed overtime. A minimum of 200,000 law enforcement officers will lose their overtime pay because of this appropriations proposal that came to us from the Bush administration.

I can go through the list: Prison guards from my State will no longer receive overtime pay; first responders, nurses, medical assistants, social workers, computer technicians, engineering technicians—the list goes on and on.

I think the list tells a story. It is one thing to talk about the goodness of America and the confidence we have in our future, and quite another for us to pass legislation, such as included in this appropriations bill, which destroys the confidence of working families in this Congress and this administration, unwilling to stand up and fight for them defending their rights to keep their families together.

Let me speak for a moment about education because at the heart of the issue of tomorrow's generation and their jobs is the question of education and training. The President made a very modest proposal last night to help community colleges. I thought it was good. When we assess the value for each community college, it is going to be symbolic, as most things are from this administration when it comes to helping America. It won't be the billions of dollars we are sending to Iraq. It will be $230 million, $240 million which is going to be allocated to community colleges. Mr. President, $230 million is hardly going to change education in America when we consider we are a nation of roughly 300 million people.

When we take a look at No Child Left Behind, we may note that this bill we are about to pass provides the smallest increase in education funding in 8 years, and it shortchanges No Child Left Behind, the President's premier policy on education, by $6 billion under the authorized funding level.

So we have said to schools, test your kids, and the President repeated it last night, continue to test, we want to know how you are doing. That is valuable. That is the diagnosis. But when it comes to the treatment, when it comes to tutoring, mentoring, after-school programs and summer school programs, this administration refuses to put the money on the table. They will identify the problem but they will not invest in solving the problem. In fact, what they have created is an unfunded mandate on schools at the absolute worst time possible. Where States are struggling to make ends meet, where local property payers are pushed to the limit on their property taxes, the President has imposed a mandate on the schools and refuses by $6 billion in this bill to provide the funding the schools need to succeed.

So what will happen? Tests will be taken and tests will be reported, both within the Department of Education and publicly. Schools which people respected will now be branded as failing schools. Schools which frankly are doing a good job will find that if one group of students, for example, the kids in the special education class, who have special physical and mental challenges, cannot meet the test scores we have mandated in No Child Left Behind, the school will be graded as a failing school.

Imagine, you and your husband, your family, have made a sacrifice to buy a home in a very expensive subdivision which you know to be safe and near a good school, so that there is going to be a great education for your kids. You are starting to make the mortgage payments, it is not an easy thing to do, and you pick up the paper and you say, did you realize the high school our kids are about to go to has been graded a failing school?

That is going to happen. It is going to happen across Illinois. It is going to happen across America. When it comes to the resources and money to help those schools and to help those students, this administration refuses to put the money on the table. I think that is unfortunate and tragic, and it hardly suggests that this President is looking forward to the next generation.

The same President who a week ago looked up to the heavens and said the vision for America is manned space flight to Mars is a President who is not looking around America at the neighborhoods and towns that need a helping hand, that need more jobs, that need better schools, and need affordable health insurance. Had that same President, instead of casting his eyes to the heavens and outer space, looked to our Nation and said, in the next 10 years we are going to bring America's schools up to the highest world quality standards, and if it takes 'the trillion dollars that is necessary, we will spend it, that President would have been applauded across America. Instead, he projects someone in a manned space flight to Mars that will cost us $1 trillion.

I am not against the space program. Many good things have come from the space program, and they continue to come from the space program, but to think that we are going to look beyond Mother Earth, look beyond our own home into the heavens to spend a trillion dollars just strikes me as a complete misstatement of priorities for America.

In the few minutes I have remaining, I will mention two or three other things I find troublesome in this bill. One of the major disappointments was the deletion of funding in the Commerce-Justice-State-Judiciary appropriations for the Voice of America and Radio Free Europe/Radio Liberty broadcasting for Eastern Europe. The Senate bill included this funding, as did the Senate version of the authorization bill: $9 million for broadcasts to Estonia, the Czech Republic, Hungary, Lithuania, Poland, Bulgaria, Latvia, Romania, and Moldova. Unfortunately, this bill will cut off those broadcasts, and that is not the right thing to do.

These are new democracies. They are still subject to instability. There is still gang and Soviet influence. I refer to the old Soviet gangs that still are alive and well and reborn in the form of syndicate operations. These democracies need the help of Radio Free Europe. I think putting that voice, as well as Radio Liberty, in a broadcast is an important thing to strengthen those democracies. Unfortunately, it was cut.

Then, of course, there is the provision in this bill regarding one of the controversial rules of the Federal Communications Commission. Do my colleagues think it is a better country if one company owns more and more television and radio stations? I do not. I think the diversity of message, the opportunities for Americans to hear different points of view, is really kind of key to our democracy. Yet, despite our votes on the floor of the Senate, at the last minute Chairman STEVENS and the White House put a provision in this appropriations bill which allows a greater concentration of ownership of television stations.

The obvious question is: What is that doing in an appropriations bill? The obvious answer is: The special interests won and they won big. Viacom was a big winner. Rupert Murdoch and Fox Broadcasting were all big winners by this provision being slipped in the bill. It is no surprise that some of these conglomerates have a conservative bent to them and agree with the President's party. Well, they were handsomely rewarded in this appropriations bill.

The last point I will make is that of all of the things in this bill which will make life tougher, more difficult and challenging in America, there is one that is very basic. When one turns on the television news tonight, what is likely to be the lead story? Well, in Chicago, sadly, it is likely to be a violent crime, maybe a murder. We are showing some improvement there. We are reducing violent crime, but it is still a national scourge. Unfortunately, it is the result of the fact that guns often end up in the hands of the wrong people.

Under the Brady Handgun Violence Prevention Act, firearm dealers are prohibited from transferring firearms to anybody until there has been a search in the National Instant Criminal Background Check System and it is determined that selling this gun to this person would not violate the law. The kind of people who would be prohibited from buying guns are obvious: convicted felons, somebody convicted of a crime of domestic violence or under a domestic violence restraining order, or a fugitive. We do not want to sell guns to people who have demonstrated that they misuse them. That is a smart thing to do. So we submit the name of the person to the NICS system for a computer check to see if this person would be prohibited from having a firearm. If so, then we do not sell them the gun.

In addition, under the current regulations, the Department of Justice retains records of approved firearm sales for up to 90 days. If during the course of those 90 days, it obtains information that a gun has been sold to someone improperly, we are going to go get the gun.

So I asked the General Accounting Office what would happen if the Department of Justice was required to destroy these computer records of gun purchases within 24 hours. In other words, the Department of Justice is given only 24 hours to obtain additional information on a person's background, and they were not given the full 90 days that they have under the current law. What if it is limited to 24 hours? The General Accounting Office did a study for me. They came back and said the FBI would lose its ability to initiate firearm retrieval actions when new information reveals individuals who were approved to purchase firearms should not have been. Specifically, the GAO said during the first 6 months of the 90-day retention policy, the FBI used retained records to initiate 235 firearm retrieval actions, of which 228 could not have been initiated if there were a next-day destruction requirement.

Let me boil this down. If I want to buy a gun and I pass through the computer check, they have 90 days to obtain additional information regarding whether I should have been able to buy the gun. If they are told they have only 24 hours to gather this information, it means that 228 guns in a 6-month period would be given to convicted felons, people guilty of domestic violence, and fugitives, exactly the wrong people in America to have guns.

Now, who in the world would want to limit the ability of the Government to check on someone's background to make sure that criminals did not buy guns? One special interest group—the National Rifle Association. And they won, in this bill. They have a provision in this bill which will prohibit the FBI from obtaining information on a purchaser's background more than 24 hours after a sale is approved. What it means in this case is 228 felons and other prohibited persons in a 6-month period would end up with guns on the street.

Does that make you feel safer, America? It doesn't make me feel safer at all. It is the kind of mindless pressure by a special interest group that is being paid off for its political support with this provision in the appropriations bill, and that makes no sense at all. It is not going to make the streets of my State any safer. It isn't going to make it safer for the policemen who get up every morning, who put that badge on over their heart and risk their lives for us every single day. It isn't going to make it safer for our children who are walking home from the bus or from the CTA train. It is not going to make it safer for America.

But there are smiles on the faces of the special interest group, the National Rifle Association. They won in this appropriations bill. They were able to limit the opportunity for Government to do its work, to keep guns out of the hands of criminals. That is another unfortunate outcome of this legislation.

So we will face this Omnibus appropriations bill after having defeated a motion to close down debate yesterday. I hope in the process a lot of Americans will pay close attention. This is one of the latest times I can remember major appropriations bills being enacted since I served in Congress. The fact is, the longer the bill languishes, the more likely it is subject to mischief. That is what happened here. Time and time again we saw the overtime pay issue, the issue of media ownership concentration, the issue of the background checks on guns, as well as the issue of country-of-origin labeling—all of these became victim to this debate that went on and on, on the appropriations bills, and ultimately the special interests won. Americans lost, and American families lost as well. I yield the floor.

The PRESIDING OFFICER. The distinguished assistant minority leader.

Mr. REID. Senator McCAIN is scheduled to be here at 2 o'clock, and he has indicated he will be here, so I suggest the absence of a quorum pending the arrival of Senator McCAIN.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we have been advised by the majority cloakroom that Senator McCAIN will not be here for a few minutes. We don't want him to lose any of his hour. He told me how important it is to him to have that hour. So I ask unanimous consent the Senator from Iowa be recognized. When Senator McCAIN does appear on the floor, Senator HARKIN would yield to him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that Senator McCAIN be allotted his full hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Nevada for asking for this consent. Certainly I will yield to the Senator from Arizona when he arrives. I know he had time reserved.

I listened with great interest to the President's State of the Union speech.

hoping to hear what kind of plans he had to help America's working families in the struggling economy. Unfortunately, I didn't hear anything to help the millions of people who are out of work and have given up looking for work because there are so few jobs. I think this administration needs to wake up and come up with a real jobs plan to help America's families.

We need to extend emergency unemployment insurance for the hundreds of thousands of people who paid into unemployment when they were working but months after losing their job still can't find work.

We need to raise the minimum wage, which has not been increased in over 6 years.

And the administration needs to immediately withdraw its proposal that would deny millions of workers their overtime pay. The President's proposal will deny overtime pay to 8 million workers. Five months ago the Senate voted 54 to 45 on my amendment to block the administration's effort to take away overtime pay to 8 million Americans. The House soon followed, 223 to 201. The Senate spoke again yesterday in its vote against cloture. This should not even be an issue on the Omnibus appropriations bill that is before us today. The Congress of the United States spoke up, clear as a bell, and said: No, the administration must not strip overtime rights from 8 million American workers.

But, as we all know, the administration refused to accept the will of Congress. The administration ordered its foot soldiers in the House to strip this provision from the omnibus. Senator SPECTER and I fought to keep it in, but the administration refused any cooperation or compromise. In the end, just like that, without any vote in the conference, the administration nullified the clear will of both Houses of Congress and the American people by sticking to his position to deny overtime pay rights to 8 million Americans.

This is a clear abuse of power by the administration and part of a pattern we have seen from this President, time and time again. The administration seems to believe in government by one branch, the executive branch. When there are no checks and balances, the result is bad public policy, and that is exactly what we see here today.

Mr. President, I see the Senator from Arizona has arrived. I will yield the floor and resume my talk on the overtime provisions later on sometime today.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Arizona is recognized for 1 hour.

Mr. MCCAIN. I thank my colleague from Iowa and welcome him back from a very interesting time.

Mr. President, here we go again, another Omnibus appropriations bill, and this one takes the cake. Obviously, the New Years Eve parties didn't end for Congress on January 1. We are on a spending bender and this bill is ample proof of it. I think we have a new phrase in the lexicon of description of the way the Congress does business: Another drunken sailor spending spree embarked on by the Congress of the United States to the detriment of our children and our children's children.

I haven't been around here as long as many others, but I have never seen, nor do I believe history will record, such a rapid transition from a period of surpluses as far as the eye could see, to now commitment on the part of the administration to cut the deficit in half at some time in the future. Multitrillion-dollar surpluses to multitrillion-dollar deficits, and you would think we were still in a period of surpluses. If you look at this legislation, it is a living, breathing argument that this system is broken, the way we do business. Spending is out of control and we are mortgaging the future of our children and our grandchildren, and there is no way that Medicare and Social Security can be viable when we are amassing these kinds of outrageous processes. I say shame on this body, shame on the appropriators, and shame on us because, on Thursday, we will, after a vote of dissatisfaction, now pass this outrageous spending bill.

Americans have heard much about the growing problem of identity theft. We have before us the most costly case of identity theft imaginable. It appears that the big spenders in this body have all but stolen the credit card numbers of every hard-working taxpayer in America and have gone on a limitless spending spree for parochial porkbarrel projects, leaving Americans to pay and pay.

As I will point out later in my statement on such programs as NASA, some of these cuts are dangerous.

Cuts in the International Space Station in the name of porkbarrel spending is endangering the very lives of our astronauts. Policy changes that have to do with fundamental changes in media ownership, in fishing, and in other areas that have been inserted in this bill are absolutely outrageously in violation of Senate rules, I might add.

Please join me as we walk through this shopping mall. On the right, we have $1.8 million for exotic pet disease research in California. On your left, you will find $50 million for an indoor rain forest in Iowa—$50 million for an indoor rain forest in Iowa? Give me a break. On your left, in front of us, you see $250,000 to build an amphitheater park in Illinois.

It is time we put an end to this theft. I am sorry we have to call it theft but that is how I see the situation.

The sum of these political indulgences is enormous and growing and amounts to the theft of our future and the theft of our economic recovery.

Nearly 1 year ago I stood here and spoke about the 2003 Omnibus appropriations bill. At that time, I said our current economic situation and our vital national security concerns illustrate that we need now more than ever to prioritize our Federal spending. Obviously, it had no effect.

Let me remind my colleagues that we are nearly 4 months into fiscal year 2004 and still without 7 of the 13 annual appropriations bills. This has become an unacceptable practice. Less than a year after passing one monstrosity, we are poised to do it again as if it should now be our standard operating procedure. But far worse than the breadth and timing, we have before us a bill loaded with special interest porkbarrel projects and legislative riders that have no business in this or any other spending bill.

It is no accident that we are dealing with this bill in an election year. In fact, I strongly suggest we change the name of this bill to "The Incumbent Protection Act of 2004." Forget about the Patriots versus the Panthers in the Super Bowl next weekend. We are right in the middle of the Super Bowl of pork. C-SPAN viewers have seats at the 50-yard line. It is Congress versus the American taxpayer, and sadly we already know the outcome of this game. The taxpayer will be the loser.

We have before us today a bill that incorporates 7 of the 13 annual spending measures totalling a whopping $820 billion chocked full of porkbarrel spending and major policy changes.

The Kansas City Star recently reported, "Enough pork is layered into the spending bill that even the Missouri Pork Producers Association is in line for $1 million."

There is over $11 billion unrequested, unauthorized, run-of-the-mill pork projects inserted in the 1,182 pages of this conference report.

Let us talk about some of the interesting provisions: $200,000 for the West Oahu campus of the University of Hawaii to produce the "Primal Quest" film documentary.

I am sure my colleagues will again be surprised at the number of projects that go to the States of the senior members of the Appropriations Committee, Alaska, West Virginia, Mississippi, and Hawaii: $225,000 to the Wheels Museum in New Mexico—a wheels museum in New Mexico; $7.3 million for Hawaiian sea turtles; $6 million for sea lions in Alaska; $450,000 for the Johnny Appleseed Heritage Center in Ohio; $100,000 to the State Historical Society of Iowa in Des Moines for the development of the World Food Prize; $200,000 to the Rock and Roll Hall of Fame and Museum in Cleveland, OH, for the Rockin' the Schools education program.

As a fan of rock and roll, I can certainly see why that Rockin' the Schools education program would be worthy of $200,000; $1 million for the continued threat of the Mormon cricket infestation in the great State of Utah.

Here are interesting ones: $450,000 for an Alaska statehood celebration and $225,000 for an Hawaii statehood celebration. If I were the Senator from Hawaii, I would certainly be angered that I have been shorted $225,000 to celebrate my statehood. Hawaii became a State in the same year. You would think they would want to equalize that. I am sure they will fix it in a later appropriations bill knowing the way, in the case of Alaska and Hawaii, that one hand washes the other; $175,000 to a city in Missouri for the painting of a mural on a flood wall. That must be one heck of a mural; $90,000 for fruit fly research in Montpellier, France.

Given the closeness of our relationship with the French, I can certainly understand why we would want to send $90,000 over there to help get rid of that fruit fly in Montpellier.

But back to home, $225,000 to Traverse City, MI, for the restoration of an opera house. Opera lovers rejoice; $250,000 for the Alaska Aviation Heritage Museum. Alaska is known for a lot of things, but being the hotbed or the birthplace of aviation is not one that I knew of, although over the years I have grown to be more and more aware of the critical needs of Alaska for Federal funds for every conceivable purpose; $200,000 to the town of Guadalupe, AR, for the construction and renovation of a shopping center. I will have to go out there and see it. It is not too far from my home; $325,000 to the city of Salinas, CA, for the construction of a swimming pool.

Some of my colleagues may have read about this kind of interesting thing. It appears that a Member of the other body had some pangs of conscience because he dropped a frog into the swimming pool, or something like that. But whatever, the city of Salinas will have a new swimming pool.

And $100,000 to the city of Macon, GA, for the renovation of the Coca-Cola building. I can certainly see why the Coca-Cola people couldn't arrange for that. They are an impoverished corporation, as we all know; $100,000 to the city of Atlanta for the renovation of Paschal's restaurant and motel. I am sure there is great historical significance associated with Paschal's restaurant and motel down there in the impoverished part of Atlanta; $900,000 to an economic development association in Idaho to continue the implementation of the Lewis and Clark Bicentennial commemoration plan; $175,000 to the city of Detroit for the design and construction of a zoo. The city of Detroit certainly wouldn't want to have to pick up any of that tab; $238,000 to the National Wild Turkey Federation. I wasn't sure whether this was the animal or the beverage. But either way, $238,000 to the Wild Turkey Federation will, I am sure, be wisely spent, and perhaps that would reduce the cost per bottle; $200,000 for the city of North Pole, AK, for recreational improvements.

I know it has been a bad Christmas season for some, but you would think the elves and others might not need $200,000 for North Pole, AK. But one never knows, does one? The condition of the elves and Mrs. Claus are generally updated only around Christmastime. But it has come a little late this year. I will have to ask my staff to find out the total population of North Pole, AK, although counting nonpersons, I am sure, would enlarge the census there. There is $100,000 for restoration of the Jefferson County Courthouse clock tower in Washington State. That was under the category of economic development. I imagine everyone knowing what time it is would probably encourage efficiency there.

There is $220,000 to the Blueberry Hill Farm in Maine. They are getting their thrill on Blueberry Hill. I almost did not use that one, it is so schmaltzy.

While many of these projects may sound comical, they illustrate a badly broken system in need of serious and comprehensive reform. The HUD portion of this bill contains an account that is perhaps the best evidence that this process is completely broken and out of control. The appropriators included $278 million in this bill for so-called "economic development initiatives." Every single dime of that $278 million was served up as pork. There were 40 pages of report language. The appropriators dished out 902 earmarks for everything from theater renovations in Jenkintown, PA, to quarry updates in Nome, Alaska.

Excuse me, North Pole, Alaska. The population in 2000 was 1,570, so $200,000 is a tidy Christmas present.

Back to the 902 earmarks, from everything from theater preservation to quarry updates in Nome, Alaska. Again, somehow Alaska comes back and back and back and back throughout. I wonder how the people in Alaska feel about being put on welfare.

Sadly, the EDI account in the HUD appropriations bill has become nothing more than a slush fund for the appropriators, completely eliminating any competitive or merit-based determination by the Secretary of Housing and Urban Development. The only word that comes to mind to describe this practice is "shameful."

At the same time, I will comment about some language in the statement of managers language accompanying this conference report that offers a more appropriate approach. Many of the accounts throughout the Department of Justice portion of this bill contain language that allows Federal officials, Governors, and other State and local representatives some discretion in awarding the appropriated funds. While the statement of managers names specific entities in connection with the Department of Justice grant, it also states that funding should be awarded if they are warranted after a proper review. Unfortunately, that kind of language is missing throughout the rest of this legislation. I hope the agency officials charged with reviewing these proposals will employ a modicum of fiscal restraint in some projects mentioned, such as $2 million for the First Tee Program, which teaches young people how to play golf. I know the Presiding Officer is an avid golf fan and has been to many parts of the world in order to enjoy the game of golf, but I don't think even he would think it is justified in this period of multitrillion dollar deficits to spend $2 million for the First Tee Program.

As inappropriate as the earmarks are, I am perhaps more dismayed at the inclusion of some major policy changes in the bill. Every member of this Chamber knows it is a violation of Senate rule XVI to legislate on an appropriations bill, the most often violated rule I know of in the Senate. Moreover, every Member knows it is a violation of rule XXVIII to add new provisions in conference that have not been included in either House or Senate bill sent to conference. Sadly, every Member knows this omnibus violates those rules. The inclusion of special interest legislative riders on a must-pass spending measure is not only a corruption of the proper process, it is irresponsible and an affront to good government.

I turn first of all to Section 629, the Commerce-State-Justice division of the omnibus. The provision would undo the Federal Communications Commissions June 2 decision to incrementally raise the national television broadcast station ownership from 35 percent to 45 percent. Instead, the provision would set the ownership cap at 39 percent. I strongly object to the inclusion of this provision for both procedural and substantive reasons. Procedurally, this is a blatant attempt by the appropriators to usurp the jurisdiction of the authorizers. I have not supported the use of the appropriations process to legislate policy and I will not do so today. Substantively, this provision is objectionable because while purporting to address public concerns about excessive media consolidation, it really only addresses the concerns of special interests. It is no coincidence, my friends, that the 39 percent is the exact ownership percentage of Viacom and CBS. Why did they pick 39 percent? So that these two major conglomerates would be grandfathered in, purportedly, in order to reduce the media ownership, which was voted 55-40 in the Senate. The fact is now they are endorsing Viacom and CBS's 39 percent ownership, grandfathering them in because they should have been at 35 percent. Remarkable.

I am not sure where the line should be drawn. We have spent hours and hours and hours in the Commerce Committee in hearings on this issue. I have never seen such an uprising of American public opinion on an issue that surprised me as much as this issue of media concentration. Hundreds of thousands of people contacted the FCC on this issue. A vote was forced in the Senate which rolled back—the first time in my memory—a decision of the Federal Communications Commission. I had very mixed emotions about it. But when I saw a clear channel radio go from 140 stations to 1,240 stations and there is a toxic spill in Minot, ND, and there is not a single person in any of those stations to warn the local people, I am worried about media concentration.

So what did the appropriators do? They pandered to a special interest, Viacom and CBS, and grandfathered them in. That is what this is all about. Do you think they addressed the major concern that most have, which is cross ownership? When Gannett owns the Arizona Republic and Channel 12, it is OK. What happens when Gannett owns Channel 12 and Channel 10 and Channel 5? That is what concerns people.

So the appropriators, in a blatant bow to Viacom and CBS, insert a 39 percent rule. I again give credit where it is due, the power of the National Association of Broadcasters, which is not included in the provision, as the ultimate proof of their influence. Why is it that other concerns that have been raised and were voted on in the Senate were not included in the appropriations bill? It is because the National Association of Broadcasters did not want it in.

As I mentioned, this is not the first attempt by Congress to undo the FCC's new media ownership rules. Last September, the Senate voted 55–40 in support of Senator DORGAN's congressional disapproval resolution which sought to declare all of the FCC's new media ownership rules "null and void." The omnibus spending bill is not the appropriate legislative vehicle to undo the commission's broadcast ownership cap.

If the Congress wishes to take action on the issue of media ownership, it ought to do so in the committee of jurisdiction. The issue of media ownership is far broader than the limited scope of this provision. As William Safire wrote in an op-ed piece in the New York Times, itself a large owner of several media outlets: The effect of the media's march to amalgamation on America's freedom of voice [is a] far-reaching political decision [that] should be made by Congress and the White House, after extensive hearings and fair coverage by too-shy broadcasters, no-local-news cable networks, and conflicted newspapers.

I can spend a lot of time later on this year on this whole issue of what is happening with localism, with the station owner in Baltimore where the person goes on the set with an overcoat on and says, It is really cold here in Minnesota today. These are serious issues.

What did the appropriators do? They decided to do something for the National Association of Broadcasters. We had multiple hearings in examining media ownership and several committee members introduced S. 1046, the Preservation of Localism Program Diversity and Competition in Television Broadcast Service Act of 2002, and that is what we should be debating.

As the Senator from North Dakota, Mr. DORGAN, has said many times, we now have many voices and one ventriloquist.

Now, if we could have a little straight talk here today, while the NAB is unhappy with only part of the FCC's new rules, there is no valid public policy reason why both of the FCC rules should not be considered together. In fact, if only one rule could be addressed, as I said before, the broadcast/newspaper cross-ownership rule is the one that should be addressed.

In an October hearing before the Senate Commerce Committee, the entire panel of academics and analysts agreed that the FCC's new newspaper/broadcast cross-ownership rule would have a significantly greater impact on media ownership concentration than the new 45-percent national television broadcast ownership cap.

One of the panelists, Dr. Mark Cooper, provided the example of Tallahassee, FL, where the top TV station has a 70-percent market share and the daily newspaper has 60 percent penetration. If they merge, they would employ almost two-thirds of all local journalists in that community.

A September article in Business Week recognized this and stated:

> The 45% cap has become a rallying symbol, but the regulations that would truly reorder America's media landscape and affect local communities have flown under the radar. These would allow companies to snap up not only two or three local TV stations in a market but also a newspaper and up to eight radio stations. If the courts and Congress are worried about the dangers of media consolidation, they'll have to resist calling it a day after dispensing with the network cap and go after the rules with real bite.

In opposition to the National Association of Broadcasters selective advocacy, all four television networks have quit their membership in NAB. In a resignation letter submitted last year, ABC/Disney wrote:

> Almost two years ago, the other major broadcast networks resigned from the NAB. The issue was the patently hypocritical NAB position favoring deregulation of newspaper cross-ownership and duopoly while simultaneously advocating continued regulation of the national station cap. The NAB and the public policy process in Washington should not be abused to advance the business interests of one broadcaster over another.

The ABC/Disney suggestion is exactly what is going on here. This provision is not about public policy; it is about advancing the interests of the National Association of Broadcasters.

To summarize, stand-alone legislation like S. 1046, that was reported out of the authorizing committee, is the correct vehicle to address these difficult and complex issues involving media ownership. Attaching a rider to selectively address concerns of special nonpublic interests is not the way to make good policy.

Let me state from the outset I take a back street to no one in my support of second amendment rights. I have supported nearly every law that protects the rights of law-abiding gun owners since first coming to Washington. But there is a special interest rider included in this Omnibus appropriations bill that is absolutely appalling. The House sponsor of this provision has argued that it benefits gun owners, but the only gun owners it seems to help are those who have broken the law.

This rider has three major provisions, all of them unnecessary for gun owners, and none of them helpful for law enforcement.

First, it requires that background check approval records be destroyed within 24 hours instead of the current policy of 90 days. Proponents argue that keeping these records for 90 days constitutes a national firearms registry. I want to be very clear. I oppose Federal registration of firearms.

I also want to be equally clear that our current policy of keeping these records for 90 days does not constitute in any way, shape, or form a national registry. It is a phony issue.

The 90-days retention allows the NICS system to correct mistakes that occur when they accidentally approve someone who should have been denied a gun in the first place. This happens about 500 times a year, according to the General Accounting Office. Nearly all these false approvals are because of missing domestic violence records. So as far as I can tell, this provision benefits no one except those who should have been denied a firearm but were not.

The second provision prevents ATF from conducting an inventory audit of licensed gun stores. This means that ATF auditors will have no way of knowing if a gun store is missing firearms, a sure sign that they are selling guns illegally without the proper background checks.

In Tacoma, WA, ATF auditors recovered 233 firearms missing from Bull's Eye Shooters Supply store. One of those weapons was used by the accused DC area snipers. Why are we putting special language in a must-pass Federal spending bill to protect a store such as Bull's Eye? Consider the potential consequences.

A third provision prohibits the public release of crime gun trace information. This information is not top secret data that jeopardizes our national security or hinders law enforcement. We cannot have a government that operates in secret and refuses to release information that shows where criminals have obtained a gun.

This provision has no support from the law enforcement community, and was even opposed by Chairman YOUNG and Subcommittee Chairman WOLF. Yet here it is today included in this terrible bill. This language is an embarrassment to law-abiding gun owners and a slap in the face to law enforcement.

Now, it is going to get a little esoteric here for a second, but it is very important. Because what we have done in this bill has basically changed the entire fishing industry and the way they do business, again, to protect certain entities in the State of Alaska.

One of the policy riders is language that authorizes the Bering Sea and Aleutian Islands crab fisheries rationalization plan, which would divide 90 percent of that crab market among just a small group of processors. Under the provision, fishermen could only sell this crab to those few processors and, in turn, only those processors would sell to consumers.

We are creating a cartel, a Government-mandated cartel. And who is going to pay for that, at the end, in the form of higher prices? Those who eat this crab all over America, including my State.

This legislative language has not been considered by the authorizing committee nor requested by the administration. This provision raises serious antitrust concerns. Again, it would require—not simply allow but require—the crab fishermen to sell 90 percent of their crab harvest to predetermined processing companies. This precedent-setting action would vitiate antitrust laws, limit competition in the seafood sector, and ultimately hurt fishermen and consumers. Fishermen around the Nation have expressed strong opposition to this provision, as have at least a dozen newspaper editorial boards.

Before I go any further, I wish to clarify the difference between "fishing quotas" and "processing quotas." Fishing quotas are allocation tools that allow fishermen to catch a certain portion of the overall allowable harvest. Fishermen can determine when and under what conditions to fish with such quotas, and fishing quotas have been widely recognized to benefit fishermen, the environment, and consumers.

In contrast, processing quotas would allocate buying rights for the crab catch among a handful of processing companies so that each would be guaranteed to receive a certain percent of the overall harvest. Regardless of how efficient these processors are or what kind of price they are offering, they would have a guaranteed market share. I thought that kind of thing went away with the Berlin Wall. Under this plan, it would be illegal for fishermen to take their crab to other processors.

This language would have far-reaching consequences. Yet it was included in this must-pass bill without ever having been considered or debated by the committee of jurisdiction, the Commerce Committee.

Fishermen throughout the Nation object to the crab plan's individual processing quotas, IPQs, because the precedent-setting nature of this action could lead to IPQs in the processing sector of other fisheries. Indeed, crab boat owners and crew from all over the country—even from Arizona—have voiced their opposition to this proposal.

"Crab cartels," the Anchorage Daily News—even the Anchorage Daily News. "Stevens pushes plan that gives processors too much market power."

The Los Angeles Times: "Toss This Stinker in the Sea."

The Seattle Post-Intelligencer:

> The quota plan would guarantee shares not just to boat owners, as has been done successfully with other species, but also to fish processors on the land. That has nothing to do with safety. As the U.S. Department of Justice recognizes, it raises significant antitrust concerns.

> Crab Cartels are Bad News for Maine Lobster Industry.

Seattle Times:

> Crab Industry Bakes a Monopoly Pie.

Seattle Times:

> Feeling Crabby? No Need for a Monopoly.

It goes on and on. There is nobody who thinks this is a good idea.

In addition to affecting the price setting process, I am aware of at least one crab fisherman who owns a fishing boat and a "catcher-processor" boat. He objects to this policy rider because it would make it illegal for him to sell his own catch to himself, so that the catch from his fishing boat could be processed on his processing boat.

According to the National Research Council, the General Accounting Office, and the Department of Justice Antitrust Division, fishermen's concerns about IPQs are clearly justified. The 1999 NRC publication, Sharing the Fish, found no "compelling reason to establish a separate, complementary processor quota system" to accompany an Individual Fishing Quota program. These findings were echoed by the GAO in its December 2002 report on IFQs, which failed to find the IFQ programs resulted in harmful impacts on processors in the halibut and sablefish fisheries that would warrant creation of an IPQ program.

Furthermore, on August 27, 2003, the Assistant Attorney General of the U.S. Department of Justice Antitrust Division wrote a letter to the General Counsel of the National Oceanic and Atmospheric Administration, NOAA, in which he opposed the IPQ provisions of the crab plan, stating "processor quotas are not justified by any such beneficial competitive purpose" and that "The Department urges NOAA to oppose IPQ."

While the fisherman are up in arms, the processors are already counting their chickens, or in this case, crab harvests, and in turn, their profits. That is because the percent of the harvest that they will be able to process in the future is based on how much they have processed in the past under the free market environment. Regardless of future operational efficiency, supply and demand, or any other real-world factors, these processors will be guaranteed their allocation in perpetuity. Consider, for example, one company that recently has processed roughly 20 percent of the Bering Sea and Aleutian Island crab. This provision will assure that company continues to receive 20 percent of future harvests—worth on the order of tens of millions of dollars annually.

For centuries, fishermen have used market forces to negotiate their dockside prices, and this has had the effect of maintaining competition and benefitting consumers. Processor quotas throw an enormous wrench into the free market machinery.

In addition to affecting the price-setting process, the crab IPQ plan also would effectively prevent new processors from entering the industry. If anyone wants to enter the processing sector, they would need to buy the processing rights from the few processors who would have processing quota.

Considering all these facts, the administration has officially stated its opposition to IPQs, as reported in the Sacramento Bee, Kodiak Daily Mirror, Anchorage Daily News, and Seattle Times. The administration's proposed language for amending the Magnuson-Stevens Fisheries Conservation and Management Act clearly specifies that processors could own fishing quota, but does not propose a separate quota system divvying up processor quotas.

Editorial boards from at least 12 major newspapers—the Washington Post, Washington Times, Boston Globe, Oregonian, Anchorage Daily News, Los Angeles Times, Honolulu Advertiser, Daily Astorian, Seattle Times, Seattle Post-Intelligencer, Portland Press Herald in Maine, and the Tampa Tribune—have come out against IPQs. Note that these newspapers include the entire west coast—even Alaska and Hawaii.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 5, 2003]

### TOSS THIS STINKER IN THE SEA

Ted Stevens thinks the Alaskan fishermen and processors he represents shouldn't have to comply with federal rules they don't like. So the powerful Republican, chairman of the Senate Appropriations Committee, attached a rider to the Commerce, Justice and State appropriations bill to give Alaskan industry a pass.

Stevens insists that Alaskans have done a better job husbanding their fish-teeming waters than have other states. Regardless of whether he is right about the health of the Alaskan crab, salmon and pollock populations, he's wrong to use the appropriations process to grant favors that rewrite federal resource law behind closed doors.

One provision of his rider would freeze all funds to enforce federal laws imposing new limits on crabbing and fishing in sensitive ocean habitat. Another legal barnacle guarantees certain processing companies 90% of the lucrative Bering Sea and Aleutian Islands crab catch. This unprecedented deal not only would favor some processors and unfairly exclude others, it would hobble fishermen from offering their prized catches to the highest bidders.

This rider is troubling by itself. But it becomes deeply disturbing when combined with the growing market for seafood and the more efficient fishing techniques that threaten ocean species. For example, the red king crab season in Alaska's Bristol Bay this year was the shortest ever. Crabbers captured an entire year's quota in a little more than two days by using 700-pound steel pots baited with chopped herring and set and retrieved by hydraulic launchers and large winches. Yet even as this high-tech harvest intensifies each year, Stevens would order federal regulators to lay off, a move certain to put more pressure on the prized critters' survival.

Stevens' rider also would set destructive precedent. California, Florida or Maine lawmakers could decide they want to suspend federal rules protecting their fish.

Federal fisheries law is and should remain the product of consensus and deliberation, not one senator's backroom maneuvers. that's why Sens. John McCain (R-Ariz.) and Olympia J. Snowe (R-Maine) promise to "strenuously oppose" Stevens' rider. When the mammoth spending bill that it is hooked to comes before the Senate, other senators too should cast his smelly deal into the deep.

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[From the Anchorage Daily News, Sept. 16, 2003]

### Crab Cartels—Stevens Pushes Plan That Gives Processors Too Much Market Power

U.S. Sen. Ted Stevens is fast-tracking a controversial plan that dictates where Alaska's Bering Sea crab fishermen are allowed to sell all but a tiny part of their catch. He is pressing the legislative process to ram through a scheme that short-circuits market competition.

The concept Sen. Stevens is pushing is known as processor quotas. Using a legislative shortcut called a rider, he tacked his measure onto one of the 13 federal spending bills that have to pass each year, instead of pursuing a stand-alone bill that would have to be judged on its own merits in committee and on the Senate floor. A rider is no way for Congress to make such a complicated, far-reaching and hotly disputed decision.

Processor quotas are part of a larger set of fish management changes that address real problems in the Bering Sea. Fishing for crabs today is a free-for-all, a race to see who can catch the most the fastest. As a result, too many boats are chasing too few crabs. They go out in dangerous weather, and crews work dangerously long hours. The boats then rush to deliver their catch, so processing plants have to move huge amounts of product before it spoils.

To cure these problems in some other Alaska fisheries, federal managers now use individual fishing quotas. In that system, the government gives each fisherman the right to take a certain percentage of each year's allowable harvest. Fishermen can go out when it's safe and work at a safe pace without having to worry that others will grab all the fish. Fish plants have more time to process the catch and produce higher-quality products.

These fishing quotas have improved the safety and economic health of other Alaska fisheries. Processors, though have complained that fishermen with quotas now have too much time to shop around and get higher prices for their catch.

Crab processors persuaded the North Pacific Fishery Management Council to try to cure their problem. So when the council decided to give fishermen rights to catch Bering Sea crab, fish plants in the region also got guaranteed rights to process the catch. Fishermen would have to sell 90 percent of their catch to existing processors. This part of the council's plan requires congressional approval, which is where Sen. Stevens and his rider come in.

Processor quotas are a straightforward way for fish plants to limit competition and grab back economic power they might lose if fishermen get a guaranteed share of the catch. Imagine if Congress dared to tell farmers they could sell their grain only to a handful of agribusiness companies. There would be an uproar on the plains. The U.S. Department of Justice opposes fish processor quotas because they are anti-competitive, and indeed they are.

Processor quotas are a government attempt to do the economically impossible. They are a convoluted system that tries to hold everybody harmless as the government revamps management of the crab fisheries. It's inevitable that those changes will create winners and losers, both among fishermen and processors. The government can't micromanage such complex economic consequences and shouldn't even try. The job is just too complicated, the mechanisms too convoluted, the intervention in markets too deep.

Sen. Stevens says he's just doing what the professional managers at the federal fish council want. (They unanimously approved a crab management plan with processor quotas.) The only problem is that the fish council is an industry-dominated process. This complicated, anti-competitive deal was hatched up in an attempt to keep all the players at the table happy. Consumers and free-market advocates don't have a seat on the council.

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[From the Seattle Post-Intelligencer, Nov. 3, 2003]

### Boat Quotas Make Crab Fishing Safer

Crab fishing off Alaska can be made safer.

The key to reducing fatalities is a quota system. Allotting shares of the Alaska crab catch to boat operators could end the frenzied, dangerous free-for-all operations, dramatically documented by recent P-I stories and photos.

Unfortunately, Sen. Ted Stevens of Alaska is trying to ram through a broad new kind of quota system with too little consideration. At the same time, Stevens would halt several efforts to protect Alaskan fish. He would do it by attaching a rider to a vital spending bill. As fellow Republican Sens. John McCain and Olympia Snowe recognize, that's a poor way to make policy.

Attaching riders to spending bills end-runs the lawmaking process. Stevens' proposals need full scrutiny. His rider would reopen a troubled pollock fishery, stop studies of critical North Pacific habitat and prevent new rules against bottom-scraping trawling equipment.

The quota plan would guarantee shares not just to boat owners, as has been done successfully with other species, but also to fish processors on the land. That has nothing to do with safety. As the U.S. Department of Justice recognizes, it raises significant antitrust concerns.

Unless Stevens rewrites his rider, the Senate should block it. In the name of saving lives, too much mischief could be played.

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[From the Portland Press Herald, Nov. 3, 2003]

### "Crab Cartels" Are Bad News for Maine Lobster Industry

A rider on the commerce appropriations bill has made some Alaska fishermen and environmental groups, well, crabby.

Rightly so.

Sen. Ted Stevens, R-Alaska, is trying to push through a plan that would essentially create "crab cartels" in Alaska, guaranteeing certain crab processors a quota of the catch. That undermines fair market competition. As the Anchorage Daily News rightly points out, nobody would try to tell farmers that they could only sell their grain to certain agribusinesses.

Crab producers want the plan, obviously, because it guarantees them business but they also say it will get crab to consumers faster.

Such a rider would set a dangerous precedent, shifting oversight of the details of the regulatory process from the regional council and giving it to Congress. The regional council system is flawed, but it does allow for more public input. There's also a danger of this plan eventually affecting other business, such as Maine's lobster industry. Sen. Olympia Snowe is opposed to the rider.

The plan also would end funding for identification and protection of essential fish habitat, making sensitive areas such as coral reefs vulnerable to damage by huge trawlers.

This rider is bad for Alaska and it's bad for the nation as a whole, and it should be removed from the bill.

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[From the Seattle Times, Nov. 1, 2003]

### Feeling Crabby? No Need for a Monopoly

Seafood processors, led by Seattle-based Trident Seafoods, have been campaigning for years for exclusive rights to buy crab from the Bering Sea fleet. If these rights come into effect, a newcomer who wanted to buy that crab would have to buy the rights to buy crab from companies already in the business.

In the proposal now under consideration, anyone wishing to enter the crab-processing business would have to get permission from someone already in it.

And that is a monopoly privilege.

Processors say they are asking only for what boat owners will get: an individual quota of crab. But these two quotas are not the same.

For the fishermen, crab is wild and in the public domain. There has to be a quota, either for the whole fleet or each boat. The idea of a quota for each boat allows crab to be harvested slowly, cost-effectively and safely. There is a public interest in doing it that way.

Processors buy crab that is already harvested. There is no public-interest reason to give certain processors what amounts to ration coupons. And nowhere else in U.S. fisheries do such rights exist.

Individual harvest quotas exist in halibut, black cod and elsewhere. But they are never buying quotas.

Sen. Ted Stevens, R-Alaska, and head of the Appropriations Committee, is now offering processors quotas to buy. Stevens' effort is a rider to an appropriations bill that is necessary to fund the federal departments of State, Commerce and Justice.

Stevens' rider would also cancel a study by the National Marine Fisheries Service of coral and sponge in the waters off Alaska. The study aims to find out how important these are to marine life, including fish and crab, how coral beds are affected by bottom trawling, and what measures might be taken to protect valuable habitat. * * *

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[From the Washington Times, Dec. 13, 2003]

### A Bitter Pill for Crabbers

(By Donald R. Leal)

Depletion of the fish in our coastal oceans is a growing environmental concern, and the state of Alaska is poised to help correct the problem. But Alaska's senior senator, Ted Stevens, Republican, won't let it happen without attaching some expensive strings. Mr. Stevens is backing individual fishing quotas (IFQs) for Alaskan crabbers. That's good policy. But he insists on a provision requiring crabbers to sell 90 percent of their catch to a small group of established processors. That's bad policy. To accomplish this, he has attached a rider to an omnibus appropriations bill, which the House and Senate must vote on by Jan. 31.

Alaskan crab fishers participate in one of the most dangerous fisheries in the world. Loss of life is not uncommon. Part of the reason crabbing is so dangerous is that the seasons are incredibly short—only four to six days long in the winter—when winds are high, water is turbulent, and decks are icy.

Regulation has not ended the race that occurs when fishers depend for their livelihood on unowned resources like ocean fish and shellfish. IFQs could solve this problem. IFQs would give crab fishers a right to a specific portion of the total allowable catch set for Alaska crabs each year.

With IFQs, each crabber would know how much he or she is allowed to catch each season. Assured of such a quota, fishers would not be forced into the destructive "race to fish." Fishing management councils could extend the seasons, fishing would be safer, the quality of the seafood would go up (fishers would have time to protect the quality), and fresh crab would reach the consumer more often.

But there's the rub—fresh crab. Mr. Stevens wants to protect the companies that process fish. Under the current regulatory regime, with its short, intense seasons, these processors invested in additional plant capacity such as extra freezer space. If IFQs are implemented and seasons extended, some of this processing and storage capacity will probably not be needed. Also, processors will also have less control over prices, because fishers will be able to choose when they want to fish.

Mr. Stevens is trying to create a package for crab fisheries that holds IFQs hostage to benefits for processors. His rider, which would give crabbers IFQs only if they deliver 90 percent of their catch to a handful of processors, has drawn protests from the Bush administration and Senate colleagues. Even the Justice Department has suggested it would not stand up under antitrust law. Fellow Republican Sens. John McCain of Arizona (and Olympia Snowe of Maine have also criticized Mr. Stevens for attaching a precedent-setting policy issue to an appropriations bill.

Processors deserve sympathy because they were steered by flawed government policy to invest in redundant capacity. But forcing crabbers to take their catch to a specific processor will hurt their chances of receiving a competitive price. It could also derail the effort, supported by free marketers and environmental activists alike, to implement IFQs elsewhere. Surely better options—like a stranded capital buyout program or simply including processors in the allocation of the individual fishing quotas—exist for compensating processors.

Alaska's halibut fishery has already shown the benefits of IFQs. In the early 1990s, halibut fishermen were limited to fishing during just three 24-hour fishing openings a year. Catching halibut was dangerous, profits were low, and most of the catch had to be frozen. When IFQs were adopted in 1995, the season was expanded to 245 days. Fishing became more profitable and safer. Fisheries in New Zealand, Iceland, Australia and Canada also show that IFQs improve fish management, reduce danger and improve product quality. Congress should not let the processors' difficulties stand in the way of a solution to a problem that is hurting marine resources around the world. Don't let Sen. Stevens' rider remain.

**Mr. McCAIN.** Additionally, the conference report would authorize a similar processor quota program for Gulf of Alaska rockfish. Even though IPQ proponents had previously indicated that IPQs are needed for crab only, they are now proposing authorizing such a program for a different Alaskan fishery.

Further, the conference report also would authorize the North Pacific Council to open an area currently closed to fishing, but open it only to the Aleut Corporation, which would also have the exclusive right to process the fish. This new fishery could be worth more than $10 million, yet the proposal has not undergone the proper congressional authorization and oversight process that we demand for other important policy issues.

Obviously this proposal makes fundamental changes to our fisheries policies. This rockfish and pollock language was not requested by the administration nor the North Pacific Fishery Management Council, and it hasn't been reviewed by the authorizing committees. At a minimum, all of these new quota provisions merit thorough review and debate prior to their enactment.

The tacking of fisheries riders onto appropriations bills extends all the way to North Atlantic fisheries as well. Last-minute language was added that would prevent the administration from implementing a groundfish management plan required by the Magnuson-Stevens Act. Not surprisingly, the administration did not request this change, nor has the authorizing committee of jurisdiction held any hearings on this proposal.

In the northeast, fishery managers must comply with a court-ordered implementation date of May 1, 2004, for putting a groundfish management plan into effect, and the administration is now seeking public comment on and finalizing regulations to do this.

Even before we know what the final plan is, the language would prohibit the administration from spending any money to implement this plan. The legislative rider would authorize funding for only a certain set of management rules—which have already been determined by a court to be out of compliance with the Magnuson-Stevens Act.

So, under the language in the omnibus, it would be illegal for the administration to comply with Federal fisheries law as set out in the Magnuson-Stevens Act. If this provision is enacted, there is a real risk that the fishery could be ordered closed by a Federal court.

Again, this significant policy change was not considered by or debated in the Commerce Committee. I am more than willing to discuss ways to redesign the fisheries management council process, along with the rest of the Magnuson-Stevens Act, if indeed, it is as flawed as some seem to think it is. This rider, however, is not the appropriate way to make policy.

Section 626 of the omnibus broadly requires the Secretary of Commerce to "negotiate or reevaluate, with the consent of the President, international agreements affecting international ocean policy."

Under 22 U.S.C. Section 2655a, however, international ocean policy issues are currently handled by the State Department's Bureau of Oceans and International Environmental and Scientific Affairs, or OES. Several marine resource conservation laws, including the Marine Mammal Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act, grant the Secretary of State the authority to negotiate international agreements on these matters. Clearly, this language conflicts with the Secretary of State's statutory responsibility for carrying out a coherent foreign policy.

When appropriators first proposed such a transfer of responsibility in the FY04 CJS appropriations bill, Secretary Colin Powell explained, "Such a provision would significantly hamper the Department's ability to address important foreign policy issues (e.g., oceans policy, marine pollution, global overfishing) to which the United States can ill afford to give short shrift."

Considering the important role that the United States needs to maintain as a leader in the international community on ocean policy matters, I am dismayed that the appropriators would attempt to transfer these powers between government agencies without any public or expert review and debate. This is clearly a matter that needs the full attention of the Commerce and Foreign

Relations Committees, and this has not happened.

A provision in the EPA portion of the VA-HUD section of this bill prohibits all States, with the exception of California, from exercising their existing authority under the Clean Air Act to regulate "non-road" engines to improve air quality. This language will effectively tie the hands of the State air pollution control agencies by preventing them from addressing the 120 million small engines which are a substantial and growing source of smog and soot pollution nationwide.

This provision was originally put in the VA-HUD bill at the request of a single engine manufacturer, Briggs and Stratton. The company suggested that the provision would save jobs. I find this argument very disingenuous due to the fact that, in its September 2003 filing with the SEC, the company stated, "Briggs and Stratton does not believe that the CARB staff proposal will have a material effect on its financial condition or results of operations . . ."

Our colleague from California, Senator FEINSTEIN, made an effective argument against the language on the Senate floor during consideration of the bill, but she was not permitted to offer an amendment to strike the language. Mr. President, what has come out of the conference may be acceptable to California and to Briggs and Stratton, but it is unacceptable to me and should be unacceptable to almost every Member of this body.

If you have not heard from your State air agency yet, you certainly will soon. In the State of Arizona, for example, the potential emissions impact of these unregulated engines is equivalent to 1.4 million additional cars on the roads. This is almost certain to worsen the smog problem in the city of Phoenix, and I am sure it will be the same in many other cities in the Nation. I have no doubts that with worsening smog will come many more cases of asthma and a litany of other health problems. It is simply outrageous that States will be prohibited from exercising their responsibility to protect public health and the environment because one company was able to secure a special deal in a must-pass spending bill.

I also am very concerned that for the NASA funding portions, that the Joint Explanatory Statement to the conference report contains a list of 144 earmarks that total in excess of $300 million. These earmarks are unauthorized and unrequested by the President. Meanwhile, the international space station has been funded at $200 million below the President's request. This action comes despite news reports that have outlined numerous safety problems aboard the international space station.

The Columbia Accident Investigation Board (CAIB), which was assigned to determine the causes of last February's tragic accident, described the results of congressional earmarking in its August report. According to the CAIB Report:

> Pressure on NASA's budget has come not only from the White House, but also from the Congress. In recent years there has been an increasing tendency for the Congress to add "earmarks"—congressional additions to the NASA budget request that reflect targeted Members' interests. These earmarks come out of already-appropriated funds, reducing the amounts available for the original tasks.

I must question whether we have learned anything from the shuttle accident and the CAIB findings. During a Senate Commerce Committee hearing last year, I questioned Admiral Gehman about the effects of the $167 million that was earmarked in fiscal year 2003 appropriations bill. He responded by saying that "$100 million will buy a lot of safety engineers." Maybe we should ask what he thinks should be done with over $300 million worth of earmarks.

Mr. President, I would like to take a few minutes to discuss the importance of fully funding the international space station. Again, the omnibus provides $200 million less than the President's request at a time when serious safety concerns have been raised about the space station. This underfunding could be corrected if we simply eliminated these wasteful earmarks and we'd even have money to spare.

William F. Readdy, the NASA Associate Administrator at the Office of Space Flight, testified before the Commerce Committee that the space station onboard environmental monitoring system which, "provides very high accuracy information on atmospheric composition and presence of trace elements . . . is not operating at full capacity." He also testified that the crew health countermeasures, which include an onboard treadmill and associated resistive exercise devices, were "operating at various degrees of reduced capacity and needed to be repaired, upgraded or replaced."

Articles in the Washington Post paint an even more disturbing picture. An October 23, 2003, article describes:

> The problems with monitoring environmental conditions aboard the space station have festered for more than a year, some NASA medical officials said. Space station astronauts have shown such symptoms as headaches, dizziness and "an inability to think clearly," according to a medical officer who asked not to be named. The onboard sensors designed to provide real-time analysis of the air, water and radiation levels have been broken for months, which has made it impossible to determine at any given time whether there is a buildup of trace amounts of dangerous chemical compounds that could sicken astronauts, or worse.

A November 9, 2003, Washington Post article reports that:

> A recent NASA study found that the risk of fire aboard the station has grown because the crew is stowing large quantities of supplies, equipment and waste in front of or near 14 portals that would be crucial for detecting and extinguishing a fire in any of the station's various compartments. There is also concern that a portion of the station's water stores supplied by the Russians may have high levels of carbon tetrachloride, a toxic contaminant.
>
> As far back as March, internal studies warned of a host of dangers for six separate systems, including the thermal controls that cool the station's computers and interiors, that would likely grow out of trying to run the station with limited supplies and a caretaker crew of two instead of the normal complement of three.

Before the recent launch of Expedition 8, the Chief of NASA's Habitability and Environmental Factors Office and NASA's Chief of Space Medicine signed a dissent to the "flight readiness certificate." The dissent declared that "the continued degradation in the environmental monitoring system, exercise countermeasures system, and the health maintenance system, coupled with a planned increment duration of greater than 6 months and extremely limited resupply, all combine to increase the risk to the crew to the point where initiation of [the mission] is not recommended."

In addition, a December 6, 2003, Washington Post, article states that one of the gyroscopes that control the space station's motion failed, and that another was showing vibrations and spikes in electrical current. NASA will be forced to use Russian thrusters onboard the space station to shift the station's position.

These are very serious issues that cannot be ignored, yet here we are, about to approve more than $300 million for unrequested earmarks while underfunding more pressing needs. How will these cuts to the President's budget request affect the safety of the space station? Are we really willing to take any risks? Mr. President, that this practice continues in the face of legitimate safety concerns is simply unacceptable given the tragedies experienced just last year.

The Statement of Administration Policy opposed this $200 million reduction in the Senate-passed VA-HUD bill, stating that: "After diligently rebuilding reserves to place the Station on sound financial ground, this reduction would deplete reserves deemed critical by independent cost estimates and limit the program's ability to address risks in FY 2004, including impacts from the *Columbia* accident."

You know, I have to admit I am naive. I thought after the *Columbia* disaster we would see a reduction in the earmarks. It was an increase.

In addition, I have been informed that this reduction would place at risk actions that NASA is taking to address the Independent Management and Cost Evaluation (IMCE) Task Force recommendations to ensure a "credible" ISS Program.

I know there is a lot of excitement about last week's announcement by the President proposing a new agenda for human exploration of the Moon, and eventually Mars. However, let us also note that he reaffirmed the United States commitment to completing the ISS. The Commerce Committee will hold a series of hearings to discuss the proposal, but we will not lose sight of our responsibilities of ensuring the safety of the space shuttle and international space station.

Finally, it is unfortunate that the appropriators, while earmarking hundreds of millions of dollars in NASA, underfunded the Advanced Polarimeter Sensor of the Global Climate Change Research Initiative by $11 million below the President's request—a 47-percent decrease—yet could sure find funds for thousands of earmarks. This reduction would significantly impact the development of the sensor, which is designed to measure methane, tropospheric ozone, aerosols, and black carbon in the atmosphere. The proposed reduction would delay the purchase of "long-lead" item purchases, which could potentially delay the launch date of the satellite from 2007 to 2008.

As my colleagues know, the public is greatly concerned about the impacts of climate change on our environment and economy. Although the administration and I have a difference of opinion on the need to take action to reduce greenhouse gas emissions, we are in agreement on the need for research in this area. We should not cut this publicly significant research, so that we can simply fund local pork projects.

The bill would appropriate funding for the Advanced Technology Program, ATP, at approximately $152.2 million above the President's request. The language would ignore the President's attempt to rein in a corporate welfare program in a time of skyrocketing Federal deficits and critical national security needs. For example, the most recent ATP awards included a grant to Aqua Bounty Farms, Inc., to "produce sterile transgenic fish that can be made fertile as needed for reproduction." I can assure you that the ATP program was never envisioned to fund the production of sterile transgenic fish.

I also am concerned about funding for the Scientific and Technical Research and Services account of the National Institute of Standards and Technology. This account supports NIST's scientific research, including Nobel Prize winning research on the Bose-Einstein condensates. This account is funded at approximately $43 million beneath the President's request, while the appropriators have continued to earmark activities within this account. I would ask my colleagues to ask themselves if it is more important to fund a spreadsheet engineering initiative at Dartmouth University, or research to help our beleaguered manufacturing sector. Should we fund a wind demonstration project in Texas or research to improve the equipment for our Nation's first responders? In the long run, it will be considered a great tragedy that we have wasted our Nation's scientific potential of meaningless parochial projects.

This reduction is even more disturbing given the reality that NIST will have to lay off many of its scientists and engineers due to lack of funding. Let me remind my colleagues that these are the scientists and engineers that have won two Nobel Prizes for research in the past few years. These layoffs will occur even as we continue to send funding to industry through the ATP program for research that is inconsistent with the program requirements of being "high risk." That does not send the right message to our award winning scientist and engineers of how we value their work.

There is also language that redirects $40 million to the Port of Philadelphia for construction of a cargo terminal that is designed to support "high-speed military sealift and other military purposes." Today, these type of vessels do not even exist, nor are they being championed by the military. They are supported, however, by the private investors and their lobbyists who obviously think it makes sense to place the risk of their venture on the backs of the taxpayers. Let me also mention that the design of these vessels is based on unproven technology. And, in reviews of the proposed vessel technology by the Department of Transportation, it was determined that the project did not qualify for government backed financing. It is ridiculous that despite these facts, this legislative rider will risk wasting $40 million of the taxpayers on a terminal to support a certain type of vessel that may never exist. This is a costly example of putting the cart before the horse.

By the way, we have ample precedent. The Senator from Hawaii, the Senator from Alaska, and the Senator from Mississippi put in loan guarantees for cruise ships to be built in Pascagoula, MS, which cost the taxpayers $273 million in loan guarantees, which I fought against and predicted would fail. Only $273 million. By the way, for those of you who keep up with it, the hulls of these cruise ships in Mississippi have been towed to Europe.

Mr. President, it's time to get serious about what we are doing here. We have a deficit of $500 billion—that's half of a trillion dollars—the largest ever. Our fiscal future can only be described as bleak. Government watchdog organizations and think tanks, both liberal and conservative, have expressed enormous concern about the level of spending in this bill.

A recent report by the Heritage Foundation states:

> Following increases of 13 percent and 12 percent during the previous two years, 2004 would mark the third consecutive year of massive discretionary spending growth.

It further notes that:

> Altogether, total Federal spending in 2003 topped $20,000 per household [I am glad we don't divide that up by States] for the first time since World War II and is set to grow another $1,000 per household in 2004.

According to a joint statement issued by the Committee for Economic Development of the Concord Coalition Center on Budget and Policy Priorities:

> Without a change in current fiscal policies, the Federal Government can expect to run a cumulative deficit of $5 trillion over the next 10 years.

These numbers are shameful and frightening.

Another astonishing part of this report states:

> After the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the cost of Medicare and Medicaid and Social Security growing faster than the economy. We project that by the time today's newborn reaches 40 years of age, the cost of these three programs, as a percentage of the economy, will more than double from 8.5 percent of the GDP to over 17 percent.

I urge my colleagues to read this joint statement.

The Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued last month, CBO stated:

> Because of rising health care costs in an aging population, spending on entitlement programs, especially Medicaid, Medicare, and Social Security, will claim a sharply increasing share of the Nation's economic output over the coming decades. Unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of Federal debt held by the public would have a corrosive effect on the economy.

That is from the Congressional Budget Office, not from any liberal or conservative think tank, as much as I value those.

Additionally, CBO projected a 10-year deficit of $4.4 trillion.

The Wall Street Journal recently reported, according to an International Monetary Fund report:

> If cumulative budget deficits rise by 15 percent of gross domestic product, as the Congressional Budget Office expects, world interest rates would be pushed up by one-half to 1 percentage point over 10 years.

We are paying a price overseas for our reckless spending. The U.S. dollar is tumbling, and it is a result of our fiscal indiscipline and our enormous deficit. Foreign countries are losing confidence in the dollar. To underscore the point, today the dollar stands at a 7-year low, worth 80 cents against the Euro, a 40-percent drop in under 4 years.

In his State of the Union Address last night, the President called on us to act as good stewards of taxpayers' dollars. My response to the President: Mr. President of the United States, you also must be a steward of taxpayers' dollars. Veto this bill. Veto this bill, Mr. President of the United States, and demand this pork be removed—this $11 billion in pork be removed—and send a message that it is not business as usual anymore in the Senate. We cannot do this to our children and our grandchildren. We cannot do this to them.

Sooner or later, we are going to have to make some choices around here. We are going to have to make some choices between our children's and our grandchildren's futures and having some kind of fiscal sanity and plan for the future. We cannot continue the practices of the Senate. We need to have a point of order that any unauthorized appropriation and any policy change is subject to a specific point of order, not one that brings down the whole bill, but one that brings down that provision.

I could bring a point of order against this bill, and it would lose by 99 to 1 because it brings the whole bill down. We should have the right to object, and object vociferously, to North Pole, AK, getting $200,000. We should be able to object to the brown tree snake in Alaska in which we have invested I have no idea how many tens of millions of dollars. I think Alaska and Hawaii should pay for their own statehood celebrations. We in Arizona do.

If I sound like I am angry and upset, it is because the people I represent are angry and upset. The people I talked with in my State, who I have been privileged to represent for a long period of time, are deeply disturbed. They know what is going on. They know their kids are not going to ever receive Social Security benefits as present retirees are today. They know we just laid a multitrillion-dollar debt on them in the form of a Medicare prescription drug bill, and they figured it out. By the way, the overwhelming majority, the last poll I saw, 58 to 42, don't like this prescription drug bill which no senior I know can understand, and I don't blame them because I don't understand it either.

If I sound as if I am not happy and perhaps given to flights of rhetoric, which I am from time to time, it is because my constituents are demanding that we change this system. The appropriators have become all power in this body. That is not appropriate. We need to change the rules, and we need to change the way we do business.

Last year, we stood here with an Omnibus appropriations bill. This year we stand here with an Omnibus appropriations bill. I was pleased we did not cut off debate until I heard: We are just doing this for labor, but it will pass. We are just going to do this for labor once.

How stupid is labor? If I were a labor leader, I would say: Either vote it down or vote it up, but don't throw me some kind of 4-day delay.

I understand labor just took some significant setbacks. They are about to take another one.

Mr. President, I will continue to fight. I will continue to see if we can't stop funding the Rock and Roll Hall of Fame and get our thrills on Blueberry Hill, the wild turkey, and all of the other turkeys that have become part and parcel of this thousand-page piece of pork.

I thank my colleagues for their indulgence. We will be hearing about this issue for a long time to come because the American people demand we address it.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). Who yields time?

Mr. HARKIN. Mr. President, what is the order right now?

The PRESIDING OFFICER. The chairman and ranking member of the Appropriations Committee control the time until 6 o'clock.

Mr. HARKIN. Mr. President, in their absence, I ask unanimous consent that I be allowed to proceed for 15 minutes.

Mr. GRAHAM. Mr. President, I would like the Senator to amend the request he has just propounded so that I might have 15 minutes immediately after Senator HARKIN.

Mr. REID. Mr. President, the Senator from New Jersey, Mr. LAUTENBERG, has been waiting a long time. He is in the cloakroom. If we can have Democratic speakers in order, Senator HARKIN, Senator LAUTENBERG, then Senator GRAHAM, and Republicans to speak in between, that will certainly be appropriate. We have been going back and forth. Will that be OK?

The PRESIDING OFFICER. A unanimous consent request has been propounded. Is there objection to the request? Without objection, it is so ordered.

Mr. HARKIN. I thank the Chair.

Mr. President, picking up where I started earlier today, I listened to the President's State of the Union Message hoping he would come up with a real jobs plan to help America's families. But quite frankly, there was nothing in the State of the Union Address that talked about that.

We need to extend emergency unemployment for the hundreds of thousands of people who paid in when they were working, but months after losing their jobs, they still can't find work.

We need to raise the minimum wage, which has not been increased in 6 years.

And right now, most important of all, the administration needs to withdraw its proposal that would deny millions of American workers their overtime pay protections.

Five months ago, the Senate voted on my amendment 54 to 45 to block the administration's effort to take away overtime pay protection for up to 8 million workers. That's right, the Bush proposal that came out of the Department of Labor would deny overtime pay protection to 8 million American workers.

The House followed soon after us and voted 223 to 201, and the Senate spoke again yesterday in its vote against cloture.

Now, again, this should not even be an issue in the Omnibus appropriations bill before us. Congress spoke up clear as a bell. They said: No, the administration should not strip overtime pay protection for these 8 million workers.

As we all know, the administration refused to accept the will of Congress. The administration ordered its foot soldiers in the House to strip the provision from this omnibus bill. Senator SPECTER and I fought to keep it in, but the administration refused any cooperation or any compromise. In the end, just like that, the administration nullified the clear will of both Houses of Congress and of the American people.

This is a clear abuse of power by the administration and it is part of a pattern we have seen from this President time and again. The administration seems to believe in government by one branch, the executive branch. Time and again, we see this administration running roughshod over the will of Congress. When there are no checks and balances, the result is bad public policy, and that is exactly what we see today.

The administration's new rule is a stealth attack on the 40-hour workweek, pushed by the White House without one single public hearing. As I have said time and again over the last several months, it will effectively end overtime pay for dozens of occupations, including police officers, firefighters, clerical workers, air traffic controllers, social workers, journalists, nurses.

In the amendment that I offered and that we voted on and that the House supported, there was one part of the President's proposal our amendment did not touch. The President's proposal does increase the income threshold that guarantees overtime pay protection from $8,060 a year to $22,100 a year. In other words, if someone makes under $22,100 a year, under the President's proposal they are guaranteed overtime pay if they work more than 40 hours a week, regardless of their occupation. Well, my amendment did not touch that, but now we understand that the Labor Department is providing tips within the proposal to employers on how to get around it. It included helpful tips for employers, advice on how to avoid paying overtime to the lowest paid workers who are supposedly helped by the new rule.

For example, here is a list of what they have put out to employers—I might say probably to unscrupulous employers because honest employers are not going to do this anyway. If employers want to get around the rules, the administration is telling them how to do it.

They are suggesting how employers can avoid paying overtime. First, they lower existing wages so when workers accrue overtime, their net pay will not grow. In other words, reduce their pay, work them longer hours so that the net effect is the same. So the workers will be working more than 40 hours a week but their pay will be exactly the same. Now, that is what has come from the Department of Labor. That is what they are telling employers to do to get around that provision in their proposal.

Secondly, they are saying change workers' duties so they are exempt from the overtime rules. Well, okay. So let's say someone makes slightly over $22,100 a year. Therefore, they might be eligible for overtime. Just change their designation. Say they are something else. Put them under the category of exempt from overtime, and guess what: they are exempt from overtime.

If an employee is close to the $22,100, what they are saying is, raise their wages to the level required to be exempt. So if someone is making $22,000 a year, or $21,700, just raise their pay to $22,100, work them over 40 hours a workweek, and do not pay them any more overtime. That is the way to get around it. This is from the Bush administration. That is what they are telling employers to do. Lastly, do not let them work more than 40 hours a week.

Well, this sweeping proposal is in direct contrast to the intent of the Fair Labor Standards Act of 1938 that established the 40-hour workweek for America's workers. It is a slap in the face to the millions of American workers who depend on overtime pay to support their families and make ends meet.

We are not talking about spare change. We are talking about taking away some 25 percent of the income of American workers. It is essential family income that helps pay the mortgage, feed the children, pay for college, save for a rainy day, save for retirement.

Now, again, one can say do not let them work more than 40 hours a week, family time is premium time. For an American worker to spend time with their children at baseball games, basketball games, football games, or at school meetings, or just to be home with their families late in the evening or on a weekend is premium time. If an employer is going to ask an American worker, a man or a woman, to give up their premium time with their families, they had better pay them premium wages, which is what overtime is.

No. The Bush administration is saying, hey, this family-friendly administration—how many times have we heard that, "family-friendly administration"?—is now saying: Forget about it; if an employee wants to work overtime away from their family, we are going to make sure they do not get overtime. Or if they need the overtime to pay for retirement and stuff, we are suggesting they do not work an employee over 40 hours a week.

Again, we already know that American workers are working more than what they have in the past and more than what they have done in other nations. If we look at this chart, we can see that American workers work more hours than workers in other industrialized nations. Here is the United States over here. Hours worked per employed person in 2001 is slightly over 1,800. Look at where it is in Denmark, France, Ireland, the Netherlands, the United Kingdom, Italy, and Germany. American workers are already working longer than any other workers in any other industrialized country.

What the administration is saying is we are going to work employees longer and not pay them any more.

It will not create one new job. It will give employers a disincentive to hire new workers if they can force their current employees to work more hours with no increase in pay. That is exactly what it is. It is anti-worker. It is anti-family. It is bad economic policy.

Congress did the right thing in voting to block this new rule. Now that Congress's vote and voice have been nullified, we are hearing from the Department of Labor that the new rule will go in in March. I am here to serve notice that just as I offered this amendment last summer, I will offer it again and again on any legislation that comes to the floor of the Senate. We will not give up, nor will others who have fought this fight with us. The American people will not allow us to drop this issue. They have been watching this issue closely because it hits so close to home.

Lastly, I was home over the break period and there was this cartoon that appeared in the Des Moines Register which I thought kind of summed it all up. Here is a police officer standing over a poor guy who looks as if he has been run over by a truck. The police officer is taking it down and he is saying: "You say the guy who took your overtime pay bore a striking resemblance to the one who gave it to you in the first place?"

So on the one hand, President Bush is saying we are going to raise the threshold so that employees are covered by overtime pay provisions. On the other hand, they are saying to employers: This is how to get around it. Here is how employers can get around this proposed rule so that they can take overtime pay away.

The President wants to have it both ways. He wants to tell the American workers that he is going to increase their overtime pay. On the other hand, he is whispering to employers: Do not worry, I have ways you can get around it.

There is only one way, and that is the right way, which is to pay workers what they earn and what they deserve and to pay them the overtime they need and for which they have worked.

The administration can take care of this right now. They could take care of it, but they have nullified what they have tried to do in Congress. So I urge the administration to do what is fair and just for America's workers and withdraw this harmful proposal. It is the right thing to do, to withdraw it.

I say to this administration if you think this is just an issue with labor unions, you are sadly mistaken. Everywhere I went in Iowa and some other States during the long break period that we had, I heard about this issue. Not just from union workers: white collar workers, nurses, firefighters, and others in our society. Maybe they don't belong to a labor union, but they are going to be drastically affected.

This cuts very deep. I don't know who gave you the advice, Mr. Bush, but it was bad advice. You ought to get a grip on this, President Bush. Get a grip on this and tell your Secretary of Labor to rescind this proposal. Work with Congress. We can, as we have many times in the past, come up with something. The Fair Labor Standards Act has been amended many times but always through an open process with open hearings, the best information, and Congress worked with the administration. We have never had any contention. Certainly we could agree on that level, that $8,060 level, that ought to be raised to $22,000. It ought to be raised. But then don't put out information saying OK, here is how you get around it.

Let's raise it. Let's make it stick. Let's not exempt all these workers from overtime pay protection.

That is the right thing to do. This Congress, this Senate, and this Senator will continue to fight to make sure this rule does not go into effect and that we protect the legitimate overtime pay protections of the American workers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I think this is quite a moment in history. It will be long remembered. It will be remembered for several reasons, not the least of which is the excessively optimistic tone that was issued by the President of the United States in his address on the State of the Union last night. Millions of people were watching and, I assume, thinking about the effects his thoughts will have on their lives.

It is presented as the Omnibus appropriations bill, but I think there is a better description than that complicated term that few in the public really understand. I would rather call it the "ominous" bill, and I am going to refer to it that way.

It is astonishing to me that we are here, nearly 4 months into the new fiscal year. Our friends on the other side of the aisle who control the White House, the House of Representatives, and the Senate, have failed to move through the Senate the result of the conference with the House. It is an indictment of failure, an indictment of failure to govern.

The basic problem with this bill is that in an age when we are so conscious of saturated fats, this bill is saturated with special interest provisions that bring harm to the well-being of our constituents. In some cases, the bill even threatens the health of the American people.

For instance, stuck deep in this bill is a provision that blocks the country-of-origin labeling rules for agricultural products, including beef. In the wake of the mad cow scare, it is more critical than ever that Americans get more information about beef and other products they eat, not less information.

The bill also, regrettably, undermines workers' rights. Even though both the Senate and the House—both houses of the legislature—voted in favor of blocking the administration's new rule to deny overtime pay to 8 million Americans, this omnibus report allows the rule to go into effect.

The question is, How did it get there? You have heard me say that both the Senate and the House voted in favor of blocking the administration's rule to deny overtime to people, deny their just compensation from coming to them. How does this report ban that, those consensus votes? The President's overtime rule amounts to a 25-percent pay cut, on average, for millions of hard-working Americans, including police, firefighters, emergency workers, nurses, and many others. Many of these people are veterans. It amounts on average, according to the Economic Policy Institute, to $161 a week in lost wages—$161 a week. That is $8,000 a year that will be taken away by this rule.

It doesn't say you work less. The amount of time you work may be the same. But you are going to lose part of the compensation that you currently earn if you work those hours. It is a very important addition to the average week's pay.

Congress voted to stop this unjust rule. But the omnibus allows it to move forward. Is that how democracy works? Congress speaks clearly, unequivocally, on an issue and the White House comes in and tells the conferees: Hey, forget it; we don't care what the people in the Senate or the House in a majority vote want. You have to do what we tell you to do. And we are going to hold billions of dollars in funding hostage until you agree with us.

That is not democracy; that is extortion.

The overtime rule is not the only provision in the conference report put there because of this extortion. To clarify, there are lots of things in the appropriations bill. Some of them we would like to see put into place. But the administration, in a cute trick, held them out for ransom to pass this omnibus bill.

For instance, if you vote your conscience, you are going to lose your money. Your constituents are going to lose their money. The States and cities across this country are going to lose their money. If you dare to vote your conscience and do what is right, we are going to take away the funding that is justly yours.

There is another gift to corporate special interests in the omnibus, the new media ownership rules. Current media ownership law prevents a single company from owning local TV stations that reach more than 35 percent of the Nation's households. In most totalitarian nations there is usually only one or two broadcast stations that are controlled by the government. In this case, they are held by people who have a particular view of how society ought to get its information.

So in fairness to the constituents, the citizens across the country, we made clear that ownership of those outfits was to be held to a particular percent. In 2002, the FCC proposed raising the limit to 45 percent. Majorities in both the House and the Senate voted to block this FCC rule to weaken media ownership rules—to expand it for the fat cats who presently own it to let them foist their opinion all over America without rebuttal.

Congress spoke clearly. We said no. Leave these caps where they are. There is a reason and there is a value to them.

But in the conference on this omnibus, the limit was raised from 35 percent to 39 percent—some arbitrary act. By whom? We can't say around here. It is an odd-sounding number. Not coincidentally, that is the number just big enough to accommodate Mr. Rupert Murdock in his effort to allow his conservative views on his media empire to have more control over local TV news than is appropriate in communities across this Nation.

These problems are only some of the bad provisions contained in the omnibus.

I haven't even mentioned the worst problem in the bill.

This bill contains provisions that would help terrorists. I am heard correctly. I will repeat it. This bill aids terrorists who seek to harm the American people. A dangerous provision was snuck into this bill in the dead of night, put there by the Republican leadership carrying water for the gun lobby, that will help terrorists and criminals who purchase weapons to avoid detection by requiring the destruction of gun background checks. That is done to see if the person is stable or if they have any criminal connections, yet requiring the destruction of that information, that research, that investigation to be done in 24 hours.

What is the harm in holding that information and giving our law enforcement people a chance to further study it?

Some on the other side may say that "terrorists don't buy guns on the legal market in the United States." But they do. In fact, the Bush administration has indirectly assisted them in the acquisition of guns.

A recent audit of a small sample of gun background check data by the Justice Department reveals that at least 12 suspected terrorists and perhaps hundreds purchased firearms in the United States last year. How did the Department of Justice find this out? By looking at gun background checks data.

But this ominous would change the law so that records of gun purchases are destroyed within 24 hours of sale. The logic to that escapes me and lots of people. I hope the American people pay attention to that. The Brady law calls for these records to be held up to 6 months. The current practice is to hold the records for at least 3 months so that there can be a second review or a second check.

If someone is on a terrorist watch list, they certainly ought to report it immediately to the FBI or the CIA or whoever it is that is going to follow up on this information if the war on terrorism is as serious as it ought to be. If the Republicans' 24-hour destruction rule were put into place, no audit or other investigation of terrorist activity involving weapons purchases would be possible.

The administration is already dragging its feet when it comes to investigating terrorists who purchase firearms. Believe it or not, when a known terrorist purchases a firearm, the policy of the Justice Department is to withhold relevant information from law enforcement. Why is that so? Why is Attorney General John Ashcroft so concerned with the gun rights of terrorists? I can't figure that one out.

We only found out about terrorists acquiring guns from the audit of gun background check data. But now, if this ominous is enacted, records will be destroyed in 24 hours. What the devil is the urgency to destroy those records? Purportedly, it is so we don't have some file or big brother looking over your shoulders.

Talk to any of the people who had family members in the World Trade

Center neighborhood that I come from and ask them if those records ought to be destroyed in a hurry. Or ask the people who lost loved ones in Pan Am 103. If any of the records—if any of those people associated with Libya and that group goes to purchase a gun, those records ought to be left open until they are totally combed. If a person purchases a gun and it is discovered that terrorists are planning to launch an attack somewhere in the country, the records will have been destroyed. Whom are we trying to protect?

Under the 24-hour destruction standard, we will not know where the purchase was placed or when or what firearms were purchased. The loss of this data puts our communities at risk and hinders the ability of law enforcement to prevent terrorist attacks. Does that make America safer? I am sorry that the President last night in his speech didn't object to having that held over our heads legislatively now.

In their zeal to please the National Rifle Association and other special interest gun groups, the majority is willing to undermine homeland security and individual security and put our communities in danger. So I ask the majority: Whose side are you on anyway? You really have to wonder when the Republican leadership decides that the protection of the anonymity of gun-buying terrorists is more important than protecting our country from terrorist attacks.

My home State, New Jersey, lost 700 people on 9/11. I would like someone from the other side of the aisle, or someone from the Justice Department, to sit down with those families, many of whom I know, who lost loved ones, and explain to them why we should destroy these records so quickly. Explain to these families why we need to protect the terrorists' identity when they try to buy a firearm. It is an outrage.

The majority claims that they care deeply about homeland security. I am sure they do. But in practice, when homeland security collides with gun rights, homeland security goes out the window.

I was a member of the Appropriations Committee for 18 years. The committee has always done its work in a bipartisan fashion. It is sad to see that bipartisanship evaporate at the snap of Karl Rove's fingers.

I say to my colleagues on the other side of the aisle: Let us take the pollutants out of this ominous bill. We have a responsibility to fund critical government programs without adding misguided or downright dangerous legislative riders.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I will speak on the issue of the education funding in this omnibus bill which is being held up by our colleagues on the other side of the aisle, which is unfortunate.

The issue of education, of course, is one of the priorities of our concerns in Congress. We have made significant strides under President Bush in addressing a variety of different areas involving education, and this omnibus continues that progress. It is interesting to note the commitment which we as a Republican Party and the President, under his leadership, have made since coming into office.

The commitment to education, specifically, has been dramatic. For example, in the area of No Child Left Behind, which is funding for low-income disadvantaged students, as compared with the prior administration, in the last 3 years we have seen a 32 percent increase in funding, going from $18.4 billion up to $24 billion. In the Title I account, we have seen an increase of 41 percent, going from $8.8 billion to $12.3 billion. In the area of special education, we have seen a 59 percent increase in funding, going from $6.3 billion up to $10.1 billion. In the area of funds going to K through 12, totally, we have seen an increase of 36.5 percent, from $26 billion to $35 billion. In the area of Pell grants, we have seen an increase, going from $8.8 billion to $12 billion, or an increase of 37 percent. That is in the last 3 years of this President.

This bill carries forward those initiatives. The fact this bill is not passed and the Democrats insist on holding it up will represent a very significant cut in the amount of money that would have gone into title I, which is education for underprivileged children, into special education, and into Pell grants.

If we go under a continuing resolution, which is the other option to not passing this omnibus bill, it will mean title I will end up being cut by over $650 million. Those are dollars that go out to low-income kids, to schools that educate low-income kids, which is critical to bring these children up to speed so they can compete with their peers and have a chance at the American dream.

In addition, in the special education area, if this bill is not passed, it will represent an approximately $1.2 billion cut in special education. Anyone who goes back to their State and spends any time with their local communities knows the cost of special education is one of the most difficult issues which the local education community faces because the Federal Government requires, as rightly it should, that children with special needs be educated and be educated at a level competitive with their peers who do not have special needs.

Unfortunately, that is very expensive. Originally, the Federal Government said it would pick up 40 percent of the cost of that education, but it has not been doing that. However, since President Bush came into office, we have dramatically increased our commitment in the area of special education. As a result, we have been able to reduce the burden on the local property owner because more money has been going out from the Federal Government to bear its share of special education, thus relieving the local property tax owner from having to bear not only the local share of special education but also the Federal share of the special education. If this bill is not passed, that is $1.2 billion of additional spending for special education which will not occur, which will mean that burden will be thrown right back on to the local property tax payer. That is certainly not something we should do. We have an obligation to try to get to full funding of the Federal share of special education. The President has made that commitment and we are on that path. This bill is part of that effort.

Pell grants is another example. We all know it has become very difficult for people who are going to college today to pay the cost of college because college tuition has increased so dramatically over the last 10 years, outstripping the rate of growth of inflation by a factor of about two and a half times.

One of the ways we have tried to relieve that burden is to increase the amount of money or to increase the amount of people who participate in the Pell grant program, which is a grant program which helps kids who are in college pay for their college tuition. If this omnibus bill does not pass, the Pell grant program will be penalized with a loss of tens of millions of dollars which would be available for college students in order to help defray their cost of education so when they get out of college they can participate aggressively in the workforce and earn the rewards of participating in the workforce without having the huge burden of debt placed on them by having to pay for their tuition costs and borrow money to do that but, rather, by having a Pell grant, which is not a loan.

This is a critical issue for us as a country. As the tuition rates go up and up, it has become more and more difficult for many people to participate in college education. We as a society cannot compete in the world unless we have a highly educated workforce. That highly educated workforce is conditioned on people being able to afford college. This bill allows a lot of people to participate in college who will not otherwise be able to.

We can honestly say if this bill is held up, low-income kids who go to title I schools will not receive the support they need, kids who are special-needs children will not be receiving the support they need, and the local taxes of people will go up as their real estate tax burden will go up, and many kids who are attending college will be unable to continue their college because they will not be able to obtain the Pell grant. There are real lives at risk if this bill is not passed in its present form.

There are other things this bill has that address education which are equally interesting and equally, in my opinion, significant. The most significant is the fact this bill includes the District of Columbia's efforts to pursue other options for their children in the area of education. The Mayor of the District of Columbia, the head of the school board of the District of Columbia, members of the city council of the District of Columbia came to Congress and asked those in a position to deal with education issues, Will you help us do some more creative things to try to address a very serious problem in our school districts?

The serious problem is this: Washington, DC, spends the second most per child of any school district in the country. The only other school district in the country that spends more per child is New York City. Yet Washington, DC, has the worst performance for its children of any school district in the country; in fact, the worst in many categories. A lot of parents feel their children are trapped in schools that are not working. The Mayor appreciates this and wants to improve the school system but wants to give parents other options. They have in this town a private proposal, a private program for kids whose parents want to send their kids to a private school through a choice program, take them out of the public schools and put them in a private school. There are 7,500 kids waiting to participate in that program.

The Mayor and the head of the school board and members of the city council came to us and said, We would like to try a demonstration program in the area of choice where we will basically set up a fund which allows parents—most of these are single parents, by the way—from very low-income situations to take their kids, if they are not performing and they are not getting the support they need in the public schools, to a private school as long as that private school subscribes to the standards we as a city public school system set both in the area of accountability and in the area of teaching those children.

It is a creative and courageous idea the Mayor has put forward along with the president of the education board and along with members of the city council—courageous, obviously, because it flies in the face of the professional education community, and especially the unions.

But the mayor is committed to trying to improve the educational level of the kids in Washington. He simply is not willing to accept the idea of generation after generation of children here in Washington being left behind and not being able to participate in the American dream because they cannot get the education they need.

When you have parents who are waiting, enthusiastically, to try to give their children an option, to try to give their children an opportunity, which does not exist today, by moving their child from a public school to a private school, when you have parents who are willing to take that risk with their children, and you have a mayor who is willing to do that, then you have a formula for maybe improving the lives of these children.

The mayor came to us and said: Give us this program. We would also like a program which helps us support more charter schools in the city and helps us do more school improvement in the basic public schools.

So we put together a package where we took $40 million out of other accounts within the Federal Government. I know because a significant amount of that $40 million came out of my own appropriations bill which has nothing to do with the city of Washington, and we moved that money into the city of Washington account. We divided it into three parts, and we structured it so that the mayor and the board of education and the council can set up three programs: One, to assist in the creation of charter schools; two, to add to the improvement of schools that already exist in Washington, the public school system; and, three, to have a choice program system. It is a creative and aggressive idea.

But if this bill does not go through, that program will fail. The mayor and the people who are committed to this, and, most importantly, the children who would benefit from this and their parents—and it is heartrending to meet these parents.

They have a lottery right now in this city where the private program—which is funded privately, which is the philanthropic program—every year draws out of a hat a group of names of kids who qualify to take part in the choice program. Literally thousands of parents, single moms in most instances, sit in that room and wait for their child's name to be drawn. When their child's name is not drawn, it is tragic, and the sense of loss is palpable. And when their child's name is drawn, the excitement that their child will have a shot at the American dream because they will get a decent education is electric.

So the mayor has set up this program, working with the president of the board of education and with members of his council, and they came to us and asked for this money.

Unfortunately, Members on the other side of the aisle have tried, in all sorts of ways, to defeat this program. It is ironic that they have because there are not a whole lot of Republicans serving in the municipal government in the District of Columbia. In fact, I do not think there are any. I don't know. I suspect there are not. I think only 12 percent of the people in the city are registered Republicans. The mayor is Democrat. I know the board of education is democratically controlled. The council is democratically controlled. The whole administration is democratically controlled.

It was, ironically, the leadership of the city, a Democratic leadership, that came to a Republican Congress and said: Give us this opportunity. We will take it. We will run with it. We will make these children's lives better and give their parents a chance to give their children something special.

Unfortunately, they were stonewalled, regrettably, by the other side of the aisle, but we were able to get around that and we were able to put in this bill the language which accomplishes this. If this bill fails, then that program fails, and it will mean that $40 million—which is a huge amount of money—which would flow into the educational efforts here in Washington to try to improve those educational efforts—not by putting more money after money that has not worked in the past but, rather, by putting more money in programs which have a potential of working, and which we know will work in specific instances, such as charter schools and choice—that money will not go forward. That money will be a benefit, and there will be real lives impacted in a very positive way.

So we have seen a lot of crocodile tears from the other side of the aisle about their concern on education, about their concern about children. Where the rubber hits the road is whether this bill passes or not. A lot of children's lives here in Washington will be affected. If it does not pass, they will once again be put in a system which has failed them and failed their peers. And, regrettably, it has failed generations before them. If the bill does pass, there will be an opportunity, created by a creative and aggressive mayor who is willing to take chances.

If this bill passes, there will be relief for many taxpayers in America who are paying the burden of the Federal Government's share of special education. There will be relief on their property tax bills.

If this bill passes, people who are going to college will be able to stay in college, and they will not have to leave college because they can no longer afford to pay for it.

If this bill passes, title I children, children from low-income homes, will have a better shot at not being left behind because the No Child Left Behind bill will be more aggressively funded.

So there are real lives affected by whether or not this bill passes. I hope Congress will see fit, and our colleagues on the other side of the aisle will see fit, to stop this filibuster and pass this bill so these students can get on with their education.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM of Florida. Mr. President, as fate would have it, the first vote this new session of Congress has before it, as our first measure, is an omnibus appropriations bill for fiscal year 2004.

This first-of-the-year appropriations bill is the product of negotiation among the leadership, primarily Republican leadership in this Chamber and their House counterparts, to meld together a series of appropriations bills that had been unable to be passed prior to the time of our adjournment in 2003 and have now been presented to us as a single bill.

This single bill will provide for discretionary domestic spending of $328 billion—$328 billion. In fact, it contains over 7,000 earmarks, which means specific projects that have been added to this bill, almost exclusively projects that were never considered by the Senate.

Senator McCAIN has given a speech, as has Senator BYRD, outlining adequate reasons to vote against this omnibus bill based on those facts alone. I would probably have voted against the bill based on those facts alone because I consider myself to be a fiscal hawk, and I consider that the kind of spending in this bill is illustrative of the undisciplined practices into which this Congress and this President have too often fallen.

But that is not the reason I am going to discuss today. It is the fact of what is not in this bill. What is not in this bill is a provision which was adopted on a bipartisan basis by the Senate and by the House of Representatives which would protect the overtime rights of our Nation's workers.

A brief background. In 2003, the Department of Labor developed a regulation which would modify the current overtime pay standards. The practical effect of this will be to make some 8 million American workers, who are now eligible for overtime, ineligible for overtime.

My colleague and good friend from Iowa, Senator HARKIN, who also has spoken eloquently on this matter today, offered an amendment to protect the overtime our Nation's workers earn from this new Bush administration policy.

Senator HARKIN's amendment passed the Senate by a vote of 54 to 45. That same measure was then endorsed by the House of Representatives when they instructed their conferees, who would be responsible for negotiating any differences between the House and the Senate bills, to accept the Harkin amendment by a bipartisan vote of 221 to 203.

In spite of that history, this provision, which would have rolled back the Department of Labor's denial of overtime to 8 million Americans, was removed from the bill, ostensibly at the insistence of the White House.

I have had a practice, now for almost 30 years, of taking different jobs. My next-to-the-last job was as a coal compactor. That consisted of driving a very big piece of equipment, made by Caterpillar in Peoria, IL, over a large field of West Virginia coal in order to keep it at the necessary compaction so that it would not be subject to self-ignition and fire. There were three other men who worked with me in that job. It took place at the Gainesville regional utility generating plant.

At the lunch break, we avoided talking politics. That is sort of my rule when I am on these workdays. I talk about hunting or fishing or football or whatever but not politics. These three men brought it up at lunch. They said: We heard somewhere that they are talking about messing with our overtime.

I said: Well, how much will this affect you?

They said: It will affect us a lot because we typically work maybe 50, 60 hours a week doing this job, and that overtime is what makes the difference between us sort of getting along and getting along with a little extra money to do the things our families need.

I cite that example to indicate this is not an inside-the-beltway issue. This is an issue which the American people understand and about which they are emotional.

Under the Bush administration's overtime plan, millions of salaried workers who make between $22,101 and $65,000 a year—just think how many millions of families fall within that range of $22,101 and $65,000 a year—could be reclassified under more lenient standards as executive, administrative, or professional employees and would no longer qualify for overtime.

I indicated earlier that the plan would affect approximately 8 million workers in 257 occupations. This is the estimate of the Economic Policy Institute, that that many workers in that many occupations would lose their right to overtime. In my State of Florida, the change is estimated to affect 441,000 workers. Those numbers dramatically understate the real impact of this legislation.

Let me give two illustrations of its extended impact. We are concerned about a jobless recovery. Yes, the stock market is up. Yes, we are showing a significant increase in our domestic economic output. But in the month of December, do you know how many jobs were created as a result of all that economic activity? One thousand. I have not made a mistake. I didn't misstate 100,000 or 150,000. One thousand new jobs were created in the month of December.

While there is no single reason that that is true, I believe one of the reasons is the math I am about to give you. Assume you are an employer. You have four employees. As part of this economic upturn, you have generated enough demand for your product that you really need to hire a fifth employee. So you have a choice: Hire a new person or you can ask the other workers to add 10 hours a week to cover the amount of additional demand that has been generated. Assuming these workers earned $20 an hour, that would mean that while they are in their overtime period, they would be earning $30 an hour. So each of the four people would earn 10 hours at an additional $10. So they would earn, as a result of overtime, $100 a week times the four workers which is $400 a week.

The employer could very well look at those numbers and say: Look, it is less expensive for me to pay these existing employees an additional amount to work overtime than it is to undergo the training cost and the insurance cost, particularly the health insurance cost, of bringing a new person on board.

I believe this extensive use of overtime is a significant factor in causing a jobless economic recovery. If it is a significant problem today, when the employer is having to pay an additional $10 an hour in overtime, think what it is going to be like when the employer doesn't have to pay the additional $10 an hour in overtime, where the amount of work that the four current employees do would be paid at the same rate as those four plus a fifth working at 40 hours a week?

No. 2 is another example. A plant has 100 employees, all of whom are currently eligible for overtime. Under these new rules, let's say that 20 of those 100 are reclassified as being ineligible for overtime. The plant has a certain number of hours of overtime which are going to be incurred. Today they are distributing that among the 100 overtime-eligible employees. I can tell you with a high level of confidence that if we allow this Department of Labor regulation to go into effect, whatever overtime is generated in that plant is going to be assigned to the 20 employees who no longer are eligible to get overtime pay.

At a time of a jobless economic recovery, to propose cutting overtime earnings, which will give an even greater incentive not to employ people, is to cause one to question the common sense of the people who are proposing this. This plan offers no incentive for economic stimulation. It is an incentive to further reduce employment by relying on now no longer overtime compensated additional hours of work by your current workforce.

This also offers no economic incentive to our general economy. We have debated this issue for much of the last 3 years: What is the most appropriate way to stimulate the economy? Last night the President didn't talk about changes in trade policy. He said we were going to stimulate the economy by making tax cuts permanent.

As Senator BYRD discussed with vigor and eloquence a few hours ago, 75 percent of these tax cuts go to 1 percent of the American taxpayers.

That is not a program of economic stimulation. Rather, it is a program to compensate the most affluent people in the country by cutting their taxes and letting the crumbs of the other 25 percent of the tax cuts fall down on the rest of us.

If we were serious about economic stimulation through the Tax Code, we would have a different tax cut policy. I have advocated, as an example, that we ought to have a program to make the first $10,000 of earnings free from the payroll tax. That would put approximately $780 in the pocket of every American, the largest share of which would go to where the largest share of Americans are—into the middle class. I can tell you, from common sense, those people will actually spend the $780 because they have kids who need new clothes; they have a car that needs to be replaced; they have a new bedroom they may need to add to the house because they just had another child.

We didn't take that approach. We didn't focus our tax cuts on the Americans who are most likely to use the tax cut to stimulate the economy by increasing demand. Having committed that first error, we are now about to compound it by taking away overtime pay from the same group of Americans who, if they get the overtime, are most likely to spend it, create demand, and create new jobs in our economy. It is just confounding that, at a time when we are concerned about the future of this country and we are concerned about economic stimulation, when we have concerns about the fairness by which our people are viewing their Government's action, we would go an additional mile to cut away the eligibility for overtime pay for 8 million Americans.

This policy is not just bad economics; it is also bad security because many of the people who will be affected by this are people who are our first responders. They are police officers, firefighters, air and traffic controllers, nurses, and others involved in emergency medical care. All of these will potentially see their wages diminished as a result of this one provision in a bill which does not justify passage even on its own merits—a provision which has stripped out a proposal that passed by bipartisan majorities in both the Senate and the House, passed at the instance of the White House, wanting to assure that its policy of cutting back on average American workers' overtime is implemented. I would vote against cloture on this bill today; I will vote against cloture on this bill tomorrow; I will vote against cloture on this bill at any time we have the opportunity to do so. And should we, in a moment of lack of wisdom, grant cloture and this bill is passed, then I will join my colleagues in every effort to see that what the Congress of the United States wants to happen, what the people of the United States desperately want to happen—which is to retain their overtime pay benefits—will occur. Even though it is not what President George W. Bush wants, this will be a battle the American people will win.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, it had been my hope we would have eliminated the overtime pay provision, because I believe it is not a good idea, with the economy just beginning to recover—obviously fragile—to be denying many American working men and women overtime pay.

This issue came before my subcommittee, Labor, Health, Human Services and Education. By a vote of 54-46, the Harkin amendment was passed, which prohibited any funding to implement the new regulation on overtime pay. There is no doubt it would be useful to revise the regulation with the view to limiting and reducing litigation. We had an extensive hearing yesterday. The Secretary of Labor testified. We analyzed the current regulations, we analyzed the new regulations, and it was apparent the new regulations will not do anything to reduce the litigation. There are still the same ambiguities regarding the various categories of personnel, making it evident from the course of the very extensive hearing we had yesterday that the objective of reducing litigation will not be accomplished by the new regulations.

In approaching the cloture vote, we are not between a rock and a hard place. We have an impossible situation because, either way we go, we are going to have this regulation, unless there can be a negotiated change with the administration. After making that effort repeatedly for months, I do not think that is a realistic possibility. We are faced with this regulation whether we pass the Omnibus appropriation bill or not. If we do not pass the Omnibus appropriation bill, then we will have a continuing resolution, and the continuing resolution will leave in effect the current funding for the Department of Labor, Health, Human Services and Education, and all of the other departments that are affected by the Omnibus bill. With a continuing resolution, there will not be any provision to prohibit the implementation of the regulation.

If the alternative is followed, the result will be the same. If you have the Omnibus appropriation bill in its present form, which does not have the prohibition against implementing this overtime regulation, then the regulation goes into effect. So either way you go, you have the regulation. So that we are not between a rock and a hard place; we are faced with this regulation on either alternative.

If we do not pass this Omnibus appropriation bill, there will be very many important projects that will not be funded. If you take the Department of Labor, Health, Human Services, and Education, and the subcommittee which I chair, there is an addition of $3.7 billion this year, with substantial additional funding for the National Institutes of Health, with substantial additional funding for education, and substantial additional funding for Head Start. We really do not have a choice.

Last November, when the Omnibus was taken up, the chairman of the House Appropriations Committee, Chairman YOUNG, the chairman of the subcommittee, Chairman REGULA, chairman of the Senate Appropriations Committee, Senator STEVENS, and I met and tried diligently to work out an accommodation to delay implementation of this regulation until the end of the fiscal year. We were not asking for very much. Now it is January 21, and the Secretary of Labor says the regulation will be ready for being promulgated on March 31. I doubt very much that will happen. Yesterday, in the course of the hearing, I asked the Secretary a detailed set of questions to see how many comments she had. Reportedly, it was some 80,000. After the regulation is promulgated by the Department of Labor, it has to go through the OMB, and that takes a long time. At March 31, we already will have half of the fiscal year gone. It will not be much of a concession by the administration to allow this regulation to not be put into effect until the end of this fiscal year and to take up the alternative legislation, which I have introduced, that would provide for a commission. But we face a situation where we have been unsuccessful in months of negotiations to try to effect a change on this issue.

This is part of the political process. It would have been my hope that the Secretary, who comes to our subcommittee with frequent requests that we have accommodated to the maximum extent possible, in the spirit of reciprocity would have accommodated us for a few short months. But in view of the fact that this regulation will take effect whether we pass the omnibus or not, the continuing resolution will leave the regulation in effect. The Omnibus appropriations bill will leave the regulation in effect.

It is obviously preferable to have the omnibus pass, where we have the additional funding, $3.7 billion, for the subcommittee for very important items. That is why I feel constrained, notwithstanding my very strong objections to this regulation on overtime pay.

I think it is not appropriate, not really fair to the American working men and women that a few extra months were not commissioned to try to bring some clarity. I agree with the proposition that we ought to take every step we can to clarify the regulations to eliminate litigation. But on this state of the record, the least undesirable alternative is to have cloture imposed and to try to pass this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, one of the worst provisions in this shameful bill is the provision that will take away the right of overtime pay to millions of loyal and hard-working Americans. That provision also shows the enormous gulf between what the Bush administration says and what it does.

Again and again, President Bush talks about providing economic security for all Americans, and then he quietly tries to deny millions of workers their basic right to overtime.

If you have to work overtime, you deserve overtime pay. No employer should deny you that right, and no President and no Congress should take it away from you.

In his State of the Union speech last night, the President said his jobs and growth agenda would include "relief from needless Federal regulation." Apparently, he believes protecting employees' overtime pay is a needless regulation.

Millions of employees across America disagree with that. This proposal makes clear that the Bush administration is working overtime for the corporations and against the workers of America. We are fighting a war in Iraq, and this President and this administration is also waging a war on workers here at home.

Thirteen million children are going hungry every day; 8 million Americans are unemployed with no jobs in sight; 7 million workers have been waiting since 1997 for the raise they deserve in the minimum wage; 90,000 workers a week are losing their unemployment benefits. They can't find jobs in the Bush economy, and the President took away their unemployment benefits, too. And more than 8 million workers will lose their overtime pay because President Bush says they don't deserve it.

Majorities in both the Senate and the House agreed that the Bush administration was wrong to deny overtime protections to workers, and by a vote in the Senate and a vote in the House of Representatives, we said to the President: You are wrong. But here it is. They took it out of this bill behind closed doors at the last minute, and now they expect Congress to accept that because the vote is on this larger bill.

We could change this bill in a minute and send it on to the President, and that is what we ought to do. We know for whom we are fighting on this issue, and we know why we are fighting—for their right to keep the overtime pay they deserve.

We are fighting for the nurse who burns the midnight oil day in and day out caring for the sick and the elderly. We are fighting for the firefighters, the law enforcement officers, the first responders—the heroes of homeland security—the men and women standing watch and working night and day to protect our safety. They are our generation of Paul Reveres prepared to act when danger comes. They deserve fair pay for all they do.

We are fighting for our veterans and for our men and women serving so bravely now in Iraq and across the world who return to civilian life only to find that the training they learned in the military will now be used to deny them their right to overtime pay.

I want to point out what this proposed regulation under professional employees is all about and what it states. I will include the whole provision but included in the provision—listen to this, Mr. President—is:

The word "customary" means that exemption is also available to the employees in such professions—these will be the people who are included in the rule and, therefore, ineligible for overtime—it says:

> The exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees—

Those are generally the 4-year degree employees to whom they are referring.

> but who attained such knowledge through a combination of work experience, training in the Armed Forces—

Training in the Armed Forces. This is the first time they have included that you can be ineligible for overtime pay if you have been trained in the Armed Forces.

I say to my colleagues, what are the kinds of training they get in the Armed Forces? The Army, for example, offers new recruits a choice of over 200 occupations, each of which includes training and a listing of the civilian occupations for which training could help them find a job. This proposal would punish the veterans with loss of overtime protection precisely because they have received the exact same training that is used as a recruitment incentive.

The military trains service members for hundreds of occupations, including lab technicians and other health care occupations, information technology, engineers, drafters, designers, air traffic controllers, communications specialists, law enforcement, firefighters, security personnel, journalists, and the list goes on.

If you go into the Armed Forces, you serve in Iraq, you come back, you have received training programs. Under these regulations, you are ineligible for overtime.

That is unconscionable. Why did they put in the service members' training programs in the Armed Forces for the first time? This is put in for the first time in changes to the rules. This is the first time in the history of overtime, going back to the Fair Labor Standards Act, that they have included this training.

I am absolutely amazed, at a time when we are asking our service men and women to do so much and while they are in Iraq and elsewhere, we are passing a regulation in this omnibus bill that is going to say when they come back that if they have been trained in any of these areas, they will be considered, under these regulations, a professional and be ineligible for overtime, after they have been risking their lives for the American people. Does that make sense? Permit us to have an up-or-down vote on that, Mr. Republican Leadership? Permit the Senate to vote on that and see what the sentiment is? Oh, no. Just tuck it into the regulation, behind closed doors; put it in there with everything else and let it become law without giving Congress a say.

I do not know what that will mean in the future if that happens because we know that the incentives—one of the reasons that many young people go into the Armed Forces is because of the various training and educational benefits. Effectively, the Bush plan would do away with the standard requirement and allow equivalent training in the Armed Forces to substitute for the 4-year degree and therefore make these veterans ineligible. These training programs, as I say, have been a primary incentive for attracting people into the Armed Forces.

Do my colleagues understand that? It says here—I am reading right from it—training in the Armed Forces, and it goes on: Comma, or other intellectual instructions, training in the Armed Forces.

So that is what would happen to thousands of those men and women who are over in Iraq and Afghanistan, scattered around the world. They come on back. This proposal goes into effect. Their employer is going to look down and say, oh, Jim, by the way, you were in a training program before you went over to Iraq and you were trained, and it says in these rules here I do not have to pay you overtime because that is right in these rules.

So we are fighting for our veterans and fighting for our men and women serving bravely now in Iraq and across the world, who return to civilian life only to find that the training they earned in the military will now be used to deny them their right to overtime pay.

Most cynical of all, the Bush administration claims that its plan would actually entitle low-income workers to qualify for overtime. The Department of Labor has distributed guidelines to employers on the steps that they can take to avoid the need to pay that overtime. Just calculate the pay an employee now gets with overtime included and then cut the employee's basic pay enough to reduce the total to what it was before.

Is there anybody who doubts what is going on? This is basically a sop to companies and corporations around the country in order to squeeze employees even further. There are more than eight million out of work. Last quarter we found employment increased by only 1,000. They expected close to 300,000. It increased by only 1,000. There are so many workers who are eligible for unemployment insurance even though they have paid in for it. 90,000 at the end of this week which will be the end of all of their unemployment compensation. Did we hear anything about that last evening? I did not.

So is that cynical or what? How red-handed do we have to catch this administration before the American people understand what is being done to them? Always it is the Bush administration putting corporate profits over the well-being of American workers. The Department of Labor's mission is to promote the welfare of the job seekers, wage earners, and retirees of the United States, and that is what it says on the Department's Web site. It does not say promote the bottom line for businesses.

The last thing American workers need in today's troubled economy is a pay cut like that. Staff Sergeant John Miller, who performs homeland security and other public safety duties in the District of Columbia National Guard, is concerned that he and many in his department will lose their overtime pay because of the Bush plan. He recently testified that eliminating overtime pay will have a devastating impact on his department's ability to perform vital public safety responsibilities. Without his overtime pay, he said his family could no longer afford their current mortgage or save for college for their two teenage children.

Thousands of veterans will lose their overtime pay as well. Under current law, workers can be denied overtime protection if they are in the category of the professional employees. In general, it is only workers with a 4-year degree in a professional field who will be classified as professional. The Bush plan will abolish this standard and allow equivalent training in the Armed Forces to be routinely substituted for a 4-year degree. How is that for a slap in the face to our courageous men and women fighting in Iraq?

Cutbacks in overtime pay are a nightmare that no worker should have to bear. Nationwide overtime pay makes up a quarter of a worker's total pay. The administration's policy will mean an average pay cut of $160 a week for every worker. That is an outrage.

Hard-working Americans deserve a pay raise, not a pay cut.

It is wrong for the administration to try to force the unfair pay cut on them. More than 2 million jobs have been lost since President Bush took office. Unemployment is a massive problem, especially in hard times such as these. Overtime pay is exactly the incentive needed for job creation, because it encourages employers to hire more workers, instead of requiring current employees to work longer hours. We need a job creation policy, but all the Bush administration proposes is a job destruction policy.

The overtime pay requirement and the Fair Labor Standards Act has been a fundamental right of American workers for more than half a century. That basic law was enacted in the 1930s to create the 40-hour week. It says workers have to be paid time and a half for extra hours. Since 1938, that has been the law.

According to the Congressional General Accounting Office, employees without overtime protection are twice as likely to work overtime as those covered by protection. Americans are working longer hours today than ever before, longer than any industrialized nation. I will show this in the following illustrations.

This chart shows that Americans work more hours than workers in any other industrialized nation in the world. The United States is right over here on this chart. We can also compare Denmark, France, Ireland, Netherlands, the UK, Italy, and Germany. This was in 2001. It is still relevant in terms of the current time. We can see workers in the United States work considerably more than any other country in the world. So they are No. 1 in the workplace.

The second chart shows that if one does not have overtime protection, this is what happens: Workers without the overtime protections are more than twice as likely to work longer hours, more than 40 hours a week without protection. Forty-four percent of workers who had no overtime protection worked more than 40 hours a week, compared to 19 percent of those with the overtime protection, well more than double. If it is more than 50 hours a week, those without overtime protection work three times longer than those who have the protection.

Who is affected by this? All one has to do is see under the recommendation of the Bush administration of the 8 million people, what are the classifications? It is very interesting. We are talking about police officers. We are talking about nurses. We are talking about firefighters. They are the backbone of the homeland security, the front line responders. The dangers we are facing from bioterrorism, who is out there first? The firefighters, policemen, and nurses. This proposal will effectively eliminate their overtime. We should not be eliminating it.

We ask them to take vaccines in a number of instances where we are unsure about what the outcomes are going to be. We do not even provide them with adequate compensation if they are going to get ill or sick as a result of it. We ask them to do all kinds of things.

Now their reward will be we will find that, under the proposal that is in this legislation, their overtime pay will be effectively eliminated.

The same department that is tasked to protect American workers and enhance the employer's workplace and enhance the opportunity for work in this country put out the proposal about how to avoid paying your employees overtime. That is courtesy of the Bush Department of Labor.

There it is. They just spell it out for us. The Department of Labor spells out how the employer can circumvent paying any kind of overtime if they are doing it even today, and gives every employer who wants to the way in which they can undermine it.

Congress cannot stay silent and roll over while more and more Americans lose their jobs, their livelihoods, their homes, their dignity, and their hope. We will be fighting other battles in this session, battles to restore jobs, guarantee fair unemployment benefits, raise the minimum wage. The place to start is here. Let's at least not allow the Bush administration to take the country backwards on this fundamental issue, the right to overtime pay when workers are forced to work overtime by their employers. Let's preserve the overtime protections on which so many millions of working families across the country depend today. Why should their standard of living have to go down so employers can make higher profits by squeezing workers harder?

I would like to address one other issue that is related to the workers of this country, and that is the issue of the unemployment compensation. The Federal extension of unemployment benefits expired December 31 and 90,000 workers a week have been running out of benefits. The economy lost 2.4 million jobs since President Bush took office and at the December rate of job growth it would take 200 years to return to prerecession jobs levels. American workers can't wait that long. Nearly 15 million Americans are out of work, including discouraged and underemployed workers, and the number of long-term unemployed remains unacceptably high at 2 million.

Historically, job loss during a recession is about 50 percent temporary and 50 percent permanent. Today, nearly 80 percent of the job loss is permanent. As a result, many of the unemployed will not return to work soon.

Today, there is only one job opening for every three out-of-work Americans. The Republican leadership continues to paint a rosy picture of the economy while ignoring these workers. House majority leader TOM DELAY has said he sees "no reason" to extend unemployment benefits and the Bush administration has been silent on the issue. Democratic Senators have asked for unanimous consent to take up and pass a Federal unemployment extension more than a dozen times. Each time the Republicans say no.

The program was enacted in March 2002 and extended in January 2003 and May 2003. It provided 13 weeks of unemployment benefits in most States, and 26 weeks in high unemployment States. Today, due to the criteria used to define high unemployment, only one state qualifies as a high unemployment State, Alaska, despite continuing unemployment in many other States.

The bill would reinstitute and extend the Federal Unemployment Insurance Program for 6 months, and ensure that high unemployment States continue to be covered.

I see my friend and colleague on the other side. I have just mentioned to the Senate we are now at the point where we are losing 90,000 workers a week, those who are losing coverage on unemployment. We still have some 15 million Americans out of work, including the discouraged and underemployed workers. And the number of long-term unemployed remains unacceptably high—nearly 2 million.

Historically, as I mentioned, the job loss during a recession is about 50 percent temporary and 50 percent permanent. Today it is 80 percent permanent. These are real people with real needs—families, mortgages to pay, food to put on the table. If we are going to have an expanding economy, it should not be done at the expense of one sector of our economy. It should be a tide that raises all the boats. There is no question that Wall Street is doing well. There is no question that a number of our companies are having extraordinary profits.

But we have these two issues, one denying the 8 million Americans the overtime, including veterans. And now we have a proposal to permit the extension of the unemployment compensation for those who have paid into the program and who are in dire need.

I ask unanimous consent the Senate proceed to the immediate consideration of S. 2006, a bill to extend unemployment benefits for 6 months, which I introduced yesterday; that the bill be read a third time, passed, the motion to reconsider be laid on the table, and any statements appear in the RECORD as though read.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, I need to find out what the request is. Unfortunately, I tell my friend and colleague from Massachusetts, the Senate has been in for a day, but I have not read his bill. I understand he introduced it yesterday. He wants to pass it today. Senator KENNEDY is a very effective legislator, but I personally have not had a chance to read the bill.

Will the Senator tell me what the essence of his bill is? Is it a program to double unemployment compensation extension to 26 weeks? Or extend the present program to 13 weeks?

Mr. KENNEDY. I say to the Senator, it is essentially the same plan we passed before. The bill will reinstate the insurance program for 6 months, ensure that higher unemployment States continue to be covered—13 weeks; 13 weeks. It is the narrower program.

Mr. NICKLES. I appreciate the clarification.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, two or three comments. Senator KENNEDY is my friend. We debated this issue a couple of times.

In the past many months, I guess for the last year and a half, there has been an effort to turn a 13-week program into a 26-week program. I have objected to that very strongly and will continue to object to it very strongly.

As I understand Senator KENNEDY's explanation, this is an extension of the existing Federal unemployment compensation program which is scheduled to expire by the end of March of this year. But I would like to point out a couple of reasons why I object.

I will be happy to work with my friend and colleague from Massachusetts to maybe learn in greater detail of his proposal, but just a couple of editorial comments. No. 1, the unemployment rate is coming down. It is at 5.7 percent. In 1993, at the conclusion of a significant downturn and recession in the economy, the Democrats were in control of the Senate and they had a Temporary Federal Unemployment Compensation Extension Program. The unemployment rates at that time were between 6.6 and 7.7 percent. In other words, they discontinued the program when the unemployment rate was at 6.6. The unemployment rate today is 5.7.

I might mention the title of this program has been Temporary Federal Unemployment Compensation. It was temporary. I note today there are 26 States, over half of States have unemployment rates of less than 5 percent.

To have a national program for every State, which is very expensive, I am not sure is timely.

That is the reason we should have a chance to review this. Without having a chance to find out what the cost of it is, from what I have gathered and learned over the years, I object.

We have already spent, for the information of my colleagues, over the last 36 months I think something like $30 billion. It is not an inexpensive program.

I might note that in the 1990s Congress spent $28.5 billion. That was over 30 months when the unemployment rate was much higher—6.6 to 7.7 percent.

I might also, for the information of my colleagues, note that many States have not spent the $8 billion of Federal funding that we transferred in March of 2002 for unemployment compensation. We transferred $8 billion. According to the Labor Department, there is still $5 billion remaining unspent by the States.

Those are reasons I objected to my friend's unanimous consent request. I appreciate his bringing this to the forefront of the Senate. It may not be the last we have heard of this. But this is a temporary program. I think some people would like for it to be a permanent program. This Senator does not want it to be a permanent program.

For those reasons, I objected to the request. I will be happy to work with my colleague, the Senator from Massachusetts, to see if we can't do something positive to help create an environment which is more conducive to more jobs for more Americans this year. I think we can do that in a variety of ways, one of which would be making the Tax Code more fair for the working environment. I will work with all of our colleagues to see if we can't have a more productive job-creating environment, one part of which would be to pass an energy bill.

We passed a good energy bill. I am not saying that what we had last year, which I guess is still on the calendar, was a perfect energy bill. But I believe there are thousands and thousands of jobs that could be created if we passed a positive energy bill.

I hope our colleagues will look at that and other measures maybe that would help reduce health care costs and other things that would create a more productive environment for job creation in the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to respond briefly, as this chart indicates, our economy has lost 2.4 million jobs since the President took office. The job creation has been anemic. The economy created only 1,000 jobs in December. At the December rate of job growth, it would take 200 years to return to the level of jobs we had when President Bush first took office.

The reality is that the estimate of the administration was that we were going to create 300,000 jobs as a result of the tax cut. It is down to 1,000. The reason we have seen the move from 5.9 to 5.7 percent in unemployment is basically that so many people have been disillusioned. They have given up. We put this program in, which I support, at a time when unemployment was 5.7 percent, the exact same percent that it is now. But it is objected to.

It is true the plans are costly, but we know that the fund itself which the workers have paid into has nearly $20 billion. This would cost about $7 billion. That represents funds the workers have paid in for just this kind of rainy day. But no, we are being objected to.

In the early 1990s, Congress extended the unemployment benefit five times. That program did not end until the economy had more jobs than before the recession began.

This is a fair enough test, it seems to me. But when you have 90,000 Americans who have worked—these are Americans who have worked hard, played by the rules, have families, mortgages, and paid into the fund. The fund is in surplus, and we have 90,000 who are losing their coverage. This is a temporary program. It is short term—6 months, about $7 billion, with nearly $20 billion in surplus.

Workers are entitled to this kind of protection. They are entitled to a minimum wage. They work 40 hours a week 52 weeks of the year so they don't have to live in poverty. Most Americans believe that. They understand, for example, when we have the chance to increase the minimum wage that we have been blocked for 7 years. For 7 years, Republicans have blocked it. They block increasing the minimum wage. They block extending unemployment compensation. They initiate rules to eliminate overtime.

This is the record. When we talk about the minimum wage, it is obviously a women's issue because most of the people who receive the minimum wage are women. It is a children's issue because great numbers of those women have children. It is a civil rights issue because many of those who work at minimum wage are men and women of color. And it is a fairness issue.

We can't get the chance to vote on these matters. There is objection. How long did we hear last fall about, we ought to be able to vote on Medicare? Let the people vote up and down. But no, no, we can't with regard to the unemployment compensation. We can't get a vote on increasing the minimum wage. They have refused to permit this institution to have a vote again on the overtime limitations for 8 million people because there is objection. I think that is wrong.

We look forward to another opportunity to come back and address these issues in a way where hopefully we will be able to get a vote.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, it is a pleasure to see my friend from Massachusetts again. He is feeling good. He is energetic, as he always is. He is a very effective legislator and champions the cause with great enthusiasm. I appreciate that.

I will make a couple of editorial comments.

I love the chart. He said if we went at last month's pace of 1,000 jobs being created, it would take 200 years. That was 1,000 jobs last month. Over the last 5 months, 280,000 jobs were created, according to the Department of Labor. He forgot to mention that. But for December, I think he is correct as reported by the Department of Labor.

It is kind of interesting. He also said we have to have a vote on increasing the minimum wage but those Republicans haven't allowed us to do it. He said they haven't allowed us to do it for the last several years.

I remember a period with not necessarily the greatest fondest of memories. But for almost 2 years, the Democrats were in control. Senator DASCHLE was the majority leader, I believe from about June of 2000 or maybe 2001 until the end of 2002. He was the majority leader of the Senate. Senator KENNEDY was the chairman of the committee, and that could have been brought to the floor at any point during that time. The majority leader controlled the floor and the agenda of the Senate. It could have been offered as an amendment by any Member of the Senate, and it wasn't. I just make note of that fact.

It is interesting that it wasn't raised during that timeframe when this body was controlled by my friends on the Democratic side of the aisle. I want to just make note of that.

I don't doubt that we will have the pleasure of debating that issue. I look forward to that debate when that happens. I don't know that we want to make it against the law for anybody to work in the United States for less than $6 an hour. Some people say if they didn't make $6 an hour, they would be unemployed. I don't share that philosophy. But I guess we will have a chance to debate that. That is fine.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, very briefly, we will have an opportunity to debate this further. We were denied an up-and-down vote on the minimum wage just last year when the Republican leadership pulled the State Department bill from the floor rather than let us vote on the minimum wage amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

However, the word "customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the armed forces, attending a technical school, attending a community college or other intellectual instruction.

Ms. MIKULSKI. Mr. President, I voted to continue debate on the Omnibus because I believe we need to explore alternatives. Let me be clear: I want this bill to pass. I am proud of the work we did on the VA–HUD subcommittee to help our veterans, protect our environment, rebuild our communities, but I believe we need to pause.

We need to take a break and problem solve. There should be an alternative between passing an Omnibus that contains terrible provisions and a one year continuing resolution that would underfund so many of our priorities.

There must be a way to compromise and go back to the original seven appropriations bills, negotiated on a bipartisan basis, before provisions were added in the dead of night, outside the usual and customary conference procedures.

The Omnibus includes critical funding for our Nation's veterans. Working on a bipartisan basis, Senator KIT BOND and I increased funding for VA health care by $1.5 billion over the President's request.

We said no to the administration's proposal to charge our veterans a $250 membership fee for their healthcare. We said no to higher deductibles and co-payments. With record numbers of veterans seeking medical care through VA, with soldiers returning from Iraq and Afghanistan, we have a duty and responsibility to care for them. Promises made must be promises kept. The Omnibus funding bill allows us to keep our promise.

The Omnibus also includes increased funding for AmeriCorps—$444 million—an increase of $170 million over last year the highest funding level ever.

With this funding, more volunteers will serve our communities teaching in our schools, tutoring and mentoring our children, rebuilding neighborhoods, restoring parks, all while earning money to help pay for college, and learning the habits of the heart that make a difference for America.

The Omnibus adds $500 million for the Clean Water revolving loan fund, and another $6 million to improve water and sewer infrastructure that directly helps clean up the Chesapeake Bay.

Let me tell my colleagues what this means in my State of Maryland. The Chesapeake Bay is part of our heritage. It also source of jobs from the watermen to the restaurant owner. Yet the President's budget cut funds for this critical infrastructure program. That's why I fought to provide $1.35 billion for water and sewer construction.

This funding means a cleaner Chesapeake Bay and new jobs right away—high paying construction jobs that will put people back to work clean our environment and prevent cost shifting to our local communities.

We have a chronic shortage of nurses in America. This bill contains a $30 million increase for the Nurse Reinvestment Act—legislation I wrote that provides scholarships to nursing students in exchange for 2-years of service in areas that need nurses most.

The Omnibus increases funding for special education by $1.2 billion. This is an important step toward the Federal Government fulfilling its obligations. When IDEA first became law, the federal government promised to pay 40 percent of the cost.

But Federal funding has never topped 17 percent that means local districts must make up the difference by skimping on special ed, by cutting from other education programs, or by raising taxes. I do not want to force States and local school districts to forage for funds, cut back on teacher training, or delay school repairs.

We need to make up the difference and help relieve a crushing financial burden on local school districts.

I fought hard to improve this bill to meet the day to day needs of Marylanders and the long range needs of our Nation.

So why do I want to pause—before we pass it?

Because we can do better. I want time to discuss and explore alternatives to provisions that were added in the dead of night and that cause real problems.

I believe the best social program is a job. You should be paid if you work. You should be paid overtime if you work overtime.

Yet the Omnibus allows the administration to gut overtime protections for 8 million American workers. The Bush proposal means workers will have to work long hours for less money.

It hurts nurses, police officers, fire fighters who are already stretched to the limit. This provision hurts working families struggling to make ends meet.

The Senate voted to block this provision. The House supported our efforts.

But then, in the dead of night, the administration strong-armed conferees to strip our protections out of the bill.

The administration should not be able to overturn the will of Congress without debate and without a vote.

The administration did the same thing to federal employees—twisting arms and going outside the usual and customary process to push an anti-worker agenda.

The White House has a plan to contract out as many federal jobs as possible. It is a political agenda, masquerading as management reform. The Administration's plan for privatization costs money, costs morale, and costs the integrity of the civil service.

They have changed the rules to favor their contractor cronies, and now they have violated the democratic process. They know they do not have support in Congress or from the American public for their privatization agenda.

So they are using bully boy tactics and back room politics to bypass Congress and overturn a bipartisan compromise.

Let me tell my colleagues, what happened. During an appropriations conference, the House and Senate agreed to a bipartisan compromise that fixed some of the problems with OMB's new unfair contracting out rules but still recognized the importance of competition.

The compromise did not fix every problem. And it did not stop contracting out. But I supported it because it was fair, and I thought it was a good start.

My Republican colleagues supported it. And the White House supported it as well.

Yet now, the White House has gone back on the deal. They slipped a provision into the Omnibus spending bill that guts the bipartisan compromise and leaves us with meaningless "improvements"

This is disgraceful. The contracting out provisions in the Omnibus roll back workers' rights—the right to appeal a contracting out decision, the right to competitively bid on their own jobs. It even rolls back the requirement that contractors have to save money.

That is not what we agreed to in a bipartisan, bicameral compromise. We had an agreement that these three things were important. But OMB did not like it, because it would have given workers a fair shot.

Our country faces a new threat—the threat that mad cow disease will contaminate our food supply.

But, instead of taking this seriously, and doing everything possible to keep our food supply safe, the administration pushed to delay the country-of-origin labeling for meat products, overriding the will of the Senate.

Labeling of meat and meat products was supposed to go into effect this year, based on provisions in the 2002 Farm Bill. With this labeling, consumers could make an informed decision about what they purchased and what to feed their families.

Even with the first case of mad cow in the United States, administration will not back down from protecting its special interests friends. They made sure the Omnibus kept language delaying implementation of labeling for 2 years.

The Omnibus also rolls back existing gun laws and ties the hands of law enforcement. The Brady law requires that gun records be held for 90 days, yet this bill allows Government to destroy records after only 24 hours.

These records are kept for a reason—to help law enforcement track down weapons used in a crime, and to keep law breakers from buying guns.

The rollback provision also blocks the public from seeing critical information, even if they were the victim of a gun crime. If these rollbacks were in place last year, families of the DC sniper victims would not be allowed to know where the sniper got his gun and the questionable practices of the gun shop. Without this information, they would effectively be denied their day in court.

These provisions were not raised in the Senate. They should not be forced through in an omnibus.

I voted against cloture so the Senate has more time to discuss these important issues and explore the alternatives.

The American people deserve our best effort, not an omnibus rushed through in a single day.

There are serious problems with this bill—problems largely created by an administration that runs rough-shod over the democratic process and the will of Congress.

I am volcanic about how the final version of this bill was written.

As a member of the Appropriation Committee, I know first-hand the hard work and honest effort at bipartsanship went into the 7 appropriations bills.

All that went out the window once the administration forced itself into the room.

The underlying bill is a good bill that does a lot of good things.

We need to find a way to get back to those things and move forward for the good of America.

Mr. NELSON of Nebraska. Mr. President, more than 70 years ago, Nebraska Senator George Norris left Congress, returned to Nebraska, and led the effort to establish a unicameral legislature. He did this in large part because of his frustration with conference committees. These committees are supposed to reconcile differences between House and Senate bills, but all too often the bills that come out of these committees with new, controversial provisions.

Based on what I have witnessed, I have a renewed understanding of Norris's frustration with the conference committee process.

As we all know, it is in the conference committee that the final draft of legislation is often completed. Once the conference report is finished, a member may only vote to accept or reject; no amendments are allowed.

For this reason, the conference committee is an attractive opportunity to include legislative proposals that would not pass muster if they were considered openly on the floors of the House and Senate.

As Senator Norris wrote:

> Members of conference committees are often compelled to surrender on important items where no surrender would be even demanded if consideration of the legislation were in the open . . . The individual legislator must then vote upon a conference report without any opportunity of expressing by his vote his opposition to anything that the bill in this form contains.

This is as true today as it was so many decades ago.

Too often, a conference report comes back to us with initiatives never discussed in this body, or worse, with provisions that were rejected outright months, weeks, or even days before. In a conference report, popular or necessary programs can be tied to unpopular or impractical ones, subverting the process by which we should consider legislation.

The legislative process is frustrated further when the legislation in question is labeled a "must-pass" appropriations bill. With programs awaiting resources sometimes months after the end of the fiscal year, there is an understandable desire not to drag out the process once the omnibus bill is finally completed. When a "must pass" appropriations bill leaves conference, the normal conference habit of including more controversial measures increases exponentially—as does the pressure to pass the bill without delay.

This is not how Congress should do business. Measures should be considered openly and honestly. They should not be tucked in during closed door meetings of committee conferees.

This year's Omnibus bill contains several controversial proposals, and while this is by no means the first time this has occurred, it is past time for it to end.

Included among those is a provision that would delay funding of COOL for 2 years. This could effectively end the program before it has begun. This program is believed to be an important element in our efforts to re-establish consumer confidence in foreign markets. Nebraska's beef exports to Asian markets amounted to more than $460 million in revenue for our State in 2003. Without these and other markets, Nebraska could lose up to 21,000 jobs according to a Creighton University expert, severely hurting our efforts to turn the corner on the recent economic downturn. This may be the most important economic issue facing rural Nebraska. We need to act promptly in considering the impact of defunding COOL.

For this reason, I will vote to continue debate on the Omnibus bill. I do so in the hopes that this package can be re-examined and that the policy initiatives in it will be discussed as legislation, not appropriations.

This bill contains many promising Nebraska projects, some of which I worked with my colleagues and other Nebraskans to include. These projects and other spending initiatives are important to our State and to me. But I do not think that their importance should allow them to be held hostage by a process that promotes the backroom inclusion of new, controversial, onerous and unpopular initiatives. It is my hope that with full debate on the bill, these last minute policy initiatives will be considered and openly discussed.

It is past time for Congress to end the process of using conference reports and appropriations bills to enact unpopular or controversial policies. Continuing debate on the controversial provisions of this bill is the first step in doing so.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2673

Mr. McCONNELL. Madam President, I ask unanimous consent that at 6 p.m. this evening, the pending conference report be temporarily set aside; I further ask consent that the Senate then resume consideration of the conference report at 9:30 tomorrow morning, and further that there be 5½ hours equally divided for debate only; finally, I ask consent that following the use or yielding back of that debate time, the motion to proceed and the motion to reconsider the failed cloture vote be agreed to; further, the Senate then proceed to a vote on invoking cloture on the pending conference report with no intervening action or debate; finally, I ask unanimous consent that if cloture is invoked, the Senate then immediately proceed to a vote on the adoption of the conference report to accompany H.R. 2673, with no further intervening action or debate.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. McCONNELL. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PREVENT ALL CIGARETTE TRAFFICKING (PACT) ACT OF 2003

Mr. HATCH. Madam President, I am pleased to inform my colleagues that we have reached an agreement on final language for S. 1177, the Prevent All Cigarette Trafficking, PACT Act of 2003, which my friend Senator KOHL and I introduced on June 3, 2003. The manager's amendment makes the PACT Act even stronger than as introduced.

The distinguished Senator from Wisconsin and I originally introduced the PACT Act because of our concern that contraband cigarette trafficking both damages the economies of several States and contributes heavily to the profits of organized crime syndicates, including global, terrorist organizations. When we reported this bill from the Judiciary Committee on July 31, 2003, I pledged to work with my colleagues on both sides of the aisle to address any and all concerns they had with the legislation. The result of this bipartisan effort is a piece of legislation that will prevent cigarette and smokeless tobacco smuggling and ensure the collection of tobacco excise taxes without infringing upon the rights of Native Americans or consumers.

Internet sales of cigarettes and smokeless tobacco are an impediment States face in their collection of tobacco excise taxes. A recent General Accounting Office report indicates Internet tobacco sellers rarely comply with requirements under the Jenkins Act of 1949 (15 U.S.C. §§375–378 (2003)). The Jenkins Act, as modified by this legislation, is a Federal statute that requires tobacco retailers to register with the tax authority for each State in which they sell cigarette and smokeless tobacco products and to file monthly reports providing shipment information within each state. Failing to comply with the Jenkins Act damages not only individual States, but also retailers that are put in unfair commercial disadvantage.

By ensuring the collection of state excise taxes from all tobacco retailers, the PACT Act will neither inconvenience nor hinder smokers and smokeless tobacco users in their ability as consumers to purchase the tobacco products of their choice over the Internet. This legislation merely removes any uncertainty regarding the scope of the Jenkins Act by explicitly mandating Internet tobacco retailers also comply with existing requirements under the Jenkins Act. This strong vehicle with which to collect taxes from Internet tobacco retailers will allow States to finally claim their rightful revenue and level the playing field for all tobacco retailers.

The PACT Act as modified by the manager's amendment also clarifies that the bill will not affect existing tribal compacts relating to tobacco tax collection on tribal lands and allows Native American Tribes to maintain enforcement authority over their own excise tax laws.

As I mentioned in June, law enforcement authorities have uncovered several instances in which organized crime syndicates are illegally funding terrorist organizations, such as Lebanon-based Hezbollah, through the smuggling of cigarettes. These groups purchase cigarettes in States with low taxes and then transport them into states with higher taxes where the contraband is sold to small retailers at below market costs. The September 19, 2003, edition of the Detroit Free Press reports that one such scheme involved a 12-member syndicate, which purchased cigarettes in North Carolina and resold them in Michigan. Because North Carolina collects a 50-cent-per-carton tax and Michigan collects a $12.50 per carton tax, federal prosecutors estimated that one member of the scheme, Hassan Moussa Makki, who monthly smuggled $36,000 to $72,000 worth of cigarettes into the State during a 2-year-period, prevented Michigan from collecting $2 million in tax revenue. Law enforcement authorities determined Makki donated a substantial portion of these profits to Hezbollah. By providing state attorneys general with the necessary enforcement tools and the Bureau of Alcohol, Tobacco, Firearms and Explosives with investigative and inspection authority, the PACT Act will ultimately disrupt this form of terrorist funding and ensure that state, local and tribal governments collect their rightful excise taxes from both cigarette and smokeless tobacco sales.

With respect to delivery sales of smokeless tobacco, this provision is intended to impose strict federal limitations on delivery sales in order to supplement, and not preempt, applicable State or local law. Accordingly, it is intended that State-specific requirements in connection with the collection and remittance of applicable smokeless tobacco excise taxes will remain controlling, notwithstanding that advance payment of excise taxes might otherwise be required by Federal law in the absence of contrary State law. Moreover, the Federal proscription of delivery sales of smokeless tobacco with respect to which excise taxes have not been paid in advance of the delivery is not intended to apply where the laws or administrative practices of the State and locality in which the delivery is made provide that the delivery seller may remit applicable smokeless tobacco excise taxes in an alternate manner.

For example, the law of the delivery State and locality may explicitly or implicitly provide for the payment of smokeless tobacco excise taxes along with the filing of a tax return in the month subsequent to the delivery sale. Under such circumstances, even though applicable State or local law may not require the applicable smokeless tobacco excise taxes be remitted after the delivery, where the law of the delivery State and locality allows for such taxes to be remitted after the delivery, the intent of this provision is that the delivery sale may be made without violating federal law provided that applicable State and local law with respect to the collection and/or remittance of applicable smokeless tobacco excise taxes are satisfied.

I call upon my colleagues to support Senator KOHL's and my efforts to prevent the funding of global terrorist organizations and ensure the collection of all excise taxes from the sale of cigarettes and smokeless tobacco, including Internet sales, so States can utilize their rightful revenue.

## THE MAMMOGRAPHY QUALITY STANDARDS ACT

Mr. KENNEDY. Madam President, I strongly support this important legislation. Women screened for breast cancer deserve mammograms of the highest possible quality. I commend Senator MIKULSKI and Senator ENSIGN for this bipartisan proposal to strengthen current standards and do more to reduce the tragic toll of breast cancer.

Breast cancer is the second leading cause of cancer death among women, exceeded only by lung cancer. It strikes more than 200,000 Americans a year. Over 39,000 will die from breast cancer this year.

Early screening is essential. More than 90 percent of breast cancers are now detected at an early stage of the disease, when treatment can be most effective. Because of early detection through regular mammograms, the death rate from breast cancer fell by 20 percent between 1990 and 2000, even though the overall incidence increased slightly.

All women deserve access to mammograms of the highest quality. It's a tragedy when tumors are missed and lives lost because a screening was conducted poorly or interpreted inadequately. The legislation that Senator MIKULSKI and Senator ENSIGN have proposed will improve the quality of mammograms and help reduce the unacceptable toll of breast cancer and I urge my colleagues to approve it. It is fitting that this important bill is one of the first actions taken by the Senate in this new session. It deserves to become law as soon as possible.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In May 2002, two young male assailants targeted a Washington, D.C. resident after he left a local gay bar. The victim suffered severe face wounds, including a broken nose. Later that night, and in the week that followed, several more gay men were attacked by an unidentified group of young men.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

## MEDICARE PRESCRIPTION DRUG PRICE REDUCTION ACT

Mrs. FEINSTEIN. Madam President, I rise today to cosponsor S. 1999, the Medicare Prescription Drug Price Reduction Act, which strikes language known as the "noninterference clause" included in the recently passed conference report accompanying the Medicare Prescription Drug and Modernization Act of 2003.

I believe that language preventing the Secretary from leveraging the enormous purchasing power of the Federal Government will mean our seniors may pay more for their drugs than they could be if that language was modified to allow the Secretary negotiating ability. America's seniors already pay the highest drug prices in the world, even though American taxpayers subsidize the research that produces many of those drugs.

So this legislation gives the Secretary of the Department of Health and Human Services, HHS, authority to negotiate contracts with manufacturers of covered Medicare Part D prescription drugs in order to ensure that enrollees in Medicare prescription drug plans, PDPs, pay the lowest possible price. The authority given to the HHS Secretary is similar to that given to other Federal entities that purchase prescription drugs in bulk.

I voted for the Medicare prescription drug conference report because it delivered voluntary prescription drug coverage to this Nation's 41 million Medicare beneficiaries. Too many Americans today face the terrible choice of paying for rent or groceries or paying for their prescription drugs. In fact, some of my constituents have resorted to skipping doses in an attempt to manage prescription drug prices.

One of the strongest features of the Medicare bill is the assistance it provides for low-income Medicare recipients through the elimination or reduction of premiums, deductibles and copays. For those low-income Medicare recipients whose prescription drug spending exceeds the catastrophic limit, or $5,100 in total drug spending, Medicare will pay all of their drug costs. For seniors who do not qualify for the low-income assistance, they will pay no more than 5 percent of their prescription drug costs above the catastrophic limit.

The Medicare prescription drug bill includes essential increases in funding for California's health care providers. California's hospitals are facing financial crises across the State. In fact, over the past 7 years, more than 62 hospitals have been forced to close.

The bill will help hospitals meet the needs of California's communities by providing $882 million in additional Medicare and Medicaid payments over the next 10 years. Physicians will now receive an increase of 1.5 percent per year in Medicare payments in 2004 and 2005, rather than the 4.5 percent payment cut they were expected to incur.

However, one of the most troubling aspects of the bill was language intended to promote competition among prescription drug plans in order to lower prescription drug prices. Section 1860D–11(i) says:

> The Secretary may not interfere with the negotiations between drug manufacturers and pharmacies and Prescription Drug sponsors.

I believe that this language actually takes away one of the best tools the Medicare program could use to bring down prescription drug prices by denying the Government the ability to negotiate price discounts on behalf of Medicare recipients.

The Veterans' Affairs, VA, system negotiates prescription drug prices. This negotiating authority has been a terrific success in bringing down the cost of drugs purchased by the VA. Why would we prevent the Secretary of HHS from doing the same on behalf of our 41 million Medicare recipients?

Some argue that this noninterference language will spur competing prescription drug plans to drive down the cost of prescription drugs in an effort to secure contracts with the Federal Government. However, since the Secretary may not require a particular formulary or institute a price structure for covered Part D drugs, seniors may be unprotected from escalating drug costs in regions without plan competition.

Here is the most recent picture of health care spending in the United States: Health care spending in the United States increased 9.3 percent to $1.55 trillion in 2002, the largest increase in 11 years. It now accounts for 15 percent of the Nation's gross domestic product. Prescription drug spending rose 15.3 percent to $162.4 billion in 2002, accounting for 16 percent of the overall health care spending increase.

Spending on prescription drugs is often cited as a key contributor to rising health care costs. Unfortunately, the Medicare bill missed a significant opportunity to reign in the escalating cost of prescription drugs in the U.S.

I believe the Medicare Prescription Drug Price Reduction Act will bring real prescription drug cost relief to seniors in California and across the country.

I urge my colleagues to join me in supporting this important legislation.

## THE UNINSURED

Mr. SMITH. Madam President, I rise today on behalf of the almost 44 million Americans who have no health insurance. This number has continued to grow—last year alone, the number of people who lost their insurance grew more than any other year in the past decade. The number of uninsured Americans now exceeds the cumulative population of 24 states and the District of Columbia.

I know we can reverse this trend because we have done it in the past. During my first year in the U.S. Senate, I helped create the State Children's Health Insurance Program (SCHIP). Today, all 50 States have SCHIP programs covering millions of needy children who do not qualify for Medicaid.

Last night in his State of the Union address, President Bush highlighted the need to make insurance more affordable for working Americans. I couldn't agree more. He also asked Congress to give lower-income Americans a refundable tax credit to allow millions to buy basic health coverage.

Last year, the President's ten-year refundable tax credit proposal to cover the uninsured would have helped up to 14 million people with increased access to care: 6 million previously uninsured Americans could gain health care insurance and 8 million could improve their coverage.

This would be a great start. But we must act, and we must act now, before health insurance coverage erodes even further. Last year, Congress set aside $50 billion to cover the uninsured—less than in previous years—and once again, Congress failed to act.

Helping provide health care for working families and children is not a partisan issue.

Having access to health insurance is the best predictor of access to health care. Without access to preventive care, millions of people suffer needlessly every year, and often require more expensive, less effective emergency care.

But suffering is only part of the equation. Eighteeen thousand Americans die every year for lack of access to health care. That translates to two people dying every hour because they were uninsured.

I ask my colleagues to come together to help solve this problem that has affected so many of our friends and neighbors. I ask my colleagues to make it a priority to preserve and expand access to health care coverage in the United States, and I ask that we do it before the end of this Congress.

It is the right thing to do, and the right time to do it. Thank you, Mr. President, I yield the floor.

## BIOMETRICS—THE TECHNOLOGICAL ADVANCEMENT IN ANIMAL IDENTIFICATION

Mr. ALLARD. Madam President, it has been brought to my attention that the Department of Agriculture has put for comment their rules and regulations on animal identification, in particular beef. It is not unusual that by the time Federal agencies in today's environment get around to issuing their rules and regulations, or by the time Congress passes legislation, our technology has moved so quickly that those provisions become outdated. I am concerned this could be happening with the Department of Agriculture promulgating rules on the radio frequency identification, RFID, tag in United States animal identification. It has an internal code structure that identifies a specific bovine, but if something happens to the tag, there is no way of reestablishing the animal's identification. That is, there is no way of re-establishing the animal's identification unless another form of permanent identification is obtained. That is why it is so important to discuss the use of biometrics in animal verification, and more specifically, to fully explore the use of retinal scanning for identification purposes.

It is my understanding that the rules and regulations may exclude the use of retinal scanning because the rules that the USDA is considering do not address or allow the use of a "secure permanent identifier," or at the least, they could be interpreted to discourage its use. I have personally viewed such retinal scanning technology and believe that it can be a practical way to identify individual animals, or lots of animals, and that this technology should not be put at a disadvantage because of a policy position by the Department of Agriculture.

With the December 23 discovery of a cow infected with bovine spongiform encephalopathy, BSE, the United States faced a real-life test of our animal identification and tracking system. Identification of livestock is very advanced in the United States, but even with our system, it took days to track that BSE-infected cow to Canada.

As part of our efforts to confront, control and eliminate the risk of BSE and to address future animal health emergencies, we should consider putting into place systems that can easily and rapidly identify an animal and tell us where it has been. It must be able to tell us what animals it has been in contact with and where those contacts are now. The system should do this rapidly, securely and without error.

I commend the efforts of the USDA and industry who have been working together for some time to design a national animal identification plan. During the intervening period, new technologies have continued to emerge. As the USDA looks at implementing a national animal identification plan, it is important that we utilize the best of today's technologies. For instance, a primary objective of this plan, as proposed, is to trace any animal within 48 hours. With the technology available to us in this country, we can be looking at systems that can locate animals in minutes—not hours—with great accuracy.

To assure the American public and our export customers that we have not lost track of any animals, the U.S. animal identification plan should allow use of a secure, tamper-resistant image of the animal's retinal vascular pattern that is more unique than a human fingerprint. Retinal scanning identifies the animal, not the identifier. The majority of the other animal identification systems work on the basis of adding an identifier to the animal, such as a visual or electronic marker or tag and then recording that identifier. Identifiers like this can be lost or changed and are not secure. Some estimates put livestock tag loss in the range of 5 to 8 percent—an unacceptable scenario when considering the ramifications that this could mean to the beef industry.

I hope that the national animal identification plan does not preclude the use of new technologies introduced since the plan's inception, especially when these technologies exceed the proposed plan's performance objectives. Several U.S. companies are not waiting for the USDA, but are rapidly installing retinal imaging technology in their own plans to significantly improve their ability to track livestock. These companies should not be forced to also adopt a poorer performing technology because the plan mandates a certain, specific technology.

It is critical that the plan's systems be audited for performance and reliability to verify that they are actually working. We must be able to measure and document how many animals are misidentified or lost. Since retinal scanning technology uses secure, tamper-resistant, retinal patterns, it is currently the only available method against which to verify the performance of any tag-based system.

We should be using the most current technology available—the Global Positioning System, GPS. By linking the Global Positioning System to a secure identifier such as a retinal scan, the time, date, and location of the animal can be captured when the eye is scanned, proving beyond a doubt that "this animal was at this place at this time." Furthermore, the use of GPS coordinates provides USDA with the means to audit and verify the accuracy of any identification numbering system.

The United States has the most competitive livestock sector in the world. But we are at risk of falling behind countries in Europe, South America, as well as Australia and New Zealand, nations that are all exploring more modern technologies for identifying and tracking livestock. Not only can the U.S. take a leadership role in this area, we can take identification and traceability "off the table" as a possible trade barrier by introducing technologies that leapfrog existing country requirements.

I would like to close by reminding my colleagues that it is only when you combine identity with location that you get traceability. And in order to build a secure, tamper-resistant system to trace livestock, you must begin with a secure, tamper-resistant identifier. I believe we have the technology to do this in a practical, economically feasible way that will allow United States producers to meet the concerns expressed by our trading partners when managing diseases like mad cow disease. I believe retinal scanning combined with the GPS system can be the most practical option if the policy of this country is to require an identification system of each animal or even for tracing batches of live animals because it is technology that can be easily used in the field and is very accurate, reliable, and precise.

## RECOGNIZING MISHAWAKA POLICE OFFICERS

Mr. LUGAR. Madam President, I rise to share with the Senate the efforts of Corporal Thomas Roberts and Patrolman Bryan Verkler, of the Mishawaka Police Department, Mishawaka, IN, who gave their lives in the line of duty on December 13, 2003.

Corporal Roberts was a 14-year veteran of the force. Patrolman Verkler had completed nearly 2½ years of service. Both men are survived by their families.

At this difficult time, my thoughts and prayers are with these men and their families.

## RECOGNITION OF MICHAEL MANGANIELLO'S SERVICE TO COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH

Mr. KENNEDY. Madam President, I welcome this opportunity to pay tribute to the impressive work of Michael Manganiello of the Coalition for the Advancement of Medical Research, who is working skillfully on behalf of patients across America to turn the promise of medical research into the reality of new cures and better treatments. As the president of the Coalition for the Advancement of Medical Research for the past 2 years and Vice President of the Christopher Reeve Paralysis Foundation, he has provided extraordinary leadership to community advocates for medical research. As the leader of an effective coalition to prevent restrictions on stem cell research, he is working to enable future generations to benefit from scientific advances that can barely be imagined.

Mr. Manganiello is effectively teaching both Congress and the public about the complex topic and the immense potential of stem cell research. His outreach to local communities has raised awareness for these issues to those it will help the most, millions of men, women and children in families across the country who bear the burden of debilitating diseases. He works diligently with the scientific and policy communities to realize the full benefits of current research and expand our ability to pursue promising new lines of research. His skill in working toward consensus has benefited us all.

Through his many contributions to the advancement of medical research, Michael Manganiello has made a daily difference in our nation's well-being that will become more and more obvious in the years to come. I commend him for his outstanding public service to our country.

## SMALL STATE HOME PROGRAM EQUITY ACT

Mr. DORGAN. Madam President, I rise to support legislation that Senator MURKOWSKI introduced last November that would bring some fairness to States such as North Dakota and Alaska with low populations. I am proud to cosponsor S. 1851, the Small State HOME Program Equity Act.

This legislation would increase the minimum funding level provided to low-population States for the U.S. Department of Housing and Urban Development's HOME Investment Partnerships Program. The HOME Investment Partnership Program distributes funds to State and local governments to expand housing for low-income families. It is one of the most important tools that States, local governments, and nonprofits have to respond to affordable housing needs. The program helps both renters and homebuyers across the country by rehabilitating substandard housing and funding new construction.

The HOME Investment Partnership Program has been enormously successful in providing housing for those in need, and I have been a strong supporter of annual appropriations for this important program. For the last several years, I have joined many of my colleagues in sending a letter to Senators BOND and MIKULSKI, the chairman and ranking member of the VA-HUD and Independent Agencies Appropriations Subcommittee, supporting robust funding for the HOME program.

Since 1992, the first year in which funds were appropriated for this program, HOME funds have been dispersed by a statutory formula, which is based in part on a State's population. At the time the program was created, a minimum funding level of $3 million was established for States which would receive a small amount of HOME funds under the allocation formula.

Over the last 10 years, inflation has significantly eroded the value of this minimum allocation and it is very difficult for States to meet their housing needs on only the minimum allocation of HOME funds. In Grand Forks County in North Dakota, for example, the wait list for HOME rehabilitation funding is estimated to be 11 years. I would imagine that the situation is similar in the 10 States that are not currently receiving a level of funding that allows them to run effective programs with their HOME dollars.

This is unacceptable. States with low populations deserve to have adequate funding to meet the unique housing needs of rural areas where construction and rehabilitation costs are often very high. The congressionally appointed, bipartisan Millennium Housing Commission also recognized this problem. It recommended increasing the minimum State funding level for the HOME program to $5 million in their May 30, 2002, report to Congress.

I look forward to working with Senator MURKOWSKI on this important legislation to meet the housing needs of low-income families in rural America.

## ADDITIONAL STATEMENTS

### TRIBUTE TO MARSHA GOODWIN-BECK

• Mr. GRAHAM of Florida. Madam President, I am saddened to report that on December 18, 2003, our Nation lost one of its leading advocates for the care of older veterans, Marsha Goodwin-Beck. The Director of Geriatrics for the Veterans Health Administration from 1989 until her death, she dedicated her career to serving veterans in many capacities.

Ms. Goodwin-Beck was instrumental in the growth and development of VA's nationally prominent Geriatric Research, Education and Clinical Centers, as well as its multidisciplinary geriatric training programs. She also had a key role in coordinating the implementation of the Veterans Millennium Health Act of 1999, a bill that made an impact on a countless number of our Nation's veterans. Ms. Goodwin-Beck began her career at VA in 1983 as an education specialist, later moving into various positions with the Office of Geriatrics and Extended Care. In 2003, VA recognized her long-time service on behalf of older veterans by awarding her the VA Undersecretary for Health Commendation.

As a testament to her expertise, Ms. Goodwin-Beck authored several articles on geriatric and long-term care issues. She also was active in local and national nursing organizations, including as a founding member of the National Alliance for Caregiving, and she served on the Education Committee of the Gerontological Society of America. Shortly before her death, Ms. Goodwin-Beck was elected to the national board of directors of the American Geriatrics Society.

Prior to her Government service, Ms. Goodwin-Beck had a distinguished career in clinical care as a certified adult nurse practitioner and nurse educator. Between 1981 and 1982, she was awarded a Robert Wood Johnson Foundation fellowship as a primary care nurse practitioner at the University of Maryland. Ms. Goodwin-Beck was also an assistant professor at Catholic University's School of Nursing and was on faculty for the university's Teaching Nursing Home project. In addition, she was a consultant to the American Health Care Association, coauthored the book "How to Be a Nursing Aide in a Nursing Home," and conducted workshops on quality assurance for staff in nursing homes throughout the country.

On behalf of the members and staff of the Senate Committee on Veterans Affairs, our hearts and thoughts are with Ms. Goodwin-Beck's husband, Jeffrey Beck, and her entire family. VA has lost one of its most dedicated and caring members, but I know that Ms. Goodwin-Beck's contributions to veterans' care will continue to be felt for years to come.•

### IN MEMORY OF CHARLES T. BIGGS

• Mr. LUGAR. Madam President, I rise today to commemorate a constituent of mine, Charles T. Biggs, from Hope, IN, who passed away on December 2, 2003.

Mr. Biggs, known as "Charlie" to his numerous friends and colleagues, was an invaluable asset to the State of Indiana, and will be sorely missed in each community he worked so diligently to improve. Charlie taught at Hauser High School for many years as a music instructor, and a band and choir director. He also owned and published a local newspaper, the Hope Star-Journal. In addition, he was a member of the Hoosier State Press Association and a past president of the Indiana Democratic Editorial Association.

Charlie selflessly offered his remaining time to numerous organizations. He served on the Hope Volunteer Fire Department as an EMT, was a board member of the Heritage of Hope Foundation, was a member of the St. Bartholomew Catholic Church, and even served for over 30 years as the organist for the Hope United Methodist Church.

He is survived by his wife, Carol, four children, and seven granddaughters. My thoughts and prayers are with his family, friends, and colleagues during this difficult time.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, a withdrawal and a treaty which were referred to the appropriate committees.

(The nominations received today are printed in the end of the Senate proceedings.)

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2006. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HAGEL (for himself and Mr. DASCHLE):

S. 2010. A bill to strengthen national security and United States borders, reunify families, provide willing workers, and establish earned adjustment under the immigration laws of the United States; to the Committee on the Judiciary.

By Mr. HAGEL:

S. 2011. A bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 2012. A bill for the relief of Luay Lufti Hadad; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL):

S. 2013. A bill to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mrs. CLINTON, Mr. JEFFORDS, and Mr. FEINGOLD):

S. 2014. A bill to amend the Federal Power Act to establish reliability standards; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 2015. A bill to prohibit energy market manipulation; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST:

S. Res. 285. A resolution recognizing 2004 as the "50th Anniversary of Rock 'n' Roll"; considered and agreed to.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 286. A resolution to authorize legal representation in United States of America v. Parviz Karim-Panahi; considered and agreed to.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. Res. 287. A resolution commending the Southern University and A&M College of Baton Rouge Jaguars for being the Sheridan Broadcasting National Black College Champions, the American Sports Wire National Black College Champions, and the MBC/BCSP National Black College Champions; considered and agreed to.

By Mr. BREAUX (for himself and Ms. LANDRIEU):

S. Res. 288. A resolution commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 348

At the request of Mr. SCHUMER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 348, a bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes.

S. 1200

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1272

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1272, a bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties.

S. 1345

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1345 , a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 1700

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1961

At the request of Mr. HOLLINGS, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 1998

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 2006

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 276

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 276, a resolution expressing the sense of the Senate regarding fighting terror and embracing efforts to achieve Israeli-Palestinian peace.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL (for himself and Mr. DASCHLE):

S. 2010. A bill to strengthen national security and United States borders, reunify families, provide willing workers, and establish earned adjustment under the immigration laws of the United States; to the Committee on the Judiciary.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2010

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Immigration Reform Act of 2004: Strengthening America's National Security, Economy, and Families" or the "Immigration Reform Act of 2004".

### TITLE I— FAMILY REUNIFICATION

**SEC. 101. TREATMENT OF IMMEDIATE RELATIVES WITH RESPECT TO THE FAMILY IMMIGRATION CAP.**

(a) EXEMPTION OF IMMEDIATE RELATIVES FROM FAMILY-SPONSORED IMMIGRANT CAP.—Section 201(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(1)(A)) is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) 480,000, minus;

"(ii) the number computed under paragraph (3); plus

"(iii) the number (if any) computed under paragraph (2).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 201(c) of the Immigration and Nationality Act (8 U.S.C. 1151(c)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

**SEC. 102. RECLASSIFICATION OF SPOUSES AND MINOR CHILDREN OF LEGAL PERMANENT RESIDENTS AS IMMEDIATE RELATIVES.**

(a) IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(1) in the first sentence, by inserting "or the spouses and children of aliens lawfully admitted for permanent residence," after "United States,";

(2) in the second sentence—

(A) by inserting "or lawful permanent resident" after "citizen" each place that term appears; and

(B) by inserting "or lawful permanent resident's" after "citizen's" each place that term appears;

(3) in the third sentence, by inserting "or the lawful permanent resident loses lawful permanent resident status" after "United States citizenship"; and

(4) by adding at the end the following: "A spouse or child, as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join the spouse or parent. The same treatment shall apply to parents of citizens of the United States being entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join their daughter or son.".

(b) ALLOCATION OF IMMIGRANT VISAS.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

(1) in paragraph (1), by striking "23,400" and inserting "38,000";

(2) by striking paragraph (2) and inserting the following:

"(2) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 60,000 plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1).";

(3) in paragraph (3), by striking "23,400" and inserting "38,000"; and

(4) in paragraph (4), by striking "65,000" and inserting "90,000".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended—

(A) in paragraph (1), by striking "paragraphs (2) and (3)," and inserting "paragraph (2),";

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B);

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B) respectively; and

(iii) in subparagraph (A), as so redesignated, by striking "section 203(a)(2)(B)" and inserting "section 203(a)(2)"; and

(B) in subsection (e), in the flush matter following paragraph (3), by striking ", or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)".

(3) ALLOCATION OF IMMIGRATION VISAS.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "subsections (a)(2)(A) and (d)" and inserting "subsection (d)";

(ii) in subparagraph (A), by striking "becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent)," and inserting "became available for the alien's parent,"; and

(iii) in subparagraph (B), by striking "applicable";

(B) in paragraph (2), by striking "The petition" and all that follows through the period and inserting "The petition described in this paragraph is a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c)."; and

(C) in paragraph (3), by striking "subsections (a)(2)(A) and (d)" and inserting "subsection (d)".

(4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in clause (iii)—

(aa) by inserting "or legal permanent resident" after "citizen" each place that term appears; and

(bb) in subclause (II)(aa)(CC)(bbb), by inserting "or legal permanent resident" after "citizenship";

(II) in clause (iv)—

(aa) by inserting "or legal permanent resident" after "citizen" each place that term appears; and

(bb) by inserting "or legal permanent resident" after "citizenship";

(III) in clause (v)(I), by inserting "or legal permanent resident"; and

(IV) in clause (vi)—

(aa) by inserting "or legal permanent resident status" after "renunciation of citizenship"; and

(bb) by inserting "or legal permanent resident" after "abuser's citizenship";

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively;

(iv) in subparagraph (B), as so redesignated, by striking "subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii)" and inserting "clause (iii) or (iv) of subparagraph (A)"; and

(v) in subparagraph (I), as so redesignated—

(I) by striking "or clause (ii) or (iii) of subparagraph (B)"; and

(II) by striking "under subparagraphs (C) and (D)" and inserting "under subparagraphs (B) and (C)";

(B) by striking subsection (a)(2);

(C) in subsection (h), by striking "or a petition filed under subsection (a)(1)(B)(ii)"; and

(D) in subsection (j), by striking "subsection (a)(1)(D)" and inserting "subsection (a)(1)(C)".

**SEC. 103. EXCEPTIONS.**

Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

"(V) SPOUSES AND CHILDREN OF LEGAL PERMANENT RESIDENTS OR CITIZENS OF THE UNITED STATES AND PARENTS OF UNITED STATES CITIZENS.—The provisions of this subparagraph or subparagraph (C)(i)(I) shall be waived for spouses and children of legal permanent residents or citizens of the United States as well as parents of citizens of the United States, as such terms are defined in section 201(b)(2)(A)(i), on whose behalf or who are derivative beneficiaries of a petition filed under section 203 on or before the date of introduction of the Immigration Reform Act of 2004.".

## TITLE II—WILLING WORKER PROGRAM

**SEC. 201. WILLING WORKERS.**

(a) H–2B WORKERS.—Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) is amended—

(1) by inserting "subject to section 212(t)," before "having a residence"; and

(2) by striking "temporary service or labor" and inserting "short-term service or labor, lasting not more than 9 months".

(b) H–2C WORKERS.—Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) is amended by striking "profession; or" and inserting "profession, or (c) subject to section 212(t), who is coming temporarily to the United States to perform labor or services, other than those occupation classifications covered under the provisions of clause (i)(b), (ii)(a), or (ii)(b) of this subparagraph or subparagraph (L), (O), or (P), for a United States employer, if United States workers qualified to perform such labor or service cannot be identified; or".

**SEC. 202. RECRUITMENT OF UNITED STATES WORKERS.**

Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesignating subsection (p), as added by section 1505(f) of Public Law 106–386 (114 Stat. 1526) as subsection (s); and

(2) by adding at the end the following:

"(t)(1) An employer that seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall, with respect to an alien described in such clause (ii)(b), 14 days prior to filing an application under paragraph (3), and with respect to an alien described in such clause (ii)(c), 30 days prior to filing an application under paragraph (3), take the following steps to recruit United States workers for the position for which the nonimmigrant worker is sought:

"(A) Submit a copy of the job opportunity, including a description of the wages and other terms and conditions of employment, to the United States Employment Services within the Department of Labor (ES) which shall provide the employers with an acknowledgement of receipt of the documentation provided to the ES in accordance with this subparagraph.,

"(B) Authorize the ES to post the job opportunity on 'America's Job Bank' and local job banks, and with unemployment agencies and other labor referral and recruitment sources pertinent to the job in question.

"(C) Authorize the ES to notify the central office of the State Federation of Labor in the State in which the job is located.

"(D) Post the availability of the job opportunity for which the employer is seeking a worker in conspicuous locations at the place of employment for all employees to see.

"(E) Advertise, with respect to an alien described in such clause (ii)(b), for at least 3 consecutive days, and for an alien described in such clause (ii)(c), for at least 10 consecutive days, the availability of the job opportunity for which the employer is seeking a worker in a publication with the highest circulation in the labor market that is likely to be patronized by a potential worker.

"(F) Based on recommendations by the local job service, advertise the availability of the job opportunity in professional, trade, or ethnic publications that are likely to be patronized by a potential worker.

"(2) An employer that seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall—

"(A) has offered the job to any United States worker who applies and is qualified for the job for which the nonimmigrant worker is sought and who is available at the time of need; and

"(B) be required to maintain, for at least 1 year after the employment relationship is terminated, documentation of recruitment efforts and responses received prior to the filing of the employer's application with the Secretary of Labor, including resumes, applications, and if applicable, tests of United States workers who applied and were not hired for the job the employer seeks to fill with a nonimmigrant worker.”.

### SEC. 203. ADMISSION OF WILLING WORKERS.

(a) Application to the Secretary of Labor.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as added by section 202, is amended by adding after paragraph (2) the following:

“(3) An employer that seeks to fill a position with an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), shall file with the Secretary of Labor an application attesting that—

“(A) the employer is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), wages that are at least—

“(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

“(ii) the prevailing wage level for the occupational classification in the area of employment;

whichever is greater, based on the best information available at the time of the filing of the application, and for purposes of clause (ii) the prevailing wage level shall be, if the job opportunity is covered by a collective bargaining agreement between a union and the employer, the wage rate set forth in the collective bargaining agreement, or if the job opportunity is not covered by a collective bargaining agreement between a union and the employer, and it is in an occupation that is covered by a wage determination under the Davis-Bacon Act (40 U.S.C. 276a et seq.) or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the appropriate statutory wage determination;

“(B) the employer will offer the same wages, benefits, and working conditions for such nonimmigrant as those provided to United States workers similarly employed in the same occupation and the same place of employment;

“(C) there is not a strike, lockout, or labor dispute in the occupational classification at the place of employment (including any concerted activity to which section 7 of the Labor Management Relations Act (29 U.S.C. 157) applies);

“(D) the employer will abide by all applicable laws and regulations relating to the right of workers to join or organize a union;

“(E) the employer has provided notice of the filing of the application to the bargaining representative, if any, of the employer's employees in the occupational classification at the place of employment or, if there is no such bargaining representative, has posted notice of the filing in conspicuous locations at the place of employment for all employees to see for not less than 10 business days for an alien described in clause (ii)(b) of section 101(a)(15)(H) and for not less than 25 business days for an alien described in clause (ii)(c) of such section;

“(F) the employer (including its officers, representatives, agents, or attorneys) has not required the applicant to pay any fee or charge for preparing the application and submitting it to the Secretary of Labor, the Secretary of Homeland Security, or the Secretary of State;

“(G) the requirements for the job opportunity represent the employer's actual minimum requirements for that job and the employer will not hire nonimmigrant workers with less training or experience;

“(H) the employer, within the 60 days prior to the filing of the application and the 60 days following the filing, has not laid-off, and will not lay-off, any United States worker employed by the employer in any similar position at the place of employment;

“(I) the employer, prior to the filing of the application, has complied with the recruitment requirements in accordance with paragraph (1); and

“(J) no job offer may impose on United States workers any restrictions or obligations that will not be imposed by an employer on a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).”.

(b) Accompanied by Job Offer.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by subsection (a), is further amended by adding after paragraph (3) the following:

“(4) Each application filed under paragraph (3) shall be accompanied by—

“(A) a copy of the job offer describing the wages and other terms and conditions of employment;

“(B) a statement of the minimum education, training, experience, and requirements for the job opportunity in question;

“(C) copies of the documentation submitted to the United States Employment Services within the Department of Labor (ES) to recruit United States workers in accordance with paragraph (1);

“(D) copies of the advertisements to recruit United States workers placed in publications in accordance with paragraph (1); and

“(E) a copy of the acknowledgement of receipt provided to the employer by the ES in accordance with paragraph (1)(A).”.

(c) Incomplete Applications; Retention of Application; Filing of Petition.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by subsection (b), is further amended by adding after paragraph (4) the following:

“(5) The Secretary of Labor shall review the application and requisite documents filed in accordance with paragraphs (3) and (4) for completeness and accuracy and if deficiencies are found, the Secretary of Labor shall notify the employer and provide the employer with an opportunity to address such deficiencies.

“(6) A copy of the application and requisite documents filed with the Secretary of Labor in accordance with paragraphs (3) and (4) shall be retained by the employer in a public access file at the employer's headquarters or principal place of employment of the alien for the duration of the employment relationship and for 1 year after the termination of that employment relationship.

“(7) Upon the approval of an application by the Secretary of Labor, an employer who seeks to employ an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall file a petition as required under section 214(c)(1) with the Bureau of Citizenship and Immigration Services within the Department of Homeland Security.

“(8) Upon finalization of the visa processing, the Secretary of Homeland Security shall issue each alien who obtains legal status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) with a counterfeit-resistant visa and a document of authorization, both of which meet all the requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in this subsection.”.

### SEC. 204. WORKER PROTECTIONS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 203, is further amended by adding after paragraph (7) the following:

“(8)(A) Nothing in this subsection shall be construed to limit the rights of an employee under a collective bargaining agreement or other employment contract.

“(B) An alien admitted or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall not be denied any right or any remedy under Federal, State, or local labor or employment law that is applicable to a United States worker employed in a similar position with the employer because of the status of the alien as a nonimmigrant worker.

“(C) It shall be unlawful for an employer who has filed a petition for a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner, discriminate against an employee (including a former employee) because the employee—

“(i) disclosed information, to the employer or to any other person, that the employee reasonably believes evidences a violation of this subsection or any rule or regulation pertaining to this subsection; or

“(ii) because the employee cooperates or seeks to cooperate in a government investigation or other proceeding concerning the employer's compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

“(D) The Secretary of Labor and the Secretary of Homeland Security shall establish a process under which a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) who files a complaint regarding a violation of this subsection, or any other rule or regulation pertaining to this subsection and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for that nonimmigrant classification.

“(E)(i) The Secretary of Labor and the Special Counsel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices within the Department of Justice (referred to in this paragraph as the ‘Special Counsel’) shall jointly prescribe a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in the application submitted under paragraph (3), or a petitioner's misrepresentation of a material fact in an application submitted under paragraph (3). The Secretary of Labor and the Special Counsel shall provide for coordinated enforcement that ensures that the investigation and hearing process for a complaint under this subparagraph is the same whether conducted by the Secretary of Labor or the Special Counsel.

“(ii) A complaint may be filed under this subparagraph with either the Secretary of Labor or the Special Counsel by an aggrieved person or organization (including bargaining representatives). The complaint shall be in writing under oath and penalty of perjury, and shall contain such information and be in such form as the Secretary of Labor or the Special Counsel requires. No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date on which the failure or misrepresentation became known or should have become known by the complainant. The Secretary of Labor and the

Special Counsel shall jointly conduct an investigation under this clause if there is reasonable basis to believe that such a failure or misrepresentation has occurred.

"(iii) The process established under clause (i) shall provide that, not later than 30 days after a complaint is filed, a determination of whether or not a reasonable basis exists to find a violation shall be made.

"(iv) If the Secretary of Labor or the Special Counsel, after receiving a complaint under this subparagraph, determines after an investigation that a reasonable basis exists under clause (iii), the Secretary of Labor or the Special Counsel, as the case may be, may require the parties to submit the issues to conciliation pursuant to a process jointly prescribed by the Secretary of Labor and the Special Counsel. Such process shall remain confidential and may not be made public by the Secretary of Labor, the Special Counsel, their officers or employees, or either of the parties or their representatives. The conciliation period shall be 60 days. If there is a determination that there is a reasonable likelihood that the complaint may be resolved through conciliation, the conciliation process may be extended up to 2 additional periods of 30 days each.

"(v) If the complaint is not resolved through conciliation, then not later than 30 days after a determination is made, the Secretary of Labor or the Special Counsel, as the case may be, shall issue a notice to the interested parties that provides an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

"(vi) If, on the basis of an investigation of a complaint under this subparagraph, it is determined that a reasonable basis does not exist the Secretary of Labor or the Special Counsel, as the case may be, shall issue a notice to the interested parties and offer either party an opportunity to appeal the determination of the Secretary of Labor or the Special Counsel. The appeal will provide for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

"(vii) If after receipt of a complaint in accordance with this subparagraph, no determination is issued within 30 days of whether a reasonable basis exists to find a violation, the interested or aggrieved party or their representative may request a hearing on the matter in accordance with section 556 of title 5, United States Code, by filing the request directly with the Office of the Chief Administrative Hearing Officer.

"(viii) If either party disagrees with the determination by the Secretary of Labor or the Special Counsel, they may appeal the decision to the Office of the Chief Administrative Hearing Officer, and if either party disagrees with the determination by the Office of the Chief Administrative Hearing Officer, they may appeal the decision to an administrative law judge.

"(ix) If at any stage there is a determination that there was a failure to meet a requirement of paragraph (3), or a misrepresentation of a material fact in an application—

"(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and impose administrative remedies, including civil monetary penalties not to exceed $2,500 per violation; and

"(II) the Secretary of Homeland Security shall not approve petitions filed by that employer under section 214(c) for a period of at least 1 year for aliens to be employed by the employer.

"(x) The Secretary of Homeland Security may continue to accept from an employer and approve a petition that is subject to clause (ix)(II) if the employer shows to the satisfaction of the Secretary that the act or omission giving rise to such action was in good faith and that the employer had reasonable grounds for believing that the employer's act or omission was not a violation. A non-immigrant worker covered by the application shall remain entitled to equitable relief notwithstanding any such finding of good faith.

"(xi) If at any stage there is a determination that there was a willful failure to meet a requirement of paragraph (3), or a willful misrepresentation of a material fact in an application—

"(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and may impose administrative remedies, including civil monetary penalties in an amount not to exceed $7,500 per violation; and

"(II) the Secretary of Homeland Security shall not approve petitions filed with respect to that employer under section 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(xii) If at any stage there is a determination that there was a willful failure to meet a requirement of paragraph (3), or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 60 days before and ending 60 days after the date of filing of any visa petition supported by the application—

"(I) the Secretary of Labor, Special Counsel, Office of the Chief Administrative Hearing Officer, or administrative law judge, as the case may be, shall notify the Secretary of Homeland Security of such findings, and may award such equitable relief as the party making the determination deems appropriate and may impose administrative remedies, including civil monetary penalties in an amount not to exceed $35,000 per violation; and

"(II) the Secretary of Homeland Security shall not approve petitions filed with respect to that employer under section 214(c) during a period of at least 3 years for aliens to be employed by the employer.

"(F) The Secretary of Labor and Special Counsel shall have the authority to initiate and pursue investigations and audits of employers, whether upon complaint or otherwise, in order to ensure that employers are not violating the rights guaranteed under this subsection to nonimmigrant workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).".

**SEC. 205. NOTIFICATION OF EMPLOYEE RIGHTS.**

Section 214(c), of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

"(11) An employer that employs an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall provide such alien with the same notification of the alien's rights and remedies under Federal, State, and local laws that the employer is required to provide to United States workers and, upon request of the United States worker, make available to United States employees a copy of the attested application submitted by the employer regarding that alien to the Secretary of Labor and the application by the employer regarding that alien submitted to the Secretary of Homeland Security.".

**SEC. 206. PORTABILITY.**

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 204, is further amended by adding after paragraph (8) the following:

"(9)(A) Except as provided in subparagraph (C), any alien admitted or otherwise provided status as a nonimmigrant described in section 101(a)(15)(H)(ii)(c) may change employers only after the alien has been employed by the petitioning employer for at least 3 months from the date of admission or the date such status was otherwise acquired.

"(B) Except as provided in subparagraph (C), any alien admitted or otherwise provided status as a nonimmigrant described in section 101(a)(15)(H)(ii)(b) shall be prohibited from changing employers after the alien has been employed by the petitioning employer.

"(C) The 3-month employment requirement in subparagraph (A) may be waived (without loss of status during the period of the waiver) for a nonimmigrant described in section 101(a)(15)(H)(ii)(c) and the employment requirement in subparagraph (B) may be waived (without loss of status during the period of the waiver) for a nonimmigrant described in section 101(a)(15)(H)(ii)(b) in circumstances where—

"(i) the alien began and continued the employment in good faith but the employer violated a term or condition of sponsorship of the alien under this Act or violated any other law or regulation relating to the employment of the alien; or

"(ii) the personal circumstances of the alien changed so as to require a change of employer, including family, medical, or humanitarian reasons, a disability, or other factor rendering the alien unable to perform the job.

"(D) If a waiver under subparagraph (C) is sought, the application shall be accompanied by such evidence to warrant the approval of such waiver.

"(E) A nonimmigrant alien admitted or otherwise provided status as a nonimmigrant described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) may accept new employment with a new employer upon the filing by the new employer of a new application on behalf of such alien as provided under paragraph (3). Employment authorization shall continue until the new petition is adjudicated. If the new petition is denied, the alien's right to work as established by this subsection shall cease. The alien's right to work, if any, established by any other provision of law, shall not be affected by the denial of such new application.".

**SEC. 207. SPOUSES AND CHILDREN OF WILLING WORKERS.**

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 206, is further amended by adding after paragraph (9) the following:

"(10) A spouse or child of a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible for derivative status by accompanying or following to join the alien.".

**SEC. 208. PETITIONS BY EMPLOYER GROUPS AND UNIONS.**

Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(1) by inserting after the first sentence the following: "In the case of an alien or aliens

described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), the petition may be filed by an associated or affiliated group of employers that have multiple openings for similar employment on behalf of the individual employers or by a union or union consortium. The petition, if approved, will be valid for employment in the described positions for the member employers, the union, or union consortium, provided the employing entity has complied with all applicable recruitment requirements and paid the requisite petition fees."; and

(2) by adding at the end the following: "Nothing in this paragraph shall be construed to permit a recruiting entity or job shop to petition for an alien described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).".

### SEC. 209. PROCESSING TIME FOR PETITIONS.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 205, is further amended by adding at the end the following:

"(12) The Secretary of Labor shall review the application filed under section 212(t)(3) for completeness and accuracy and issue a determination with regard to the application not later than 21 days after the date on which the application was filed.

"(13) The Secretary of Homeland Security shall establish a process for reviewing and completing adjudications upon petitions filed under this subsection with respect to nonimmigrant workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) and derivative applications associated with these petitions, not later than 60 days after the completed petition has been filed.".

### SEC. 210. TERMS OF ADMISSION.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(8) In the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(b), the initial period of authorized admission shall be for not more than 9 months from the date of application for admission in such status in any 1-year period. No nonimmigrant described in such section may be admitted for a total period that exceeds 36 months in a 4-year period.

"(9) In the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(c), the initial period of authorized admission shall be for not more than 2 years. The employer may petition for extensions of such status for an additional period of not more than 2 years. No nonimmigrant described in such section shall be admitted for a total period that exceeds 4 years.

"(10)(A) The limitations contained in paragraphs (8) and (9) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(c) on whose behalf a petition has been filed under section 204(b) to accord the alien immigrant status under section 203(b), or an application for adjustment of status has been filed under section 245 to accord the alien status under section 203(b), if 365 days or more have elapsed since—

"(i) the filing of a labor certification application on behalf of the alien (if such certification is required for the alien to obtain status under section 203(b)); or

"(ii) the filing of the petition under section 204(a).

"(B) The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under subparagraph (A) in 1-year increments until such time as a final decision is made—

"(i) to deny the application described in subparagraph (A)(i), or, in a case in which such application is granted, to deny a petition described in subparagraph (A)(ii) filed on behalf of the alien pursuant to such grant;

"(ii) to deny the petition described in subparagraph (A)(ii); or

"(iii) to grant or deny the alien's application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.".

### SEC. 211. NUMBER OF VISAS ISSUED.

Section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(B)) is amended to read as follows:

"(B)(i) under section 101(a)(15)(H)(ii)(c) may not exceed 250,000 in each of the 5 fiscal years following the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published; and

"(ii) under section 101(a)(15)(H)(ii)(b) may not exceed 100,000 in each of the 5 fiscal years following the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published, and may not exceed 66,000 in each fiscal year thereafter.".

### SEC. 212. IMMIGRATION STUDY COMMISSION.

(a) ESTABLISHMENT.—On the date that is 3 years after the date of enactment of this Act, there shall be established a commission, to be known as the Immigration Study Commission (referred to in this section as the "Commission") to review the impact of this Act on the national security of the United States, the national economy, and families, and to make recommendations to Congress.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, of which—

(A) 3 members shall be appointed by the majority leader of the Senate;

(B) 3 members shall be appointed by the minority leader of the Senate;

(C) 3 members shall be appointed by the Speaker of the House of Representatives; and

(D) 3 members shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—The Commission members shall represent the public and private sectors and have expertise in areas that would best inform the work of the Commission, including national security experts, economists, sociologists, worker representatives, business representatives, and immigration lawyers.

(3) CHAIRPERSON.—The chairperson of the Commission shall be a Commission member agreed upon by the majority and minority leaders of the Senate, and the Speaker and the minority leader of the House of Representatives.

(4) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(5) TERMS.—Each member shall be appointed for the life of the Commission. Any vacancy shall be filled by whomever initially appointed the member of that seat.

(c) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Bureau of Citizenship and Immigration Services.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) REPORT.—Not later than 1 year after all of the members are appointed to the Commission, the Commission shall submit to Congress a preliminary report that summarizes the directions of the Commission and initial recommendations. Not later than 2 years after the Commission members are appointed, the Commission shall submit to Congress a report that summarizes the findings of the Commission and make such recommendations as are consistent with this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Citizenship and Immigration Services such sums as may be necessary to carry out this section.

### SEC. 213. CHANGE OF STATUS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 207, is further amended by adding after paragraph (10) the following:

"(11) An alien admitted as a nonimmigrant or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible to obtain a change of status to another immigrant or nonimmigrant classification that the alien may be eligible for.".

### SEC. 214. ADJUSTMENT OF STATUS TO LAWFUL PERMANENT RESIDENT.

(a) EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 213, is further amended by adding after paragraph (11) the following:

"(12)(A) Nonimmigrant aliens admitted or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible for an employment-based immigrant visa pursuant to section 203(b)(3) and adjustment of status pursuant to section 245.

"(B) Pursuant to subparagraph (A), for purposes of adjustment of status under section 245(a) or issuance of an immigrant visa under section 203(b)(3), employment-based immigrant visas shall be made available, without regard to any numerical limitation imposed by section 201 or 202, to an alien having nonimmigrant status described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) upon the filing of a petition for such a visa by—

"(i) the employer or any collective bargaining agent of the alien; or

"(ii) the alien, provided the alien has been employed under such nonimmigrant status for at least 3 years.

"(C) The spouse or child of an alien granted status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) shall be eligible as a derivative beneficiary for an immigrant visa and adjustment of status.".

(b) Dual Intent.—Section 214(h) of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended by inserting "(H)(ii)(b), (H)(ii)(c)," after "(H)(i),".

### SEC. 215. GROUNDS OF INADMISSIBILITY.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 214(a), is further amended by adding after paragraph (12) the following:

"(13) In determining the admissibility of an alien under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H), violations of grounds of inadmissibility described in paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(G), (7), (9), and (10)(B) of section 212(a) committed prior to the application under such section, or the approval of a change of status to a classification under such section shall not apply if the violation was committed before the date of introduction of the Immigration Reform Act of 2004.".

### SEC. 216. PETITION FEES.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 215, is further amended by adding after paragraph (13) the following:

"(14)(A) An employer filing a petition for an alien described in section 101(a)(15)(H)(ii)(c) shall be required to pay a filing fee for each alien, based on the cost of carrying out the processing duties under this subsection, and a secondary fee of—

"(i) **$250**, in the case of an employer employing 25 employees or less;

"(ii) **$500**, in the case of an employer employing between 26 and 150 employees;

"(iii) **$750**, in the case of an employer employing between 151 and 500 employees; or

"(iv) **$1,000**, in the case of an employer employing more than 500 employees.

"(B) An employer filing a petition for an alien described in section 101(a)(15)(H)(ii)(b) shall be required to pay a filing fee for each alien, based on the costs of carrying out the processing duties under this subsection, and a secondary fee of—

"(i) **$125**, in the case of an employer employing 25 employees or less;

"(ii) **$250**, in the case of an employer employing between 26 and 150 employees;

"(iii) **$375**, in the case of an employer employing between 151 and 500 employees; or

"(iv) **$500**, in the case of an employer employing more than 500 employees.

"(C) The fees collected under this paragraph shall be deposited into accounts within the Department of Homeland Security, the Department of Labor, and the Department of State, and allocated such that—

"(i) 15 percent of the amounts received shall be made available to the Department of Homeland Security until expended to carry out the requirements related to processing petitions filed by employers for aliens described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H);

"(ii) 20 percent of the amounts received shall be made available to the Department of Labor until expended to—

"(I) carry out the requirements related to processing attestations filed by employers for aliens described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H); and

"(II) increase the funds available to the United States Employment Services to assist State employment service agencies in responding to employers and employees contacting such agencies as a result of paragraph (1);

"(iii) 15 percent of the amounts received shall be made available to the Department of State until expended to carry out the requirements related to processing applications for visas by aliens under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H);

"(iv) 20 percent of the amounts received shall be made available for the performance of functions under section 212(t)(8)(F) as the Secretary of Labor and the Special Counsel of the Office of the Special Counsel for Immigration-Related Unfair Employment Practices within the Department of Justice may agree; and

"(v) 30 percent of the amounts received shall be made available to the Department of Homeland Security for implementation of border security measures.".

### SEC. 217. TERMINATON OF H-2C TEMPORARY WORKER PROGRAM.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 216, is further amended by adding after paragraph (14) the following:

"(15) The temporary worker program for aliens described in section 101(a)(15)(H)(ii)(c) shall terminate at the end of the fiscal year that is 5 years after the fiscal year in which the final regulations implementing the amendments made by title II of the Immigration Reform Act of 2004 are published. Congress shall review the temporary worker program before the expiration of the program based on the findings and recommendations submitted by the Immigration Study Commission under section 212(d) of the Immigration Reform Act of 2004.".

### SEC. 218. DEFINITIONS.

Section 212(t) of the Immigration and Nationality Act (8 U.S.C. 1182(t)), as amended by section 217, is further amended by adding after paragraph (15) the following:

"(16) In this subsection:

"(A) The term 'employer' means any person or entity that employs workers in labor or services that are not agricultural, and shall not include recruiting entities or job shops.

"(B) The term 'job opportunity' means a job opening for temporary full-time or part-time employment at a place in the United States to which United States workers can be referred.

"(C)(i) The term 'lays off', with respect to a worker—

"(I) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility, termination of the position or company, temporary layoffs due to weather, markets, or other temporary conditions; but

"(II) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(ii) Nothing in this subparagraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(D) The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H).".

### SEC. 219. COLLECTIVE BARGAINING AGREEMENTS.

Notwithstanding any other provision of law, the fact that an individual holds a visa as a nonimmigrant worker described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) shall not render that individual ineligible to qualify as an employee under the National Labor Relations Act (29 U.S.C. 151 et seq.) or to be protected under section 7 of that Act (29 U.S.C. 157).

### SEC. 220. REPORT ON WAGE DETERMINATION.

Not later than 2 years after the date of enactment of this Act, the Bureau of Labor Statistics shall prepare and transmit to the Committees on Health, Education, Labor and Pensions and the Judiciary in the Senate and the Committees on Education and the Workforce and the Judiciary in the House of Representatives, a report that addresses—

(1) whether the employment of workers described in clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) in the United States workforce has impacted United States worker wages;

(2) whether any changes should be made for a future wage system, based on, inter alia, an examination of the Occupational Employment System survey, its calculation of wage data based on skill and experience levels, difference among types of employers (specifically for-profit and nonprofit, and government and nongovernment);

(3) whether use of private, independent wage surveys would provide accurate and reliable criteria to determine wage rates; and

(4) any other recommendations that are warranted.

### SEC. 221. INELIGIBILITY FOR CERTAIN NONIMMIGRANT STATUS.

(a) Bar to Future Visas for Condition Violations.—Any alien who has status pursuant to section 245B of the Immigration and Nationality Act, as added by title III, or clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), shall not be eligible in the future for such nonimmigrant status if the alien violates any term or condition of such status.

(b) Aliens Unlawfully Present.—Any alien who enters the United States after the date of enactment of this Act without being admitted or paroled shall be ineligible for nonimmigrant status under clause (ii)(b) or (ii)(c) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)).

### SEC. 222. INVESTIGATIONS BY DEPARTMENT OF HOMELAND SECURITY DURING LABOR DISPUTES.

(a) In General.—When information is received by the Department of Homeland Security concerning the employment of undocumented or unauthorized aliens, consideration should be given to whether the information is being provided to interfere with the rights of employees to—

(1) form, join, or assist labor organizations or to exercise their rights not to do so;

(2) be paid minimum wages and overtime;

(3) have safe work places;

(4) receive compensation for work related injuries;

(5) be free from discrimination based on race, gender, age, national origin, religion, or handicap; or

(6) retaliate against employees for seeking to vindicate these rights.

(b) Determination of Labor Dispute.—Whenever information received from any source creates a suspicion that an immigration enforcement action might involve the Department of Homeland Security in a labor dispute, a reasonable attempt should be made by Department of Homeland Security enforcement officers to determine whether a labor dispute is in progress. The information officer at the regional office of the National Labor Relations Board can supply status information on unfair labor practice charges or union election or decertification petitions that are pending involving most private sector, non-agricultural employers. Wage and hour information can be obtained from the Wage and Hour Division of the Department of Labor or the State labor department.

(c) RELEVANT QUESTIONS FOR INFORMANT.—In order to protect the Department of Homeland Security from unknowingly becoming involved in a labor dispute, persons who provide information to the Department of Homeland Security about the employer or employees involved in the dispute should be asked—

(1) their names;

(2) whether there is a labor dispute in progress at the worksite;

(3) whether the person is or was employed at the worksite in question (or by a union representing workers at the worksite);

(4) if applicable, whether the person is or was employed in a supervisory or managerial capacity or is related to anyone who is;

(5) how the person came to know that the subjects lacked legal authorization to work, as well as the source and reliability of the information concerning the subject's status;

(6) whether the person had or is having a dispute with the employer or the subjects of the information; and

(7) if the subjects of the information have raised complaints or grievances about hours, working conditions, discriminatory practices, or union representation or actions, or whether the subjects have filed workers' compensation claims.

(d) BICE REVIEW.—There is no prohibition for enforcing the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), even when there may be a labor dispute in progress, however, where it appears that information may have been provided in order to interfere with or to retaliate against employees for exercising their rights, no action should be taken on this information without review and approval by the Bureau of Immigration and Customs Enforcement.

(e) ENFORCEMENT ACTION.—When enforcement action is taken by the Department of Homeland Security and the Department determines that there is a labor dispute in progress, or that information was provided to the Department of Homeland Security to retaliate against employees for exercising their employment rights, the lead immigration officer in charge of the Department of Homeland Security enforcement team at the worksite must ensure, to the extent possible, that any aliens who are arrested or detained and are necessary for the prosecution of any violations are not removed from the country without notifying the appropriate law enforcement agency that has jurisdiction over the violations.

(f) INTERVIEWS.—Any arrangements for aliens to be held or interviewed by investigators or attorneys for the Department of Labor, the State labor department, the National Labor Relations Board, or any other agencies or entities that enforce labor or employment laws will be determined on a case-by-case basis.

### SEC. 223. PROTECTION OF WITNESSES.

Chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 280 the following:

"STAY OF REMOVAL

"SEC. 280A. (a) An alien against whom removal proceedings have been initiated pursuant to chapter 4, who has filed a workplace claim or who is a material witness in any pending or anticipated proceeding involving a workplace claim, shall be entitled to a stay of removal and to an employment authorized endorsement unless the Department of Labor established by a preponderance of the evidence in proceedings before the immigration judge presiding over that alien's removal hearing—

"(1) that—

"(A) the Department of Homeland Security initiated the alien's removal proceeding for wholly independent reasons and not in any respect based on, or as a result of, any information provided to or obtained by the Department of Homeland Security from the alien's employer, from any outside source, including any anonymous source, or as a result of the filing or prosecution of the workplace claim; and

"(B) the workplace claim was filed with a bad faith intent to delay or avoid the alien's removal; or

"(2) that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

"(b) Any stay of removal or work authorization issued pursuant to subsection (a) shall remain valid and in effect at least during the pendency of the proceedings concerning such workplace claim. The Secretary of Homeland Security shall extend such relief for a period of not longer than 3 additional years upon determining that—

"(1) such relief would enable the alien asserting the workplace claim to be made whole;

"(2) the deterrent goals of any statute underlying the workplace claim would thereby be served; or

"(3) such extension would otherwise further the interests of justice.

"(c) In this section—

"(1) the term 'workplace claim' shall include any claim, charge, complaint, or grievance filed with or submitted to the employer, a Federal or State agency or court, or an arbitrator, to challenge an employer's alleged civil or criminal violation of any legal or administrative rule or requirement affecting the terms or conditions of its workers' employment or the hiring or firing of its workers; and

"(2) the term 'material witness' means an individual who presents an affidavit from an attorney prosecuting or defending the workplace claim or from the presiding officer overseeing the workplace claim attesting that, to the best of the affiant's knowledge and belief, reasonable cause exists to believe that the testimony of the individual will be crucial to the outcome of the workplace claim.

"CONFIDENTIALITY OF IMMIGRATION INFORMATION OBTAINED DURING ADMINISTRATIVE PROCEEDINGS

"SEC. 280B. (a) No officer or employee, including any former officer or employee, of any Federal or State administrative agency with jurisdiction over any employer's workplace shall disclose to the Department of Homeland Security, or cause to be published in a manner that discloses to the Department of Homeland Security, any information concerning the immigration status of any worker obtained by that officer or employee in connection with the official duties of that officer or employee, and the Department of Homeland Security shall not, in any enforcement action or removal proceeding, use or rely upon, in whole or in part, any information so obtained.

"(b) Any person who knowingly uses, publishes, or permits information to be used in violation of subsection (a) shall be fined not more than $10,000.".

### SEC. 224. DOCUMENT FRAUD.

Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended by inserting before "In applying this subsection" the following: "The civil penalties set forth in subparagraphs (A) and (B) shall be tripled in the case of any commercial enterprise that commits any violation of subsection (a) principally for commercial advantage or financial gain.".

## TITLE III—ACCESS TO EARNED ADJUSTMENT

### SEC. 301. ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

"ACCESS TO EARNED ADJUSTMENT

"SEC. 245B. Access to earned adjustment.

"(a) ADJUSTMENT OF STATUS.—

"(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

"(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

"(B) CONTINUOUS PHYSICAL PRESENCE.—

"(i) IN GENERAL.—The alien shall establish that the alien—

"(I) was physically present in the United States for at least 5 years preceding the date of introduction of the Immigration Reform Act of 2004;

"(II) was not legally present on the date of introduction of the Immigration Reform Act of 2004; and

"(III) has not departed from the United States except for brief, casual, and innocent departures.

"(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall not be considered to be legally present in the United States.

"(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

"(D) EMPLOYMENT IN UNITED STATES.—

"(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

"(I) at least 3 of the 5 years immediately preceding the date on which the Immigration Reform Act of 2004 was introduced; and

"(II) at least 1 year following the date of enactment of such Act.

"(ii) EXCEPTIONS.—The employment requirements in clause (i) shall not apply to an individual who is under 20 years of age on the date of introduction of the Immigration Reform Act of 2004, and the employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

"(iii) PORTABILITY.—An alien shall not be required to complete the employment requirements in clause (i) with the same employer.

"(iv) EVIDENCE OF EMPLOYMENT.—

"(I) CONCLUSIVE DOCUMENTS.—For purposes of satisfying the requirements in clause (i), the alien shall submit at least 2 of the following documents for each period of employment, which shall be considered conclusive evidence of such employment:

"(aa) Records maintained by the Social Security Administration.

"(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

"(cc) Records maintained by the Internal Revenue Service.

"(dd) Records maintained by a union or day labor center.

"(ee) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

"(II) OTHER DOCUMENTS.—Aliens unable to submit documents described in subclause (I) shall submit at least 3 other types of reliable documents, including sworn declarations, for each period of employment to satisfy the requirement in clause (i).

"(III) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in clause (i) be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

"(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i). An alien may satisfy such burden of proof by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

"(E) PAYMENT OF INCOME TAXES.—Not later than the date on which status is adjusted under this subsection, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required under subparagraph (D)(i). The alien may satisfy such requirement by establishing that—

"(i) no such tax liability exists;

"(ii) all outstanding liabilities have been met; or

"(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

"(F) BASIC CITIZENSHIP SKILLS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien either—

"(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or

"(II) is satisfactorily pursuing a course of study, recognized by the Secretary of Homeland Security, to achieve such understanding of English and the history and government of the United States.

"(ii) EXCEPTIONS.—

"(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

"(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

"(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

"(H) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), that such alien has registered under that Act.

"(2) SPOUSES AND CHILDREN.—

"(A) IN GENERAL.—

"(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

"(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigration Reform Act of 2004, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

"(II) an alien who, within 5 years preceding the date of enactment of the Immigration Reform Act of 2004, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

"(aa) the termination of the qualifying relationship was connected to domestic violence; or

"(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

"(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

"(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

"(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

"(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

"(b) GROUNDS OF INADMISSIBILITY.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following shall apply:

"(A) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Secretary of Homeland Security under subparagraph (C)(i) of this subsection:

"(i) Paragraph (1) (relating to health).

"(ii) Paragraph (2) (relating to criminals).

"(iii) Paragraph (3) (relating to security and related grounds).

"(iv) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

"(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

"(C) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in subparagraph (A), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

"(ii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

"(D) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

"(E) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

"(F) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

"(c) TREATMENT OF APPLICANTS.—

"(1) IN GENERAL.—An alien who files an application under subsection (a)(1)(A) for adjustment of status, including a spouse or child who files for adjustment of status under subsection (b)—

"(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

"(B) shall be granted permission to travel abroad pursuant to regulation pending final adjudication of the alien's application for adjustment of status;

"(C) shall not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien commits an act which renders the alien ineligible for such adjustment of status; and

“(D) shall not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as employment authorization under subparagraph (A) is denied.

“(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that meets all current requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in subparagraphs (A) through (D) of paragraph (1).

“(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

“(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

“(d) APPREHENSION BEFORE APPLICATION PERIOD.— The Secretary of Homeland Security shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a) and who can establish prima facie eligibility to have the alien's status adjusted under that subsection (but for the fact that the alien may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 180 days of the application period to complete the filing of an application for adjustment, the alien may not be removed from the United States unless the alien is removed on the basis that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

“(e) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer or employee of such agency or bureau, may—

“(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a determination on the application;

“(B) make any publication through which the information furnished by any particular applicant can be identified; or

“(C) permit anyone other than the sworn officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

“(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

“(3) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.

“(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person to—

“(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States.

“(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

“(g) INELIGIBILITY FOR PUBLIC BENEFITS.— For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

“(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

“(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

“(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detainment of the alien pending final adjudication of the application, unless the removal or detainment of the alien is based on criminal or national security grounds.

“(i) APPLICATION OF OTHER IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

“(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

“(2) ADMINISTRATIVE REVIEW.—

“(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

“(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

“(3) JUDICIAL REVIEW.—

“(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative appellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

“(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

“(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

“(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

“(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

“(l) EMPLOYER PROTECTIONS.—

“(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

"(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

"(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

"(m) AUTHORIZATION OF FUNDS; FINES.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

"(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the Department of Homeland Security for other applications for adjustment of status.

"(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling $1,000, but such amount shall not be required from an alien under the age of 18.

"(4) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and these payments in such account shall be available, without fiscal year limitation, such that—

"(A) 60 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

"(B) 40 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by immediate relatives as a result of the amendments made by title I of the Immigration Reform Act of 2004.

"(n) TRANSITIONAL WORKERS.—

"(1) ELIGIBILITY FOR TRANSITIONAL WORKER STATUS.—Any alien who is physically present in the United States on the date of introduction of the Immigration Reform Act of 2004 who seeks to adjust status under this section but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1) shall be eligible—

"(A) to apply for transitional worker status, which shall have a duration period of not more than 3 years from the date of issuance of the transitional worker card, without having to depart the United States; and

"(B) be granted employment authorization and permission to travel abroad for a period of not more than 3 years from the date of issuance of the transitional worker card.

"(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall issue each alien described in paragraph (1) with a counterfeit-resistant document of authorization that meets all requirements established by the Secretary of Homeland Security for travel documents and reflects the benefits and status set forth in paragraph (1)(B).

"(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien described in paragraph (1) is granted employment authorization or permission to travel abroad, such alien shall be required to undergo a name check against existing databases for information relating to criminal, security, and other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed as expeditiously as possible.

"(4) ELIGIBILITY FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status to that of a lawful permanent resident under this subsection if the alien—

"(A) has applied for transitional worker status under paragraph (1);

"(B) is lawfully employed in the United States in the aggregate for—

"(i) more than 2 but less than 3 of the 5 years immediately preceding the date on which the Immigration Reform Act of 2004 was introduced; and

"(ii) at least 2 years following the date of enactment of that Act; and

"(C) was present in the United States on and after the date of introduction of that Act (without regard to any brief, casual, and innocent departures from the United States).

"(5) EXCEPTIONS.—The employment requirements in paragraph (4)(B) shall not apply to an individual who is under 20 years of age on the date on which the Immigration Reform Act of 2004 was introduced, and the employment requirement in paragraph (4)(B)(ii) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

"(6) PORTABILITY.—An alien shall not be required to complete the employment requirements in paragraph (4) with the same employer.

"(7) ADJUSTMENT OF STATUS.—An alien who meets the requirements of paragraph (4) and applies for adjustment of status to that of a lawful permanent resident under this subsection shall be required to comply with the requirements of subparagraphs (C), (E), (F), (G), and (H) of subsection (a)(1). In adjudicating such an application, the Secretary of Homeland Security shall determine the admissibility of the alien in accordance with subsection (b).

"(8) SPOUSES AND CHILDREN.—

"(A) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subsection (b), adjust the status to that of a lawful permanent resident or provide an immigrant visa to—

"(i) the spouse or child of an alien who adjusts status or is eligible to adjust status to that of a lawful permanent resident under this subsection; or

"(ii) an alien who was the spouse or child of an alien who adjusts status to that of a lawful permanent resident under this subsection, if—

"(I) the termination of the qualifying relationship was connected to domestic violence; or

"(II) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status to that of a lawful permanent resident under this subsection.

"(B) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall issue each alien described in subparagraph (A) with a counterfeit-resistant document of authorization that meets all requirements established by the Secretary of Homeland Security for travel documents and reflects the status set forth in that subparagraph.

"(C) APPLICATION OF OTHER LAW.—In acting on applications filed under this subsection with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

"(9) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted legal permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

"(10) TERMINATION OF AUTHORITY.—No action may be taken under this subsection in the case of an alien who submits an application for transitional worker status under paragraph (1) more than 3 years after the date on which final regulations implementing this section take effect.

"(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigration Act of 2004, the Secretary of Homeland Security shall issue regulations to implement this section.".

(b) TABLE OF CONTENTS.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

"245B. Access to Earned Adjustment.".

### SEC. 302. CORRECTION OF SOCIAL SECURITY RECORDS.

Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end of clause (ii);

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.

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By Mr. HAGEL:

S. 2011. A bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes; to the Committee on the Judiciary.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2011

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.

(a) IN GENERAL.—The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, the eastern district of Missouri, and the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 5089) as amended by Public Law 105-53, as of the date of enactment of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended by—

(1) striking the item relating to California and insert the following:

"California:

| | |
|---|---|
| Northern | 14 |
| Eastern | 7 |
| Central | 27 |
| Southern | 13"; |

(2) striking the item relating to Hawaii and inserting the following:

"Hawaii .................................... 4";

(3) striking the item relating to Kansas and inserting the following:

"Kansas .................................... 6";

(4) striking the item relating to the eastern district of Missouri and inserting the following:

"Missouri:

| | |
|---|---|
| Eastern | 7 |
| Western | 5 |
| Eastern and Western | 2"; |

and

(5) striking the item relating to Nebraska and inserting the following:

"Nebraska .................................... 4".

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By Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL):

S. 2013. A bill to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce with my friend and colleague from Vermont, Senator LEAHY, the Satellite Home Viewer Extension Act of 2004. We are pleased to be joined in this effort by Senators DEWINE and KOHL.

S. 2013 provides for a five-year extension of the statutory license for satellite carriers to make secondary transmissions of "distant" network and superstation television programs, which is set forth in section 119 of the Copyright Act.

The current section 119 license permits satellite carriers to provide subscribers that reside in unserved households with network programming from distant television markets. This section is set to expire at the end of 2004. The extension of this statutory license for an additional five years would continue to serve the many interests that the section 119 license seeks to advance. Most importantly, it assures that television viewers incapable of receiving local network stations off the air retain access to network programming via satellite. This is particularly important for viewers who live in rural areas and may be unserved by either local stations or cable carriers. Indeed, many of my constituents in Utah depend on satellite systems for their television reception. This statutory license also enables the satellite home delivery industry to effectively compete with cable companies, which have long enjoyed a statutory license of their own.

The limited extension also recognizes, however, that satellite carriers are still in the process of making local signals available to their subscribers, an important development for viewers and local broadcasters, as well as for the satellite carriers themselves. The Satellite Home Viewer Improvement Act of 1999, which I was proud to help draft, authorized for the first time the retransmission of local signals to satellite subscribers residing in those local markets. The roll-out of "local-into-local" service by satellite carriers continues at a substantial rate, giving subscribers more choices than ever and further strengthening the competition between cable and satellite carriers. In light of these continuing changes, an additional extension of the Section 119 license is warranted pending further developments in this area.

I recognize that there are likely to be other issues relating to the section 119 license that warrant consideration in connection with this reauthorization. I look forward to working with my colleagues and hearing from the interested parties on those matters in the coming months.

Mr. LEAHY. Mr. President, today I am pleased to join Senator HATCH, as well as Senators KOHL and DEWINE, in sponsoring the Satellite Home Viewer Extension Act. The Satellite Home Viewer Improvement Act, which we passed in 1999, established a statutory license for satellite carriers to make secondary transmission of "distant" network and superstation television programs. That license will expire this year, however, so today's bill will extend that license, found in section 119 of the Copyright Act, for 5 years in order to ensure that the laudable goals of the initial bill are fully realized.

The Satellite Home Viewer Improvement Act was the result of much work in the Senate Judiciary Committee, and it enjoyed strong bipartisan support in both Houses of Congress. The license created in section 119 serves a very worthwhile purpose: it permits households that cannot receive local network programming over-the-air to receive those shows by satellite. For the many viewers who are not served by local networks or cable companies—which is the case for a great many people in the rural areas of my home State of Vermont—this is absolutely critical. Of special importance is the fact that the Satellite Home Viewer Improvement Act permits the satellite transmission of "local-into-local" programming, so that satellite companies can retransmit local broadcast signals to subscribers who actually live in the local market, but cannot receive the broadcast signal. Providing the news and local interest programming that is so vital to the creation and maintenance of a healthy and involved community has been the most gratifying result of the passage of that act. Furthermore, this license enhances competition by placing providers of satellite television programming on an equal footing with cable operators, which enjoy the benefits of their own statutory licenses.

Such important progress does take time, however, and the satellite carriers have not yet made these local signals available to all their subscribers. Although the provision of "local-into-local" programming is proceeding well, and although competition between cable and satellite companies has been strengthened, there is still more to be done before the goal of the Satellite Home Viewer Improvement Act is fully realized. If we fail to reauthorize the section 119 license, satellite programming may be unavailable as a real choice for many households, and many rural viewers will have little or no programming at all.

I look forward to working again with my colleagues on this important issue and to a speedy reauthorization of this important license.

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By Ms. CANTWELL (for herself, Mrs. CLINTON, Mr. JEFFORDS, and Mr. FEINGOLD):

S. 2014. A bill to amend the Federal Power Act to establish reliability standards; to the Committee on Energy and Natural Resources.

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By Ms. CANTWELL (for herself, Mr. FEINGOLD, and Mr. JEFFORDS):

S. 2015. A bill to prohibit energy market manipulation; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to introduce 2 pieces of electricity legislation—simple, commonsense bills that enjoy the bipartisan support of a majority of United States Senators.

First, I am pleased to introduce with my colleagues Senators CLINTON, JEFFORDS and FEINGOLD the Electric Reliability Act of 2004. This legislation would give the Federal Energy Regulatory Commission (FERC) authority to devise a system of mandatory and enforceable standards for the reliable operation of our nation's electricity grid.

My distinguished friends from Wisconsin and Vermont, Senators FEINGOLD and JEFFORDS, and I are also today introducing a second bill: the Electricity Needs Rules and Oversight Now (ENRON) Act, which would put in place a blanket ban on manipulative practices in our nation's electricity markets.

Enactment of these bills is long overdue. And in both cases, their provisions have passed the United States Senate within the past eight months. They represent crucial steps forward in the effort to modernize our nation's electricity grid and reform the rules by which it is operated.

Quite simply, these provisions are too important to be held captive to the majority's effort to pass H.R. 6— the energy bill conference report. Resembling a patchwork quilt of special interest hand-outs—rather than a policy that would help this nation achieve energy independence—H.R. 6 capsized under its own pork-laden weight on this very floor, a mere two months ago.

Rather than holding good energy policy hostage for the bad—as those who seek to resurrect that 1,700-page legislative monstrosity have said they intend—I believe this body can and must make necessary progress in upgrading our electricity grid and protecting our nation's consumers. That's what the two bills I'm introducing today are intended to do.

As surely my colleagues recall, much of the Northeast and Midwest last August suffered a massive power outage, affecting 50 million consumers from New York to Michigan. Clearly, the biggest blackout in our nation's history has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2004. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those who break the rules and jeopardize the reliable energy service that is the foundation of our nation's economy.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another five years. In 1997, both a Task Force established by the Clinton Administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council (NERC) determined that reliability rules for our nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, Oregon, caused a sweeping outage that knocked out power for up to 16 hours in ten states. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I've introduced today passed this body in June 2000, when this chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2004 as part of comprehensive energy legislation—most recently, this past summer.

Likewise, the Senate has previously passed the provisions contained in the ENRON Act, which Senator FEINGOLD and I are introducing today. Offered under the agreement that last July cleared the way for Senate Leadership to replace the then-pending Republican energy bill with the 107th Congress' Daschle-Bingaman legislation, the ENRON Act was adopted as an amendment to the Senate's Fiscal Year 2004 Agriculture Appropriations bill, on a strong, bipartisan vote of 57-40.

The ENRON Act is simple in concept. In the face of overwhelming evidence that Enron and other unscrupulous energy companies brazenly manipulated western energy markets during the crisis of 2000-2001, it would amend the Federal Power Act to put in place a blanket ban on such activities.

It has been estimated that the western energy crisis cost the region's consumers and businesses $35 billion in domestic economic product—in other words, a 1.5 percent decline in productivity and a total loss of 589,000 jobs. After experiencing a devastating blow that exacerbated the already-crippling national recession, consumers in my state—who continue to pay the price for the unethical gamesmanship of these companies—know that our economy simply cannot abide another Enron.

Thus, the ENRON Act is based on language included in the Securities Exchange Act—in existence since 1934. This bill would make it illegal for any company to "use or employ . . . any manipulative or deceptive device or contrivance" to circumvent FERC rules and regulations on market manipulation. Further, it would specify that electricity rates resulting from manipulative practices are simply not lawful. In other words, when companies are known to have gouged consumers—in some cases, even admitting as much—those same consumers should not be stuck with the inflated energy bills that result.

As Congress and various Federal agencies have over the past few years sought to piece together the events that led to the western energy crisis—the most devastating energy market meltdown in our Nation's history—a number of agencies and officials have weighed in on the issue of market manipulation. In addition to simple common sense, their statements underscore the need for the ENRON Act. For example: FERC in March 2003 issued its Final Report on Price Manipulation in Western Markets. The voluminous FERC report found that: "Enron's corporate culture fostered a disregard for the American energy customer; the success of the company's trading strategies, while temporary, demonstrates the need for explicit prohibitions on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement." The General Accounting Office (GAO) in August 2003 issued a report entitled Additional Actions Would Help Ensure that FERC's Oversight and Enforcement Capability is Comprehensive and Systematic. Among GAO's observations: "The heads of [FERC's] market monitoring units told us they recognize the difficulty of defining just and reasonable prices. They also said that they believe FERC has made some progress in doing so. However, they generally believed that FERC had not yet gone far enough." GAO further concluded that: "we recommend that the Chairman of FERC more clearly define [the Commissions] role in overseeing the Nation's energy markets by . . . explicitly [describing FERC's] activities relative to carrying out the agency's statutory requirements to ensure just and reasonable prices and to preventing market manipulation." Republican FERC Commissioner Joe Kelliher wrote the following in a November 5 letter to me, just prior to his confirmation: "Markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets. You have correctly noted there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish an express prohibition. This is a critical point. The Federal Energy Regulatory Commission only has the tools that Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step." In the same letter, Kelliher goes on to note that, "This is not to say that the Commission cannot take steps to prevent market manipulation under its existing legal authority . . . Since there would likely be legal challenges to any such effort to proscribe manipulative practices, it would be helpful for Congress to give the Commissioner clear authority to prohibit market manipulation . . . I support the goals of your amendment" [to the Agriculture Appropriations bill, which contains the same provisions as the ENRON Act] "and believe it would go far towards effectively prohibiting manipulation of electricity markets."

Recent events have clearly demonstrated the need for both the Electric Reliability Act of 2004, as well as the ENRON Act. On the other hand, the case is far less compelling for many of the provisions found in the H.R. 6 conference report. It's not just unpersuasive to argue that a 21st Century energy policy must include: liability protections for manufacturers of the groundwater pollutant MTBE; the weakening of landmark environmental laws such as the Clean Air, Clean Water and Safe Drinking Water Acts; and billions of dollars worth of subsidies, most infamously, taxpayer-backed bonds for construction of an energy efficient mall including a Hooters restaurant, it's absurd.

When the Senate last July agreed to send a comprehensive energy bill to conference with the House, few anticipated that we would get back a grab-bag of corporate give-aways so bloated that editorial pages from every corner of this Nation, from Yakima to Pensacola; Texarkana to Honolulu, would call on this body to put H.R. 6 out of its misery. Nor did many of us believe that common-sense legislation such as the ENRON Act—with broad, bipartisan support in the Senate—would be so quickly jettisoned by the conference report's authors.

Make no mistake: many of us in this chamber emphatically believe that we need an energy policy that will liberate this country from its dangerous dependence on foreign sources of oil and position our businesses to compete in the emerging global market for clean energy technologies. But to paraphrase my distinguished colleague from Vermont, Senator JEFFORDS, who has been a great leader on these issues, this Nation needs an energy bill, but certainly not this energy bill.

So today, we are introducing the Electric Reliability Act of 2004 and the ENRON Act, because it's time for this body to put the public interest ahead of the special interests poised to profit so handsomely from the passage of the energy bill conference report. We should take up and pass these individual pieces of legislation, which would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of latter-day Enrons.

In last night's State of the Union speech, President Bush observed that "consumers and businesses need reliable supplies of energy to make our economy run." I could not agree more. He also urged Congress to "pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy." Nowhere in his address did President Bush mention tax breaks for Hooters; I did not hear him invoke rollback of environmental laws on behalf of polluters; nor did he cite the need to put in place protections for corporate looters such as Enron—all those provisions that have become the hallmark of the energy bill conference report.

So I ask my colleagues to recognize that we can make measurable progress this year on the objectives the President has outlined. But that will happen not by holding good energy policy hostage for bad energy policy, as the authors of H.R. 6 would have it. Rather, it will happen when we agree to set aside the H.R. 6 conference report and pass common-sense, consensus-based energy policy. And both the Electric Reliability and ENRON Acts fit this description.

I ask my colleagues to support these bills.

Mrs. CLINTON. Mr. President, I am pleased to join Senators CANTWELL, JEFFORDS and FEINGOLD in introducing legislation that would create mandatory, enforceable reliability standards for our electricity system.

Last week was the five month anniversary of the worst blackout in the history of New York, and, indeed, the history of America. Congress has yet to pass electricity reliability legislation that would help ensure the blackout never happens again. There is strong support for this legislation, which has passed the Senate twice before as part of the energy bill. But with the energy bill stalled, we simply cannot afford to wait any longer to move on reliability standards.

The blackout had a tremendous impact on New Yorkers and on the economy. Some experts put the costs to New York at more than $1 billion dollars and the costs nationwide at more than $6 billion.

In November, the Electric System Working Group of the United States-Canadian task force on the blackout released its draft report on the causes of the blackout. Among the report's findings was that the North American Electric Reliability Council's (NERC) voluntary reliability standards were violated at least six times during the series of events that led to the cascading blackout. This finding reinforced the need for swift enactment of mandatory, enforceable electricity reliability standards. We clearly need a system that provides real accountability for failure.

New Yorkers, and all Americans, are relying on Congress to help prevent another blackout. Congress needs to move swiftly on legislation in this area so that rules can be put in place before this summer. I urge my colleagues to support this important legislation.

Mr. JEFFORDS. Mr. President, I am pleased to be joining the Senator from Washington, Ms. CANTWELL, and the Senator from New York, Mrs. CLINTON, as an original cosponsor of legislation to ensure the reliable delivery of electric power in the United States. This bill is similar to Title I of the S. 1754, the Electric Reliability Security Act of 2003, that I introduced last October in response to the Northeast blackout.

Last night, in his State of the Union, the President urged Congress to pass legislation to modernize our electricity system, promote conservation, and make America less dependent on foreign sources of energy. This bill, the Electric Reliability Act of 2004, addresses the President's request, and the Senate should pass it expeditiously. Our country needs the new, clear national rules of the road contained in this bill to ensure the reliable delivery of electric power.

As the people in the Northeast will not soon forget, in August 2003 nearly 50 million people were affected by a massive power outage. But this is not an isolated incident. On January 16, 2004, Gov. James Douglas urged Vermonters to save power to help avert rolling blackouts because of electricity problems in southern New England. Though there was likely enough power to meet my State's demand, but we are part of a regional grid system. This system, as we learned last year, needs to operate in a coordinated fashion or the region faces blackouts.

The Senator from New York, Mrs. CLINTON, whose State was so significantly affected during the Northeast blackouts, knows well the hardship long electricity outages cause. I am pleased that she and the Senator from Washington, Ms. CANTWELL, have joined in this effort. The Senator from Washington, Ms. CANTWELL, has been alerted to the need for reliability legislation well before last year, as her State suffered during the massive multi-state Western blackout of 1996.

Be it 1996, 2003 or last week, these events emphasize the vulnerability of the U.S. electricity grid to human error, mechanical failure, and weather-related outages. Congress needs to do all that is necessary to protect the grid from devastating interruptions in the future. Those who know this issue well, say that reliability legislation is essential. On the first day of this year, Michehl Gent, President and Chief Executive of the North American Electric Reliability Council, said in the New York Times that all of the actions taken by industry and oversight organizations to respond to the Northeast blackout do "not reduce the need for Federal legislation that would provide authority to impose and enforce mandatory reliability standards." He continues, "whether legislation is adopted on a stand-alone basis or as part of a comprehensive energy bill, passage is essential. If reliability legislation had been enacted when first proposed, I believe that the blackout would not have occurred."

Given that Congress has not passed grid reliability legislation, the Federal Energy Regulatory Commission decided during its December 17, 2003 open meeting to have its staff develop an order over the next few weeks requiring utilities and other jurisdictional entities to report violations of voluntary reliability standards set by the North American Electric Reliability Council. The Commission also asked for comment on its legal authority under existing statutes to mandate compliance with those standards.

Why is Congress making FERC waste time trying to determine whether they have the legal authority to act to protect consumers and ensure electric reliability? We should simply make that statutory authority clear. Reliability legislation has passed the Senate twice, and this bill asks the Senate to act on those same provisions again. Congress should establish mandatory reliability standards and close other regulatory gaps left by state deregulation of the electricity sector. We should pass this bill now, and I pledge my support to the Senators from Washington and New York, Senators CANTWELL and CLINTON in doing so. Given the high costs of power outages to our country, we cannot afford to do otherwise. I invite my colleagues to join us in our efforts to advance energy security and reliability in the United States.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 285—RECOGNIZING 2004 AS THE "50TH ANNIVERSARY OF ROCK 'N' ROLL

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 285

Whereas Elvis Presley recorded "That's All Right" at Sam Phillips' Sun Records in Memphis, Tennessee, on July 5, 1954;

Whereas Elvis' recording of "That's All Right", with Bill Black on bass and Scotty Moore on guitar, paved the way for such subsequent Sun Studio hits as Carl Perkins' "Blue Suede Shoes" (1955), Roy Orbison's "Ooby Dooby" (1956), and Jerry Lee Lewis' "Whole Lotta Shakin" (1957)—catapulting Sun Studio to the forefront of a musical revolution;

Whereas the recording in Memphis of the first rock 'n' roll song came to define an era and forever change popular music;

Whereas the birth of rock 'n' roll was the convergence of the diverse cultures and musical styles of the United States, blending the blues with country, gospel, jazz, and soul music;

Whereas the year 2004 provides an appropriate opportunity for our nation to celebrate the birth of rock 'n' roll, and the many streams of music that converged in Memphis to create a truly American sound known throughout the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes 2004 as the 50th Anniversary of rock 'n' roll;

(2) commemorates Sun Studio for recording the first rock 'n' roll record, "That's All Right"; and

(3) expresses appreciation to Memphis for its contributions to America's music heritage.

### SENATE RESOLUTION 286—TO AUTHORIZE LEGAL REPRESENTATION IN UNITED STATES OF AMERICA v. PARVIZ KARIM-PANAHI

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 286

Whereas, in the case of United States of America v. Parviz Karim-Panahi, Crim. No. M-8374-03, pending in the Superior Court of the District of Columbia, the defendant has attempted to serve subpoenas for testimony and documents upon Senators Daniel K. Akaka, Wayne Allard, Evan Bayh, Joseph R. Biden, Robert C. Byrd, Hillary Rodham Clinton, Susan M. Collins, Mark Dayton, Elizabeth Dole, John Ensign, Lindsey O. Graham, James M. Inhofe, Edward M. Kennedy, Carl Levin, Richard G. Lugar, John McCain, Bill Nelson, E. Benjamin Nelson, Mark Pryor, Jack Reed, Pat Roberts, Jeff Sessions, James M. Talent, and John W. Warner, and on Senate employees Judith A. Ansley, Staff Director of the Committee on Armed Services, Scott W. Stucky, General Counsel to the Committee on Armed Services, June M. Borawski, Printing and Document Clerk of the Committee on Armed Services, Paul F. Clayman, Chief Counsel of the Committee on Foreign Relations, and Susan Oursler, Chief Clerk of the Committee on Foreign Relations; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the above-listed Senators and Senate employees who are the subject of subpoenas and any other Member, officer, or employee who may be subpoenaed in this case.

### SENATE RESOLUTION 287—COMMENDING THE SOUTHERN UNIVERSITY AND A&M COLLEGE OF BATON ROUGE JAGUARS FOR BEING THE SHERIDAN BROADCASTING NATIONAL BLACK COLLEGE CHAMPIONS, THE AMERICAN SPORTS WIRE NATIONAL BLACK COLLEGE CHAMPIONS, AND THE MBC/BCSP NATIONAL BLACK COLLEGE CHAMPIONS

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following resolution; which was considered and agreed to

S. RES. 287

Whereas the Jaguars, the football team of the Southern University and A&M College of Baton Rouge, finished the 2003 season with 12 wins and was voted number 1 in the final Sheridan Broadcasting National Black College Football Poll for the second time under Head Coach Pete Richardson;

Whereas the Jaguars won the Southwestern Athletic Conference Championship, defeating Alabama State by a score of 20–9 at Legion Field in Birmingham, Alabama on December 13, 2003;

Whereas the Jaguars won the Southwestern Athletic Conference Western Division Championship, defeating Grambling State University by a score of 44–41 in the 30th Annual Bayou Classic in the Louisiana Superdome on November 29, 2003;

Whereas 4 Jaguar players were selected to the Sheridan Broadcasting National Black College All-American Team: Quincy Richard, Arnold Sims, Miniya Smith, and Lenny Williams;

Whereas Jaguar quarterback Quincy Richard was named the Sheridan Broadcasting National / Doug Williams Offensive Player of the Year and finished with 3,270 yards passing and 31 touchdowns;

Whereas the Jaguar Head Coach Pete Richardson was named Sheridan Broadcasting National Sports Coach of the Year; and

Whereas the Jaguars accounted for 5,486 total yards on offense and 63 touchdowns: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Jaguars for winning the Sheridan Broadcasting National Black College Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the Jaguars during the 2003 season and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the Southern University and A&M College of Baton Rouge for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2003 Jaguars.

### SENATE RESOLUTION 288—COMMENDING THE LOUISIANA STATE UNIVERSITY TIGERS FOOTBALL TEAM FOR WINNING THE 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME

Mr. BREAUX (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 288

Whereas the Louisiana State University Tigers football team won the 2003 Bowl Championship Series national championship game, defeating Oklahoma University by a score of 21 to 14 in the Nokia Sugar Bowl at the Louisiana Superdome in New Orleans, Louisiana on January 4, 2004;

Whereas the Louisiana State University football team won the Southeastern Conference Championship, defeating the University of Georgia by a score of 34 to 13 in the Southeastern Conference championship game at the Georgia Dome in Atlanta, Georgia on December 6, 2003;

Whereas the Louisiana State University football team won 13 games during the 2003 season, more games than in any other season in school history;

Whereas the Louisiana State University football team won 5 games against nationally ranked opponents;

Whereas the Louisiana State University football team set 8 school records;

Whereas the Louisiana State University football team led the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only 1 team to score more than 20 points in any game during the season;

Whereas Louisiana State University football head coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America;

Whereas 4 players—Chad Lavalais, Corey Webster, Skyler Green, and Stephen Peterman—were named first-team All-Americans;

Whereas offensive tackle Rodney Reed was named a National Scholar-Athlete by the National Football Foundation and was named first-team Academic All-American;

Whereas quarterback Matt Mauck threw 28 touchdown passes during the 2003 season, a Louisiana State University single season record, and was named second-team Academic All-American; and

Whereas running back Justin Vincent was named most valuable player of the Southeastern Conference championship game and the Nokia Sugar Bowl: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Louisiana State University during the 2003 season; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Louisiana State University for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2003 Louisiana State University football team.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on January 27, 2004, in SD-106, at 9:30 a.m. The purpose of this hearing will be to examine the current situation regarding the discovery of a case of bovine spongiform encephalopathy in a dairy cow in Washington State as it relates to food safety, livestock marketing, and international trade.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 21, 2003, at 9 a.m., to hold a hearing on North Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZING LEGAL REPRESENTATION

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 286 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 286) to authorize legal representation in the United States of America v. Parviz Karim-Panahi.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Madam President, this resolution concerns representation by the Senate legal counsel of twenty-two members and three employees of the Committee on Armed Services and the chairman and ranking member and two employees of the Committee on Foreign Relations, who have been subpoenaed to provide testimony and produce documents in a criminal trial by a defendant charged with disrupting proceedings at a hearing of the Senate Committee on Armed Services in September 2003. These subpoenas, which were issued by the defendant on his own behalf, are not well taken. As the testimony and documents sought by these subpoenas are either irrelevant or cumulative of the testimony and evidence that will be offered at trial from other sources, evidence from these Senators and Senate employees is unnecessary. Moreover, the testimony and documents sought by the subpoenas as privileged under the Speech or Debate Clause of the Constitution.

This resolution would authorize the Senate Legal Counsel to represent the Senators and staff who have been subpoenaed by the defendant, as well as any other Members, officers, or employees who may be subpoenaed, in order to quash the subpoenas and protect the privileges of the Senate.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 286) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 286

Whereas, in the case of United States of America v. Parviz Karim-Panahi, Crim. No. M-8374-03, pending in the Superior Court of the District of Columbia, the defendant has attempted to serve subpoenas for testimony and documents upon Senators Daniel K. Akaka, Wayne Allard, Evan Bayh, Joseph R. Biden, Robert C. Byrd, Hillary Rodham Clinton, Susan M. Collins, Mark Dayton, Elizabeth Dole, John Ensign, Lindsey O. Graham, James M. Inhofe, Edward M. Kennedy, Carl Levin, Richard G. Lugar, John McCain, Bill Nelson, E. Benjamin Nelson, Mark Pryor, Jack Reed, Pat Roberts, Jeff Sessions, James M. Talent, and John W. Warner, and on Senate employees Judith A. Ansley, Staff Director of the Committee on Armed Services, Scott W. Stucky, General Counsel to the Committee on Armed Services, June M. Borawski, Printing and Document Clerk of the Committee on Armed Services, Paul F. Clayman, Chief Counsel of the Committee on Foreign Relations, and Susan Oursler, Chief Clerk of the Committee on Foreign Relations; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the above-listed Senators and Senate employees who are the subject of subpoenas and any other Member, officer, or employee who may be subpoenaed in this case.

## COMMENDING SOUTHERN UNIVERSITY AND A&M COLLEGE OF BATON ROUGE JAGUARS

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 287 introduced earlier today by Senators LANDRIEU and BREAUX.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 287) commending the Southern University and A&M College of Baton Rouge Jaguars for being the Sheridan Broadcasting National Black College Champions, the American Sports Wire National Black College Champions, and the MBC BCSP National Black College Champions.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 287

Whereas the Jaguars, the football team of the Southern University and A&M College of Baton Rouge, finished the 2003 season with 12 wins and was voted number 1 in the final Sheridan Broadcasting National Black College Football Poll for the second time under Head Coach Pete Richardson;

Whereas the Jaguars won the Southwestern Athletic Conference Championship, defeating Alabama State by a score of 20–9 at Legion Field in Birmingham, Alabama on December 13, 2003;

Whereas the Jaguars won the Southwestern Athletic Conference Western Division Championship, defeating Grambling State University by a score of 44-41 in the 30th Annual Bayou Classic in the Louisiana Superdome on November 29, 2003;

Whereas 4 Jaguar players were selected to the Sheridan Broadcasting National Black College All-American Team: Quincy Richard, Arnold Sims, Miniya Smith, and Lenny Williams;

Whereas Jaguar quarterback Quincy Richard was named the Sheridan Broadcasting National / Doug Williams Offensive Player of the Year and finished with 3,270 yards passing and 31 touchdowns;

Whereas the Jaguar Head Coach Pete Richardson was named Sheridan Broadcasting National Sports Coach of the Year; and

Whereas the Jaguars accounted for 5,486 total yards on offense and 63 touchdowns: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Jaguars for winning the Sheridan Broadcasting National Black College Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the Jaguars during the 2003 season and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to the Southern University and A&M College of Baton Rouge for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2003 Jaguars.

Mr. REID. Madam President, I wanted to say, while my counterpart is on the floor, that we in the minority have appreciated the way Senators McCONNELL and FRIST have handled legislation that has been on the floor. We don't agree as to what comes to the floor a lot of times, but the majority, with rare exception, has given us the opportunity, when a matter is brought up, to talk about it, offer amendments, and then give us reasonable time to determine if in fact cloture needs to be invoked on a bill. We appreciate that.

In the rush of things this year, we are going to go out of session on July 26 until the fall. We are going to be in a position of wanting to do things more quickly than we would ordinarily. I hope the majority will stick with what happened last year. I think it worked out well. I think our people felt that we were treated fairly, with some exceptions. There is going to be a tendency to push things more quickly this year and it will make things go even more slowly. In short, we have a lot of work to do. By following the Senate rules, I think we will get more done than not following the rules.

Mr. McCONNELL. Madam President, let me say to the assistant Democratic leader that I thank him for his kind observations. I think he is absolutely correct. We have a very limited number of days this year upon which to accomplish anything. It is going to require a high level of bipartisan cooperation to advance measures that are essential to the country, which we all, for the most part, agree on—not to mention items that may be more contentious. I thank my friend.

## COMMENDING THE LOUISIANA STATE UNIVERSITY FOOTBALL TEAM

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 288, a resolution submitted earlier today by Senator BREAUX.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 288) commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 288) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 288

Whereas the Louisiana State University Tigers football team won the 2003 Bowl Championship Series national championship game, defeating Oklahoma University by a score of 21 to 14 in the Nokia Sugar Bowl at the Louisiana Superdome in New Orleans, Louisiana on January 4, 2004;

Whereas the Louisiana State University football team won the Southeastern Conference Championship, defeating the University of Georgia by a score of 34 to 13 in the Southeastern Conference championship game at the Georgia Dome in Atlanta, Georgia on December 6, 2003;

Whereas the Louisiana State University football team won 13 games during the 2003 season, more games than in any other season in school history;

Whereas the Louisiana State University football team won 5 games against nationally ranked opponents;

Whereas the Louisiana State University football team set 8 school records;

Whereas the Louisiana State University football team led the Nation in total defense, allowing only 252 yards per game, and scoring defense, allowing only 1 team to score more than 20 points in any game during the season;

Whereas Louisiana State University football head coach Nick Saban was named the National Coach of the Year by the Associated Press and the Football Writers Association of America;

Whereas 4 players—Chad Lavalais, Corey Webster, Skyler Green, and Stephen Peterman—were named first-team All-Americans;

Whereas offensive tackle Rodney Reed was named a National Scholar-Athlete by the National Football Foundation and was named first-team Academic All-American;

Whereas quarterback Matt Mauck threw 28 touchdown passes during the 2003 season, a Louisiana State University single season record, and was named second-team Academic All-American; and

Whereas running back Justin Vincent was named most valuable player of the Southeastern Conference championship game and the Nokia Sugar Bowl: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Louisiana State University during the 2003 season; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Louisiana State University for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2003 Louisiana State University football team.

Mr. McCONNELL. Madam President, for those of us who watched the game, LSU did indeed have an outstanding performance on that day. I know they are somewhat frustrated because they had to share the national title with USC, but it was a great day for the LSU Tigers by any count.

## CONGRATULATING THE EAST BOYNTON BEACH, FLORIDA, LITTLE LEAGUE TEAM AS THE 2003 U.S. LITTLE LEAGUE CHAMPIONS

Mr. McCONNELL. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 273, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 273) recognizing and congratulating the East Boynton Beach, Florida, Little League team as the 2003 United States Little League Champions.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (H. Con. Res. 273) was agreed to.

The preamble was agreed to.

## MEASURE PLACED ON THE CALENDAR—S. 2006

Mr. McCONNELL. Madam President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The bill will be read for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2006) to extend and expand the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

Mr. McCONNELL. Madam President, I object to further proceedings on the measure at this time.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108–15

Mr. McCONNELL. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 21, 2004, by the President: Additional Protocol Amending Investment Treaty with Bulgaria, Treaty Document No. 108–15. I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President reads as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol Between the United States of America and the Republic of Bulgaria amending the Treaty Between the United States of America and the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment of September 23, 1992, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Additional Protocol.

My Administration has already forwarded to the Senate a similar Additional Protocol for Romania and expects to forward to the Senate shortly Additional Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Additional Protocols is the result of an understanding the United States reached with the European Commission and six countries that will join the European Union (EU) on May 1, 2004 (the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic), as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITS, including the BIT with Bulgaria, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as European Union authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Additional Protocol preserves the U.S. BIT with Bulgaria, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Bulgaria joins the EU. Without it, the European Commission would likely require Bulgaria to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Additional Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, *January 21, 2004.*

## ORDERS FOR THURSDAY, JANUARY 22, 2004

Mr. McCONNELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, January 22. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on the conference report to accompany H.R. 2673, the Omnibus appropriations measure, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Madam President, we have a little mathematical problem we need to straighten out.

Mr. McCONNELL. Madam President, I ask unanimous consent to modify the previous agreement to allow for 4½ hours of debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection. We told all our Members the vote will be at 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Some of us are troubled when it comes to math around here, Madam President. We are pleased to have the correction noted.

## PROGRAM

Mr. McCONNELL. Madam President, for the information of all of our colleagues, tomorrow morning the Senate will resume debate on the conference report to accompany H.R. 2673, the Omnibus appropriations measure. Under the order, there will be 4½ hours for debate prior to the second cloture vote. I join with the majority leader in hoping cloture will be invoked tomorrow and that the Senate can then conclude action on this vital funding measure. Senators should, therefore, expect votes tomorrow afternoon, and all Members will be notified when those votes are scheduled.

I see the chairman of the Appropriations Committee sitting over there with a smile on his face at the prospect of completing our work for the current fiscal year.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:37 p.m., adjourned until Thursday, January 22, 2004, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 21, 2004:

### CORPORATION FOR PUBLIC BROADCASTING

CLAUDIA PUIG, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2008, VICE WINTER D. HORTON, JR., TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GAY HART GAINES, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2004, VICE RITAJEAN HARTUNG BUTTERWORTH, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE LINDA J. FISHER, RESIGNED.

CHARLES JOHNSON, OF UTAH, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY, VICE LINDA MORRISON COMBS.

### SOCIAL SECURITY ADMINISTRATION

BRADLEY D. BELT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2003, VICE STANFORD G. ROSS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### BROADCASTING BOARD OF GOVERNORS

FAYZA VERONIQUE BOULAD RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2006, VICE ROBERT M. LEDBETTER, JR., TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### UNITED STATES POSTAL SERVICE

ALBERT CASEY, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009, VICE TIRSO DEL JUNCO, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### DEPARTMENT OF HOMELAND SECURITY

CLARK KENT ERVIN, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY (NEW POSITION), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

CYNTHIA BOICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007, VICE THOMAS EHRLICH, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007 (REAPPOINTMENT), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HENRY LOZANO, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008, VICE CHRISTOPHER C. GALLAGHER, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### NATIONAL COUNCIL ON THE ARTS

GERARD SCHWARZ, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 2006, VICE EARL A. POWELL III, RESIGNED.

### NATIONAL LABOR RELATIONS BOARD

RONALD E. MEISBURG, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008, VICE RENE ACOSTA, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### DEPARTMENT OF EDUCATION

ROBERT LERNER, OF MARYLAND, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009, VICE PASCAL D. FORGIONE, JR., TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

RAYMOND SIMON, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, VICE SUSAN B. NEUMAN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. GEORGE T. LYNN, 5342

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. CONRAD W. PONDER JR., 4071

*To be brigadier general*

COL. GEORGE J. SMITH, 7542

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. DOUGLAS V. O'DELL JR., 0212

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM.(SELECTEE) ALBERT M. CALLAND III, 0101

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JAMES D. MCARTHUR JR., 9260

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTION 624, 531, AND 3064:

*To be colonel*

MARGOT KRAUSS, 8310

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

MARK S. ACKERMAN, 8490
LISA ANDERSONLLOYD, 8101
LEO E. BOUCHER III, 4835
NATHANAEL P. CAUSEY, 8219
JOHN L. CLIFTON IV, 8001
ALAN L. COOK, 7534
PETER M. CULLEN, 4881
WILLIAM R. GADE, 7176
CHRISTOPHER M. GARCIA, 5323
SUSAN S. GIBSON, 7414
GREGORY A. GROSS, 2293
SCOTT L. KILGORE, 6140
DENISE R. LIND, 3100
SCOTT E. LIND, 1041
JACQUELINE R. LITTLE, 4048
KEVIN J. LUSTER, 3020
REYNOLD P. MASTERTON, 1369
ROBIN N. SWOPE, 9013
KELLY D. WHEATON, 1816
RICHARD M. WHITAKER, 5986

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

TIMOTHY G. WRIGHT, 3550

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 631, AND 3064:

*To be lieutenant colonel*

IDA F. AGAMY, 0467
MELINDA A. COMFORT, 5980
JONATHAN A. KENT, 5529
GREGORY S. MATHERS, 1623
MATTHEW A. MYERS SR., 5291
KARY B. REED, 3876

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

DAVID J. KING JR., 5154

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

MICHAEL G. GRAY, 3377
PAUL M. SALTYSIAK, 5181

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be major*

TERRY R. MOREN, 3819
CHRISTOPHER WODARZ, 5149

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

GERALD R. MANLEY, 9830

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

TODD E. BAILEY, 7720

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

JENNIFER R. FLATHER, 2094
JANET G. GOLDSTEIN, 2515
KATHY E. GORDON, 7840
MARIE E. OLIVER, 2625

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

WING LEONG, 4590
LINDA P NIEMEYER, 8493
PATRICK J VINCENT, 5661

*To be lieutenant commander*

KRISTINE E ALEXANDER, 0460
RICHARD A BONNETTE, 6281
MARK D BUTLER, 3297
VIOLETA N CRUZ, 1020
ROBERT J FITKIN, 9722
ETHAN C GIBSON, 3791
MICHAEL W GORE, 6088
BRIAN J CHALEY, 2808
ALAN M HANSEN, 4956
STEPHEN E HAZZARD, 1682
DWIGHT A HORN, 1938
RAYMOND J HOUK, 1204
ARNOLD S MCCOY, 7720
DANIEL E MCKAY, 7218
GABRIEL MENSAH, 4225
VINSON W MILLER, 0564
JAMES H PITTMAN, 7897
ROBERT A REARICK, 6692
JASON L RIGGS, 9102
GREG T SCHLUTER, 7127
JAMES D STAVRIDES, 6886
ERIC R TIMMENS, 9577
DONALD P TROAST, 7410
CHARLES AP TURNER, 9891
ANDREW A WADE, 5393
AARON D WERBEL, 3123
JIMMY WEST, 2625
TIMOTHY R WHITE, 5182

## WITHDRAWAL

Executive message transmitted by the President to the Senate on January 21, 2004, withdrawing from further Senate consideration the following nomination:

MARK C. BRICKELL, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A TERM OF FIVE YEARS, WHICH WAS SENT TO THE SENATE ON JUNE 12, 2003.

# EXTENSIONS OF REMARKS

## HONORING BERYLE R. READ

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Beryle R. Read, a resident of my Fifth Congressional District of Florida and a man who has become something very few of us ever will. In November of this year, Mr. Read will become a centenarian and at nearly 100, he is a father to one child, and a grandfather to three grandchildren.

Mr. Read was born in Nashville, TN, but went to school in Indiana, Illinois and Washington, DC. Following school, he worked for the government for 32½ years. He describes his happiest moment as going with his father to sell peaches in Indiana as a child. His favorite activities today are helping his wife cook, reading, and doing crossword puzzles.

Mr. Read says he likes living in Hernando County because it has a small town feel but a close proximity to valuable services and stores. When asked what advice he'd give to young people today he said, "Avoid dirt, debt and the devil." He says the best thing about growing older is having 39 years of mental and physical health to enjoy retirement.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Beryle Read today. I hope we all have the good fortune to live as long as he has and the ability to enjoy it as he has. He is truly a great man and someone with an appreciation for the importance of hard work.

## FRENCH BAN ON TURBANS IN SCHOOLS OPPOSED

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. TOWNS. Mr. Speaker, the government of France has recently enacted a new policy prohibiting Sikh boys from wearing their turbans in school. They also prohibited Muslim girls from wearing the traditional head scarves in school.

This policy is a threat to religious expression in France. It limits the ability of religious minorities to express their religion in the way that they are supposed to express their religion.

Sikhs fought actively in both World Wars to help keep the French people free. They fought in their turbans in Africa and the Middle East in World War I and they fought in the liberation of France in World War II. Yet the French authorities see fit to deny them their full religious expression.

Recently, Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, wrote an excellent letter to French President Jacques Chirac about this unreasonable policy. I am inserting it into the RECORD with the consent of the House and I urge my colleagues to read it.

COUNCIL OF KHALISTAN,
*Washington, DC, January 19, 2004.*

Hon. JACQUES CHIRAC,
*President of France,*
*Champs Elysees, Paris, France*

DEAR PRESIDENT CHIRAC: I am writing to you today on behalf of the Sikh community of France and the 25 million strong Sikh Nation around the world.

Recently, France has made laws prohibiting Muslim schoolgirls from wearing head scarves and Sikh boys from wearing their turbans.

The turban is a Sikh religious symbol. Sikhs are not allowed to remove their turbans. They are a major symbol of our religion. The Sikh Gurus commanded us to wear the turban at all times over unshorn hair, which is a gift from God. The Sikh religion is a sovereign, independent, monotheistic religion like Christianity. The Sikh religion requires every Sikh to wear five symbols. Unshorn hair is one of them.

As you know, Sikh soldiers wearing their turbans fought to defend France and defend its freedom during World War II. They also helped France and Britain to win World War I by fighting in Africa and the Middle East. We were proud to do so. Sikhs are commanded to fight against injustice wherever it appears. We believe in the freedom and equality of all people.

France is a secular, democratic republic. That implies a country that protects freedom of religious expression for all people. To force Sikhs to remove the turban is to destroy Sikhs' freedom of religious expression. That is neither secular, democratic, nor republican. It is simply the kind of system that Sikhs came to France and other countries to escape.

President Chirac, I encourage you to reconsider this ill-advised ban. Sikhs must be free to express our religion as fully as any other Frenchman.

Thank you for your time and attention.

Sincerely,
DR. GURMIT SINGH AULAKH,
*President, Council of Khalistan.*

## TRIBUTE TO FRANK DOMINGUEZ

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BACA. Mr. Speaker, it is with a great sense of pride that I pay tribute today to the life of Frank Dominguez, a longtime leader in the Inland Empire. Frank passed away this month at the age of 64. He was a man of great integrity and character, and I join today with family and friends in honoring his memory and remarkable life.

To all those who knew Frank Dominguez, he was a hard-working, generous, compassionate man who was proud of his San Bernardino roots. His educational path took him through Burbank Elementary School, Colton Union High School, and San Bernardino Valley College. Following his graduation, he served our country proudly in the U.S. Army.

In 1964, Frank founded the Vanir Group of Companies, Inc. and proceeded to give back to the community that he so loved, including building the Vanir Tower, a San Bernardino landmark. His tremendous passion, pride, and selflessness led him to serve three terms on the state economic development commission and serve on the boards of the Goodwill Industries of the Inland Counties, the Mexican American Legal Defense and Educational Fund, and the Diocese of San Bernardino and Riverside Counties. He was revered and admired by friends and colleagues, leading to his selection as outstanding businessman of the year by the U.S. Hispanic Chamber of Commerce.

I join today with family and friends in paying tribute to Frank Dominguez, beloved husband, father, and friend. He is survived by his wonderful wife of 42 years, Gisela, his children Dorene, Richard, and Diane, and his three grandchildren. His kind deeds and gentle soul will be deeply missed by all.

## HONORING DR. JOE SABOL

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today on behalf of Representative DOOLEY, Representative NUNES and myself to honor Dr. Joe Sabol on the occasion of his being distinguished as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. This designation will be bestowed upon Mr. Sabol at the annual conference of this organization.

Selection for this distinction is reserved for "special individuals who have, over a period of time, demonstrated consistent commitment and uncommon excellence in the furtherance of education and leadership in California agriculture." The mission of the California Agricultural Leadership Program is to enhance the long-term viability of California agriculture through leadership development, which in turn benefits the people and the communities that agriculture serves.

In 1963, Joe received his Bachelor of Arts degree in General Agriculture from California State University, Fresno. He obtained his M.Ed. in 1965 from University of California, Davis and his Ph.D. in 1976 from Colorado State University. Dr. Sabol came to Cal Poly San Luis Obispo in 1972 to teach Agricultural Education. He later became Associate Dean

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and the Dean of the College of Agriculture, as well as Project Director of the Costa Rica E.A.R.T.H. Project. He was named Director of Outreach Services in 1993 and currently teaches within the College. Among his special teaching projects Joe counts the Mexican Ag Education Program, the Pakistan Project, an Advisor's Workshop for Vocational Student Organizations, and the Victorian (Australia) College of Agriculture and Horticulture.

Joe has been involved with the Western Region American Association of Teacher Educators in Agriculture, the FFA Alumni Association, Farm Bureau, the San Jose Unified School District Agriculture Program, and the California Agriculture Teachers Association. He has been named an honorary CFFA Member, Honorary State Farmer with FFA and Grange Youth Booster of the Year for California. In 1987, Joe received the Honorary American Farmer Degree at the National FFA Convention and has been recognized as a "Teacher of Teachers" for 10 consecutive years.

Mr. Speaker, I rise today along with Representative DOOLEY and Representative NUNES, to pay to Dr. Joe Sabol as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. I invite my colleagues to join me in wishing Joe many years of continued success.

## HONORING THE ELMHURST AMERICAN LEGION, THE BROADVIEW-HILLSIDE AMERICAN LEGION, AND THE COLLEGE OF DUPAGE JAZZ ENSEMBLE

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HYDE. Mr. Speaker, I would like to bring to your attention today the commendable efforts and charitable spirit of the Elmhurst American Legion, the Broadview-Hillside American Legion, and the College of DuPage Jazz Ensemble.

In particular, I would like to recognize Mr. Charles Levitt, Commander of the Broadview-Hillside American Legion, Mr. Dante Laudati, Commander of the Elmhurst American Legion, Mr. Anthony Barone, Chief Liaison of the Elmhurst American Legion, and Mr. Tom Tallman, the Director of the College of DuPage Arts Center Jazz Ensemble.

Their unselfish efforts combined with the patriotic spirit of the members of these organizations represent the finest qualities of all Americans. The members of this energetic group held an event on October 19, 2003 in Elmhurst, Illinois to raise funds for the Armed Forces Children's Education Fund. This noteworthy fund is committed to helping the children of military men and women who make the ultimate sacrifice while fighting the war on terrorism. I am proud of the efforts made by these faithful and patriotic citizens. They serve as a fine example of citizens sharing their prosperity with the families of the men and women who risk their lives to secure our freedoms.

I hope my colleagues will join me in honoring and offering congratulations to all of these outstanding Americans.

## COMMENDING NASA ON "SPIRIT" MISSION TO MARS

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HOLT. Mr. Speaker, after a series of failures in trying to land on Mars, NASA's Jet Propulsion Laboratory's *Spirit* has successfully landed on the red planet. Considering all the electromechanical systems, computer software, and retro-rockets that had to faithfully operate, the success of landing the spacecraft despite uncooperative Martian winds and dust is a testimony to the excellence, grit and determination of a host of planners, engineers and scientists at the laboratory. In a continuation of these successes, last Thursday, *Spirit* successfully rolled off the lander and onto the Martian surface.

In the meantime the *Spirit*'s twin is scheduled to land halfway around Mars on Sunday, January 25. The mere thought of the possibility of two rovers exploring Mars is both exciting and a testimony to our Nation's scientific and technical vitality.

*Spirit* and *Opportunity* are just two of the many offspring of the Jet Propulsion Laboratory that have been sent on exploration voyages over the past four decades, visiting every known planet except Pluto with a few looking out into the universe and beyond our local planets.

In 1930, with the rise of Hitler and anti-Semitism, Theodore von Kármán left Aachen, Germany and accepted an invitation by the California Institute of Technology to come to Pasadena to lead an aeronautical laboratory, later named the Jet Propulsion Laboratory. At age 81 he was the recipient of the first National Medal of Science, bestowed in a White House ceremony by President John F. Kennedy. A crater on the Moon is named in his honor.

Over seven decades, JPL has maintained this dignified position and upheld the reputation of von Kármán's laboratory as world leader in engineering, science and planetary exploration.

## TRIBUTE TO UNITED STATES ARMY PRIVATE REY DAVID CUERVO

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to another fallen patriot, United States Army Pvt. Rey David Cuervo, who gave the last full measure of devotion to the Nation of which he was not yet a citizen when he was killed in Iraq after his vehicle hit an explosive device in Baghdad.

After almost 5 years in the United States Army, Pvt. Rey Cuervo, a 24-year-old from Laguna Vista, was assigned to the 1st Squadron, 2nd Armored Cavalry Regiment in Baghdad, based out of Fort Polk, LA.

Pvt. Cuervo was one of an estimated 50,000 legal permanent residents serving in the U.S. Armed Forces when he died for the country he loved and the ideals he believed in. He died for the United States as a foreign national in the Army . . . and he won his citizenship posthumously.

This is an important point to make to the House of Representatives at a time when many of our members are raising their voices against those who want to have a national policy that appreciates the actual faces of immigrants in this country who wish to be citizens here.

This brave young man was not here to take a job from a citizen. These soldiers play a big part in defending the country. They believe in the hope and opportunity they feel when they come to this country. This young man's death may serve to educate some members of Congress about the importance of soldiers who put their life on the line, be they born in this Nation . . . or new to this Nation.

To date, five Mexican nationals have died in the war in Iraq. The willingness of Cuervo and the others to fight and die for the United States is an illustration of the love of this Nation from our immigrant community, and of the extraordinary relationship between the United States and Mexico.

Mr. Speaker, the entire community of South Texas mourns this fine young man.

I ask my colleagues to join me today in commending the life and service of United States Army Pvt. Rey Cuervo, and in expressing the condolences of the House of Representatives to his family.

## ONE IRAQI'S PERSPECTIVE ON U.S. ACTIONS IN HIS COUNTRY

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. UDALL of Colorado. Mr. Speaker, as our country wrestles with the consequences of the war in Iraq, I think it is more important than ever to encourage thoughtful and critical discussion of America's role in the world and to be open to a continuing public dialogue on the wisdom of our policies in the Middle East and elsewhere around the globe.

Whether one supported the war or not, I believe our responsibility as elected representatives of the people must include maintaining an open mind on these matters, and to seek out the judgment and opinions of those who may have experiences unique from our own.

In this regard, I would like to submit for the RECORD a copy of remarks written by Mr. Ibrahim Kazerooni, an Iraqi dissident who fought against the regime of Saddam Hussein and who is now a respected clerical leader of the Muslim community in Colorado. I met Mr. Kazerooni shortly after the infamous attacks on our country on September 11, 2001 and have found his insights on the problem of terrorism and democracy in Iraq to be unique and well worth the attention of my colleagues.

[From the Denver Post, Dec. 7, 2003]

### IRAQ WAR MAKES US LESS SAFE, NOT MORE

(By Ibrahim Kazerooni)

Having been imprisoned and tortured several times by the former Baathist regime of Iraq, I came to expect any absurdity from that dictatorship.

Under the Baathists, the people of Iraq were fed a steady stream of government-generated lies on just about everything. The regime skillfully operated under the premise that as long as you said something often enough, it didn't have to be true in order to get people to believe it.

Even though the Baathist regime is gone, it appears the Bush administration has adopted their practice of intentionally misleading the public—in this case, the American public—through the incessant repetition of false information.

For example, we continue to be told by the White House that taking over Iraq was necessary for the war on terrorism, despite the absence of credible evidence of a link between al-Qaeda and the former regime of Saddam Hussein.

On June 26, The Associated Press reported, "The U.N. terrorism committee has found no evidence to support Bush administration claims of a link between Iraq and al-Qaeda, and the United States has provided the committee with no proof."

This should not be surprising, since the secular Saddam Hussein was notorious for brutally crushing any and all Islamist elements in Iraq. As a result, the Islamists and the Baathists had nothing but pure disdain and mistrust for one another.

One of the most respected authorities on terrorism and defense issues, the International Institute for Strategic Studies, reported Oct. 15 that the invasion and occupation of Iraq has had the effect of "swelling its [al-Qaeda's] ranks and galvanizing its will."

Beyond that, the administration's mismanagement of post-war Iraq has created ripe conditions for terrorism to thrive, to the point where it is now feared Iraq is exporting terrorism to its neighbors.

The White House and others also continue to insist that the security situation in Iraq—upon which everything depends, especially reconstruction—is improving. Yet, the facts reveal that the insurgency is spreading.

Part of the reason for the spread of the insurgency is the resentment we've generated among ordinary Iraqis, the very people we said we came to liberate. Dr. Rajaa Habib Kbuzai, handpicked by the Bush administration to sit on the Iraqi Governing Council, said in September, "There is considerable discontent with the coalition forces, the majority of whom treat the Iraqi people with violence and contempt."

This analysis is shared by Marco Calamai, a special counselor to the Coalition Provisional Authority (CPA) in Iraq, who resigned his position in November because he said the U.S.-led CPA has created "delusion, social discontent, and anger" among Iraqis and allowed terrorism to "easily take root."

Calamai's view was confirmed by a classified CIA report leaked in November, which found that more Iraqis are "flooding to the ranks of the guerrillas" and predicted the security situation in Iraq would continue to get worse as the insurgency spreads across the country.

We invaded Iraq on the premise that the Baathist regime possessed stockpiles of weapons of mass destruction and would share them with al-Qaeda. Not invading, we were told, could likely result in "mushroom clouds" over American cities.

However, not only was the supposed link to al-Qaeda grossly absent, so are the alleged WMDs. The failure to find Iraq's alleged WMDs is entirely consistent with Secretary of State Colin Powell's statement on Feb. 24, 2001, in Cairo: "He [Saddam Hussein] has not developed any significant capability with respect to weapons of mass destruction. He is unable to project conventional power against his neighbors."

Powell's statement reflects the statements of Iraqi scientists and Saddam Hussein's son-in-law, Hussein Kamel, who defected to the West in 1995 and was later murdered by his father-in-law for defecting. He told U.N., U.S. and British experts debriefing him in August 1995, "I ordered destruction of all chemical weapons. All weapons—biological, chemical, missile, nuclear—were destroyed."

The invasion and occupation of Iraq has not only distracted us from the war against al-Qaeda and diverted billions of dollars from homeland security to operations in Iraq, it has actually increased al-Qaeda's recruiting and created more sympathizers for the organization among the world's 1.2 billion Muslims.

As long as the White House arrogantly continues to mislead the public with fabricated intelligence and sugar-coated assessments, we cannot possibly expect to win the war on terror.

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## REMEMBERING JUDGE HARRY LOFTIS

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HALL. Mr. Speaker, I am honored today to pay tribute to an outstanding public servant, a wonderful family man, and good friend who devoted so much time and energy to the community of Tyler, Texas—Judge Harry Loftis, who died on December 9, 2003.

Judge Loftis spent thirteen years as a district attorney and county judge. Raised in Tyler, Texas, he earned degrees at Tyler Junior College and the University of Texas at Austin. He joined the Army Air Corps during World War II, and flew glider missions in France, England, and Italy. His bravery earned him several medals and citations. The Library of Congress is privileged to have his wartime accounts on file as part of the World War II veterans project.

Judge Loftis was also a longtime supporter of area institutions of higher education. He was a devoted trustee of Tyler Junior College, and was recognized throughout his term in office with several accolades including the T.B. Butler Award, the Outstanding Ex-Student Award, and the Earl Story Award. He was also a leading advocate for the creation of Texas Eastern University (now the University of Texas at Tyler).

While Judge Loftis's work in higher education was impressive, he was also a tireless community booster. He was a president or board member of the Tyler Jaycees, Texas Junior Bar Association, Smith County Red Cross, Tyler YMCA, Kiwanis Club, Strutters, Mother Francis Advisory Board, Tuberculosis Association, Chamber of Commerce, and the Texas Rose Festival Association. He was also a lieutenant governor of Kiwanis International and served on the Board of Stewards at Marvin United Methodist Church.

Judge Loftis is survived by his wife of 57 years, Margaret Ann Loftis; sons and daughters-in-law, Harry Lee and Charisa Loftis, Michael George and Jenny Loftis; daughter and son-in-law Mollie Ann and Robert Halpin; and ten grandchildren.

Judge Loftis will be long remembered as a devoted public servant, and the community of Tyler will miss his unwavering commitment to serve others. On behalf of his many friends and fans, I want to take this opportunity in the House of Representatives to pay our last respects to this dedicated public servant and outstanding American—Judge Harry Loftis.

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## HONORING THE BRAVE SOLDIERS OF THE NEW YORK AIR NATIONAL GUARD'S 106TH AIR RESCUE WING

### HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BISHOP of New York. Mr. Speaker, I rise to express my deep admiration and respect for the brave soldiers of the New York Air National Guard's 106th Air Rescue Wing who recently returned home from service in Operation Enduring Freedom. The brave men and women of the 106th Air Rescue Wing are among the most talented and best-trained rescue specialists in the world.

Of course, while I am pleased these heroes are out of the line of fire, the 106th is never out of harm's way. Most Americans first heard about the 106th because of a heroic rescue effort, which was recounted in the book and movie "The Perfect Storm." They deserve our deepest gratitude for putting themselves on the front lines in war and peace.

The 106th Air Rescue Wing's extraordinary service in Iraq is the latest chapter in the storied history of this unit. During its time overseas, the unit was involved in numerous rescues, including from the October 12, 2003 bombing of the Baghdad Hotel and after a Chinook helicopter went down on November 2, 2003, a deplorable terrorist act that took the lives of 16 American soldiers. After this incident, members of the 106th Rescue Wing recovered two soldiers from the downed helicopter and brought them to safety where they received treatment. There is no more noble service than risking one's own life to save the life of a fellow soldier.

Mr. Speaker, as the representative of Gabreski Airport in Westhampton, Long Island, home of the 106th Air Rescue Wing, I could not be more proud of our soldiers returning home. I am truly privileged to represent this distinguished unit, which is not only a blessing to the people of Long Island, but to all Americans who benefit from its service.

## A PROCLAMATION HONORING MR. AND MRS. HAVER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Charles and Lillian Haver were united in marriage November 4, 1933 and are celebrating their 70th wedding anniversary; and

Whereas, Charles and Lillian Haver have demonstrated a firm commitment to each other; and

Whereas, Charles and Lillian Haver must be commended for their loyalty and dedication to their family; and

Whereas, Charles and Lillian Haver have proven, by their example, to be a model for all married couples;

Therefore, I join with the residents of the entire 18th Congressional District in congratulating Mr. and Mrs. Haver as they celebrate their 70th wedding anniversary.

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## HONORING THE CAROLINA PANTHERS

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mrs. MYRICK. Mr. Speaker, I would like to honor and congratulate the Carolina Panthers. Last Sunday they defeated the Philadelphia Eagles to become the 2003 National Football Conference Champions. This is the first NFC title since they began in 1995, but it will not be their last.

At the beginning of the season, no one outside the Carolinas gave the Panthers any chance of even going to the playoffs. However, the "Cardiac Cats" played hard every game and never gave up. As a result, the Panthers have defied the odds and will be playing in Super Bowl XXXVIII.

As a season ticket owner, and an avid fan, I want to express how much the Carolinas appreciate the hard work of Panthers' owner Jerry Richardson, its head coach John Fox, the assistant coaches, and Carolina's wonderful players. I also want to commend the Carolina fans who have embraced the team, and have supported them through all the ups and downs.

It has been a joy to watch the Panthers play this year, and I along with thousands of fans across the Carolinas want to wish them the best of luck in the Super Bowl. I hope that in February I can again congratulate them on winning another title: National Football League Champions.

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## HONORING SALEM BAPTIST CHURCH OF JENKINTOWN, PENNSYLVANIA

### HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Salem Baptist Church of Jenkintown for its 120 years of worship and community development.

Founded in 1884, the Salem Baptist Church emerged from its modest, singleroom origins and flourished into a thriving church community. Through the immense effort of its congregation and the esteemed leadership of its pastors, Salem has grown consistently in both size and impact. Outgrowing each new building in which it resided, Salem expanded its presence in the community. Throughout its history, Salem has welcomed into its ministries such esteemed guests as Martin Luther King, Jr., Samuel Proctor, Rosa Parks, Jesse Jackson, and Pricilla Evans.

Today Salem includes the Church, a parsonage, Section 8 housing facilities for low-income residents and the elderly, and the Robert Johnson Smith Educational Center. In addition, there are plans to build a Family Life Center and nursing home facility. From its inception, the Salem Baptist Church has been committed to community development through the faith and determination of its congregation and pastors. I congratulate the members of the Salem Baptist Church on their 120th anniversary.

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## HONORING MARIE O'BRIEN

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Marie O'Brien, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. Mrs. O'Brien is a centenarian and at 102 she is a shining example of how to enjoy and appreciate life.

Mrs. O'Brien was born in Philadelphia and went to school at St. Gabriel. Following school, she worked as a telephone operator. She describes her happiest moments as family gatherings growing up and receiving the sacraments. Some of her favorite activities today are reading and praying the rosary.

After 102 years, Mrs. O'Brien says she is satisfied with her life and that it has been a pleasure. When asked what advice she'd give to young people she said, "Stay away from drugs and be kind." She says the best thing about growing older is having time to relax and appreciate the gifts God has given her.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Marie O'Brien today. I hope we all have the good fortune to live as long as she has. She is truly a great lady and someone with an appreciation for the importance of kindness and kinship.

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## TRIBUTE TO ROBERT LEWIS SOTO

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BACA. Mr. Speaker, it is with deep affection that I pay tribute to the life of Robert Lewis Soto, beloved son of my dear colleague California State Senator Nell Soto. Robert, affectionately called "Bud" by his friends and family, passed away last week at the age of 52. He was a man of great honor, and I join today with family and friends in honoring his memory and remarkable life.

Bud graduated from Pasadena Community College where he was a classically trained musician and soon developed a reputation as being one of the most skilled keyboard players in the area. Despite his avid love for music, he took his immense talent into the business world.

An award-winning construction executive, Bud was best known for his restoration efforts of the San Gabriel Valley and San Fernando Valley Missions. He exhibited tremendous passion, pride, and an immense dedication to his work. He was a beloved part of his family and respected member of his community. His kind and passionate spirit was an incredible resource and blessing to those who knew him.

I join today with family and friends in paying our respects to a man who was a devoted and supportive husband, father, and friend. He is survived by his wife Alice, their three children Nellie, Sally, and Molly; his mother, Senator Nell Soto; his sister Anna; his brothers Phil Jr., Mike, Patrick, and Tom. He will be dearly missed.

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## SEMINAR ON KHALISTAN HELD IN PUNJAB—STEP FORWARD FOR SIKH FREEDOM MOVEMENT

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. TOWNS. Mr. Speaker, last month in Punjab, a seminar was held on the topic of Khalistan. Given the oppression that Sikhs have faced at the hands of the Indian government for attempting to secure their independence, this was a very courageous act. All of those who organized the event and who participated are to be commended for their courage. Freedom is the birthright of every people.

The seminar was organized by former Member of Parliament Atinder Pal Singh. Speakers included Professor Gurdarshan Singh Dhillon, who reportedly made an extremely strong argument for the Sikh Nation's right to self-determination.

The Indian government claims that there is no support for Sikh independence, Mr. Speaker, but this seminar and other events show otherwise. Perhaps this answers the obvious question: If India is a democracy and if there is no support for an independent Khalistan, then why not simply hold a free and fair plebiscite on the issue, as democratic countries do, and settle it once and for all? Wouldn't that be the fair and democratic way to take care of this issue?

America can support this just cause and we have a moral obligation to do so. We can stop our aid to India until all people there enjoy full freedom and we can officially call on India to hold a free and fair, democratic vote to determine the political future of the Sikhs of Khalistan and all the other minority nations seeking their freedom, such as predominantly Christian Nagaland and predominantly Muslim Kashmir.

The Council of Khalistan issued a press release on the Khalistan seminar, which I would like to put in the RECORD at this time to show that the cause of freedom is universal and that it still has strong support in Punjab, Khalistan.

### SEMINAR ON KHALISTAN HELD IN PUNJAB

### INDEPENDENCE MOVEMENT IS ALIVE AND WELL IN PUNJAB, KHALISTAN

WASHINGTON, D.C., December 17, 2003—Former Member of Parliament Atinder Pal Singh organized a seminar on Khalistan last month at Baba Makhan Shah Labana Hall, Sector 30, Chandigarh. Speakers included Professor Gurdarshan Singh Dhillon and others. Dr. Dhillon made a very strong argument for the right of the Sikh Nation to rule itself in a sovereign, independent Khalistan. General Narinder Singh was invited, but unable to attend. This seminar shows that the cause of Khalistan is alive and well in Punjab, despite the claims of the Indian government that there is no support for Khalistan and that only outside Sikhs are supporting independence.

"The outside Sikhs have an important role to play," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. "They have exposed the human rights against the Sikhs to the international community and internationalized the cause of independence for Khalistan," he said. "They have also preserved Sikh history in the Congressional Record from 1984 to date, defeating the Indian government's attempts to alter it. However, it is the Sikhs in Punjab, Khalistan who are keeping the cause alive and liberating Khalistan," he said. "It is very good to see this support for the cause of a sovereign, independent Khalistan," said Dr. Aulakh. On October 7, 1987, the Sikh Nation declared its independence from India, naming its new country Khalistan.

"We salute Sardar Atinder Pal Singh for organizing this important event and we salute all the presenters who presented their papers," Dr. Aulakh said. "They put the Indian government on notice that its effort to suppress the Sikh independence movement by force has failed and will continue to fail," he said.

"The mere fact that this seminar was conducted shows that there is a significant change in the repression in Punjab," Dr. Aulakh said. "It shows that people feel free to exercise their basic right of freedom of speech," he said. "This is a step forward for the liberation of the Sikh Nation. There is a new upsurge of support for the cause of Sikh freedom," Dr. Aulakh said. "The flame of freedom burns brightly in the hearts of the Sikh people, in Punjab, Khalistan and outside as well."

"Every day, Sikhs pray 'Raj Kare Ga Khalsa,' which means 'The Khalsa shall rule,' said Dr. Aulakh. "Sikhs must claim their birthright by liberating Khalistan. I hope that this seminar will be the forerunner to a Shantmai Morcha (peaceful agitation) to establish a sovereign, independent Khalistan, thus fulfilling the desires of the Sikh Nation for Raj Kare Ga Khalsa," he said. "Guru Gobind Singh gave sovereignty to the Sikh Nation and we must achieve it."

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 85,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Mampuris, Dalits, and others. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide."

Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been arrested, tortured, and murdered, then their bodies were declared unidentified and secretly cremated. He was murdered in police custody. His body was not given to his family. The police never released the body of former Jathedar of the Akal Takht Sardar Gurdev Singh Kaunke after SSP Swaran Singh Ghotna murdered him. Ghotna has never been brought to trial for the Jathedar Kaunke murder. No one has been brought to justice for the kidnapping and murder of Jaswant Singh Khalra. According to a report by the Movement Against State Repression (MASR), 52,268 Sikhs are being held as political prisoners in India without charge or trial. Some have been in illegal custody since 1984!

"As Professor Darshan Singh, a former Jathedar of the Akal Takht, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," Dr. Aulakh noted. "We must continue to press for our God-given birthright of freedom," he said. "Without political power, religions cannot flourish and nations perish."

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## HONORING JOHN W. LAKE

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today on behalf of Representative DOOLEY, Representative NUNES and myself, to honor John W. Lake on the occasion of his being distinguished as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. This designation will be bestowed upon Mr. Lake at the annual conference of this organization.

Selection for this distinction is reserved for "special individuals who have, over a period of time, demonstrated consistent commitment and uncommon excellence in the furtherance of education and leadership in California agriculture." The mission of the California Agricultural Leadership Program is to enhance the long-term viability of California agriculture through leadership development, which in turn benefits the people and the communities that agriculture serves.

A native Californian, John graduated from the University of California, Santa Barbara in 1970 with a Bachelor of Arts degree in Mechanical Engineering. He also completed one year of graduate work in Mechanical Engineering at Cal Poly, San Luis Obispo. In 1974, Mr. Lake began his career with Rain for Rent, working his way through the Engineering and Manufacturing Departments and management of Lake and Lake International, irrigation subsidiaries of Western Oilfields Supply Company. He founded Lake Leasing Company in 1983, Rain for Rent's agricultural irrigation equipment financing division. John has served as President and Chief Executive Officer since April of 1990.

Since its beginning in 1934, Western Oilfields Supply Company/Rain for Rent has evolved and expanded in its product offering and the markets it services, providing solutions to temporary liquid-handling problems. Their products and services cover a wide variety of industries, including, but not limited to: construction, petro-chemical, municipal, environmental, agricultural, and other industrial businesses that are serviced by 47 branches and 650 professionals nationwide. During John's tenure as President, the company has expanded into the tank, pump and specialty rental markets.

Mr. Lake is active in the Cal Poly San Luis Obispo Advisory Council, the California Agricultural Leadership Program, the Fellowship of Companies for Christ International, Quest Club, Idaho Irrigation Association and Safari Club International. John and his wife, Sheila, have two sons and attend Fruitvale Community Church in Bakersfield, California.

Mr. Speaker, I rise today along with Representative DOOLEY and Representative NUNES to pay tribute to John W. Lake as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. I invite my colleagues to join me in wishing John many years of continued success.

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## RECOGNIZING NELSON WESTERBERG INC.

**HON. HENRY J. HYDE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HYDE. Mr. Speaker, I rise today to recognize one of the leading corporate citizens in my district, the Sixth Congressional District of Illinois. This year Nelson Westerberg Inc., headquartered in Elk Grove Village, Illinois, will celebrate its 100th anniversary. Not many companies reach this milestone, especially under the same family ownership, and that is why I want to commend Nelson Westerberg Inc., for reaching this historic milestone.

Nelson Westerberg Inc. has been safeguarding and relocating people, products, and offices since 1904 when it opened its first office in downtown Chicago. In 1904, it moved coal, ice and "some furniture" via horse-drawn wagons. Today Nelson Westerberg Inc. has become one of the Nation's leading relocation companies, offering its services to individual households as well as corporate customers.

Nelson Westerberg Inc., also is an active participant in community activities such as the Special Olympics and the Elk Grove Police Department's annual Truck Pull.

Therefore, it is with great pleasure that today I acknowledge the accomplishments of this fourth-generation business as it celebrates its 100th anniversary in 2004.

## HONORING MARGARET DAVIS

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Margaret Davis, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. Margaret is almost a centenarian and at 99 she is a mother to 2 daughters, a grandmother to 5, a great-grandmother to 8, and a great, great grandmother to 9.

Mrs. Davis was born in New York City, but went to school in a schoolhouse in Stamford, Connecticut, on Long Ridge Road. She describes her happiest moments as when her daughters were married. One of her favorite activities today is crossword puzzles with friends.

After 99 years, Margaret says she wouldn't change anything about her life. When asked what advice she'd give to young people she says, "listen to your parents." She says the best thing about growing older is people are very kind because of her age.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Margaret Davis today. I hope we all have the good fortune to live as long as she has. She is truly a great lady and someone with an appreciation for the importance of family and time with friends.

## INTRODUCTION OF RESOLUTION OF INQUIRY REGARDING DISCLOSURE OF IDENTITY AND EMPLOYMENT OF COVERT U.S. INTELLIGENCE OFFICER

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HOLT. Mr. Speaker, six months after a syndicated columnist disclosed the identity of a CIA employee, calling her a CIA "operative," the White House and the Department of Justice have yet to find and hold accountable the person or persons who leaked her name to the press. Congress and the men and women of our intelligence community deserve answers.

I am today introducing a privileged resolution of inquiry to request that President Bush, the U.S. Attorney General, and U.S. Secretaries of State and Defense provide this Congress with factual information in their possession relating to the disclosure of the identity and employment of Ms. Valerie Plame as a covert employee of the CIA. I am pleased to be joined by U.S. Representatives ESHOO, REYES, TAUSCHER, LARSON, TURNER, SPRATT, MORAN, WAXMAN, LANTOS, and CONYERS as original cosponsors of this timely and important legislation.

If passed, this resolution will provide Congress with the information it needs to determine independently the facts surrounding this breach of confidentiality, to assess its effects on U.S. national security and intelligence gathering, and to determine whether legislative action is needed to prevent leaks of this nature in the future.

I submit that protecting our Nation's intelligence community, and all who serve in it, is vital to our national security and to the safety of all Americans. At this time, a resolution of inquiry is the best tool at the disposal of the House to determine how this leak occurred and who perpetrated it.

I am disappointed by the absence of public outrage among senior officials in our intelligence community and in this administration. They should be standing in solidarity with Ms. Plame and the other Americans who serve in our intelligence community, and they should be speaking out against anyone who would presume to unilaterally decide whose identity should be made public. Their silence is deplorable.

Protecting our country and the men and women who protect and defend us is not solely the responsibility of one branch of our Government. It is a shared responsibility under our system of checks and balances. Our Government—including both the Congress and the executive branch—has a duty to ensure that all who work within the U.S. intelligence community are not compromised and that all U.S. intelligence agencies are able to effectively do their jobs and protect the American people from more terrorist attacks and other threats. Some have used the weak excuses that this person's identity was already known by some people or that her work was not very important. These excuses are outrageous. Any unauthorized disclosure potentially puts our agents and our sources and their families at risk and thus weakens our ability to protect Americans.

At the least, I hope that this resolution will exert pressure on the ongoing Department of Justice investigation. I fully support the investigation, but there is no reason why it should be taking so long to get any answers at all. This investigation should be among the Department's highest priorities.

Over the longer term and after we have determined the origin of this leak, I believe that this Congress has an on-going responsibility to examine thoroughly and oversee how our intelligence community uses human sources, human case officers, and various kinds of cover, and how we go about protecting them. We simply cannot accept the public disclosure of an undercover intelligence operative. We must understand what happened and search for ways to prevent it from happening in the future. The effectiveness of our intelligence agencies demands nothing less.

## COMMENDING "MR. AMIGO," BERTHA NOEGGERATH

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. ORTIZ. Mr. Speaker, I wish today to commend the 2003 "Mr. Amigo," Bertha Noeggerath, better known as "Dulce," chosen recently by the Mr. Amigo Association of Brownsville, TX, and Matamoros, Tamaulipas, in Mexico. Each year the Mr. Amigo Association honors a Mexican citizen with the title of "Mr. Amigo," and that person acts as a goodwill ambassador between our two countries.

The Mr. Amigo Award began in 1964 as an annual tribute to an outstanding Mexican citizen who has made a lasting contribution during the previous year to international solidarity and goodwill. "Mr. Amigo'" presides over the annual Charro Days Festival.

The Charro Days Festival is a pre-Lenten event, much like Mardi Gras in New Orleans, held in Brownsville and Matamoros. Charro Days festivities last for several days; this year they will be February 25–28 and will include parades and appearances by Dulce. Charro Days is an opportunity to enjoy the unique border culture of the Rio Grande Valley area.

As Mr. Amigo 2003, Dulce will head the international parade of Brownsville Charro Days and Matamoros Fiestas Mexicanas festivities.

During Charro Days, South Texans celebrate the food, music, dances, and traditions of both the United States and Mexico. The United States-Mexican border has a unique, blended history of cowboys, bandits, lawmen, farmers, fishermen, oil riggers, soldiers, scientists, entrepreneurs, and teachers.

The border has its own language and customs. On both sides of the border, there is a deep sense of history, much of which the border has seen from the front row. We have seen war and peace; we have known prosperity and bad times. Charro Days is a time for all of us to reflect on our rich history, to remember our past and to celebrate our future.

The 2003 Mr. Amigo, Dulce is a musician and actress who continues to have a long and successful career in the entertainment industry. She is originally from Matamoros, Tamaulipas. Her music career began while singing in small nightclubs in her hometown in the early 1990's, before joining the group "Toby y sus Amigos." Her 27-year career includes not only Gold Records and several Spanish-language hits, but numerous television appearances and work in Mexican telenovelas, including "Sonadoras" and "Mujeres Enganadas," with Andres Garcia, Laura Leon, Kuno Becker and Susana Gonzalez. This year she joins the cast of "Las Vias del Amor."

The Mr. Amigo Committee selected Dulce because "she is a good role model for local youths interested in the arts," and because "through her acting and her music she represents the Mexican culture."

I urge my colleagues to join me in commending Dulce Noeggerath, the 2003 Mr. Amigo, as well as the cities of Brownsville and Matamoros, for their dedication to international goodwill between the United States and Mexico.

## HONORING MR. MICHAEL KATZ OF BOULDER, COLORADO

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Mr. Michael Katz of Boulder, Colorado for his exemplary public service.

Over the past 25 years, Michael Katz has been a successful and well-respected federal public defender for Colorado and Wyoming. Since 1978, he has handled thousands of cases, giving quality legal counsel to defendants who could not afford representation. In doing so, he has demonstrated and protected some of the most precious aspects of our democracy and Constitution. Unfortunately, Michael will be retiring this year. Instead of pursuing justice, he and his wife Susan will be pursuing the beauty of the Atlantic Coast as they sail from Chesapeake Bay to Key West.

Michael began his law career in a small law firm with a staff of only three lawyers in a modestly-sized office. Over the years, he has been unswerving in his commitment to environmental protection. Yet his dedication to principles of justice and fairness enabled him to defend environmentally destructive people with professional integrity. Along the way he has also defended criminals whose civil liberties and individual rights are guaranteed by our Constitution.

He has persevered through every challenge, putting justice and the Constitution ahead of his personal beliefs. His tireless dedication has gained national acclaim and respect, as well as leading his office to prominence. After years of hard work, his retirement is well earned. The people of Colorado and Wyoming will certainly miss him and his honorable service to the justice system.

Mr. Speaker, I ask my colleagues to join with me in expressing our gratitude to Michael Katz for his relentless defense of our Constitution. I wish Michael and his family good health and happiness in their future together.

## HONORING GEORGIA TOMPKINS

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Georgia Tompkins, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. On March 29th of this year, Mrs. Tompkins will become a centenarian and at nearly 100 she is a mother to 12 children, a grandmother to 32 grandchildren, and a great-grandmother to 12 great-grandchildren

Mrs. Tompkins was born in New York state and was a housewife. She describes her happiest moments as when each one of her children was born. One of her favorite activities today is playing dominoes.

After almost 100 years, Mrs. Tompkins says she would not change a thing about her life if she had to live it over. When asked what advice she'd give to young people she said, "Work hard and go to church." She says the best thing about growing older is all of the memories from years past.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Georgia Tompkins today. I hope we all have the good fortune to live as long as she has and the ability to live and love as she has. She is truly a great lady and someone with an appreciation for the importance of family and friends.

## CONGRATULATING THE GAINESVILLE HIGH SCHOOL LEOPARDS

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HALL. Mr. Speaker, I am honored today to recognize the Gainesville Leopards for winning the Class 3A Division I state football championship on December 13, 2003.

The Leopards' marquee season was one for the record books. The team finished the season with a perfect 15–0 record, becoming the first Gainesville High School team to ever win a state football championship. They achieved this victory by defeating the No. 1-ranked Burnet High School Bulldogs—a team that boasted the state's top passer and receiver. Led by first-year coach Jeff Cordell, the Leopards fought off a formidable team with a blistering offense to win the game by a score of 35–24.

The game was punctuated by Gainesville's impressive rushing offense. Running back Terrius Purvey led the team with 26 carries for 232 yards, and quarterback Chris Brown scored two touchdowns late in the game. But the win was a team effort, as it had been throughout the season. The 22 seniors, 5 juniors, and 6 sophomores followed the lead of the 11 Leopard's coaches and overcame a season of challenges.

For the town of Gainesville, Texas, the mighty Leopard team brought the community together like never before. After a special sendoff in Gainesville, fans from all over north Texas traveled to Texas Stadium to cheer on the team. A supportive community that proudly displayed Leopard car flags and victory messages backed the united varsity team. On behalf of the players, coaches, and fans, I want to take this opportunity in the House of Representatives to congratulate the new state champions—The Gainesville Leopards.

## HONORING THE MEMORY OF PERRY B. DURYEA, JR., FORMER SPEAKER OF THE NEW YORK STATE ASSEMBLY

### HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BISHOP of New York. Mr. Speaker, I rise today to honor Perry B. Duryea, Jr., the former Speaker of the New York State Assembly and a lifelong resident of New York's First Congressional District, who tragically lost his life last week after having sustained injuries from an auto accident near his Montauk home. Mr. Duryea was an outstanding public servant, successful businessman, and World War II veteran who dutifully served the people of Long Island and the State of New York with distinction for more than four decades.

Perry Duryea began what would become a legendary state political career in his hometown of Montauk, New York, having served as a member of the Montauk Public Board of Education and as president of the Long Island State Park Commission. He was first elected to represent the First Assembly District of the New York State Legislature in 1960, and remained a member of the body until 1978. During his time in the legislature, Mr. Duryea held the post of Minority Leader for 6 years and Speaker of the Assembly for 4 years. Although he was a leader of the Republican party's conservative wing, Mr. Duryea was known for his pragmatic bipartisanship, as he forged strong relationships with members from across the aisle and often supported legislative measures that were unpopular within his own party. Among his most noteworthy achievements was legislation that he initiated and passed to expand the state parks and the state university system. He also championed construction of the Long Island Expressway and the Sunrise Highway extension, and worked hard to promote environmental protection measures. Those who knew Perry Duryea remember him as an extraordinary leader who elevated the status of the New York legislature.

A prominent businessman within his Montauk community, Mr. Duryea also devoted much of his time to various community and civic endeavors which improved the lives of Long Island residents. Born and raised in Montauk New York, Perry Duryea took over the family wholesale seafood business, Perry Duryea & Son, after completing his service as a plane commander with the United States Naval Transport Service during World War II. After leaving politics following an unsuccessful bid for the governorship in 1978, Mr. Duryea returned to running his business and volunteering his time with numerous public and civic organizations, including Long Island Commercial Bank, where he served as Chairman of the Board.

In recognition of his many contributions and achievements, Mr. Duryea received numerous honors, including the distinction of "Man of the Year" by the Montauk Chamber of Commerce, and the naming of a state office building after him. Mr. Duryea is survived by his wife, Marie Therese Duryea, and two children—Lynne Duryea and Perry "Chip" Duryea III.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in honoring the memory of Perry B. Duryea, Jr. Throughout his exemplary career in public service, Mr. Duryea enhanced the quality of life for residents of Long Island and the State of New York. The spirit of bipartisanship with which he conducted his public life garnered him the respect of his peers and served to inspire future generations of community leaders. Mr. Duryea's leadership and strength of character are qualities each of us should aspire to embrace as we carry out our duties in this distinguished body.

## TRIBUTE TO CHRISTIAN HENDRICKS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. NEY. Mr. Speaker, Mr. Christian "Chris" Hendricks, Deputy Inspector General of the House of Representatives will be retiring at the end of this year after a long and distinguished career in service to the United States government. His exemplary career spans twenty-seven years of service, including the last six years with the House of Representatives. Chris' considerable professional skills and credentials as a Certified Public Accountant, Certified Internal Auditor, and Certified Information Systems Auditor have enabled him to assist the House of Representatives in achieving its present standards of safety, security and accountability.

Chris' duties within the Office of Inspector General have ranged from the analysis of the House's financial controls to careful analysis of emerging technologies. His efforts have contributed to improved administrative functions for the House and improved services and security for individual Members. He has worked to ensure fire safety improvements in House facilities and has been critical to assuring the integrity of the House's information technology systems.

Chris will be missed by all of his colleagues, but he can take great satisfaction in the many efforts of his career. Chris' advice and counsel on matters of significant importance to the House will be difficult to replace. I wish Chris and his wife Nancy a joyful and exciting retirement, and I congratulate him once again for his long and distinguished career of service.

## HONORING ELSA F. ANDERSON

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Elsa F. Anderson, a resident of my fifth congressional district of Florida and a woman who has become something very few of us ever will. Elsa Anderson is a centenarian and at 102 she is a mother to 2, a grandmother to 2 grandchildren and a great-grandmother to 11 great-grandchildren.

Mrs. Anderson was born in Stockholm, Sweden, but went to school in New York City. Following school, she worked as an assistant in a specialty shop, in an office and as a housewife. Obviously a dedicated mother, she describes her happiest moments as the births of her two daughters. To this day one of her favorite activities is spending time with them when they come to visit.

After 102 years, Mrs. Anderson says she wouldn't change a thing about her life—she says she enjoys everything she's been given. When asked what advice she'd give to young people she says, "Work hard, be honest, and be ready to enjoy good things." She says the best thing about growing older is that people respect you.

I respect that candor and I'm proud to be her representative in Congress.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Elsa F. Anderson today. I hope we all have the good fortune to live as long as she has and the ability to impart wisdom as eloquently as she has. She is truly a great lady and someone with an appreciation for the importance of friends, family and happiness.

## HONORING THE JOHN BOY AND BILLY RADIO SHOW

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mrs. MYRICK. Mr. Speaker, I would like to honor and recognize the John Boy and Billy radio show. I have known John Boy, Billy, their producer Randy, their guest coordinator Marci, and their entire staff for many years. In fact, I knew them long before they became famous. They have been a great help to me by informing their listeners about important issues that face Congress.

Recently, the John Boy and Billy "Big Show" has been keeping their listeners informed about the War on Terror and the status of our troops overseas. As their listeners know, John Boy and Billy are the two funniest guys you will ever meet, but they are very serious when it comes to supporting our troops. The "Big Show" deserves to be recognized because they set up a United Service Organization (USO) care package drive to help support our troops during the 2003 holiday season.

Through their efforts they helped the USO collect more than $75,000 from more than 1400 of their great listeners. I commend both the John Boy and Billy radio show, and the "Big Show" listeners, for supporting the troops and providing for them during the 2003 holiday season. Due to their efforts, our troops will receive care packages to let them know that they are supported back home, and that we appreciate what they are doing to protect us.

## TAIWAN

### HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HOEFFEL. Mr. Speaker, Taiwan has been a close and valuable ally of our nation since its inception as the Republic of China in 1949. In contrast to the People's Republic of China, both democracy and capitalism have flourished in Taiwan, as demonstrated by its peaceful transition to a multi-party political system and its thriving free market economy.

I support the notion of a united China, but not if it means the assimilation of Taiwan into anything resembling the current People's Republic. Rather, I look forward to the day when both peoples are united in a truly democratic state, and are able to share in the political and economic freedoms of Taiwan. Until this is possible, the United States must use the tools at our disposal to maintain the status quo, guaranteeing the people of Taiwan the freedom they currently enjoy.

Taiwanese President Chen Shui-bian has called for a nationwide referendum in March regarding China's deployment of hundreds of missiles aimed at Taiwan. Asking the Taiwanese people whether Taiwan should purchase more anti-missile defenses in response to this obvious threat does not represent an escalation of tensions with China. On the contrary, this "defensive referendum" is an affirmation of Taiwan's democratic system. We must support this exercise of the right of free expression, which is consistent with our own values.

In this instance, China's inflammatory statements, not Taiwan's referendum, threaten to upset the delicate balance that exists in the region. The United States must remain firm in its support for the people of Taiwan. And until China is ready to adopt a democratic system of government and a free market economy, that means maintaining the status quo.

## HONORING MYRA MACK

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Myra Mack, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. Mrs. Mack is a centenarian and at 101 has lived a full life.

Myra was born in London, Ontario and attended St. George's School. She left school to attend the Army, but joined the women volunteer services instead. She worked as a telephone operator. Following school, she worked as a box girl in a dry goods store. Myra said the happiest event in her life was when she married her husband Joseph. She is most proud of her eighty plus trophies she won over the years in dance competitions.

After 101 years, Myra says she enjoys sitting on her front porch and doing her sewing. Her best advice for young people is to enjoy themselves and play while they are young.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Myra Mack today. I hope we all have the good fortune to live as long as she has. She is truly a great lady and someone with an appreciation for the importance of friends and neighbors.

## HONORING THE 25TH ANNIVERSARY OF THE CATHOLIC DIOCESE OF SAN BERNARDINO

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BACA. Mr. Speaker, today I am pleased to honor the 25th Anniversary of the Catholic Diocese of San Bernardino and the leadership of Bishop Barnes.

In 1978, Pope Paul VI created the Diocese of San Bernardino. Serving over 1,000,000 Catholics in ninety-seven parishes, the Diocese has served as the moral compass and religious center to the citizens of San Bernardino.

Not only has the Diocese of San Bernardino served the Catholic citizens of San Bernardino, its thirty-four Catholic schools have provided quality education to 8,500 students of all faiths and its two Catholic hospitals continue to save lives and keep the residents of San Bernardino healthy.

Since 1996, Bishop Gerald Barnes has led the Diocese of San Bernardino. Always a devoted teacher and educator, Bishop Barnes has also dedicated himself to fighting against the injustices that people of all races and backgrounds face.

Under the guidance of the founding Bishop, Phillip Straling and then Bishop Barnes, the Diocese has worked tirelessly to improve the lives of all citizens of San Bernardino.

I am pleased to honor the 25th anniversary of the Catholic Diocese of San Bernardino and the leadership of Bishop Barnes.

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## NEW YEAR'S WISHES FOR FREEDOM FOR THE SIKHS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. TOWNS. Mr. Speaker, recently my friend Dr. Gurmit Singh Aulakh, the President of the Council of Khalistan, issued a New Year's message to the Sikhs. In it, he took note of the progress that has been made towards freedom for the Sikhs and other minority nations in South Asia. He also wrote that the effort to liberate the Sikh homeland, Khalistan, must continue.

As you may know, the Sikhs declared their independence from India on October 7, 1987. They named their country Khalistan. Since that time, tens of thousands of Sikhs have been murdered to suppress the Sikh freedom movement and tens of thousands more have been held as political prisoners.

Dr. Aulakh noted that seminars on Khalistan were held openly last year. He noted the ceremony honoring Sikh martyrs Satwant Singh, Beant Singh, and Kehar Singh. He wrote about recent initiatives by the Khalsa Panchayat to move the cause of freedom for the Sikhs forward.

Mr. Speaker, the right to self-determination is the cornerstone of democracy. It is time for the United States, founded on the principle of self-determination, to support self-determination for the Sikhs. We can do this by cutting off our aid to India until the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and all the minorities enjoy full rights and freedom and by putting the Congress on record in support of self-determination for Khalistan, Kashmir, Nagaland, and the other nations seeking their freedom in the form of a free and fair plebiscite on the question of independence.

Mr. Speaker, I would like to place Dr. Aulakh's letter into the RECORD at this time for the information of my colleagues.

NEW YEAR'S MESSAGE TO THE KHALSA PANTH

WASHINGTON, Jan. 19.—Happy New Year to you and your family and the Khalsa Panth. May 2004 be your best year ever.

The Guru gave sovereignty to the Sikh Nation. ("In Grieb Sikhin Ko Deon Patshahi.") The Sikh Nation must achieve it. We always remember it by reciting every morning and evening, "Raj Kare Ga Khalsa." Now is the time to act on it. Do we mean what we say every morning and evening?

The fire of freedom still burns strong and bright in the heart of the Sikh Nation. 2003 was an encouraging year for the Sikh freedom struggle. Sikhs openly held seminars in Punjab on the subject of Khalistan. This is a very good sign and we salute the people who participated in these seminars. They are keeping the flame of freedom lit. Now I urge Sikhs to unite and take action to liberate our homeland, Punjab, Khalistan. It is time to start a Shantmai Morcha to liberate Khalistan from Indian occupation.

Never forget that the Akal Takht Sahib and Darbar Sahib are under the control of the Indian government, the same Indian government that has murdered over a quarter of a million Sikhs in the past twenty years. The Jathedar of the Akal Takht and the head granthi of Darbar Sahib toe the line that the Indian government tells them. They are not appointed by the Khalsa Panth. The SGPC, which appoints them, does not represent the Sikh Nation anymore. They have become the puppets of the Indian government and have lost credibility with the Sikh Nation. Otherwise they would behave like a real Jathedar, Jathedar Gurdev Singh Kaunke, rather than like Indian government puppet Jathedar Aroor Singh, who gave a Siropa to General Dyer for the massacre at Jalianawa Bagh. These institutions will remain under the control of the Indian regime until we free the Sikh homeland, Punjab, Khalistan, from Indian occupation and oppression and sever our relations with the New Delhi government.

The Sikh Nation is a nation of martyrs. It is encouraging that the SGPC and the Akal Takht honored the Sikh martyrs S. Satwant Singh, S. Beant Singh, and S. Kehar Singh. Recent initiatives by the Khalsa Panchayat to bring the Sikh tradition and glory to the Khalsa Panth are highly appreciated. This is a good start to establishing Khalsa Raj as the Akali movement in the 1920s freed the Sikh Gurdwaras from the Mahants who were puppets of the Indian government. Today, the Akali leaders are the new Mahants.

The Akali Dal conspired with the Indian government in 1984 to invade the Golden Temple to murder Sant Bhindranwale and 20,000 other Sikh during June 1984 in Punjab. If Sikhs will not even protect the sanctity of the Golden Temple, how can the Sikh Nation survive as a nation?

The Akali Dal has lost all its credibility. The Badal government was so corrupt openly and no Akali leader would come forward and tell Badal and his wife to stop this unparalelled corruption. That is why the Akali Dal was defeated in the elections by the Congress Party.

Chief Minister Amarinder Singh has done one good thing for which we must appreciate him. He is prosecuting Badal, his son, and his wife for their corruption during their five years in power, 1997–2002. How could a Chief Minister of modest means amass over Rs4300 crore? He should pay the taxes on this wealth and account to the Sikh Nation where he got it. This ill-gotten wealth should be confiscated.

Badal has destroyed the moral fabric of the Sikh religion. What happened to the concept of fairness and honesty? Because Sikhs are slaves in India, there is nobody to defend the Sikh interests internationally. Recently, an issue came up of the French banning the wearing of turbans in school. If Khalistan were free, the Sikh Nation could call the French Ambassador and tell him to stop this harassment of Sikhs. Our Ambassador to France would tell the French government the same thing: the turban is part of the Sikh religion and Sikhs should not be harassed.

When Sikhs ruled Punjab, a French general, General Ventura, commanded the Sikh artillery. He himself wore a beard and a turban. In World War II, the Sikh army wearing turbans helped to liberate France so that France could enjoy freedom.

Khalsa Ji, let's pray to Guru for freedom, unity, sovereignty, prosperity, and happiness for the Sikh Nation around the world and for everyone. The Khalsa Panth is determined to establish Khalsa Raj, as the events of this past year show.

India is not one country. It has 18 official languages. Soon Kashmir will be free from Indian occupation. Now America is involved in it. As L.K. Advani predicted, "When Kashmir goes, India goes." We agree with him.

When I met President Bush on December 5, he personally told me, "I am aware of the Sikh and Kashmiri problem and we stopped India and Pakistan from going to nuclear war." The Sikh diaspora has a moral responsibility to help the Sikh Nation to achieve its sovereignty by freeing Khalistan from Indian occupation.

As President of the Council of Khalistan, I wish everybody a 2004 that brings freedom, prosperity, and happiness to you and to the Khalsa Panth. A free Khalistan is a must for the survival of the Sikh nation and will provide an optimal environment for the Sikh Nation to progress to its optimum potential politically, religiously, and economically.

Panth Da Sewadar,
DR. GURMIT SINGH AULAKH,
*President, Council of Khalistan.*

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## HONORING WILLIAM J. ANDERSON

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor William J. Anderson, a resident of my Fifth Congressional District of Florida and a man who has become something very few of us ever will. William Anderson is a centenarian and at 101 years old he is a father to one child, a grandfather to four grandchildren and a great-grandfather to three great-grandchildren!

Mr. Anderson was born in Boston but went to school in Wellesley, Massachusetts. Following school, he became a teacher. He describes his happiest moment as the birth of his son and most fondly remembers his childhood summers in Prince Edward Island.

After 101 years, Mr. Anderson says if he had it all to do over again, he'd like to work for the government—maybe even the IRS! When asked what advice he'd give to young people he said he'd tell them to work hard, stay out of trouble and drive safely. He says the best thing about growing older is the freedom to do what you want to and the time to travel.

Mr. Speaker, and my Colleagues, I ask that you join me in honoring William Anderson today. I hope we all have the good fortune to live as long as he has. He is truly a great man and someone with an appreciation for the importance of happiness and freedom.

## RUDY deLEON'S ELOQUENT TRIBUTE TO FORMER CONGRESSMAN NICHOLAS MAVROULES

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### HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. MEEHAN. Mr. Speaker, I was saddened to learn of the death of former Congressman Nicholas Mavroules, a dedicated public servant, leader, and family man.

At the funeral service for Congressman Mavroules on December 30, 2003, at St. Vasilios Greek Orthodox Church in Peabody, Massachusetts, Mr. deLeon delivered an eloquent tribute to Congressman Mavroules that touched me and all others who were present. He described the lifelong dedication that Congressman Mavroules gave to his beloved family, friends, colleagues, and constituents in Massachusetts, and his devoted service to this country.

Rudy deLeon's touching eulogy to Congressman Mavroules should be of interest to all of us. I ask that it be submitted to the RECORD.

His Eminence, Metropolitan Methodios; Current and former Members of the Massachusetts Congressional Delegation: Congressman Tierney, Congressman Neal, Congressman Meehan, former Congressman Harrington—Then as now, one of the most capable delegations in the Congress.

On behalf of the family of Nicholas Mavroules—his wife of 53 years, Mary—his daughters Debbie, Gail and Brenda and their families—and the other family, friends, colleagues and constituents—I would like to thank you for remembering and honoring a remarkable man. A man of family; a man of community; and, a man of public service.

Nick began his political career in the late 1950's, and I once asked—did you ever meet John F. Kennedy.

He responded, "yes, Senator John F. Kennedy."

His daughter—very young daughter Gail—was with him. Her response, "Dad, that man should run for Mayor of Peabody."

In 1978, Nick Mavroules would be elected to the U.S. House of Representatives, serving the 6th Congressional District of Massachusetts for 14 years.

But it was in the 1980's, serving on the Armed Services Committee, where Nick would have his greatest impact.

The decade began with the inauguration of Ronald Reagan as the 40th President of the United States. It ended when the Berlin Wall came down in 1989, followed by the dissolution of the Soviet Union in 1991—ending communist rule in Russia.

In between was one incredible debate—and, of course—Nick Mavroules was right in the center. Along the way there were discussions of human rights in Central America, nuclear disarmament, Pentagon accountability, and the morale and welfare of U.S. troops.

In the course of his service, he would join and lead the debate—both in the Nation's Capital and on the North Shore—about the direction and course of our nation. The debate would take Nick to many places:

1981: Visit with U.S. forces in Germany.

1982: Northern Ireland.

1983: Two trips to Beirut, Lebanon. The first to spend July 4th with the troops; the second to lead an Armed Services Committee investigative team after 283 U.S. Marines were killed in a terrorist bombing during a peacekeeping mission at the Beirut International Airport. In the Committee's final report of December 1983, Nick would write, "A war of terrorism has begun and is likely to continue for the foreseeable future."

1985: A session with U.S. negotiators in Geneva—center of talks with the Soviet Union on nuclear weapons. He would meet with President Reagan in the Oval Office after this trip.

1986: San Salvador, El Salvador. A meeting with the Jesuit's at the University of Central America—priests would later be assassinated in their rectory.

1987: Baghdad, Iraq; Kuwait City; Taif, Saudi Arabia: An inspection delegation to review the security of U.S. forces in the Persian Gulf during the Iran-Iraq war. Most notable was a vigorous session in Baghdad with the Foreign Minister of Iraq, Tariq Aziz, on Iraq's use of chemical weapons in its war with Iran.

1988: As an emissary of the U.S. State Department, Nick engaged in a private dialogue with Greek Prime Minister Andreas Papandreou, providing a framework that produced the current U.S.-Greece agreement on military bases.

1989: Appointment to the House Select Committee on Intelligence, performing oversight of the CIA and other elements of the intelligence community. Nick's input: to require that intelligence be accessible to the U.S. forces deployed and at risk.

During this time, he was also engaged in the significant legislative work on national security that included:

The 1986 Defense Reorganization—the Goldwater-Nichols Act—that fundamentally restructured military command and control—so that troops serving in high-threat combat and peacekeeping missions—would have a responsive and dynamic military chain of command.

Implementation of the Packard Commission recommendations to reform Pentagon acquisition practices.

Legislation that limited the deployment of nuclear ballistic missiles, and ensuring that missile defense technology be treaty compliant.

Funding for the Navy's F-18 fighter, powered by GE engines from Lynn. Twenty years later the F-18 remains as the backbone of Naval Aviation;

And, the Small Disadvantaged Business Act that allowed more American citizens to compete in government contracting.

Throughout his service in Congress, Nick would earn the respect and trust of his colleagues. From Massachusetts: Senators Ted Kennedy, Paul Tsongas and John Kerry, Speaker Tip O'Neill, Joe Moakley, Ed Markey and Jim Shannon, Barney Frank and Joe Kennedy. And other Members of Congress, including Sam Nunn, Barry Goldwater, John Clenn, Les Aspin, Sam Stratton, Bill Nichols and Beverly Byron. His colleagues in Congress would conclude this about Nick Mavroules: He was always a gentleman. He was always well prepared. And, he always kept his word.

But, no matter the challenge in Congress, the highlight of each week would be Nick's return home to Mary and the girls. From his daughters and grandchildren came these comments:

Grandson Michael: He told me stories of himself in my place to lift my spirit; He never said, "No, Forget it, don't bother" or anything to that degree when I told him about my goals in my life I wish to go by; Any time I ever spent with him was always a good time no matter what the situation or event was; You were always there for me no matter what the situation was. The worst thing in my life was to see you go. I love you with all my heart and I always will.

Grandson Matthew: Taking me on my daily paper route. Calling me to make sure that I was ready to be picked up. You would say, "Can you believe I went from a Congressman to a paper boy. I went from being chauffeured to chauffeuring. Telling me never to forget our roots or where you came from.

Son-in-law Wayne: You weren't just a husband, dad or grandfather you were a best friend. You really had to feel very special to be Nick's friend. To Kristen and Nicholas, you just weren't a Papou but more likely considered a dad to them. Stories of baseball and basketball when you played but as he told his stories, he told the grandchildren not to do what he did. When he watched the Red Sox and Patriots blow a game was so comical. If they pulled it out and won he would say "there's not a better team. Aren't they great!"

Grandson Jon: "No bird soars too high, if it soars with its own wings"—This could mean so many different things to many different people but it only means one thing when it comes to my mind. Everything that my grandfather taught and showed me in my life comes down to one thing. You will be most successful in life if you do things on your own and with some guidance of people who are close to you. Words cannot express how much love I will continue to have for my grandfather and how proud I am to say that my grandfather was Nicholas Mavroules.

Daughter Gail: Calling the boys over to your house when your clicker didn't work, remote controls, setting up your phone, TV, voice mail, teaching you all your buttons in your new car, and how proud you were of them because they had the knowledge of technology. How you would call us everyday from D.C. to check on us and how you would know from the tone of our voices if we were fine or not. You knew us like books. Warning the Capital Security and House Members when your grandchildren came to visit. How they would run through the halls going into other members, offices until they found you. Discussing at dinner and everyone taking turns including you and Ma. What was the best and worst part of everyone's day. How you loved that. I will forever miss your kindness, your smile, the warmth and softness of your hands, your guidance, loyalty, your love and affection, support but most of all being our champion and tower of strength. You taught us values to live by. In our lives you were bigger than life, you made us so proud and we will always live in your extraordinary legacy. You're our mentor and now our guardian angel. I love and thank you with all of my heart which you took a piece of with you and hope it lives within you as your soul will with me.

Daughter Brenda: I will always treasure these special times we shared. There wasn't anything that we didn't discuss. You always said the right things. You were my dad, hero, and friend. God needed an angel in heaven, and he took you, but he also took a special part of me. I wish everyone had the opportunity to be blessed with two beautiful parents like I was. I will miss you buddy and will love you always.

Daughter Debbie: You were my dad and my tower of strength. When I was weak you were my strength. You were my sports buddy every week during a Pats game or a Red Sox game, and if we weren't watching them together I would be on the phone with you at least five times. I started every morning by hearing you answer the phone. "Hello Deb, what are you doing Dad? Having coffee and toast and reading the papers by starting with the sports section first." You were a father to my children who adored you. You fought tooth and nail for us and always said no one will ever abuse you and the kids again. What a price you paid for our freedom. That's what Nick Mavroules was all about. The kindest, most caring, and loving individual who never forgot where he came from. That's my dad, our dad. Even from a sick hospital bed he always said take care of your mother and take care of the kids and each other and always stay together as one. Thank you for your endless love and family values.

Son in Law Phil: When I first met your daughter you did not trust me. Who was this "Irish guy taking out my daughter." Our first date, Brenda had to be home by ten o'clock PM until you trusted me with your little girl. Once I was "cleared" you welcomed me with open arms.

On my first trip to Washington I was in awe of how many of the police officers, wait staff and regular people knew Nick and he knew them. He always treated them with the same respect as he did the Head of State. Nick you were a "class act."

Nick, I remember the birth of David. Once again you were sharing your life for others. I know when you called from the Navy ship you were so proud. David and you developed a very special relationship. David idolized you and relished the opportunity to spend time with "Pap." Alexis, what can I say. She is the only one who could convince the former Chairman of the Armed Services' Intelligence Committee to be a student who needed to complete his "dot to dot" assignment. Both David and Alexis loved their Papou. You were their hero and both of them will truly miss you.

Nick, I thank you for the opportunity to marry your daughter. I knew from the start that I could never be the number one man in Brenda's life. That spot was reserved for you. I can only try to live up to your standards. I will try my best to take care of your daughter and grandchildren.

Granddaughter Alexis: Papou was Alexis's favorite student. He was her "dot to dot" champ. Alexis told Papou when he came home from the hospital she would allow him to be the principal. Alexis and Papou had a special code, on every hour Alexis had to give Papou a kiss. Papou these kisses will never stop. When you feel tiny lips on your cheek, it's me still loving you. You will always live on in my heart Papou. I love you.

Grandson David: You helped me and you guided me through good and bad. I remember when I had social studies homework and it was about the government. I would call Papou and ask him and he would help me. We used to hang out together, talk about his past, talk about the economy, and why things happen. I loved spending time together and you don't know how much I loved it. You were my best buddy and my pal. I will miss you and I will cherish you forever and ever. I love you Papou.

(Conclusion)

Nicholas Mavroules left us on Christmas morning. We will remember him. And, we will miss him. But, we can all find consolation in an angel's Christmas morning blessing found in the Gospel of Luke:

> "Glory to God in the highest,
> And on earth peace to men on whom his favor rests."

With God's blessing, we say peace to our friend Nick Mavroules.

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## HONORING THERESA MARCELLA (PALOMARES) FUENTES

### HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor Theresa Marcella (Palomares) Fuentes, affectionately known to all as Teddy. She was born on January 16, 1924 in Los Angeles to Robert F. & Bessie (Duarte) Palomares. A fifth generation native Californian, Theresa is a direct descendent of Don Ygnacio Palomares, original Spanish land grantee of the historic Rancho San Jose located furthest from San Gabriel Mission and encompassing the area that today includes Pomona, San Dimas, La Verne and adjacent areas.

Teddy was educated in Los Angeles Catholic parochial schools, including St. Mary's Grammar School at 4th & Chicago in Boyle Heights, and later graduated from Catholic Girls High School. Immediately following graduation Theresa enlisted in the United States Navy Women's Auxiliary (WAVE's) Corps during the height of World War II, and was stationed in Washington, DC performing clerical duties for the Navy Department.

Upon her Honorable Discharge from the Navy following the war, Theresa married her childhood sweetheart Robert H. "Bob" Fuentes, also a Los Angeles native. Together they had 10 children, Christina Marie, Roberta Theresa (married to James F. Buescher), Charles Patrick (married to Linda L. Unruh), Andrea Elizabeth (married to Robert C. Kunkel), Cecelia Catherine, Robert Henry III (married to Cynthia Vetter), Mary Carole (deceased), Christopher Francis, Joseph Aloysius (married to Amy D. Boothe), and Caroline Bernadette "Buffy" (deceased), and made their home in Norwalk and later Cerritos.

A devoted homemaker and helpmate, Teddy immersed herself in the education and development of her children, amply demonstrating her talents as an accomplished artist and painter, expert seamstress, first-rate cook, as well as noted hostess in furtherance of her husband Bob's political career. After the untimely death of Bob Fuentes at age 50, Teddy took up the mantle of family matriarch and entered the workforce as a Sales Representative for Coca-Cola Bottling Company, retiring in 1991 after 14 highly successful years.

Teddy Fuentes has made many outstanding contributions to church, civic and community endeavors, including service as Grand Regent of the Santa Teresita Court of the Catholic Daughters of America, and active memberships in the American Business Women's Association, Native Daughters of the Golden West, Past Grand Knights Association of the Knights of Columbus Council 3678, Gadabouts Senior Club, and Cerritos Senior Citizens.

A world traveler par excellence, Teddy has traveled throughout the Americas, Europe, and the Middle East including several trips to Israel where she was baptized in the Jordan River, and Egypt where she rode camels at the pyramids and Sphinx.

Theresa Marcella Palomares Fuentes celebrated her 80th birthday on January 16, 2004 together with her large family and numerous friends including her six grandchildren Jennifer Marie Hood, Holly Alana Hood, Ryan Anthony Kunkel, Lauren Elizabeth Kunkel, Laurel Frances Fuentes and Robert Henry Fuentes, IV. I take great pleasure in noting the wonderful life and achievements of Theresa Marcella Palomares Fuentes, extend sincere best wishes on the happy occasion of her 80th birthday and wish her continued happiness and good health.

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## HONORING RICHARD SILVER

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Richard Silver, a public servant who has dedicated his life to caring for and comforting our country's veterans.

Dick Silver has worked in various capacities for the U.S. Department of Veterans' Affairs for more than fifty years. During that time, he has served as the director, assistant director, administrator, and personnel services officer at VA hospitals in Massachusetts, Washington D.C., New Jersey, North Carolina, and eventually, in Florida.

Dick was appointed Director of the James A. Haley VA Medical Center in Tampa, which is near my congressional district, in 1979. The hospital, and its associated outpatient clinics, nursing homes, and domiciliaries, serves many of my constituents and has grown dramatically during his tenure. He has guided the hospital through trying times with humor, grace, and an abiding respect for the men and women who seek care at his facilities.

I worked closely with Dick over the past decade to build a spinal cord injury unit at the Tampa VA. Dick's guidance, wisdom, and knowledge were instrumental in helping me secure the necessary Federal funding for the project. He oversaw construction of the unit which, in the words of VA Secretary Principi, provides the best care in the country for veterans with spinal cord injuries and dysfunction.

Mr. Speaker, I am honored to know and have worked closely with Richard Silver for so many years. His leadership, dedication, and professionalism have been an asset to me, our country, and those for whom he and his staff care.

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## HONORING HATTIE HALL

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Hattie Hall, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. Mrs. Hall is a centenarian and at 101 she is a mother to 5 sons, a grandmother to 10 grandchildren, and a great-grandmother to 19 and has 3 great, great-grandchildren!

Hattie was born in Savannah, Georgia and went to school at Savannah State College. Following school, she worked as a school teacher and a nurses' aid. She describes her happiest moments as going shopping with her uncle, her mother and her brother. One of her favorite activities is painting pictures.

After 101 years, Hattie says she only wished she had learned to paint at a younger age. When asked what advice she'd give to young people she says, "always do the right thing and remember to pray." She says the best thing about growing older is having a good son to take care of her.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Hattie Hall today. I hope we all have the good fortune to live as long as she has. She is truly a great lady and someone with an appreciation for the importance of family and friends.

## HONORING ARLINE WHITAKER

### HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to honor a friend and colleague who has played a major role in local government in my district, Arline Whitaker. As the Chair of the Farmington Town Council for the past 7 years, Arline has served her town with distinction and dedication.

Arline has been an active, constructive voice in the Farmington community for decades and first entered local government in 1979, serving as a member of the Farmington Town Council from 1989–2004. In addition, she chaired the Conservation Commission from 1988–1989. She continued to serve in various capacities in local government while also contributing her keen mind and boundless energy to develop many local organizations, including the Hill Stead Museum, the Stanley Whitman House, Friends of the Farmington Library, the Farmington Garden Club, and Services for the Elderly, among many others.

In her 7 years serving as chair of the Farmington Town Council, Arline has provided the leadership, enthusiasm, and long hours of hard work to accomplish an impressive list of projects. She led the initiative to build a new senior center, police station, and expand the Farmington library, while also acquiring 554 acres of land for open space preservation. She was involved with the creation of a new upper elementary school that provides our children needed classroom space. In addition, her relentless effort to seek State and Federal funding for local road improvements and the Rails to Trails project has brought new opportunities to Farmington residents to keep fit and enjoy their remarkable, scenic, and historic town.

Arline's long service to the town of Farmington is notable and commendable because it both preserved and protected a rich and wonderful history and prepared Farmington to continue as a strong community for decades to come. As a friend of Arline's, I wish her good health, high energy and joy in all she undertakes, with the time released from her many public responsibilities. My thanks for her public service, the high standards to which she held herself, and for her personal friendship.

## CONGRATULATING ALYN KIEL ON HER ESSAY REGARDING PURPLE LOOSESTRIFE, AN INVASIVE SPECIE

### HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HOEKSTRA. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD an essay written by Alyn Kiel, an 11th grade student at Montague High School in Montague, MI. The essay is titled "Purple Loosestrife: A Beautiful Killer," and it is an excellent discussion of a very serious but commonly overlooked environmental problem around the Great Lakes and throughout the Nation.

Purple Loosestrife is one of the most common invasive non-native species in the United States and Canada. Imported from Europe in the early 1800s, this plant is virtually impossible to eradicate, and its vegetative dominance often crowds out native plants and animals.

Ms. Kiel's essay is the winner of a recent essay contest for Michigan high school students sponsored by the Great Lakes Sea Grant Network and The Muskegon Chronicle. Students were asked to propose a creative, realistic and environmentally sound plan for managing an aquatic non-native invasive species in the Great Lakes.

As a Member of Congress whose district borders roughly 200 miles of beautiful Lake Michigan shoreline, I have observed firsthand the devastation invasive species can cause to the ecosystem and the economy. I am pleased to insert this essay into the CONGRESSIONAL RECORD, and I hope that its presentation will continue to raise awareness of this serious environmental problem.

PURPLE LOOSESTRIFE: A BEAUTIFUL KILLER

(By Alyn Kiel)

Imagine a quiet walk along the lakeshore after a long absence. As you stroll along, you notice clusters of lavender flowers, and remark at their beautiful appearance. But as your journey continues, you see that most of the usual flora and fauna you would have observed a decade ago have completely disappeared. The culprit? The supposedly innocent plant you remarked upon earlier: purple loosestrife.

Purple loosestrife, or Lythrum salicaria, was brought to the eastern United States in the early 1800s by settlers as a medicinal herb and in the ballast holds of European ships. The spread of purple loosestrife increased with the construction of waterways, railways and canals. By the 1930s, it had moved inland [and could be found in most states and provinces] in the United States and Canada.

One of the most recognizable features of this marsh monster is a ridged, square stem. One plant can produce up to 30 stems from one central root mass. Leaves are smooth and attached directly to the stem. Flowers appear between late June and late September, and are purple in color.

Over 3 million seeds can be produced by one mature plant. Seeds are small, light and easily dispersed by wind. Each seed has high viability (nearly 100 percent germination rate) and remain so after years of being buried under soil or submersion under water. Seeds can be transported by animals, clothing, vehicles and rainfall, which carries them into river systems and wetlands.

Nicknames for purple loosestrife—beautiful killer, marsh monster and exotic invader among them—are extremely illustrative. Purple loosestrife easily establishes itself within urban and rural wetland areas. Once it's present, it's nearly impossible to destroy. It has a tendency to dominate native vegetation. This change in species composition has drastic effects on the wildlife population. Loosestrife [frequently] blocks water flow in ditches and irrigation canals.

No herbicides are currently approved to control loosestrife,** but small outbreaks can be removed by hand digging, as long as all pieces of root tissue are removed. However, for large scale infestations, this is costly and time consuming, and therefore is not a practical solution.

One innovative option being used in many wetlands across Canada and some areas of North America is Integrated Pest Management (IPM). Through this form of biological control, purple loosestrife is reunited with its natural enemies. Four insects are currently being used—two leaf eating beetles, a root mining weevil, and a seed weevil. These plant eating insects do not harm any other native plants or the natural environment. In certain areas of North America, IPM is providing total control of loosestrife. Through this method, purple loosestrife is effectively destroyed and herbicides and chemicals do not have to be used in sensitive areas.***

A second method of biological control is the removal of garden varieties of purple loosestrife. Although it was originally believed that garden varieties of loosestrife were sterile, recent scientific studies have shown that they are indeed capable of seed and pollen production. These varieties of loosestrife can exchange pollen with other cultivars and the wild population. The majority of wild infestations of purple loosestrife are the result of garden escapes.

The best way to remove loosestrife from a garden is through hand digging. All pieces of root tissue should be removed and plant material should be dried out thoroughly before disposal. Root masses can be treated with an herbicide, such as Round-Up. All plant material should be placed in a dark colored garbage bag and secured tightly to prevent infestation of the landfill.

In Canada, an exchange program has been created to exchange purple loosestrife for an environmentally safe native plant. Experts dispose of the loosestrife correctly, and residents are given native plants similar to loosestrife to replace in their gardens. A program such as this would be beneficial for Western Michigan. In this way, the purple loosestrife population is controlled, and the rebuilding of native habitats is promoted.

In order to prevent infestation of native habitats, it is necessary for informational programs to be created and promoted further within this area. As community members are informed of the danger of loosestrife, the greater amount of supporters will be gained for its control. If the entire community works together to exterminate this problem, [we will come] closer to rebuilding our wetlands.

*A healthy, mature plant can produce up to 2.7 million seeds per year.

**Currently, glyphosphate, sold under the trade name RODEO, is the only effective purple loosestrife herbicide that is registered for aquatic use. However, it is non-selective and will affect the vegetation surrounding the target plant.

***Based on studies, three insects have been approved for release in the U.S., including one root boring weevil and two leaf eating beetles. The use of a pest's natural enemies to regulate its population and reduce damage is referred to as biological control. Biological control is only one method of Integrated Pest Management (IPM), which is a strategy to control a pest using a combination of methods.

Source: Purple Loosestrife in Michigan: Biology, Ecology, and Management, 1997, produced by Michigan Sea Grant and Michigan State University Extension.

## HONORING JAMES OWEN RUSH

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor an Irish Catholic and New Deal Democrat, Jim Rush. Beloved husband of Joan, Jim passed on January 2, 2004 after a hard-fought two year battle against cancer, surviving much longer than the doctors had ever predicted.

James Rush was born December 9, 1938, at Providence Hospital in Oakland, to two veterans of the Oakland General Strike, Eugene Rush and Esther Kelly-Rush. He attended and graduated Sacred Heart and St. Elizabeth's High School in Oakland. Just like his father, he lived his entire life at 472 & 474 W. MacArthur Boulevard, in the houses his grandfather, Owen Code Rush built sometime near 1870.

After high school, Jim was the night-manager at Doggie-Dinner's in Oakland. In 1962 he joined Teamsters Local 70 and was elected Chief Steward at Sears in 1969. He was arrested 3 times in the Coors Strike in Alameda in 1970. In 1972, he led the Sears Strike and was also elected Recording Secretary of Teamsters Local 70. Jim was injured on the job in 1980 and joined the law offices of John E. Hill, investigating "Serious & Willful Fraud of Injured Workers by Employers & Insurance Companies."

In 1981, Jim became interested in Palmistry & Tarot Card Reading, eventually becoming a world-renowned spiritualist and author. Published and broadcast under the name Jay Owen Swift, he founded Oakland's Palmistry Academy of Ancient Wisdom and until 2001, hosted the "Mystic-Eye," a spiritually oriented radio show on KEST in San Francisco.

In 1985, Jim was elected to the board of directors of the Instituto Laboral De La Raza, a non-profit community organization dedicated to assisting Latino immigrant working families in San Francisco, where he remained an Advisory Board Member until his death. In 1996, Jim was elected to the Executive Board of SEIU Local 616 after organizing the staff of his law firm into the union. He was appointed as a delegate to the Central Labor Council of Alameda County AFL–CIO in 1997 and elected by his fellow delegates to the Council's Union Label and Credentials Committee. On September 20, 2002, Jim was awarded the Instituto's "Santo Patricio Award." James P. Hoffa, General President of the International Brotherhood of Teamsters traveled from Washington D.C. to make the presentation.

Finally, I want to honor him for being an exemplary role model, community leader, and friend. I take great pride in joining Jim's family, friends and colleagues to recognize and salute the accomplishments and contributions of James Owen "Jimmy" Rush.

## HONORING ROSE DERGIN

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Rose Dergin, a resident of my Fifth Congressional District of Florida and a woman who has become something very few of us ever will. Mrs. Dergin is a centenarian and at 101 she is a mother to one child, a grandmother to three grandchildren, and a greatgrandmother to five greatgrandchildren!

Mrs. Dergin was born in New York City but went to School in Englewood Cliffs, New Jersey. At 17 she worked as a long distance telephone operator and following school, she worked as a bookbinder. She describes her happiest moment as her wedding day. Today one of her favorite activities is playing cards until her eyes hurt!

After 101 years, Mrs. Dergin says if she had to live life all over again, she'd love to be a sketch artist, a hobby she had to give up in order to support her family. When asked what advice she'd give to young people she said, "Listen to your parents." She says the best thing about growing older is having her family around.

Mr. Speaker, and my colleagues, I ask that you join me in honoring Rose Dergin today. I hope we all have the good fortune to live as long as she has. She is truly a great lady and someone with an appreciation for the importance of family and closeness.

## TRIBUTE TO JOHN THOMAS DYE SCHOOL ON ITS 75TH ANNIVERSARY

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. WAXMAN. Mr. Speaker, I rise today to pay tribute to a truly remarkable educational institution in the 30th Congressional District—the John Thomas Dye School—on its 75th anniversary.

The John Thomas Dye School in Los Angeles, California, was founded in 1929 by Cathryn Robberts Dye and John Thomas Dye II. Originally named the Brentwood Town and Country School, it opened with ten students in 1929 at the corner of 26th Street and San Vicente Boulevard. One of these students was the founders' own son, John Thomas Dye III, who later was tragically killed while a pilot in World War II. In 1959, the school was renamed the John Thomas Dye School in memory of its fallen son.

In 1960, the school was moved to its present campus at 1141 Chalon Road. The very next year, the school burned to the ground in the Bel Air Fire. Thanks to the dedication of its founders, and the unwavering and generous support of the community, the school was rebuilt in one year.

Today, this independent, nonprofit school educates children from preschool through 6th grade. In addition to its strong academic program, the John Thomas Dye School places special emphasis on the "Five Cs": Caring, Common Sense, Consideration, Cooperation, and Courtesy. Throughout its 75 year history, the school has touched the lives of over 1,500 graduates, thousands of parents, and an exceptional faculty and staff.

I ask my colleagues to join me in congratulating the John Thomas Dye School family on the occasion of its 75th anniversary.

## CELEBRATION OF LUNAR NEW YEAR

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. PELOSI. Mr. Speaker, it is my privilege to represent a vibrant and strong Asian American and Pacific Islander community that is a historic part of San Francisco's world-renowned diversity, and I rise today to recognize the celebration of the Lunar New Year, the most cherished Chinese festival.

The Lunar New Year marks the beginning of a new season and is a time of renewed hope. It is considered a time to sweep away misfortune and to welcome the New Year with hopes of good luck, prosperity, and excellent health.

The Lunar New Year celebration begins on the new moon of the first day of each year and ends on the full moon 15 days later. Family is a major focus of the Lunar New Year celebration, and participants pay great respect to their ancestors who laid the foundations for the well-being of their families. The Lantern Festival, which concludes the celebration with a parade of brilliant lanterns, the music of drums, and a dragon dance performed by youth, is especially beautiful.

By the Chinese calendar, this is the year 4,701, the Year of the Monkey. The Monkey represents the inventor and innovator and symbolizes growth and development. In many ways, the Monkey epitomizes the entrepreneurial spirit of my district in San Francisco and our ability to overcome great challenges.

The U.S. Postal Service recently issued its Year of the Monkey Stamp, the final in its spectacular Lunar New Year commemorative stamp series. It has been a great pleasure to celebrate the 12 years of the Chinese Zodiac with the stamps designed by artist Clarence Lee, and I am proud to display these beautiful images on the walls of my office. Thank you to the Organization of Chinese Americans, to the U.S. Postal Service, and to the leaders of San Francisco's Chinese American Community for your hard work to make this wonderful series a reality.

By percentage, Asian Americans and Pacific Islanders are the country's fastest growing ethnic group, and the community is a dynamic part of our nation. The Lunar New Year is a wonderful opportunity to recognize the immeasurable contributions of Asian American and Pacific Islanders to all aspects of American life, including the arts, education, sports, medicine, religion, and politics. It is my pleasure to join with so many of my constituents and with Asian American and Pacific Islanders across the country to celebrate the Lunar New Year.

## RECOGNIZING THE ACCOMPLISHMENTS OF ILC DOVER INC. AND ATK ELKTON

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. CASTLE. Mr. Speaker, I rise today to recognize the recent accomplishments of ILC Dover Inc., located in Frederica, Delaware. ILC Dover has long been a partner in this country's space exploration efforts. From manufacturing space suits for the Apollo mission's to the moon to creating the air bag landing systems for the recent Mars rover's Spirit and Opportunity, the later of which is scheduled to land on the opposite side of Mars this weekend. I as well as the 400 employees at ILC will be watching closely as the company's technology delivers Opportunity safely to the surface of Mars.

As NASA's vision continues to change over time, ILC Dover has adapted their technologies to meet the challenges of these new missions. ILC's landing bags work much like your everyday passenger air bag in a car. The system surrounded and protected the rover Spirit as it bounced 30 times before resting on the surface of Mars. These unmanned probes will scour the red planet's surface in an effort to discover any previous existence of life. These air bag systems were enhanced from those that ILC made for the earlier Pathfinder mission to Mars.

ILC is very excited by the President's recent announcement that he plans to send Americans to Mars by establishing a permanent space station on the moon. ILC Dover has already begun testing their newest space suit, the "I-suit", which could be warn by those astronauts who will build the moon base. ILC has stated that they expect these suits would perform better, would cost less, and would be more comfortable, allowing crewmembers to perform their duties for longer periods of time.

The company also manufactures products to meet the emerging homeland security, defense, and environmental challenges that our country faces. For example, they have begun production and sales of the Scape hood, a mask that protects civilian wearers from nuclear, biological and chemical warfare agents. The company currently manufactures the M40 gas masks donned by the U.S. Army. The federal government, state and local municipalities, and the corporate community have invested in their Vapor Guard product. These soft material covers are designed to contain odors and emissions within wastewater treatment tanks. These are just a few of the emerging technologies that the company is focused on.

As part of the successful Mars Exploration Rover program, I would also like to acknowledge the important work of Alliant Tech Systems Inc. (ATK). ATK, based in Edina, Minnesota, is a $2.2 billion aerospace and defense company with strong positions in propulsion, composite structures, munitions, precision capabilities and civil and sporting ammunition. I will be touring their Elkton, Maryland, facility and will see first hand how ATK is partnering with NASA.

The Elkton facility, which employs close to 100 Delawareans, is working on NASA's Mars Exploration Rover as well, the orbital space plane and other NASA missions. Specifically, ATK constructed the gas generators that inflated ILC Dover's airbags to cushion the rover's landings, as well as the rocket motors that slowed their decent.

Besides their NASA work, ATK is also partnering with the Department of Defense to create Kinetic Energy Interceptor missile defense programs and is also part of a Department of Homeland Security team with United Air Lines that has been tasked to submit designs for an electro optic missile warning systems for commercial airplanes.

These forward thinking companies continue to assert themselves as major players in our nation's research and development, especially our search of the next frontier. I congratulate them on their achievements and wish them continued success.

## REGULATORY OBSTACLES TO THE DEPLOYMENT OF BROADBAND FACILITIES

### HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. BOUCHER. Mr. Speaker, I rise today to discuss the positive economic benefits of eliminating the regulatory obstacles to the deployment of broadband facilities by telecommunications carriers. A recent report by economists Robert W. Crandall and Charles L. Jackson supplies strong evidence that further deregulation will jumpstart the sluggish technology sector and increase investment in broadband, which will in turn encourage greater Internet use, and expand the market for a broad range of technologies from computers and servers to digital appliances for the home that connect over the Internet.

Despite recent efforts by the Federal Communications Commission (FCC) in its Triennial Review Order (TRO) to promote broadband investment, several restrictions on broadband deployment remain that threaten to undercut the economic benefits the FCC was seeking to foster in its deregulatory order. The FCC has before it a reconsideration proceeding in which it has the opportunity to eliminate remaining barriers to investment and nourish broadband deployment, innovation, and economic growth. I urge the Commission to take full advantage of that opportunity. The following counterproductive regulations should be repealed:

First, although the FCC has eliminated unbundling requirements for new mass market broadband deployments, it mistakenly ruled that multiple dwelling units (MDUs) are subject to the greater unbundling obligations applied to the enterprise market. Apartment complexes and other primarily residential buildings should be treated the same as single family houses and small businesses that fall within the mass market. The unbundling requirements that apply to the enterprise market should not apply to these multi-family dwellings.

Second, the TRO muddies the distinction between the mass market and the enterprise market in other unfortunate ways. The FCC recognized that telephone companies face tremendous competition from cable operators when telephone companies seek to deploy new broadband networks to the mass market. It accordingly provided maximum unbundling relief to telephone companies for mass market deployments. But the FCC failed to say what the mass market includes. In particular, providers are uncertain whether fiber loops deployed to small businesses will be subject to unbundling at below-cost rates. The FCC should clear up this uncertainty by providing a clear definition of the mass market.

Third, although the TRO properly eliminates unbundling obligations for broadband under section 251 of the Communications Act, the FCC appears to have required the Bell companies to provide unbundled access to their broadband facilities under a different section—section 271. The FCC should make clear that no provision of the Act requires carriers to physically unbundle broadband facilities at cost-based rates.

The FCC needs to act swiftly to eliminate these lingering impediments to broadband deployment. By doing so, the Commission will unleash the full potential of broadband communications, which will serve as an immediate stimulus for the economy.

According to the Crandall-Jackson report, if the FCC acts as I have recommended to deregulate broadband, as many as 1.2 million new jobs could emerge over the next decade from the resulting widespread adoption of existing and advanced broadband technologies. In as little as 5 years, the more than 250,000 jobs lost between 2000–2003 in the telecommunications service and equipment sector could be restored. Capital investment could increase to such an extent that by 2021, capital expenditure on broadband technologies will reach $63.6 billion and create a cumulative increase in gross domestic product of $179.7 billion.

Finally, in addition to creating the proper framework for investment in broadband facilities, I urge the FCC to promote regulatory parity for the broadband services provided by cable operators and telephone companies. Under current rules, telephone companies are required to provide nondiscriminatory access to all Internet service providers, but cable operators are not. For example, Verizon can offer its customers an Internet access service, but the user can instead select AOL, Earthlink, or any other ISP while receiving local telephone service from Verizon. If the subscriber has cable modem service, in most cases he is stuck with the cable company's affiliated ISP, and he would have to pay extra to reach a different ISP. This disparity makes no sense, especially given that cable operators have a 2–1 market share lead over telephone companies in the broadband marketplace.

The FCC should require cable operators to provide open access, just as telephone companies do. Americans deserve to choose their own ISP, rather than having the network owner choose for them. The FCC also should prohibit cable operators from using their bottleneck control of the network to discriminate against unaffiliated content providers or equipment suppliers. Such requirements would not involve the below-cost pricing associated with the objectionable unbundling regime, and accordingly would not chill investment in new networks. In fact, requiring all broadband network owners to provide a choice of ISPs will accelerate the deployment of broadband services at a more reasonable price.

## TRIBUTE TO THE 12TH SERGEANT MAJOR OF THE ARMY, JACK L. TILLEY

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. KNOLLENBERG. Mr. Speaker, it is my distinct honor and privilege to simply say thank you to the 12th Sergeant Major of the Army, Jack L. Tilley. Thank you for your service to our country. Thank you for your sacrifice to this great nation, and thank you for your leadership as the highest ranking enlisted soldier in the Army.

Last week, Sergeant Major Tilley and his wife Gloria retired after 35 years in the Army. As Chairman of the House Appropriations Committee, Subcommittee on Military Construction, I had the distinct pleasure of listening to Sergeant Major Tilley testify about quality of life issues for Army soldiers. I witnessed his concern for the men and women who serve our country. Let me assure you, Sergeant Major Tilley was a zealous and effective advocate for all soldiers. There were numerous occasions when his suggestions were incorporated into subcommittee policy. Believe me, Sergeant Major Tilley made a difference in the lives of soldiers and their families.

Effectively representing soldiers of the most powerful Army in the world is a challenging and evolving task. In his statement to the Subcommittee on Military Construction Appropriations on March 5, 2003, Sergeant Major Tilley stated, "Almost three years ago my boss—Army Chief of Staff General Eric Shinseki—gave me a fairly simple charter. My mission is to get out among our soldiers and their families, understand their needs and issues, and become their biggest advocate and supporter as I represent them to him, the Secretary of the Army, and other senior leaders throughout our government." I can say without hesitation, Sergeant Major Tilley has accomplished his mission.

Over the course of his career, and most notably during his tenure as Sergeant Major of the Army, Jack Tilley's number one priority was Army soldiers. From the day he took the office of Sergeant Major of the Army in June 2000, until his retirement, Jack Tilley took his mission to heart. By his own admission, Sergeant Major Tilley logged hundreds of thousands of miles of travel visiting Army soldiers across the United States and forward deployed to countries all over the world. Sergeant Major Tilley's actions and dedication reveal that he is not afraid to get his boots muddy, in fact, he revels in it.

Sergeant Major Tilley's care for soldiers was tested many times during his tour of duty. As the first Sergeant Major of the Army appointed in the 21st Century, Jack Tilley has coached and mentored Army soldiers through many challenges that his predecessors could never have imagined. Sergeant Major Tilley was the Army's lead advocate for soldier issues as a new administration came into office, defense transformation became a reality, and our country, and the building he worked in, were viciously attacked on September 11th, ushering in a new type of war, the Global War on Terrorism.

Yet for all that can be said about Sergeant Major Tilley and his many accomplishments, he is nothing if not the embodiment of the modern American Soldier. Sergeant Major Tilley's concern and dedication for Army soldiers reflects what the President said to soldiers at Fort Hood Texas, and I quote:

"As members of our military, you serve this nation's ideals and you demonstrate those ideals in your code and in your character. As Commander-in-Chief, I have come to know the men and women who wear America's uniform. I have seen your love of country and your devotion to a cause larger than yourself. I have seen your discipline, your idealism, and your sense of honor. I know that every order I give can bring a cost. I also know without a doubt that every order I give will be carried out with skill and unselfish courage."

The fact that the President of the United States notices and commends Army soldiers is testimony to the hard work and dedication of people like Sergeant Major Tilley. Unquestionably, the United States possesses the most effective and professional fighting force that the world has ever seen. The quality and caliber of Army soldiers continues to grow, despite increasing operational tempo and tremendous expectations thrust on the dedicated men and women who serve our country.

Thank you Sergeant Major Tilley for your leadership and values that have made our Army the most professional and effective fighting force in the world. Thank you for your ability to inform the Appropriations Committee on quality of life issues that impact soldiers and their families, and God's blessings to you as you begin your next great journey upon your retirement from the Army.

## PERSONAL EXPLANATION

### HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. HAYES. Mr. Speaker, on rollcall No. 1, I was detained due to a delay in my flight. Had I been present, I would have voted "present."

## CONGRATULATIONS AND APPRECIATION TO STAFF SERGEANT CAROL S. MURRAY

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. PAYNE. Mr. Speaker, I rise today to ask my colleagues here in the U.S. House of Representatives to join me in honoring a very special person, Staff Sergeant Carol S. Murray, who has given outstanding service to our Nation and to this institution. Sergeant Murray will be honored this evening by her many friends, colleagues, and family members on the occasion of her retirement from the United States Army.

As the Non-Commissioned Officer in Charge and Administrative Supervisor of the Army's Congressional House Liaison Division since 1991, Sergeant Murray has earned an excellent reputation among members of Congress for her dedication and professionalism. I had the pleasure of getting to know Sergeant Murray when she accompanied a Congressional delegation to Haiti. She impressed me with her ability to handle with grace any situation which arose, while also showing deep respect to our host country and its residents during the diplomatic mission. I always enjoyed walking by Sergeant Murray's office in the Rayburn Building, because I knew I would be greeted with the warm, friendly smile she has for everyone. In her position, she was always willing to show newcomers the ropes, inspiring a sense of esprit d'corps which is so important for the morale of those serving in our military. In addition, whenever the Army was hosting a reception or event for a senior officer, she worked tirelessly to ensure that it was well-attended and successful.

Sergeant Murray began her career in July of 1984 after completing Basic and AIT at Fort Jackson. She served in Stuttgart as the postal clerk for 139th AG Postal, Robinson Barracks. Her exceptional performance led to other assignments, including providing primary training in office procedures and policies, and acting as a mentor for all newly assigned Military Personnel. Following her tour in Germany, she headed to Fort Bragg, North Carolina, to the XVIII Airborne Corps, where she served with the "Fighting" 305th AG Postal before leaving for Honduras and other numerous field deployments with the mighty 82nd Airborne Division. In January of 1988, she began working as a Postal Clerk with the 2nd Infantry Division, Camp Casey. She later worked as an Administrative Specialist to the Chief, Enlisted Records before serving as the Senior Administrative NCO for the Adjutant General's Office in the Military District of Washington.

Mr. Speaker, I know my colleagues join me in offering congratulations and best wishes for the future to Sergeant Carol Murray, a great soldier, patriot, and friend.

## PERSONAL EXPLANATION

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. STEARNS. Mr. Speaker, on rollcall No. 1 I was unavoidably detailed and regret missing the quorum call. Had I been present, I would have voted "present."

## REMEMBERING ROBIN EDMONDS MILLER

### HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. SIMMONS. Mr. Speaker, I rise to share some very sad news with my colleagues today. Robin Edmonds Miller, of Stonington, Connecticut, died on Wednesday, December 10, at the age of 52.

Robin's loss is both professional and personal, as she was a dedicated public servant and a dear friend of the Simmons family.

Robin was involved and respected in state politics, currently serving as chairperson of the Board of Mediation and Arbitration for the State of Connecticut Department of Labor. She was also serving as chairperson for the State of Connecticut Department of Administrative Services Employee Review Board.

Robin was active in social and civic affairs in the Town of Stonington, serving as the Town of Stonington Registrar of Voters. She also served as past chair, and currently vice chair, of the Stonington Town Republican Committee.

Robin Miller exemplified community action and public service. She believed that our communities, our states and our nation will function properly only when people step forward to do the hard work necessary to ensure the wheels of democracy will run smoothly. When I think of my friend I am reminded that the heart of a public servant is not measured by its size, but by the depth of commitment to make a positive contribution to the lives of others.

In addition to her parents, Robin is survived by her two children, Bianca Nardi and Curtis Miller; her siblings, Robert and Julie Edmonds of New Hampshire; and nieces and nephews.

All those who knew Robin Miller feel a profound sense of loss, but also a genuine sense of joy that we knew her.

## INTRODUCTION OF THE PRESERVING MEDICARE FOR ALL ACT OF 2004

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. CARDIN. Mr. Speaker, I rise to introduce legislation to help fulfill the promise made by Congress and the President to our seniors. The "Preserving Medicare for All Act of 2004" begins with the framework of HR 1, which was passed in the last days of our first session. But it corrects the legislation's structural defects that will result in more harm than help for our Medicare beneficiaries.

Over the past few years, I have met with thousands of seniors in my district about Medicare and their need for prescription drug coverage. They brought me their empty pill bottles and their pharmacy receipts. With the highest out-of-pocket costs of any age group in the country, they and millions of other seniors across the nation were looking to Congress for real prescription drug coverage that would give them substantial help with their drug costs. They wanted their drug benefit to be provided like other benefits covered by Medicare—administered by the Centers for Medicare and Medicaid Services, with a guaranteed benefit, universally available regardless of where they live, for it not to jeopardize existing coverage, and yes, they wanted the choice of their own doctor and hospital and the freedom to choose a private health plan if they prefer that option.

I believe that a clear majority of the House and Senate wanted to enact legislation that met our seniors' needs. Unfortunately, the bill that moved through Congress failed to provide seniors with what they needed or expected. The plan that became law will not be administered by CMS but by private insurers. The government is prohibited from using the purchasing power of 40 million beneficiaries to lower drug prices. There will be no guaranteed benefit, but rather an "actuarially equivalent" benefit whose components insurance companies can manipulate to discourage high-cost seniors from enrolling. It will not be universal, because these insurers can offer different coverage in different areas of the country. It will jeopardize existing coverage; the Congressional Budget Office has estimated that 2.7 million retirees—half of whom have annual incomes of less than $30,000—will lose the drug benefits they now enjoy as a result of insufficient subsidies to employers. Under the guise of "choice" and "competition," this bill gives an extra $12 billion to managed care plans, which are already reimbursed at rates one-fifth higher than fee-for-service Medicare. This so-called "stabilization fund" and a premium support demonstration project are not designed to offer choice, but instead to lure younger, healthier seniors away from traditional Medicare and into private plans. These features of the bill do not save money, according to the Congressional Budget Office's estimate. Instead, scarce dollars that could be used to provide a better drug benefit are used to ensure profits for health plans. Those beneficiaries who remain in fee-for-service Medicare will be isolated in an underfunded program and they will see their premiums skyrocket as a result of phony "competition." Finally, the new law includes a "cost containment" provision that actually shifts rather than contains costs. By combining the Part A and Part B Trust Funds and creating a new definition of insolvency that caps Medicare's use of general revenues at 45 percent of total Medicare costs, this provision would force government to cut benefits or raise payroll taxes if this limit is exceeded. More than any other element of the new law, this provision would undermine the entire Medicare system as we know it, shifting the burden of the program onto those least able to afford it.

The bill I am introducing today will modify these damaging aspects of the new Medicare law. First it will authorize the HHS Secretary to use the purchasing power of 40 million seniors and disabled Americans to negotiate lower drug prices. Second, it will guarantee seniors the choice of a nationally available, defined benefit within Medicare. The premium, deductible, copays and stoploss will be set by law, not by private insurers. Third, my bill will fully reimburse employers for the cost of qualified retiree drug coverage and it will permit their costs to count toward seniors' catastrophic limits. Fourth, it will repeal the premium support demonstration and help ensure that Medicare remains a national program with equal access for all seniors. Fifth, it will eliminate the "stabilization" fund for private health insurers and dedicate these funds to strengthening the traditional Medicare program for seniors. Finally, it will eliminate the "cost containment" provision of the bill, which will harm both working families, seniors, and health care providers.

Mr. Speaker, the Medicare prescription drug provisions of this bill will not take effect until 2006. We have time to fix the structural problems that prevent this law from benefitting today's beneficiaries and those who will depend on Medicare in future years. I urge my colleagues to support this effort and help keep the promises we've made to our seniors.

## POSTHUMOUS TRIBUTE TO THE LATE EUGENE "WHITEY" WHITE, A TRACK STAR AT FLORIDA A&M UNIVERSITY

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. MEEK of Florida. Mr. Speaker, I rise to honor the late Eugene "Whitey" White, a legendary track star at Florida A&M University. It is indeed a sad day for the entire Florida A&M University family, particularly those involved with the Athletic Department. He will be laid to rest on Saturday, January 24, 2004 at Dade Memorial Park in his hometown of Miami, Florida.

His untimely demise this past Thursday, January 15, 2004, leaves a great void in our historic institution. He is survived by his beloved daughter La Donna, grandson Ryan Smith, sister Cora L. White, nephew Eugene Randall White, and the rest of his loving family.

Eugene White was born in Miami, Florida on December 24, 1937, the oldest of three children born to parents, Eugene and Corine White. He attended Phyllis Wheatley Elementary School and Booker T. Washington High School where he was a star athlete. He was a running back for his school's Tornadoes Football Team, and was a sprinter and relay team track member. Graduating with the Class of 1957, he was awarded a four-year scholarship to Florida A&M University where he excelled in sports, and became an acclaimed running back for the Rattlers Football Team. Upon graduation in 1962, he was drafted by the Miami Dolphins and later played for the Oakland Raiders. His illustrious football career continued as he played with the Canadian Football League.

Though he was merely a freshman, Mr. White's most salient feat in the annals of Track and Field competition was that then-Coach Pete Griffin marveled at his amazing speed by winning the 100-yard dash at the Florida A&M Relays in a record 9.4. As he went about garnering many more excellent records, he entered the South Carolina State Invitational Meet. He was clocked by six official timekeepers at an unprecedented 9.5 for the warm-up, and, before the official hundred run, Mr. White pulled a muscle. Despite this apparent debacle that would have incapacitated many an athlete, he was able to finish second, clocking in at 9.7.

White's magnificent contributions to the personal and professional growth of countless youth in his native Miami are well-known, as he was admired for his quiet spirit and loving demeanor, always exuding a great many gentlemanly virtues that endeared him to the community and to his church family. His records on the athletic field have become legendary, and they now emblazon the fond memories of countless FAMU alumni. Young men and women who came to admire his athletic prowess also found him to be a caring professional who personified an indomitable example of excellent discipline and genuine compassion for his fellowmen. His colleagues highly regarded him as a confidant and the epitome of utmost urbanity and gentlemanly behavior. Nowhere has this advocacy role played out succinctly in the lives of many youngsters than in the indelible mark he left on many students, who were inspired by him to excel both in their academic pursuits and athletic endeavors.

Indeed, our FAMU family is genuinely touched and comforted by the undaunted leadership, resilient example and personal warmth he exuded to those who came to know and admired him. This is the genuine legacy he bequeathed to those of us he left behind. In a special way, I am privileged to be a grateful alumnus of Florida A&M University, a great institution of learning graced bountifully by his remarkable contributions, both on and off campus.

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## HONORING DR. ESSIE L. BAILEY

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the Great Lakes Baptist District Woman's Auxiliary of Michigan, to honor Dr. Essie L. Bailey for 33 years of dedicated service as President of the Great Lakes Baptist District Woman's Auxiliary, an auxiliary of the National Baptist Convention USA, Inc. On Saturday, January 10, 2004, the Great Lakes Baptist District Woman's Auxiliary will recognize Dr. Bailey's accomplishments during a dinner to be held at the Metropolitan Baptist Tabernacle, A.J. Pointer Family Life Center located in my hometown of Flint, Michigan.

Dr. Essie L. Bailey was born and raised in Mississippi. Upon relocating to Flint, Michigan she became a faithful member of the New Zion Missionary Baptist Church, where she is currently serving as a Sunday school teacher, leader of the Missions Union and a Deaconette. Dr. Bailey was granted an Honorary Doctorate Degree in Humanities from the Urban Bible Institute of Religious Studies. She has served the National Baptist Convention USA, Inc. as the President of the Great Lakes Baptist District Woman's Auxiliary for thirty-three years, President of the Wolverine State Baptist Woman's Auxiliary for eight years, Chairwoman of the Great Lakes Baptist District Foreign Mission Board, and Chairwoman on the District Presidents' breakfast committee. These roles have allotted Dr. Bailey with the opportunity to spread spiritual enrichment to women throughout the world. Her work has taken her to Africa, where in 1973, she served as the Great Lakes Baptist District Association General Ambassador to Africa. She also traveled on missions to Canada, and Israel. Dr. Bailey faithfully served the convention until failing health caused her to recently step down from her position as President of the Great Lakes Baptist District Woman's Auxiliary. During her tenure, Dr. Bailey was, and still is a positive religious influence within the Christian community. She is a true foot soldier for the Lord.

Dr. Bailey has received numerous accolades for her dedicated service. To name a few, she received the City of Flint Drum Major Award, Zeta Phi Beta Sorority Woman of the Year Award, and the State of Michigan Outstanding Service Award. Aside from being an outstanding leader and role model, Dr. Bailey is also a loving wife, mother and grandmother.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in honoring my constituent and friend Dr. Essie L. Bailey for her outstanding service to the Christian community.

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## RECOGNIZING CAROL BRILL, PH.D.

### HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. McGOVERN. Mr. Speaker, today I honor Carol Brill, Ph.D., an exceptional woman who is retiring after serving as Executive Director of the Massachusetts Chapter of the National Association of Social Workers (NASW) for 32 years. I am proud of Dr. Brill's many accomplishments and would like to recognize her contribution to the field of social work and her community.

The overall mission of the Massachusetts Chapter of NASW, the professional organization in the field of social work, is to provide human rights, social and economic justice, and unimpeded access to services for everyone. Under Dr. Brill's leadership, the membership of the Massachusetts Chapter grew from 1,800 individuals to 8,200, its budget increased, and it established regional councils. Additionally, the Massachusetts chapter was the first in the nation to start a committee on Ethnic and Racial Affairs and a committee on lesbian/gay/bi-sexual/transgender issues. The Massachusetts Chapter was also the first to launch a Social Work Therapy Referral Service, a free clinical consultation service, and a member-to-member supervision program.

Dr. Brill's belief in the importance of social workers' active involvement in civic affairs led to the growth of social work's visibility in the advocacy world, the State Legislature, and the State administration. Dr. Brill was a founder of the Massachusetts Human Services Coalition, a major advocacy organization for more funding for human services, and she currently serves as its vice president. Dr. Brill also serves as treasurer of the Massachusetts Budget and Policy Center, an organization which fights for fairer taxation in Massachusetts, and is co-chair of the Committee to Save the Department of Social Services and Our Children.

Dr. Brill's expertise in social work ethics made her a national expert on the subject. She has been a keynote presenter, workshop leader, or panelist around the country. Dr. Brill has also provided consultation and organized in-service training courses on a variety of issues for several agencies in New England such as the Salvation Army and the Boston Public Schools.

Dr. Brill's commitment to the field of social work and the people of Massachusetts has been remarkable. Mr. Speaker, I am certain that the entire House of Representatives joins me in congratulating Dr. Brill for all that she has accomplished and in wishing her the best during retirement.

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## RECOGNITION OF THE J.M SMUCKER COMPANY

### HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. REGULA. Mr. Speaker, I rise today in recognition of the J.M. Smucker Company. The Ohio-based Smucker Company was recently ranked number one on Fortune Magazine's annual "Top 100 Companies to Work For" list.

Founded in 1897 in Orrville, Ohio, Smucker sold its first product—apple butter—from the back of a horse drawn wagon. Today, the company is the market leader for an array of fruit spreads, toppings, beverages and natural foods. Smucker employs some 2,430 people in the U.S. and maintains 12 manufacturing plants worldwide.

Since its inception in 1897, the Smucker Company has grown to earn a national reputation as a premier and model employer. Sustaining job security and stability for employees even through difficult economic times has been a recurring theme in the company's success. In fact, Smucker has never resorted to layoffs to cope with a lagging economy. Still, Smucker continues to enjoy great success. Sales for the company are up 91 percent from last year alone.

I applaud the J.M. Smucker Company for this recognition as an exemplary employer and I wish it continued growth and prosperity.

## TRIBUTE TO DIANA POULTON

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to recognize and honor an individual who has been a tireless supporter of education in my congressional district. My congressional district has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live. Diana Poulton is one of these individuals.

Over the last four years, Diana has been actively involved with the Science and Technology Education Partnership (STEP), a nonprofit organization dedicated to inspiring students to pursue science and technology careers. As the Honorary Chairman of STEP, I have witnessed first-hand Diana's deep commitment and dedication to building a brighter future for students in the Inland Empire.

The flagship program for STEP is the annual STEP Conference, which hosts thousands of 4th through 8th grade students at a fun-filled learning event dedicated to the exciting world of science and technology. This conference puts thousands of students in contact with some of the top science and technology companies and organizations, which they might otherwise never experience in their school career. With the increasing demands for science and technology workers and the diminished supply in our region, the STEP Conference is one of the largest in California and serves as a spark to ignite the imagination of young minds.

This successful conference takes a great amount of time and energy to plan and Diana is an integral part in the planning and execution of the event. It is not uncommon for her to work after-hours to ensure the conference will be a success. Not only is she an inspiration to the students but also to the volunteers who know they can count on her to answer their questions or help them in any way. Diana serves a vital role to the STEP organization and I commend her commitment to STEP, students and education. As a member of the Science Committee, I am thankful for people like Diana Poulton because she sets an example that will serve as a guiding light for others in the future.

Diana's tireless passion for community service has contributed immensely to the betterment of the Inland Empire in Southern California. She is part of the heart and soul of STEP and I am proud to call her a fellow community member, American and friend.

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## HONORING THE RUTHERFORD COUNTY CHAMBER OF COMMERCE'S 75TH ANNIVERSARY

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. GORDON. Mr. Speaker, I rise today to recognize the 75th anniversary of the Rutherford County, Tennessee, Chamber of Commerce, an organization that has helped my home country to be one of the best places in America to live.

As a member of the Chamber of Commerce and former board director, I know firsthand that the chamber can take a lot of credit for the quality of life we now enjoy in Rutherford County. Residents have an opportunity to work at good jobs and send their children to some of the best schools in the Nation, not to mention enjoy all the recreational venues in the area. The chamber's economic development efforts have paid big dividends to the county. And the chamber's advocacy for the business community has been a positive influence in the Tennessee Legislature and has helped me in my legislative efforts in Congress.

The Rutherford County Chamber of Commerce is fortunate to have had so many strong, visionary members in its ranks. Through their leadership and hard work, they have been able to attract top-notch companies to the area. Nissan, for example, is located in Rutherford County. As the largest automaker in the world under one roof, Nissan not only provided thousands of good-paying jobs to the people of Rutherford County, but it also brought countless businesses that supply the automaker with a variety of parts and services.

Through a unique public and private partnership, the Rutherford County of Chamber of Commerce has become one of the best community advocates in the Nation. As the chamber celebrates its 75 years of existence, I commend the organization for all it has done to make Rutherford County such a desirable place to live and raise a family.

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## RECOGNIZING THE TEMECULA CITIZEN CORPS PROGRAM FOR ITS SERVICE TO THE CITIZENS OF THE CITY OF TEMECULA

### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. ISSA. Mr. Speaker, I rise today to recognize and praise the people of the City of Temecula, who are doing their duty, as citizens, public servants, and elected officials, to make our homes and communities more secure. They have accomplished this through the Temecula Citizen Corps—an innovative new program that was inspired by President George Bush's 2002 State of the Union address. Two years ago, President Bush asked communities to take greater responsibility for their own emergency preparedness. The City of Temecula took this charge to heart and began building what has become a model program for local level homeland security concerns.

The Temecula Citizen Corps program coordinates the efforts of private citizens, neighborhood leaders, public safety agencies, and city officials, to enhance emergency and disaster preparedness. It has trained representatives from each neighborhood in the city on emergency notification methods, damage assessment, and special needs of community residents. It has also trained citizens in first aid, crime prevention, and neighborhood safety.

The program is designed to meet one of the critical homeland security needs: citizen self-sufficiency and self-reliance. In the immediate 72 hours following a disaster, emergency management agencies are often overwhelmed and unable to deal with all the needs of the affected communities. This program trains private citizens to provide basic emergency care for their own neighborhoods in the critical time immediately following a disaster.

The Temecula Citizen Corps has achieved such impressive results that the Department of Homeland Security considers it a standard setter for local communities. It has also won widespread praise throughout the Southern California region for its efficiency and quality of training and is inspiring many other cities and communities to follow its example. Last week, the men and women of Temecula were recognized publicly by the Secretary of Homeland Security, Tom Ridge, for the excellent program they have developed.

I am extremely proud of the City of Temecula for the dedication and effort they have invested in the Temecula Citizen Corps program. I am pleased to have had this opportunity to recognize them today and I encourage my colleagues to review their program as an example of what is possible when communities decide to take responsibility for their security needs.

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## HONORING DIANA MASON

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today in recognition of the career of my long-time friend and constituent Mrs. Diana Mason.

Diana began her career in 1963 after graduating from Diablo Valley College in Pleasant Hill, California. As a secretary in the engineering department of the United States Steel Corporation, Diana began what would be three decades of service to US Steel. Two years after her initial employment she transferred to the Industrial Engineering Department and finally in 1967 began working at the San Francisco corporate offices as secretary to the Director of Public Relations of Western States.

Diana continued her exemplary service and in 1979 was promoted to Executive Secretary to Plant Manager and returned to Pittsburg, CA. In 1986, US Steel merged with Pohang Steel Corporation of South Korea to become USS/POSCO Industries (UPI) and Diana began working as secretary to Mr. S.H. Yo, Executive Vice President of UPI.

In 1993, Diana became responsible for bringing UPI to the forefront of the community and began her new job as Manager of Community Relations. In this position she worked closely with the people and businesses of surrounding cities—Antioch, Oakley, and Brentwood.

In addition to her work for UPI, Diana supports several outreach programs including

Junior Achievement, Project Read, Choices, and the Pittsburg Seafood Festival. She is also a member of the Pittsburg Chamber of Commerce and the Rotary Club.

For three decades Diana has dedicated her career to working for US Steel and later UPI. In October 2003, Diana ended her long and successful career and I would like to take the time today to congratulate her on a job well done. I will continue to enjoy my friendship with her and I have tremendous respect and appreciation for the work she has done on behalf of her company, its employees, and our community.

I encourage my colleagues in the House of Representatives to join me in acknowledging the career and dedication of Diana Mason.

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## RECOGNIZING THE SAN GABRIEL VALLEY NAACP AND THE CITY OF WEST COVINA FOR COMMEMORATING THE LIFE OF DR. MARTIN LUTHER KING, JR.

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. SOLIS. Mr. Speaker, I stand today to commend the work of the San Gabriel Valley National Association for the Advancement of Colored People (NAACP) and the city of West Covina for their 5th annual commemoration of the life and legacy of Dr. Martin Luther King, Jr.

Dr. King was a visionary leader who believed and dreamed of a color-blind society in America—a place where interracial and intercultural cooperation triumphs over hatred and ignorance. He helped awaken our nation's conscience of the racial injustice directed toward millions of Americans and reaffirmed our most cherished principle—the principle that all men and women are created equal.

During the 1960s, a time of great unrest, Dr. King emphasized the importance of using nonviolence to achieve social and political advancement for all people. Dr. King understood that the moans of achieving your goal was as important as the goal you were trying to achieve. Although we have made great strides toward achieving greater equality and opportunity for all since his death, we as a nation and as a people are still struggling to fulfill his dream, and we must do more.

According to Coretta Scott King, the Martin Luther King, Jr. Holiday is not only a celebration of a man who brought hope and healing to America, but it is, above all, a day of service. In honor of Dr. King, let us remember to help the less fortunate, to fight against injustice, and live up to the principle of our great country.

I commend the work of the San Gabriel Valley NAACP and the city of West Covina for organizing the 5th annual celebration to pay tribute to the life and legacy of Dr. Martin Luther King Jr. Events like these remind us that Dr. King's fight is our fight, his dream is our dream, and that one day we will "judge a person by the content of their character and not the color of their skin." Let us keep his memory alive through our actions and deeds.

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## ADDRESSING THE RECENT "REFORM" OF THE MEDICARE SYSTEM

### HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. DELAHUNT. Mr. Speaker, I rise today to address the consequences of the Medicare legislation signed into law in December of last year. I must express my profound disappointment with the outcome of a process that originally promised so much hope. Throughout 2003, there was bipartisan enthusiasm and genuine momentum for change that would safeguard the Medicare system and ensure affordable prescription drugs for every American. It seemed as if we might finally make some real progress. Sadly, the Congress—under relentless pressure from the White House and the pharmaceutical industry—squandered the opportunity of a generation.

Some have characterized the new law as "better than nothing." Nothing could be further from the truth. This was bad legislation, enacted in an underhanded manner. It is extremely expensive, but does little to actually bring down out-of-pocket consumer costs. The consensus for reform was shredded in favor of a complicated system designed by lobbyists for the pharmaceutical industry.

Only a handful of congressional Members even saw the final 700-page document, made available barely an hour before floor debate. Although the bill was initially defeated after the normal 15-minute voting period, the Speaker simply refused to gavel the vote to a close. After more than three excruciating hours—the longest vote ever in the history of the U.S. Congress—he finally closed the vote only after enough arms were twisted to change the outcome. Even then, at 6 a.m. that Saturday in November, the bill passed by only five votes. And with the bill now law, the strongest defense from proponents seems to be: "Don't worry, no one has to sign up, it's all voluntary." That's hardly reassuring for millions of seniors in urgent need.

Because this "reform" does far more to inflate the Federal budget than to help senior citizens or the Medicare program, I voted against it. There is so much wrong with this package that it's hard to know where to begin.

First, it doesn't offer much real prescription drug coverage. To enroll in the new Part D coverage, you must pay an estimated $35 monthly premium—and still meet an annual $250 deductible. Up to $2,200, you also pay 25 percent of the drug costs. After that, you face a coverage gap (the infamous "doughnut hole") where you pay 100 percent until costs reach $5,044. In other words, older and disabled people will have to spend nearly $4,000 for the first $5,000 of annual coverage—paying nearly 80 percent of their prescription drug costs to get any substantial benefit at all. And, these are only first-year estimates; the out-of-pocket cost is expected to rise every year thereafter.

Incredibly, however, if you participate in the new prescription drug benefit, you will not be permitted to buy any kind of supplemental insurance (like Medigap) to cover your share of the costs. Medicare will cover only drugs on a list of preferred "formulary" medicines; and drugs purchased outside the list will not be counted toward your deductible.

On top of all that, the new benefit doesn't even take effect until the year 2006, more than 2 years away. This fact was scarcely mentioned by the bill's proponents during the congressional debate. Seniors need help now, not cynical and uncertain promises for later.

In the meantime, the interim discount cards paraded by the administration promise only small savings for the consumer—if you can figure out how they work. It's not clear who will offer the cards, what the discounts will be, when and for how long the cards will be available. These decisions will be driven by—believe it or not—the self-interest of pharmaceutical companies and other business entities. The potential card issuers are not required to pass along any resulting savings to consumers. Once enrolled, you must stay with the card for at least a year, even if the issuer stops discounting the medication you need.

It gets worse. This bill does not remotely pretend to address the fundamental issue: the crushing cost of prescription medication. Rather than leveraging the enormous buying power of millions of Medicare recipients, the new law actually bars market competition. And, let's be clear, this legislation was authored by partisans who swear by the catechism of the free market. As enacted, the bill explicitly prohibits Medicare from negotiating with the pharmaceutical industry for better prices and deeper discounts. We know negotiated discounts can work. When the VA negotiates on behalf of this country's veterans, their drug prices drop significantly. It is mind-boggling that 40 million seniors are being deprived—by law—of the same leverage.

Moreover, the bill blocks reimportation of U.S.-produced drugs from other countries at lower prices. It claims to allow Canadian imports, but only if the Food and Drug Administration formally certifies their safety, which is unlikely to ever happen. The FDA has already stubbornly resisted reimportation, forcing local Councils on Aging and dozens of cities and States to take matters into their own hands—although there is not a single documented case of injury resulting from U.S.-produced drugs that have been reimported from Canada.

In fairness, the bill postponed a scheduled 4.5-percent cut in physician reimbursement for Medicare services—easing fears of a wholesale abandonment of Medicare patients. The legislation will ensure physicians receive a 3-percent increase in payments over the next 2 years. However, this is not nearly enough to protect Medicare beneficiaries' access to quality health care providers. And, the bill actually complicates problems that oncologists face in getting adequate reimbursement for crucial cancer drugs and obstacles confronting patients who need access to inpatient rehabilitation facilities.

Despite the coverage limits and other shortfalls, the cost of the legislation is spectacular—projected by the nonpartisan Congressional Budget Office to exceed $2 trillion over 10 years. At the same time, homeland security and recent tax cuts have already forced dramatic increases in the Federal deficit, now almost $400 billion. That is a shocking number, especially when you consider that just three years ago, the budget was boasting a healthy surplus.

Moreover, many fear this new law could lead down a dangerous road toward privatization of Medicare and even Social Security. We saw a similar experiment fail dramatically with Medicare+Choice several years ago, when HMOs and other providers dropped out of the system as soon as costs escalated—leaving seniors to fend for themselves. This new law poses similar risks.

It breaks my heart that the Congress could not achieve real Medicare reform that addressed prescription drug costs. As I look back on my four House terms, very few votes stand out as genuinely historic in consequence. Along with Presidential impeachment and the Iraq war resolution, the vote on this bill is such a watershed moment. The White House achieved this "victory" by deluding seniors about the impending relief—in the process, jeopardizing hope of genuine reform in the foreseeable future.

As the House reconvenes, I will resume my work with colleagues on both sides of the partisan aisle to address problems with the new law. Older Americans have raised their voices effectively in the legislative arena before. In 1989, a deeply flawed catastrophic benefits bill was repealed. Almost a decade ago, we struggled successfully to restore Medicare cuts that savaged home health care locally and across the Nation. This time, we can expect a steep uphill battle. In his State of the Union address this week, the President vowed to veto any amendments to the new Medicare law. To amend even the most egregious provisions of this bill will require every ounce of outrage we can collectively muster. As cochair of the Older Americans Caucus, a bipartisan group of colleagues focused on issues of particular significance to seniors, please count on my continued and vigorous commitment. I am already working with key House colleagues on specific legislation to repeal the new law's barriers to drug reimportation and negotiated discounts.

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## HONORING CHILTON MEMORIAL HOSPITAL'S 50TH ANNIVERSARY

### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Chilton Memorial Hospital of Pequannock Township, Morris County, New Jersey, in my congressional district. Chilton Memorial Hospital is celebrating 50 years of providing excellence in community health care.

Despite its humble beginnings, Chilton's history is a proud one. This 256-bed hospital arose from the dream of Dr. Forrest Chilton II and his registered nurse wife, Betty. During World War II, when gasoline was being rationed and people in the area did not have enough for the drive to the hospital in the city of Paterson, Dr. and Mrs. Chilton set up a small maternity hospital above his office in Pompton Plains. Soon, as more and more of his thankful patients availed themselves of his services, it became clear that a full service hospital was desperately needed in this fast-growing area in northern New Jersey.

In 1947, the good doctor and his wife donated 8 acres of land to build a hospital in memory of their son, Forrest Chilton III, and other heroes who served our country and made the ultimate sacrifice for American's in World War II. That same year, Dr. Chilton formed a board of directors to help prepare a building plan. Seven years later, in 1954, thanks to the efforts of Dr. and Mrs. Chilton, the Board of Trustees, the 20 women who were the original members of the Chilton Memorial Hospital Auxiliary and 20,000 community volunteers who gave of their time and financial resources, the Chilton Memorial Hospital, with 31 employees and 50 beds, opened its doors for the first time in Pompton Plains.

Within 2 months the hospital was operating near capacity and expansion plans were already underway. In that first year, Chilton Memorial admitted 2,536 patients, delivered 787 babies and treated 3,317 people in its emergency room.

Fifty years later, Chilton Memorial's 1,400 employees and 575 associated physicians admit more than 11,000 patients each year, deliver 1,200 newborn babies, perform nearly 6,000 same day surgeries, treat 36,000 people in its state-of-the-art emergency department, and treat an additional 81,000 citizens on an outpatient basis.

Indeed, Chilton Memorial Hospital's tradition of caring and its commitment to the surrounding communities has made it one of New Jersey's best hospitals. Today, Mr. Speaker, Chilton Memorial Hospital is credited with being the first hospital in the State of New Jersey to be awarded a perfect score by the Joint Commission Accreditation of Healthcare Organizations, whose surveyors evaluate facilities and procedures at 18,000 healthcare facilities worldwide. Chilton's nursing staff has also won national acclaim for consistently receiving the highest ratings for their competence, compassion, response time, and teamwork.

The future will be no different for Chilton as it continues following in the footsteps of its founder and provides state-of-the-art healthcare to a grateful community. Services like Chilton's family-centered obstetrics program that features home-like labor, delivery and recovery rooms, its renowned pediatric care, free standing same day surgery center, and centers for pain management, endoscopy, cardiac care, sleeping disorders, sports medicine and cancer care, among others, and its strong commitment to health and wellness for older men and women, have helped build Chilton's lasting legacy as a premier quality healthcare provider.

Mr. Speaker, I ask that you and my colleagues in the House of Representatives join with me in congratulating Chilton Memorial Hospital, and all of the hospital's outstanding staff, employees, and volunteers, upon celebrating its 50th anniversary.

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## HONORING THE ACHIEVEMENTS OF DON SUTTON

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the achievements of one of my constituents, a 1998 Hall of Fame inductee and now a respected broadcaster for the Atlanta Braves, Mr. Don Sutton.

The Los Angeles Dodgers signed Don as an amateur free agent in 1964. He ended his career in 1998 with 324 wins and struck out 3,574 batters, while never missing his turn in the pitching rotation for the Dodgers, Astros, Brewers, Athletics and Angels.

Don, a four-time All Star and the 1977 All-Star Game MVP, reached double figures in wins in 21 of his 23 seasons and struck out over 100 batters in each of his first 21 campaigns. He pitched in four World Series and posted five career one-hit games.

Don, who never spent one day on the disabled list, kept this body and mind in tip-top shape, enabling him to start at least 30 games in 20 of his 22 seasons.

Sutton started all but 18 of the 774 career games he pitched, which has led many current and former alltime greats to refer to him as one of the most durable and consistent players of all time. He ranks second all time to Cy Young in games started.

Don has pitched in over 100 innings through 15 games of postseason play. He pitched in a 10–2 win for the Milwaukee Brewers in the final game of the 1982 season to defeat the Baltimore Orioles and win the American League Eastern Division title.

The tall, lean right-hander put away many of his opponents by throwing his feared fastball and signature sweeping curveball. There have been many drawn comparisons by the games top players, writers, and announcers, who have compared him to other legendary pitchers such as Bert Blyleven and Gaylord Perry. To the hearts and minds of Northwest Floridians, Don will always be second to none.

Sutton came full circle in 1988 when he retired in a Dodgers uniform. This spring, Don will begin his 15th season with the Braves, continuing his highly successful career as a broadcaster.

Don is also known as a great family man and showed his pride during his Cooperstown induction when his final thanks went to his wife, Mary, and their daughter, Jackie. Don was surrounded by many of his close friends, former teammates and coaches, including one of his best coaches, his father Howard Sutton, who taught him how to pitch.

On behalf of the United States Congress, I would like to recognize this special person, Don Sutton, for the example he has set in the sports world, his country, and for Northwest Florida. I offer my sincere thanks for all that he has done for Northwest Florida and the United States of America.

## IN RECOGNITION OF CHARLES G. HAIGHT

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, Spc. Charles G. Haight, 23, of Fort Lewis, Washington, died on December 26, 2003 in Iraq. Spc. Haight was a member of the Army's 14th Engineer Battalion, 555th Engineer Group based in Washington, and was killed when his vehicle struck an improvised explosive device. He is survived by his wife Michelle and his 10-month-old son of Fort Lewis, Washington. He is the son of Donald G. and Lilian Haight of Piedmont, Alabama.

Charles Haight was eager to serve his country, Mr. Speaker, and dreamed of becoming a nurse after college. He attended Pleasant Valley High School in Calhoun County, and was known for his musicianship in the band and his athletic ability on the football field. Like every other soldier, he dutifully left behind his family and loved ones to serve our country overseas.

Words cannot express the sense of sadness we have for his family, and for the gratitude our country feels for his service. Spc. Haight died serving not just the United States, but the entire cause of liberty, on a noble mission to help spread the cause of freedom in Iraq and liberate an oppressed people from tyrannical rule.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve.

Thank you, Mr. Speaker, for the House's remembrance on this mournful day.

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## IN HONOR OF THE GREATER JACKSON AREA CHAMBER OF COMMERCE ANNUAL DINNER AND CITIZEN AWARDS

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. SMITH of Michigan. Mr. Speaker, I rise now to recognize an important celebration in my district and the individuals who are being recognized for their special contributions to the community. The Greater Jackson Area Chamber of Commerce, under the leadership of President Susan Milhoan, is hosting its annual awards dinner to honor its 95th year, in addition to the anniversary of the founding of the Republican Party in Jackson in 1854, and the founding of the City of Jackson 175 years ago. At this celebration, several men and women will be recognized with a variety of awards for personal achievement, character, and service to the community.

The Athena Award recognizes women who demonstrate excellence in their profession, assist other women in realizing their leadership potential, and contribute their time and efforts to improving the community. Manya D. Otis, owner of Financial Sales and Seminars, is this year's winner, and her involvement in the community includes the Rotary Club, Disability Connections, and her church.

This year's Small Business Person of the Year is Al Cavasin, owner of Great Northern Sentry Company. Since founding his business in 1991, Al has expanded the company from a humble three employees to five separate divisions. Al is an expert and author on security matters and holds seats on the Board of Directors of the National Council of Investigators and Security Specialists and the Michigan Council of Private Investigators. He is also President of the Michigan Contract Security Association.

The 2004 Youth Citizen of the Year is Anthony Ramsey, Jr., a senior at Jackson High School. In addition to being an honor roll student and a member of the football and track teams, Anthony has made time to serve on the United Way Teen Advisory Panel, the Jackson Community Foundation Youth Advisory Committee, and volunteer at the Lily Missionary Church that he attends with his family.

Finally, the Citizen of the Year award goes to Maclay "Mac" Gwinn. After retiring from Consumer's Energy 20 years ago, Mac has given his time and efforts to countless community organizations including the Alzheimer's Association, the Jackson County Historical Society, Big Brothers Big Sisters, and the Jackson Kiwanis Club. He is the Big Sisters Big Brothers Board President and he has his own "little brother." Mac also helped form a support group for men who care for loved ones stricken with Alzheimer's disease. Other Distinguished Citizens of the Year include Nancy Seydell, Steve Volker, Lisa Lazaroff, Mary L. Miller, and Bob Richardson.

I am very pleased to stand here today before my colleagues in the U.S. Congress to recognize these important milestones in the Jackson community as well as all of these great citizens. Each person is a wonderful role model who has expended a great deal of effort on behalf of the community in a selfless and humble manner. I challenge us all to strive to match their level of commitment and dedication.

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## COMMENDING SCOTT MALAN

### HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. ENGLISH. Mr. Speaker, I rise today to commend a true advocate for Pennsylvania's hospitals and patients. For over twenty-five years Scott Malan has tirelessly advocated for increasing the quality of health care available to Americans. He has done so quite successfully, Mr. Speaker.

Most recently, Mr. Malan served as vice president for legislative services at the Hospital Association of Pennsylvania. In this capacity, Mr. Malan directed federal advocacy campaigns, saving Pennsylvania hospitals hundreds of millions of dollars and increasing the quality of care for Pennsylvanians. Mr. Speaker, I had the pleasure of working with Mr. Malan on numerous initiatives over the past few years. In fact, we worked closely to include in the Medicare Prescription Drug, Improvement and Modernization Act of 2003 provisions which will ensure that Pennsylvania hospitals in rural areas are able to continue to provide quality care to Pennsylvanians. We also worked to include provisions to increase indirect graduate medical education payments to hospitals in order to ensure Americans have access to the most innovative care available. Mr. Speaker, due to Mr. Malan's diligent efforts and the steadfast work of the Pennsylvania congressional delegation, these provisions will be signed into law today by President Bush.

While it may seem, Mr. Speaker, that Mr. Malan is at the top of his game, in fact he is currently soaring to new heights. Mr. Malan has brought the expertise and knowledge he has amassed over the past twenty-five years to Triad Strategies, one of Pennsylvania's largest government relations firms. While at Triad Strategies, Mr. Malan will undoubtedly continue to advance policies which will enrich the lives of every American by working to ensure affordable, quality health care in this country.

Mr. Speaker, I wish Mr. Malan the best in his future endeavors and thank him for the dedication he has displayed over the past years to making the lives of my constituents better.

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## RECOGNIZING THE 100TH ANNIVERSARY OF HIRTH PLUMBING AND HEATING COMPANY IN BELLEVILLE, ILLINOIS

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 100th Anniversary of Hirth Plumbing and Heating Company in Belleville, Illinois.

Throughout 2004, Hirth Plumbing and Heating Company will celebrate its 100-year Anniversary. On January 15, 1904 George Hirth founded the company in Belleville, Illinois. Mr. Hirth owned and operated the company until his death in 1932.

The company then passed ownership and operation to George Hirth's daughter Mame "Hirth" Neuf and her husband Arthur Nuef Jr. until their retirement. The company was then owned and operated by Elizabeth Anne "Nuef" Terschluse and her husband Herbert E. Terschluse Jr.

Today, Hirth Plumbing and Heating is in its fourth generation of ownership and is operated by Stephen, David and James Terschluse. The company employs 40 people and operates as a plumbing, heating and air conditioning contractor serving the entire metro east with a customer base of over 9000. Hirth has offices in Alton, Collinsville, Columbia, Edwardsville, Freeburg, Granite City, Mascoutah, Jerseyville and New Athens, Illinois and they continue to maintain their home office operations in Belleville, Illinois.

Hirth Plumbing & Heating Company has been in continuous operation by the same family since 1904, providing prompt, professional and courteous service to their customers, family, friends and neighbors.

Mr. Speaker, I ask my colleagues to join me in recognizing the 100th Anniversary of Hirth Plumbing and Heating Company in Belleville, Illinois.

## CELEBRATING DEARBORN'S 75TH ANNIVERSARY

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. DINGELL. Mr. Speaker, I rise today to acknowledge, honor and celebrate the City of Dearborn on the occasion of its 75th Anniversary. Incorporated on January 9, 1929, Dearborn's roots as a community date to the mid-19th century. With a balanced mix of commercial, industrial and residential development sewn together by progressive city leaders, excellent schools and a unique sense of civic pride, Dearborn is the epitome of a successful American community.

Modern day Dearborn was created by the consolidation of Dearborn and Fordson cities and Dearborn Township. Henry Ford had a significant attachment or interests in all three jurisdictions and was an important advocate of the consolidation. The area that had served principally as the Detroit Arsenal between 1833–1875, was now poised to take on an identity all its own.

In the 1920 census, the villages of Dearborn and Springwells (renamed Fordson) had a combined population of less than 5,000 residents. It was between these two villages that Henry Ford built the Ford Rouge Complex, at which more than 85,000 men would one day work simultaneously. Such burgeoning manufacturing combined with the unheard of salary of $5 per day attracted workers literally from throughout the world to the newly formed city of Dearborn.

Such cultural diversity, coupled with Ford's benevolence, helped shape the newly formed city of Dearborn into a model of prosperity, civic virtue and individual opportunity. Dearborn has always provided its citizens with exemplary public service. Dearborn's reputation for public safety and education is second to none. Its residents have transcended cultural, ethnic and religious customs to form strong neighborhood associations that further contribute to the quality and diversity of living in Dearborn.

Dearborn continues to thrive today as a result of such active involvement and partnership from its corporate and individual residents alike. Today, Dearborn is home to colleges and universities, hospital facilities, appealing and expansive shopping areas and business districts, the Henry Ford: America's Greatest History attraction, the Automotive Hall of Fame as well as countless restaurants and numerous specialty and boutique shops.

Mr. Speaker, I ask that all of my colleagues join me in honoring Dearborn on its 75th Anniversary. The city of Dearborn is home to vibrant and stable neighborhoods, significant industrial production, cultural and artistic attractions and commercial business opportunities. Taken collectively, in celebrating Dearborn's 75th anniversary, we are really celebrating all the best that America represents.

## HONORING RICK KNAPP, HUMBOLDT COUNTY, CALIFORNIA

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Rick Knapp, who is being honored on the occasion of his retirement as District 1 Director of Transportation, California Department of Transportation.

Rick Knapp began his career with the California Department of Transportation in 1962. A graduate of the University of Nevada with a Bachelor of Science degree in Civil Engineering, Rick Knapp accepted a position with the Division of Highways, District 1, in Eureka, California.

In November 1966, he entered the United States Army and served in Vietnam where he designed bridges to replace those destroyed in combat. After two years in the Army, Rick Knapp returned to his engineering duties in Eureka. In 1972, he took a promotion as a Project Design Engineer in Los Angeles. In 1973, he joined the Division of Transportation Planning to help develop the first California Transportation Plan.

In 1979, Mr. Knapp returned to Eureka and in 1994 he became the Director of the 1st District, a region that includes the four northern counties of Del Norte, Humboldt, Lake and Mendocino. Immediately after his appointment as District Director, he was faced with the biggest earthquake and the most severe winter storm damage in the District in 30 years. With 18 of 23 state highways closed one or more times during the winter, Knapp and his team faced the colossal challenge of restoring and improving the highway system. After directing the repair of 400 damaged locations during difficult winter conditions, Knapp undertook a new program to correct perennial winter road closure locations.

During his tenure as Director, Rick Knapp's accomplishments include the widening and realignment of a two-mile high collision segment of U.S. Route 101 at Gushing Creek through the Redwoods near Crescent City. By securing emergency funding, Knapp made it possible to proceed with the project to relocate Route 101 at the Confusion Hill landslide that will establish a safe and reliable highway at this critical location. As Chair of the Context Sensitive Solutions Steering Committee, he developed a policy for the State of California that promoted flexibility in design and led to new state guidelines on State Highway Main Streets. In May 2003, Rick Knapp received the Charles H. Purcell Award from the California Transportation Foundation for excellence in engineering management.

An avid cyclist, Rick Knapp helped form the Humboldt Bay Bicycle Commuters Association. He was born and raised in Garberville, California. He is married to Jean Hawthorne and has two grown children, Angela and Randy Knapp.

Mr. Speaker, it is appropriate at this time that we recognize Rick Knapp for his commitment and dedication to his profession and for his 35 years of service to the people of California. We wish him happiness and much deserved rest in his retirement.

## TRIBUTE TO CAPTAIN KEVIN SHAUGHNESSY

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. WELLER. Mr. Speaker, I rise today to honor Captain Kevin Shaughnessy, who is retiring from the Illinois State Police after 25 years of service.

Captain Shaughnessy entered the Illinois State Police Academy in June of 1978 and was assigned to the Division of Criminal Investigations, Financial Fraud, and Forgery Unit. In 1988, he was promoted to Master Sergeant and became the Squad Supervisor of the Financial Fraud and Forger Unit. From 1986 to 1993, Captain Shaughnessy achieved many successes in his career. He was responsible for coordination and supervision of a multi-agency Fugitive Investigation Strike Team consisting of personnel from the Cook County Sheriff's Police and United States Marshall's Service. The Captain was also responsible for the implementation and administration of a 600,000 grant to investigate welfare fraud in Illinois. Under his supervision, the ISP Firearms/Fugitive Task Force successfully executed ten major round-ups of firearm fugitives. In 1995, Kevin was promoted to Lieutenant and assigned to the District Chicago as Commander of the South Suburban Major Crimes Task Force. In 1999, Kevin was promoted to Captain and named Commander of District 5 Joliet.

Captain Shaughnessy has received many decorations during his career including the Illinois State Police Director's Award of Honor and the Director's Award of Merit. In 2002, the Captain received the M.A.D.D. Officer of the year for Will County. During his career, Captain Shaughnessy has instructed over 3,000 Law Enforcement Officers on a variety of topics.

Captain Shaughnessy and his wife, Colleen are the proud parents of three children, Ryan, Kelly and Mary Beth. Friends of the Captain say he is an avid golfer and can often be found on his favorite golf course.

Mr. Speaker, I urge this body to identify and recognize other persons in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

## COMMEMORATING THE LIFE AND SERVICE OF REV. LUTHER VINCENT LAITE III

### HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. WELDON of Florida. Mr. Speaker, I rise to commemorate the life and service of Rev. Luther Vincent Laite III. Rev. Laite, a pastor and disabled American veteran of the United States Navy. Rev. Laite died on December 7, 2003, of complications from asbestosis, a disease contracted while serving his country in the U.S. Navy.

Rev. Laite honorably served his country for six years aboard the USS *Goldsborough,* and was honorably discharged in 1984.

Rev. Laite served as a pastor for 19 years in Brevard County, Florida. At the time of his death, Rev. Laite was the Senior Pastor of Christian Life Family Church of Brevard.

As a result of Luther's belief that churches must be involved in the life of the community, many women and children in need were helped. There was always room at the Laite family table or in the Laite house for those who had no other place to go.

Luther served on the board of the Protestant Ministries of Florida Institute of Technology and was National Director of Life Coalition International, an international pro-life ministry.

Luther is survived by his wife, Patti; seven children, Lydia Baker, Luther V. Laite IV, Audra Laite, Amanda Laite, Jesse Laite, Josiah Laite and Jonathan Laite; grandchildren, Zechariah Baker and Ethan Baker; his loving parents Luther and Peggy Laite and sister Vicky Stites, her children and grandchildren.

Several hundred people from all over the Nation attended the Luther Vincent Laite III memorial service that was held at Truth Revealed Ministries, Palm Bay, Florida, on December 13, 2003. Burial services were held at the Military Cemetery in Bushnell, Florida on December 15, 2003.

As quoted in Matthew 25:21, "Well done, good and faithful servant! You have been faithful with a few things; I will put you in charge of many things. Come and share your Master's happiness."

Indeed, Rev. Laite will be remembered by those who loved him as a faithful family man, devoted pastor and loyal friend. Our thoughts and prayers are with his family and friends. We will all miss him.

## IN RECOGNITION OF THE "QUEEN MARY II"

### HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. SHAW. Mr. Speaker, on Monday, January 26, 2004, the world's newest and grandest passenger cruise ship, the *Queen Mary II,* makes its first international port of call to one of the world's premier cruise ports, Port Everglades located in beautiful Fort Lauderdale, Florida. The *Queen Mary II* embarked on its two-week maiden voyage on Monday, January 12 following an extraordinary send-off amid fireworks and hundreds of well wishers from its home port of Southampton, England.

Named after her Royal Majesty Queen Elizabeth II, the *Queen Mary II* is a state-of-the-art, luxury passenger vessel. In fact, the *Queen Mary II* is 1,132 feet in length, 236 feet in height, top speed of approximately 30 knots, and includes a crew of 1,253 and maximum capacity of 2,620 passengers. An impressive list of vital statistics.

It is a great privilege to have the *Queen Mary II* and her crew visit Fort Lauderdale. Port Everglades remains one of the nation's busiest ports in both commercial and passenger traffic. Port Everglades has become a major embarkation point along the east coast. In 2003, Port Everglades experienced 3,072,343 passengers through its cruise ship terminal generating more than $89 million in total annual operating revenue. The continued success of Port Everglades is a testament to the financial commitment of the Broward County Board of County Commissioners and the stewardship of Port Director Ken Krauter.

Port Everglades is the port of call for more than 5,400 ships. Port Everglades is home to a number of seasonal or year-round ships representing a wide array of cruise lines; including Carnival, Celebrity, Costa, Crystal, Cunard, Holland America, Imperial Majesty, Mediterranean Shipping, Orient, Princess, Radisson Seven Seas, Regal, Royal Caribbean International, Seabourn and Silversea.

Mr. Speaker, on behalf of Broward County, Port Everglades, and the residents of South Florida, I welcome the *Queen Mary II,* Captain Ron Warwick, and crew to Fort Lauderdale on the occasion of entering their first port of call, and wish her and her crew many years of calm and safe seas on the many journeys across the Atlantic.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 22, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JANUARY 27

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the current situation regarding the discovery of a case of bovine spongiform encephalopathy in Washington State as it relates to food safety, livestock marketing, and international trade.
SD-106

10 a.m.
Budget
To hold hearings to examine the CBO budget and economic outlook.
SD-608

Governmental Affairs
Financial Management, the Budget, and International Security Subcommittee
To hold hearings to examine the fee structure of mutual funds that may lead to conflicts of interest, mislabeled costs and other practices in the industry that may be harmful to investors.
SD 342

Judiciary
To hold hearings to examine a proposed constitutional amendment to guarantee a functioning Congress, with respect to the continuity of the United States government.
SD-226

Aging
To hold hearings to examine retirement planning.
SD 628

10:30 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine health issues.
SD 430

2:30 p.m.
Judiciary
Terrorism, Technology and Homeland Security Subcommittee
To hold hearings to examine seaport security since September 11, 2001.
SD-226

### JANUARY 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine NASA's future space mission.
SR-253

10 a.m.
Judiciary
To hold hearings to examine the nomination of Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.
SD-226

10:30 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine health issues relating to health care costs and the uninsured.
SD-430

### JANUARY 29

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry.
SD 538

### FEBRUARY 3

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.
SH-216

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine fund operations and governance relating to current investigations and regulatory actions regarding the mutual fund industry.
SD-538

### FEBRUARY 10

9:30 a.m.
Armed Services
To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.
SR-325

FEBRUARY 24

2 p.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.

SH–216

MARCH 4

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

MARCH 10

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

MARCH 18

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.

345 CHOB

MARCH 25

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

# SENATE—*Thursday, January 22, 2004*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. STEVENS].

The PRESIDENT pro tempore. This morning I have the honor of presenting the former chaplain of the United States Senate, Dr. Lloyd J. Ogilvie, to lead us in prayer.

## PRAYER

The guest Chaplain offered the following prayer:

Almighty God, reigning Lord of this Nation, the Senate, and our personal lives, we are one Nation under You, our sovereign God. You have chosen us to love, glorify, obey, and serve You. We choose to be chosen and rededicate our lives to You.

We praise You for the great women and men who serve You as Members of this Senate. Continue to set ablaze their hearts with the fires of patriotic passion. You have made the formation of public policy one of the highest callings and have given to these Senators the awesome challenge of shaping the destiny of our Nation and our world. Grant them supernatural power to think Your thoughts, tune their hearts to the frequency of Your wisdom, and energize them with the resiliency of Your strength.

We thank You for the President pro tempore, TED STEVENS. We ask Your blessing on BILL FRIST and TOM DASCHLE, MITCH MCCONNELL, and HARRY REID as they seek to lead this Senate with the unity of shared vision for what is best for our Nation, with tolerance for differing convictions, and with the mutual esteem which is so crucial to progress. Thank You for Chaplain Barry Black, for his dynamic spiritual leadership and friendship. Grant every person working in the Senate family a renewed experience of Your unfailing love and faithful care. Grant them courage to press on with their strategic roles. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will resume debate on the conference report to accompany H.R. 2673, the Omnibus appropriations bill. Under the order, there will be 4½ hours for debate prior to a second cloture vote. It is my hope that cloture will be invoked and that the Senate can then conclude action on this vital funding measure. Senators should therefore expect at least one vote—we hope two, beginning at approximately 2 this afternoon. If time is yielded back, that vote may come earlier. As always, we will notify Senators when the vote is expected.

On behalf of the majority leader, I would also announce that if we finish the Omnibus this afternoon, the Senate may begin consideration of the pension rate reform bill. Prior to our adjournment, we reached a unanimous consent agreement for the consideration of that bill. Members who intend to debate and offer amendments to the pension rate bill should remain available following today's Omnibus vote.

I thank all colleagues for their attention and we hope to wrap up the Omnibus this afternoon.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I ask the assistant majority leader if he can advise Members with regard to the schedule tomorrow, whether any rollcall votes are expected.

Mr. MCCONNELL. I say to my friend and Democratic leader, I should be able to advise him later in the day, but I need to consult first with the majority leader.

## WELCOME TO FORMER CHAPLAIN LLOYD OGILVIE

Mr. DASCHLE. Mr. President, he has left the Chamber, but I begin my remarks by welcoming our former chaplain, Lloyd Ogilvie. He has so many friends and it is such a delight to see him. I know I will have an opportunity to talk to him personally later. His prayer this morning again brings back fond memories of those times and years he was with us. We welcome him back and appreciate very much his friendship and the fact he is back with us again today.

## OMNIBUS APPROPRIATIONS PROCESS

Mr. DASCHLE. Mr. President, I come this morning to again review the lay of the land. As I said a couple of days ago, many of my colleagues, most of our caucus, expressed deep concern alarm, really—at the hijacking of the process that went on during the deliberations on the Omnibus appropriations bill. I said at the time, and I believe it ought to be repeated, that I believe the process in the Senate was fair. I have immense respect for the distinguished chairman of the Appropriations Committee. He worked with Members on both sides to accommodate consensus and to reach agreement and the process worked. That process was destroyed at the eleventh hour by some in the administration and by leadership on the Republican side in the House. Changes were demanded. Ultimatums were set. The House and Senate were actually forced to take positions in conference diametrically in opposition to the very positions we took on the Senate floor after a very deliberative debate; positions that I think have great merit.

On an overwhelming vote, the Senate supported the notion that we ought to have country-of-origin labeling. They did it because they believed it is an opportunity for us to enhance our ability to add confidence to consumers' choice, knowing if they buy 100 percent U.S. beef they are not going to buy meat with downer cattle from foreign countries. We are going to be able to say with confidence to countries who are purchasing our products that they are 100 percent U.S. product. Today, they say they are not prepared to take our products unless we can give that assurance. For those and other reasons patriotism, patriotism—the Senate voted in support, not once but twice, of country-of-origin labeling.

With the crisis involving mad cow, it became even more imperative that that position be taken. Yet some in the White House insisted that there be a 2-year delay. That 2-year delay is tantamount to killing country-of-origin labeling. That is what is now in this bill, in direct opposition, in direct conflict, diametrically in opposition to the position taken by the Senate during the debate on the Agriculture appropriations bill and, I might add, diametrically in opposition to the views of the vast majority of the American people. Eighty percent of the American people support country-of-origin labeling. Over 80 percent say they would be prepared to pay more if we had country-of-origin labeling.

So it is with great chagrin that we find ourselves in this circumstance.

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The same could be said for overtime. I don't believe that most of our colleagues can fully appreciate the depth of feeling, the magnitude of anger and frustration that is out there on this particular issue. I have talked to firemen and policemen and nurses and first responders. I must say they cannot believe that their Government is devising ways with which to reduce and in some cases actually eliminate overtime. They can't believe that they may be among the 8 million Americans whose overtime will be lost when this bill passes. They can't believe it. They always thought if you work hard and play by the rules, especially working overtime, you are going to get paid. Now they have their own Government saying, in a memo produced by the Department of Labor, if you want to reduce wages, we will give you a way to reduce overtime.

What kind of progress in society is that? For all these years we have marched forward, recognizing we are going to reward work. What does this memo and what does the provision in this legislation say? We are not going to reward work anymore. In fact, we are going to find ways to get out from under the reward for work. How can anybody sustain that position here in this body? How can anybody with pride or with any conviction say that is the right policy now, after all these years? But that is what we are doing.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield.

Mr. REID. Do I understand that the Senate and the House, on both overtime and mad cow, or country of origin, voted by large majorities to have there be a continuation of overtime and to have country-of-origin labeling on all beef that comes into the United States? Did both bodies, by an overwhelming vote, sustain country of origin and elimination of the President's effort to wipe out overtime?

Mr. DASCHLE. The assistant Democratic leader is correct. That is a succinct summary of what we did. We voted to ensure there be country-of-origin labeling, like 43 other countries have in the world today, knowing we will not be able to export our product to Japan unless it is labeled. We did that.

When we found out the administration actually wanted to eliminate overtime, we said we are going to prohibit that.

As the distinguished assistant Democratic leader's question suggests, the administration—over the objections, I would say, of the Presiding Officer and others on both sides of the aisle from the Senate—insisted that be part of the appropriations process and this omnibus bill.

There is a third issue, and that is media concentration. Many of us are deeply concerned about concentration of media ownership, and for good reason. We have seen far too many examples already of what pressure is brought to bear at the local and even at the national level as a result of the power of ownership in media today. I must say, it gets worse and worse with each passing year. What we said is there ought to be a threshold on ownership of no more than 35 percent. That was a position taken on a rollcall vote here in the Senate. Incredibly, it was a position taken on a rollcall vote in the House of Representatives. Yet what does this omnibus bill do? This bill overrides both the vote taken in the House and the vote taken in the Senate. It is not representative whatsoever of the positions of either body, but it is in this bill.

How did it happen? Where was the rollcall vote in the conference to overturn this incredible decision? It happened in the dead of night. It happened because of an ultimatum. It happened because of pressure from the White House and people who did not hold those views in the House who lost the first time.

I worry about this precedent from the point of view of the institution. What does it mean in a democracy when 100 Senators vote, take a position, and when 435 Members of the House vote and take a position, and a cabal in the dark of night with no rollcall vote can overrule that position willy-nilly, with absolutely no record, with no fingerprints, and nullify the actions taken by the bodies themselves? What precedent does that set in our democracy today? Where will this take us in the future? How many more of these incredible overturning of position events will occur before all of us rise up in indignation and say what is a democracy if that is the result, that we can actually go to a conference and have a small group of people overturn the majority of Republicans and Democrats on important issues like this?

I must say, regardless of philosophy, regardless of politics, regardless of the issue, if you care about this institution, 100 people ought to be on this floor to talk about this today. So I am worried about that and I am worried about the policy itself.

But I know why we will probably get cloture today. Nobody here wants to be accused of shutting the Government down. Everybody understands the commitment that this legislation reflects in its support for veterans and for so many other things that we care deeply about. Senators are put in a very difficult position. I understand that. Do you support veterans or do you support an effort to deal with mad cow? Do you support highways and transportation or do you support an effort to confront this onerous provision eliminating overtime? Do you support housing or do you support an effort to retain the Senate position with regard to media concentration? That is a tough position for anybody to be in, especially people in politics. So we may lose this cloture vote today. I suspect we will. And I understand why.

But I must say, first we ought to be concerned. I don't care whether you are in the majority or minority, Democrat or Republican, liberal or conservative, we ought to be concerned when some small group of people, in the dark of night, overturn legitimate public rollcall decisions made by this body. We ought to be concerned about that because I think it is an erosion of democracy in our Republic that is deplorable, deplorable. How many more times is it going to happen? How does it render the Senate, this so-called deliberative body, when we can deliberate, make tough decisions here on the Senate floor, only to be overturned? What does it say?

With regard to the issues themselves I will say this: I said a couple of days ago this is the beginning. It was not our desire to shut the Government down, to block this bill ultimately. We wanted to give our Republican colleagues a chance to fix it. They have chosen not to fix any of these issues. But we will be back. We must be back. We will continue to offer amendments on whatever vehicle is presented to us. We are now preparing Congressional Review Act resolutions. The legislative veto is available to us on some of these matters and we will use it.

So we will be back again and again. These issues will not go away. We will continue to fight and we will continue to work, first, because we care about the institution but, second, because we care about these policies.

So, Mr. President, it is with great concern—chagrin, that we find ourselves in a position today that I wish had never presented itself to this body.

We will have a vote on cloture. We may have a vote on final passage. But it will not be the last vote on these issues.

I hope in the interest of this institution we will learn the hard lessons that these specific problems have created for each of us.

I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 2673, which the clerk will report.

The legislative clerk read as follows:

> A conference report to accompany H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, there will be 4½ hours equally divided between the chairman and ranking member of the Appropriations Committee or their designee for debate only.

Who seeks recognition? The Senator from New Jersey.

Mr. CORZINE. Mr. President, I yield myself about 10 minutes, if that is appropriate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORZINE. I thank the Chair.

First of all, I want to speak today about this appropriations bill that is now on the floor. I have serious ambivalence about how we should deal with the specifics of this measure. I know members of the Appropriations Committee, led by the Presiding Officer, have worked long and hard. They have worked in a fair way to try to make sure they put together the best final product they can, have been sensitive to the needs of their colleagues, and have worked to try to be balanced about how they brought forth this final product. Unfortunately, through the conference process, a product has emerged that differs from that sought by our leaders here in the Senate.

It is with some ambivalence that I feel the need to express some of the reasons why I will not be supporting the Omnibus appropriations bill for 2004. It contains what I believe are serious policy flaws that, furthermore, don't deal actually with the appropriations process. They go far beyond what should be addressed, debated and concluded in the democratic forum of this Senate, and in the House.

It seems to me that the most serious problem here is not even those policies, although they are very important in and of themselves, but this process that has somehow overturned the policies supported by wide majorities in both houses, policies we worked so long and hard to deal with—I think this process is out of kilter.

But I also believe that, at a policy level, they are important, things such as overtime. It is just hard to believe when we can pass a dividend and capital gains tax cut to help those who are already doing well to improve wealth, and, to put it in economic terms, to reward capital, we are turning our backs on labor and on work.

I don't mean labor in an organized sense. I mean our workforce, the people who work. It seems to me that people who work should have at least the same value attested to their efforts as people who invest. Here we are talking about 8 million people who will come off these rolls of potential overtime benefits. For what reason? For what reason are we doing this when we want to reinforce the work ethic in this country? And these are the people who have modest to middle-income positions in our society.

It is extraordinarily difficult to understand this decision when you consider the context that both this Senate and the House of Representatives have opposed changes to our overtime rules. This bill is a turnaround from the will of both bodies on this matter. It is incredibly difficult for me to understand why we are moving forward with this bill when we have something that strikes at the heart of what it is we value in this country. Work ought to be something that is rewarded. It ought to be recognized. It has been a part of the consensus we have in this country. Obviously, it is broadly conceived as being the right thing by the majority of folks in both houses and on both sides of the aisle. I have grave difficulty understanding this. It goes to the fundamental essence of how our economy works. Work ought to be valued at least the same as capital in this society.

Here we are turning our backs on it. We are sending the wrong signal to our kids, and to society in general. It is a big mistake, in my view—so big that I think it actually compromises the value of the overall piece of legislation.

Second, I have serious concerns about media concentration. Of course, a lot of us do not often like things that are said in the media. We don't like that to-and-fro which impacts us individually. But society is better by it. It is a lot better when we have a healthy debate of ideas and different viewpoints come out. That is what democracy is about.

The last time I checked, both sides of this body supported the media concentration rule at 35 percent. And somehow we have a different rule than what was agreed to by both houses. I heard the distinguished minority leader speak to the essence of the institution, and the institution is broader—not just the Senate but the Senate and the House. How can we reach agreements on things and then come out with a different result on something as important as how we communicate with the public in this country? How do we change the dynamics of political debate and news coverage on which the people rely to fulfill their civic duty and gather information to make decisions, such as who they are going to support? How will they make informed decisions when we have this concentration? It is an incredibly difficult concept for me to understand.

We don't raise a lot of cows in New Jersey, but we eat a lot of meat. I don't understand the country-of-origin labeling issue. Why would we not take the steps that are necessary to protect the American people and to protect the country's economic interests so we can keep the export markets open? This is not fundamentally sound on either the safety of the public or our own economic security. Why are we trying to cut jobs in this country? It is bad enough that we are cutting overtime. Now we are undermining our ability to actually be effective in the global market because we are making policy that reflects a narrow interest as opposed to the public's interests and the broader economic interests of the country.

It is hard to understand at a period in time when we are down 2.3 million jobs in less than 3 years, where there hasn't been the kind of growth in economic reality of people's lives—that is, going to work: jobs. Here we have something that endangers the public and strikes at the heart of economic growth. Economic growth makes a difference in families' lives in America: jobs. I have trouble understanding this.

I heard my distinguished colleague from New Jersey yesterday come down and talk about the destruction of records on the purchase of firearms after 24 hours.

Where are we coming from in a world where we have a war on terror with people who like to buy guns and go and use them for purposes that are antagonistic to the security of the American people? We are passing a law that is going to make that activity much more available. We can't check out records of air flights into the United States in a week, and now we are willing to say that we are going to take records on the purchase of a gun and have them destroyed within 24 hours? Please, somebody tell me the rationality of that in the midst of a war on terrorism.

Our President spent three-quarters of the State of the Union address talking about how we need to protect Americans both at home and abroad, and we turn around and embed in this legislation—by the way, not pass in this body—we turn around and change a fundamental issue with regard to gun safety in this country. It is very hard for me to understand that. We are turning our backs on protecting the American people.

I heard my colleague from New Jersey say this is a real deal where he comes from, a real deal. Seven hundred people in my State—10 people in my hometown—died on 9/11. I don't understand why we are changing the elements of safety and security of the American people in an appropriations bill. Why are we doing that? What special interest is arguing for that? What interest makes that so important we do that here and now? I find it incredible we think this is the right way to move forward on gun safety.

Overtime and the value of work, free expression of political opinion in our country as reflected in our media rules.

and the gun law changes in this climate of heightened concern about homeland security, I don't understand why these major policy moves are embedded in an appropriations bill, particularly when both Houses—at least on parts of these issues—have already said this is not the direction we want to take.

Mr. REID. If the Senator will yield for a question, will the Senator also agree—to complicate matters with what we are doing here today on the overtime issue, which is so important to so many millions, not hundreds, not thousands but so many millions of Americans—the Senator is aware that no matter what happens on this piece of legislation, the President now can do whatever he wants? Whether this passes or not, the President can do whatever he wants; is the Senator aware of that?

Mr. CORZINE. To be honest, I believe I have a sense that the President can do whatever he wants to do with regard to this issue. I think they have already done that. This authorization is embedded in this bill. But I know they can stand back and stop this with the same regulations they proposed to start.

Mr. REID. Again, I ask my friend the question, we have in one of these appropriations bills a prohibition, a piece of legislation that would prevent the President from exercising his authority to take away overtime rights for people all over America; is the Senator aware of that?

Mr. CORZINE. The distinguished Senator from Nevada, our assistant minority leader, is exactly right. I have read those exact words and know the President can use his authority for good or he can turn his back on Americans.

Mr. REID. The Senator is aware that some time, for lack of a better description, in the dead of night, where there was no one from the public present, even though the House and the Senate passed provisions dealing with overtime, the Senate is aware it was stripped from the bill?

Mr. CORZINE. I understand this is not part of the legislative process that we have all been a part of in the Senate and that in the House of Representatives.

The PRESIDING OFFICER (Ms. MURKOWSKI). The time of the Senator is expired.

Mr. CORZINE. If the Chair will yield 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Madam President, I repeat, the policies of this bill on overtime, media concentration, and certainly gun safety records are just incredibly out of connection with the reality of the world in which we live today. Work should be valued, open debate should be valued, and the safety of our citizens, our homeland security, should be valued.

Again, I compliment the leadership on its work on this appropriations bill. I just do not understand why we have had to mix it up and put it into a bowl of seriously flawed policies. There is a whole series of other policies, including vouchers in the school system, that have occurred without real debate—and I could go on—but overtime in this country is a value of work. Media concentration was designed so that America could have a free press and a free debate. We ought to be making sure we protect these fundamental rights. It ought to be done in a democratic way. I hope my colleagues will stand with us on principle on the Omnibus appropriations bill to fix it and come back to the fundamental underlying appropriations process.

Mr. STEVENS. I call attention to the Senators, as the leader's opening statement indicated, it is entirely possible a vote on the cloture motion will occur before 2 p.m. There are 4½ hours of debate equally divided prior to this second cloture vote, but those Members who want to speak should indicate to their respective floor leaders if they want to speak so we are not going to have anyone disturbed over relying on the concept that there are 4½ hours when there probably will not be 4½ hours of debate.

Mr. REID. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. REID. I appreciate very much the Senator making this statement. If there are Members desiring to speak and use the full 4½ hours, they have a right to do that. However, there have been requests on our side and on the majority side from Senators who would like to vote earlier. We would have to vote by 12 o'clock. So it would cut off 2 hours. We cannot vote at 12:30 because we have a policy luncheon starting at 12:30 and we have two votes.

If Members wish to speak, if they would notify the floor staff on both sides, we will divide up the time. If someone cannot come until this afternoon, that is the way it will be; we will have a vote at 2 o'clock.

I repeat what the distinguished President pro tempore has said: Some Senators wish to move forward more quickly, and we will do whatever the will of the body is, but we need to notify Senators as soon as possible.

Mr. STEVENS. Madam President, we are prepared to work with the minority in that regard and have the vote earlier if that is desired. I just want to call attention to the fact that Senators ought to take that into consideration in terms of whether or not they want to come to the floor and make a statement. If there is no indication anyone wants to speak, obviously we will go to a vote earlier.

At this time, I yield to the Senator from Texas, Mrs. HUTCHISON, the right to designate the time allocated under the time agreement on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Will the Senator from Alaska yield for a unanimous consent request?

Mr. STEVENS. I am happy to yield for a unanimous consent request.

Mr. CORZINE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution which I will send to the desk correcting the enrollment of the omnibus conference report. The resolution restores the Senate language barring the implementation of the regulations which will deny overtime pay to millions of workers; that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

Mr. STEVENS. Reluctantly, I must object to that request.

The PRESIDING OFFICER. The objection is heard.

Mrs. HUTCHISON. Parliamentary inquiry to the distinguished minority whip: Is it premature to ask for unanimous consent to change the time of the vote?

Mr. REID. It is. I say to the distinguished Senator from Texas that we are now waiting to hear from a number of Senators who have indicated they want to speak. It is a question of whether they can do it before lunch or if they have to do it after lunch. We are trying to work on that as quickly as possible.

Mrs. HUTCHISON. Madam President, it would be in everyone's interest, once our Senators are notified, if we could set that time so our time could be roughly equally divided before then.

With that, Madam President, I will speak on our time and talk about the importance of passing the omnibus bill. This is a bill that encompasses many departments in our processes in the Senate. Normally, we try to pass each department separately so we can deal with those issues separately. Because of various circumstances, we now have a bill that takes in several major departments. Therefore, there are things that have not been debated separately. I know there are concerns that have been raised. However, we must pass this bill if we are going to have the will of today's Congress take effect for the appropriations between now and October 1 of this year.

If we do not pass this bill—the alternative is a continuing resolution—it means that last year's priorities would prevail, and there would be some major losses in funding for the next 9 months of this year.

Let's take, for instance, the veterans. Today we would lose, by not passing this bill, the ability to fully serve our veterans in their health care. Continued operations under a continuing resolution would force the Veterans' Administration to curtail the hiring of new physicians and nurses, pharmacy costs would continue to rise, and we would not have the money to pay for the added expenses that we are seeing in the medicine benefits to veterans. The waiting list for veterans medical care would start to rise, and it would mean the VA would not be able to expand its long-term care services under the old priorities.

Part of our bill this year that is before us today expands veterans medical benefits. If we pass a continuing resolution, we would not be able to increase that medical service. We have new veterans with medical needs coming home now from Iraq and Afghanistan. The idea that we would not fully fund the needs of veterans today is unthinkable. That is what would go by the wayside if we do not pass the omnibus bill.

Let's talk about education. In the bill, Pell grants maintain their historically high maximum award of $4,050 to help disadvantaged students achieve the dream of a college education. Afterschool centers are increased in funding to $1 billion.

Impact Aid—now, Impact Aid is for school districts that have a high number of bases, military personnel in that school district. Impact Aid helps the school district overcome the fact that you cannot tax Federal property. If a base is a major part of a school district, that is nontaxable property. Yet military personnel send their children to these schools. So the Federal Government has always made up the amount that would be lost in property taxes by giving Impact Aid. It is increased $49 million over last year. That will be lost for the next 9 months if we do not pass this bill, thereby further strapping the school districts in the places that have a high volume of military personnel.

Wouldn't that be an incredible thing to say to our active duty military: Oh, we are putting more responsibility on you. We are putting more burden on you. Many of you are overseas, but you have to worry about the school districts not having the money to fully educate your children while you are serving our country. Is that really a message we want to send today to our military personnel?

Head Start funding, to help prepare our disadvantaged young children to learn and succeed in school, it is boosted by $148 million in the omnibus. That would be lost for the next 9 months if we do not pass this bill, so we would not be able to get those programs geared up with the reforms that we are trying to put in place that make Head Start more of an educational experience rather than just a play experience that is day care. We are trying to give these young children the opportunity to proceed, before they get to kindergarten, with the very best early childhood education possible.

When I was home over the holidays, I visited one of these target Head Start centers, where children in the 3-year-old class and the 4-year-old class were learning their ABCs. They were learning their numbers. They were learning the computer. There were 3-year-olds and 4-year-olds working on the computer. This is the kind of Head Start Program we want to fund. That would be possible if we pass the omnibus bill. That would certainly be curtailed if we do not pass the bill.

The National Cancer Institute would have $148 million more over the next year if we pass the omnibus bill. But if we stick with last year's priorities, the National Cancer Institute will have to stop its funding increases. Many people know, with the increase in health care research in the National Cancer Institute, we have been able to make great headway in fighting cancer, in finding the cause of cancer, and then finding something that will fight that particular cause of cancer.

The Geraldine Ferraro Cancer Education Program would be funded in fiscal year 2004 $5 million. It would help educate the public on issues surrounding blood cancers. None of this funding would be provided under a continuing resolution. So that is $5 million that would go to the education of cancers such as lymphoma, leukemia, multiple myeloma, which is very important because these are the cancers that have historically been underfunded. Many people now are getting these cancers when they are not really aware that they need to have their blood checked but because they are losing energy. It is a terrible disease. The Geraldine Ferraro Cancer Education Program funding would lapse if we do not pass this bill.

Election reform. We made major steps in the right direction on election reform this year. The Help America Vote Act would be providing funding to States to make sure they follow through on Congress's commitment to strengthen the electoral process. None of this funding would be available under the continuing resolution.

In a very important Presidential election year, when we are going to elect every Member of the House and when we are going to elect one-third of the Senate, do we really not want to fully fund the reforms to assure our electoral process is fair, that it is a system where people can count on their vote counting? I hope not. That is $1.5 billion in the omnibus bill that would not be funded for the next 9 months, until October 1, if we do not pass the bill.

So we obviously would not have any of these reforms in place if we do not fully fund and pass the omnibus bill that is before us today.

The Millennium Challenge. This is a program that would be both authorized and funded at $1 billion this year to help developing countries achieve economic growth, to lay out alternatives to poverty, violence, and terrorism. This is very important in our war on terrorism. If we keep terrorists from being able to lock into a country that is very poor, we will give the people of that country hope, hope that there is something else besides just violence and continued poverty. Economic possibilities, economic opportunities are what will make a difference in many of these countries.

The FBI is a very important part of homeland security. We now have put the FBI into the same grid that works in homeland security, with intelligence sources to try to pick up the signals that maybe there would be another terrorist attack.

Under the omnibus bill, the FBI will be able to hire 229 new agents, receiving $138 million in program improvements to help in the fight against terrorism. If we do not pass this omnibus bill, we will go 9 months without allowing the FBI to gear up for what we are asking them to do; and that is, to hire the agents to be a part of our homeland security.

The International Trade Administration is funded at $28 million more this year. What would we lose if that funding goes by the wayside? This is what is focusing on many countries' compliance with trade standards. China's compliance with trade standards. We have heard many concerns raised in our country about China complying with fair trade standards. We need to make sure China and every country meets the standards they have signed on that they would meet, standards that require intellectual property to be protected.

We don't want to allow people to copy the videotapes or the movies or the books that are being written by other people and not pay the intellectual property requirement to do so. But we need the enforcement capability. That will be lost.

We are targeting countries for cultural exchanges and education programs. One of the long-term goals in the war on terrorism is to try to bring people from countries that do not have democracy, that do not know freedom, to our country for cultural exchanges, for education, to show public education, giving our children the opportunity to learn, to read and write and learn math, to be able to function in a world that will create an economic base for a country. Many of the countries that are the home bed of terrorism do not have these freedoms.

Cultural exchanges are one of the long-term goals that we have in the war on terrorism to have people come from these countries to see what happens when you have a strong system of public education, to see what happens when you have freedom, to see how people can live when there is the right to free speech, when there is the right to a free public education that would give our young people the economic opportunities that education will give them.

A long-term continuing resolution that would not give any of these priorities that we have put in place in the bills that have come out of these committees would cause a $5.5 million budget shortfall for the Small Business Administration. That would be almost a 20-percent reduction in their budget. Programs that help small businesses compete, such as the 7A program, would eventually be shut down if we have a continuing resolution rather than this omnibus bill.

As I have gone through my State during the past 2 months, I have found many small business people complaining that the Small Business Administration offices are being shut down, the services are not there, the opportunity to have Small Business Administration loans and counseling is not as it used to be. If we pass a continuing resolution instead of this omnibus bill, we will lose almost 20 percent of the Small Business Administration budget.

It is very important we pass this bill, if we are going to fully fund our veterans health care, if we are going to fully fund the schools in our home district military bases so that people on active duty serving our country will not have to worry that their children in school are not getting their full educational opportunities this year.

The National Cancer Institute, with a $148 million cut over the next 9 months will have to stop the progress they are making in many arenas for finding the cure and the cause of cancer.

We are in a major election year. We would not fund the reforms that Congress has passed to assure every vote is counted, that we have good voting machines so that we won't have an issue such as what happened in Florida in the last Presidential election. We are helping States to have the integrity of the ballot in this very important election year for our Congress and for the President.

The International Trade Administration must be able to make sure that our intellectual property rights are met by countries such as China and other places that copy movies, copy books that don't pay the intellectual property requirements; the long-term exchange programs that will help us fight terrorism by giving the young people from a country that does not know freedom the opportunity to see what freedom and public education can bring; cutting back on the FBI—all of these are the things that would happen if we don't pass this omnibus bill.

It is my hope that we will have the opportunity to pass this bill today so we can put the imprimatur of Congress today on the next 9 months of funding in this fiscal year rather than rely on a bill that passed 2 years ago which doesn't take into account some of the reforms that have been made in Congress. It is my hope that Members will see that our veterans' needs and the needs of our active-duty military children in education and in cancer research will prevail. We will pass this bill and give our children a chance, and our country a chance, to have the increases we need for our homeland security, and the education of our children, and the research into cancer to find the cause and the cure. We must pass the omnibus bill to go forward in all of these aspects.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, we have run a hotline. We have notified what Senators we thought would be interested in coming. Senator KENNEDY and Senator CLINTON have indicated they wish to speak. We have asked Senator KENNEDY to come now. He will be here momentarily. Senator CLINTON will be here at around 11. What we propose—and hopefully the majority will be here momentarily—is that the vote occur at noon rather than 2 o'clock, with the time evenly divided. If Senator KENNEDY is ready to proceed, I ask that we would look at the unanimous consent agreement and consider Senator KENNEDY's time in light of that.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I will contact the leader's office.

Mr. REID. He is supposedly on his way down here now.

Mrs. HUTCHISON. I look forward to working with the distinguished Democratic whip to see if that can be put forward and locked in. I hope we would then start from a point to have equally divided time up until the vote at noon.

Mr. REID. So everyone should be aware that the vote will likely occur at 12 noon today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are a number of provisions in this legislation, the omnibus bill, that have been talked about. But I hope my colleagues will give consideration to the fact that the appropriators and the Republican leadership stuck into this omnibus bill a number of different provisions that never passed the Senate or the light of day or the smell test. And took out provisions to help millions of Americans. One of the provisions that they took out of the omnibus bill was a provision that was supported by the Senate and supported by the House in a bipartisan fashion. That was the amendment to tell the Bush administration that they could not deny workers overtime. His proposal would affect 8 million workers. Yes, this is an enormously important omnibus bill. Yes, it is important that we deal with the problems in education and health. I yield to no one in my concern in those areas.

All we are asking is that we take the omnibus bill and put back in the protection for workers. Or we could have the Bush administration rescind its proposal to deny workers overtime protections.

We have challenges in our economy, but one of the great challenges in our economy is not that firefighters, nurses, and police officers are being overpaid. That is not the problem we are facing in our economy. But that is going to be the effect if this particular omnibus bill goes through. The administration will implement its overtime provisions. As I mentioned yesterday, it is not just those individuals I mentioned—firefighters, nurses, and police officers—it is also the veterans.

Listen to this, America. Since the time of the passage of the Fair Labor Standards Act, the United States has accepted the concept of a 40-hour week. Then workers who worked more than 40 hours would get time and a half. That has been an accepted part of the American workplace since the 1930s, when the Fair Labor Standards Act was passed. But now this administration has made a proposal to effectively eliminate the requirement to pay overtime to 8 million Americans, which includes firefighters, police officers, and nurses. But they also put into this provision those who will be excluded. Listen to this. Those who will also be excluded will be those who receive the standard requirement and equivalent training in the Armed Forces. Do you hear that? Training in the Armed Forces. Over in Iraq, American service men and women have been trained. We have the best trained military in the world. The challenge of having a good military is to have the best in training, the best technology, the best leadership, and the best support for the families at home. Those are the elements of an effective military force. Now what we are saying to those who are in the military, the service men and women who have taken that training, which makes our military so superior—and being superior results in the saving of lives of service men and women—we are saying that kind of training in the Armed Forces will mean when you get back home, you fall into that category of the 8 million who will be precluded from getting overtime.

Can you imagine that? We have 200 training programs in the military. Great numbers of them fall within this particular provision of training in the costs would continue to rise, and we would not have the money to pay for the added expenses that we are seeing in the medicine benefits to veterans. The waiting list for veterans medical care would start to rise, and it would mean the VA would not be able to expand its long-term care services under the old priorities.

Part of our bill this year that is before us today expands veterans medical benefits. If we pass a continuing resolution, we would not be able to increase that medical service. We have new veterans with medical needs coming home now from Iraq and Afghanistan. The idea that we would not fully fund the needs of veterans today is unthinkable. That is what would go by the wayside if we do not pass the omnibus bill.

Let's talk about education. In the bill, Pell grants maintain their historically high maximum award of $4,050 to help disadvantaged students achieve the dream of a college education. Afterschool centers are increased in funding to $1 billion.

Impact Aid—now, Impact Aid is for school districts that have a high number of bases, military personnel in that school district. Impact Aid helps the school district overcome the fact that you cannot tax Federal property. If a base is a major part of a school district, that is nontaxable property. Yet military personnel send their children to these schools. So the Federal Government has always made up the amount that would be lost in property taxes by giving Impact Aid. It is increased $49 million over last year. That will be lost for the next 9 months if we do not pass this bill, thereby further strapping the school districts in the places that have a high volume of military personnel.

Wouldn't that be an incredible thing to say to our active duty military: Oh, we are putting more responsibility on you. We are putting more burden on you. Many of you are overseas, but you have to worry about the school districts not having the money to fully educate your children while you are serving our country. Is that really a message we want to send today to our military personnel?

Head Start funding, to help prepare our disadvantaged young children to learn and succeed in school, it is boosted by $148 million in the omnibus. That would be lost for the next 9 months if we do not pass this bill, so we would not be able to get those programs geared up with the reforms that we are trying to put in place that make Head Start more of an educational experience rather than just a play experience that is day care. We are trying to give these young children the opportunity to proceed, before they get to kindergarten, with the very best early childhood education possible.

When I was home over the holidays, I visited one of these target Head Start centers, where children in the 3-year-old class and the 4-year-old class were learning their ABCs. They were learning their numbers. They were learning the computer. There were 3-year-olds and 4-year-olds working on the computer. This is the kind of Head Start Program we want to fund. That would be possible if we pass the omnibus bill. That would certainly be curtailed if we do not pass the bill.

The National Cancer Institute would have $148 million more over the next year if we pass the omnibus bill. But if we stick with last year's priorities, the National Cancer Institute will have to stop its funding increases. Many people know, with the increase in health care research in the National Cancer Institute, we have been able to make great headway in fighting cancer, in finding the cause of cancer, and then finding something that will fight that particular cause of cancer.

The Geraldine Ferraro Cancer Education Program would be funded in fiscal year 2004 $5 million. It would help educate the public on issues surrounding blood cancers. None of this funding would be provided under a continuing resolution. So that is $5 million that would go to the education of cancers such as lymphoma, leukemia, multiple myeloma, which is very important because these are the cancers that have historically been underfunded. Many people now are getting these cancers when they are not really aware that they need to have their blood checked but because they are losing energy. It is a terrible disease. The Geraldine Ferraro Cancer Education Program funding would lapse if we do not pass this bill.

Election reform. We made major steps in the right direction on election reform this year. The Help America Vote Act would be providing funding to States to make sure they follow through on Congress's commitment to strengthen the electoral process. None of this funding would be available under the continuing resolution.

In a very important Presidential election year, when we are going to elect every Member of the House and when we are going to elect one-third of the Senate, do we really not want to fully fund the reforms to assure our electoral process is fair, that it is a system where people can count on their vote counting? I hope not. That is $1.5 billion in the omnibus bill that would not be funded for the next 9 months, until October 1, if we do not pass the bill.

So we obviously would not have any of these reforms in place if we do not fully fund and pass the omnibus bill that is before us today.

The Millennium Challenge. This is a program that would be both authorized and funded at $1 billion this year to help developing countries achieve economic growth, to lay out alternatives to poverty, violence, and terrorism. This is very important in our war on terrorism. If we keep terrorists from being able to lock into a country that is very poor, we will give the people of that country hope, hope that there is something else besides just violence and continued poverty. Economic possibilities, economic opportunities are what will make a difference in many of these countries.

The FBI is a very important part of homeland security. We now have put the FBI into the same grid that works in homeland security, with intelligence sources to try to pick up the signals that maybe there would be another terrorist attack.

Under the omnibus bill, the FBI will be able to hire 229 new agents, receiving $138 million in program improvements to help in the fight against terrorism. If we do not pass this omnibus bill, we will go 9 months without allowing the FBI to gear up for what we are asking them to do; and that is, to hire the agents to be a part of our homeland security.

The International Trade Administration is funded at $28 million more this year. What would we lose if that funding goes by the wayside? This is what is focusing on many countries' compliance with trade standards. China's compliance with trade standards. We have heard many concerns raised in our country about China complying with fair trade standards. We need to make sure China and every country meets the standards they have signed on that they would meet, standards that require intellectual property to be protected.

We don't want to allow people to copy the videotapes or the movies or the books that are being written by other people and not pay the intellectual property requirement to do so. But we need the enforcement capability. That will be lost.

We are targeting countries for cultural exchanges and education programs. One of the long-term goals in the war on terrorism is to try to bring people from countries that do not have democracy, that do not know freedom, to our country for cultural exchanges, for education, to show public education, giving our children the opportunity to learn, to read and write and learn math, to be able to function in a world that will create an economic base for a country. Many of the countries that are the home bed of terrorism do not have these freedoms.

Cultural exchanges are one of the long-term goals that we have in the war on terrorism to have people come from these countries to see what happens when you have a strong system of public education, to see what happens when you have freedom, to see how people can live when there is the right to free speech, when there is the right to a free public education that would give our young people the economic opportunities that education will give them.

A long-term continuing resolution that would not give any of these priorities that we have put in place in the bills that have come out of these committees would cause a $5.5 million budget shortfall for the Small Business Administration. That would be almost a 20-percent reduction in their budget. Programs that help small businesses compete, such as the 7A program, would eventually be shut down if we have a continuing resolution rather than this omnibus bill.

As I have gone through my State during the past 2 months, I have found many small business people complaining that the Small Business Administration offices are being shut down, the services are not there, the opportunity to have Small Business Administration loans and counseling is not as it used to be. If we pass a continuing resolution instead of this omnibus bill, we will lose almost 20 percent of the Small Business Administration budget.

It is very important we pass this bill, if we are going to fully fund our veterans health care, if we are going to fully fund the schools in our home district military bases so that people on active duty serving our country will not have to worry that their children in school are not getting their full educational opportunities this year.

The National Cancer Institute, with a $148 million cut over the next 9 months will have to stop the progress they are making in many arenas for finding the cure and the cause of cancer.

We are in a major election year. We would not fund the reforms that Congress has passed to assure every vote is counted, that we have good voting machines so that we won't have an issue such as what happened in Florida in the last Presidential election. We are helping States to have the integrity of the ballot in this very important election year for our Congress and for the President.

The International Trade Administration must be able to make sure that our intellectual property rights are met by countries such as China and other places that copy movies, copy books that don't pay the intellectual property requirements; the long-term exchange programs that will help us fight terrorism by giving the young people from a country that does not know freedom the opportunity to see what freedom and public education can bring; cutting back on the FBI—all of these are the things that would happen if we don't pass this omnibus bill.

It is my hope that we will have the opportunity to pass this bill today so we can put the imprimatur of Congress today on the next 9 months of funding in this fiscal year rather than rely on a bill that passed 2 years ago which doesn't take into account some of the reforms that have been made in Congress. It is my hope that Members will see that our veterans' needs and the needs of our active-duty military children in education and in cancer research will prevail. We will pass this bill and give our children a chance, and our country a chance, to have the increases we need for our homeland security, and the education of our children, and the research into cancer to find the cause and the cure. We must pass the omnibus bill to go forward in all of these aspects.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, we have run a hotline. We have notified what Senators we thought would be interested in coming. Senator KENNEDY and Senator CLINTON have indicated they wish to speak. We have asked Senator KENNEDY to come now. He will be here momentarily. Senator CLINTON will be here at around 11. What we propose—and hopefully the majority will be here momentarily—is that the vote occur at noon rather than 2 o'clock, with the time evenly divided. If Senator KENNEDY is ready to proceed, I ask that we would look at the unanimous consent agreement and consider Senator KENNEDY's time in light of that.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I will contact the leader's office.

Mr. REID. He is supposedly on his way down here now.

Mrs. HUTCHISON. I look forward to working with the distinguished Democratic whip to see if that can be put forward and locked in. I hope we would then start from a point to have equally divided time up until the vote at noon.

Mr. REID. So everyone should be aware that the vote will likely occur at 12 noon today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are a number of provisions in this legislation, the omnibus bill, that have been talked about. But I hope my colleagues will give consideration to the fact that the appropriators and the Republican leadership stuck into this omnibus bill a number of different provisions that never passed the Senate or the light of day or the smell test. And took out provisions to help millions of Americans. One of the provisions that they took out of the omnibus bill was a provision that was supported by the Senate and supported by the House in a bipartisan fashion. That was the amendment to tell the Bush administration that they could not deny workers overtime. His proposal would affect 8 million workers. Yes, this is an enormously important omnibus bill. Yes, it is important that we deal with the problems in education and health. I yield to no one in my concern in those areas.

All we are asking is that we take the omnibus bill and put back in the protection for workers. Or we could have the Bush administration rescind its proposal to deny workers overtime protections.

We have challenges in our economy, but one of the great challenges in our economy is not that firefighters, nurses, and police officers are being overpaid. That is not the problem we are facing in our economy. But that is going to be the effect if this particular omnibus bill goes through. The administration will implement its overtime provisions. As I mentioned yesterday, it is not just those individuals I mentioned—firefighters, nurses, and police officers—it is also the veterans.

Listen to this, America. Since the time of the passage of the Fair Labor Standards Act, the United States has accepted the concept of a 40-hour week. Then workers who worked more than 40 hours would get time and a half. That has been an accepted part of the American workplace since the 1930s, when the Fair Labor Standards Act was passed. But now this administration has made a proposal to effectively eliminate the requirement to pay overtime to 8 million Americans, which includes firefighters, police officers, and nurses. But they also put into this provision those who will be excluded. Listen to this. Those who will also be excluded will be those who receive the standard requirement and equivalent training in the Armed Forces. Do you hear that? Training in the Armed Forces. Over in Iraq, American service men and women have been trained. We have the best trained military in the world. The challenge of having a good military is to have the best in training, the best technology, the best leadership, and the best support for the families at home. Those are the elements of an effective military force. Now what we are saying to those who are in the military, the service men and women who have taken that training, which makes our military so superior—and being superior results in the saving of lives of service men and women—we are saying that kind of training in the Armed Forces will mean when you get back home, you fall into that category of the 8 million who will be precluded from getting overtime.

Can you imagine that? We have 200 training programs in the military. Great numbers of them fall within this particular provision of training in the

Armed Forces. For the life of me, I cannot believe why this administration would write into their proposal that the training in the Armed Forces will mean you are going to be excluded from overtime pay. I just do not understand that. I just do not understand it. I wish those on the other side of the aisle who support that particular provision would come out here and explain that.

I want to mention another important provision in this overtime pay, the effect of which hits a particular group in our society, and they are the women who are working in the American workforce. Two factors have made life for middle-income and working families at least plausible and livable. One is the fact that women have entered the workforce and, secondly, many of these families have mortgaged their homes to deal with the problems of tuition escalation and other things, such as emergency health needs. The fact is there is no what they call in economics "elasticity" left in this. They don't have other members of the families who can work once the husband and wife are working. You don't have another husband and wife to go out there and you only have one home and if you mortgage that to educate your kids you just can't do very much more. You are depending, to a significant extent, on overtime pay. I want to remind the Senate about what has been happening in the workforce. The middle-income mothers work 55 percent more hours today than 20 years ago. Here it is: It was 895 hours in 1979, and in 2000 it was 1388 hours—almost double what they were working in 1979, over a 20-year period. Why are they working? To provide for their families. What are we saying to these mothers who are working hard and making some overtime? We are saying to the mothers and to the women in the families you are not going to be able to get that benefit either. You are not going to be able to get the benefit either. This falls particularly hard on the 8 million Americans who will be outside of the overtime definition, for the veterans who came back from Iraq in the military forces, because it will be said you are a professional now, you have had training in the Army. We have read in your record that you have had some training, so even though you are doing this job, we don't have to pay you overtime. It says that in the Armed Forces training regulation.

This provision falls unduly harsh on the women. As women have increased their time in the paid labor market, their contributions to family income have also increased. These contributions have been particularly important to lower and middle-income families. An increase in time spent at work creates childcare and other family challenges. These added hours have had a negative effect on a parent's ability to be at home after school, help with homework, or care for an ill or aging family member.

The Bush proposal would take away overtime protections for millions of American women, ensuring that they work longer hours for less pay. Women who are working today are going to work longer hours for less pay. That is the result of the overtime provision. Make no mistake about it. Our amendment protecting overtime—saying to the President that he can't take away overtime pay—was taken out of the omnibus bill after it was passed on the floor of the Senate and in the House of Representatives. But the Republican leadership knew they could not win on the Bush proposal on the floor and they took it out of this bill—challenging this body to take it or leave it.

This is one Senator who is going to leave it because of what it is going to do to working families, for the women and veterans in this country. Women tend to dominate retail services and sales promotions that would be particularly affected by the Bush proposal. The increase in overtime, often with little advance notice, would take away from the families, disrupt the schedule of working parents, as well as impose additional childcare and other expenses. Women's groups like Nine-to-Five, the American Association of University Women, National Organization for Women, National Partnership for Women and Families, and the YWCA express their strong support for the Harkin-Kennedy amendment to preserve the overtime protections. Those are the leading women's groups—National Organization for Women, National Partnership for Women and Families, YWCA. Effectively, every group that represents women in our society strongly opposes these provisions which are written in by the Republican leadership denying overtime.

These organizations representing women—Nine to Five, the American Association of University Women, the National Organization for Women, the National Partnership for Women and Families, and the YWCA—have all indicated their strong opposition to the overtime provisions. They know the adverse impact on women.

I wish to point out that of the millions of Americans who will lose their overtime, not only do we have police officers, nurses, and firefighters, but if we look at other categories, we see cooks, clerical workers, a large percent of which are women, physical therapists, dental hygienists, bookkeepers, lab technicians, graphic artists. These are major professional groups where, in a number of those areas, women are the majority of workers, so they would be adversely affected. This provision adversely affects veterans and adversely affects women.

Today's New York Times points out what my colleague, my friend, John Kerry, mentioned as a veteran himself in Exeter, NH.

This is the New York Times story:

> An omnibus spending bill has been stalled in Congress in partisan dispute over provisions to which Democrats object. One would allow the Bush administration to press ahead with rules that Democrats say could strip millions of their right to overtime pay. Hitting that theme, Mr. Kerry said the president would treat those who trained for some skilled jobs in the military as professionals ineligible for overtime pay, adding this "made my blood boil."
>
> "We need a president who understands that the first definition of patriotism is keeping faith with those who wore the uniform of the country," Mr. Kerry, a Vietnam veteran, said. . . .

It could not be said any better than that.

Madam President, I ask unanimous consent that the entire New York Times article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 22, 2004]

### IGNORING OTHER CANDIDATES, KERRY TURNS FOCUS ON BUSH

(By David M. Halbfinger and Randal C. Archibold)

EXETER, NH, January 21.—Surging in the New Hampshire polls, Senator John Kerry ignored his rivals on Wednesday and blasted President Bush on health care and charged that new rules on overtime supported by the administration would bar many veterans from overtime pay.

Mr. Kerry said the president had rightly praised American troops and veterans in his State of the Union address. "But once again it's an example of a say-one-thing-and-do-another administration," he said, pointing to the overtime dispute.

An omnibus spending bill has been stalled in Congress in a partisan dispute over provisions to which Democrats object. One would allow the Bush administration to press ahead with rules that Democrats say could strip millions of their right to overtime pay. Hitting that theme, Mr. Kerry said the president would treat those who trained for some skilled jobs in the military as professionals ineligible for overtime pay, add in that this "made my blood boil."

"We need a president who understands that the first definition of patriotism is keeping faith with those who wore the uniform of the country," Mr. Kerry, a Vietnam veteran, said at Daniel Webster College in Nashua.

He spoke as two new polls showed him taking the lead in New Hampshire. The separate polls, in the Boston Herald and the Boston Globe, each put Mr. Kerry 10 points ahead of his closest rival, Howard Dean, although surveys in primaries are notoriously unreliable because of the difficulty in identifying likely voters.

Mr. Kerry also began commercials showing people praising his "leadership and experience" and emphasizing his endorsement by the Concord and Nashua newspapers.

Wednesday night at Phillips Exeter Academy, he drew about 1,000 people, easily his largest crowd for a stump speech in New Hampshire.

In his noon speech in Nashua, he rolled out a few new phrases to depict the president as out of touch with everyday Americans and in the thrall of the "special interests."

"You can tell from his State of the Union address that the President is facing re-election," Mr. Kerry said. "I wish he'd face reality. Watching President Bush's speech last night, one thing kept coming back to me: He just doesn't get it."

He invoked "the unheard majority in the health care debate," saying, "We need a president who's going to make sure their voice is finally heard, that they have access to the White House, not just those who contribute significantly to campaigns."

Mr. Kerry said he would reverse rules barring Medicare and states from negotiating for discounts on bulk purchases of prescription drugs and repeal a ban on re-importing American-made drugs from Canada. He called on Mr. Bush to work with states like New Hampshire that have tried to start reimportation.

Deriding the Medicare bill enacted last year as a benefit only for pharmaceutical companies, Mr. Kerry said, "If I'm president, I pledge to you, we will repeal that phony bill."

As Mr. Kerry aimed his fire at the White House, the second-place finisher in the Iowa caucuses, Senator John Edwards of North Carolina, briefly detoured to his native South Carolina, where the Democratic primary will be held Feb. 3.

At a packed sandwich shop in Greenville, Mr. Edwards sounded his themes of spreading optimism and hope in a country he sees dispited by job loss, financial insecurity and shrinking education opportunities. And naturally he emphasized his roots in a state whose primary he says he must win to remain in contention. "I was born here, I still have a lot of family here," Mr. Edwards said to raucous applause, adding, "This is part of who I am and I intend to compete every way I know how."

Later, back in New Hampshire, Mr. Edwards reprised a line comparing his electoral potential in the South to that of his northeastern rivals. Answering a question at Roland's diner in Nashua on how he would get his agenda through a Republican Congress, he said: "The question is, who on the top of the Democratic ticket can go everyplace in America and campaign with the candidates and strengthen their ability to get elected?"

He added, "In Georgia, do you want John Edwards campaigning with you? Do you want Howard Dean campaigning with you? Do you want John Kerry campaigning with you?"

Later Wednesday evening, Mr. Edwards drew one of his largest crowds yet in New Hampshire, some 400 people who filled a V.F.W. hall in Portsmouth to overflowing. He drew strong applause for his vow to diminish the influence of special interests in Washington who he said block legislation favorable to low-income and middle-class Americans.

"Let me tell you what we should do with these Washington lobbyists," he said. "We ought to cut them off at the knees. The truth is these people are stealing your democracy."

Senator Joseph I. Lieberman, who moved to Manchester rather than compete in Iowa, called the New Hampshire primary race wide open and talked up his ability to beat Mr. Bush as he spoke to high school students and business leaders. He urged voters to weigh his experience, consistency and predictability.

Mr. KENNEDY. Madam President, finally, I would have thought that since Tuesday—it is now Thursday—we would have heard someone on the other side come down and defend stripping these provisions out of the omnibus bill. The silence has been deafening. One would think if they were going to take these out, at least they would have the guts to come down here and explain to the American people why. Why did they take them out? Who took them out? Who asked that they be pulled out? What was the reason, after it had been supported by the Senate and House of Representatives? But all there is is silence—silence—from the Republican side.

That says something, does it not, when we are talking about something which has already been addressed in both Houses, passed in the Senate, passed in the House, and stripped out in the dead of night and there is silence on the other side.

American workers deserve better. We deserve to understand what the process was in taking out this provision that has been passed by the Senate, and the leadership refuses to give us an opportunity to have another vote to put it back in. Why are we not having a vote to be able to restore it? It doesn't take any time. We would agree to half an hour, with time evenly divided. Let's hear them defend the Labor Department's regulation, a regulation that will affect women, a provision that works unfairly against veterans, a regulation that is unfair to firefighters, police, and nurses. Where is the justification? There is silence on the other side.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. Yes, I yield.

Mr. REID. What the Senator is saying—I say in the form of a question—there may be silence on the other side but it is a little hard, with mad cow disease floating across the world and occurring in our country, for me to comprehend how anyone could defend not having country-of-origin labeling in this bill.

The Senator from Massachusetts has been in the Senate for an extended period of time. Madam President, with all of his experience, can he think of any reasonable rationale, logical argument that can be entered to defend their having taken something that passed the House and Senate dealing with country-of-origin labeling, namely, that if you buy a hunk of meat, you should know from where it comes?

In all of the Senator's experience, his ability to articulate as well as anybody in the country today, could he in his mind figure out a way to defend that position?

Mr. KENNEDY. Well, the logic of the Senator's argument is so overwhelming and the common sense of it is so compelling.

Mr. REID. Could I ask another question?

Mr. KENNEDY. Let me complete this. As the Senator remembers, at the time we heard about the mad cow disease, there was not a family in America that was not asking what is the safety in terms of the food we are eating, the meat product our children and our families eat. All America was concerned about it. We have an opportunity to do something about it. We know what can be done about it.

As I hear the Senator from Nevada, it would not take an awful lot of time. I know the Senator's amendment. I do not think it would take more than half an hour to be able to include those provisions that would give the kind of additional health safety protections for the American people. It is not an absolute guarantee for every situation, but it would make a major difference. How long does the Senator think it would take to include those provisions that would provide the country-of-origin protection?

Mr. REID. I disagree strenuously with the Senator about needing half an hour. It could be done in 5 minutes, 2½ minutes on each side. This is so clear cut. The Republicans en masse would vote in favor of this.

This is something that has been directed from 16th and Pennsylvania Avenue. It was done in the dead of night. The Republican leaders did not follow the legislative prerogatives within the Constitution and caved to the President and corporate America.

This would take 5 minutes. We are going to have a chance to vote on this, and when we do, it will overwhelmingly pass.

Mr. KENNEDY. We could do it now, am I correct, or do it if there was agreement?

Mr. REID. We could do it now in 5 minutes. Nobody will oppose it. I dare anybody to come to this floor and oppose what is going on in this country on mad cow. My 13-year-old granddaughter at dinner Monday night asked her little 8-year-old brother, Aiden: Would you like a piece of mad cow? Even children are afraid of this.

Mr. KENNEDY. Well, there you are.

Mr. REID. Could I ask the Senator another question? I apologize. I hope I am not imposing too much.

Relying upon the experience of the Senator from Massachusetts, whom we have all heard on many occasions explain as well as anybody who could on an issue, we have a situation where the President of the United States has indicated for a while now that he wants to take away overtime for millions and millions of Americans, and we, the Congress assembled, the House and the Senate, said we do not want him to do that, and we passed provisions and laws saying he cannot do that.

Again, in the dead of night, the Republican leadership in the House and the Senate caved in to 16th and Pennsylvania Avenue. Now, I ask the Senator from Massachusetts, can he come up with any logical argument as to why the American people should be faced with police officers, firemen, nurses, cooks, paralegals, dental hygienists, social workers not being able to get overtime?

Overtime went into effect during the Depression, 70 years ago. Can the Senator come up with any way anyone could articulate a defense of having this overtime provision in this legislation?

Mr. KENNEDY. The answer is special privilege, special interest. Just to add to what my good friend from Nevada pointed out, the Department of Labor then had the gall to publish suggestions to show American business how to make sure these 8 million were not going to receive the overtime. This is just special interest politics: Mad cow, overtime, power of special interests. These are the similar kinds of interests that denied this institution the opportunity to permit negotiation of drug prices under Medicare. What is in the public interest there? America is finally going to find out the Bush administration is primarily interested in protecting the special interests, not the public interest.

That is what I heard across the various small towns, communities, and farms in Iowa. The American people are beginning to get it and nothing illustrates it more clearly than the proposed overtime change in regulations which so adversely affects not only these 8 million Americans but particularly members of the Armed Forces, returning veterans, and the women in our society.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I will be very brief. I want to address a change in the time we will be voting today and move that ahead. I want Senators to know just as soon as possible. I will propound a unanimous consent request and then comment on it for 1 minute.

Madam President, I ask unanimous consent that the cloture vote on the conference report now occur at 12 noon; provided further, that the time prior to the vote on cloture be for debate only, and that the time be equally divided between the chairman or ranking member or their designees, with the final 10 minutes equally divided between the two leaders or their designees; provided further, that all of the provisions of the previous order remain.

Mr. REID. Twelve noon today.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Twelve noon today.

Mr. FRIST. That is correct.

The PRESIDING OFFICER. Twelve noon today. Without objection, it is so ordered.

Mrs. HUTCHISON. Parliamentary inquiry: The time would be equally divided from now or from the beginning of the session?

Mr. REID. If there is a problem with time and more time is needed for the majority, we will include Senator KENNEDY's time. We only have Senator KENNEDY and Senator CLINTON. If somebody else comes, I am sure we will not have trouble dividing up the time.

Mrs. HUTCHISON. That is fine. I didn't know how it would come up. I wanted to make sure, if we have some people before 12, that there is some way to accommodate them.

Mr. FRIST. Madam President, we have been working with both sides of the aisle to make sure people have had adequate time to address this issue over the last day and a half. These are very important issues and why we have brought this bill to cloture votes and another vote. So the vote will be at 12 noon, with the understanding that this will give people adequate time to speak. We will stick with the time being equally divided.

To clarify, the vote will be at noon, an hour and 20 minutes from now. If we are successful with that cloture vote, there will be another vote right after the first vote. So we would have both of those votes between noon and 1 o'clock.

At that point, if we are successful, the plan is to go to the pension rate reform bill. We would begin debate on that bill today, as well as amendments today and tomorrow.

The reason I am making this announcement now is because I want to put everybody who is interested in that pension reform legislation on notice that they need to be around today, tomorrow, and Monday, during which we will debate and offer amendments.

If we are successful with these two votes and we get on the pension bill, I will be able to say no more votes today or tomorrow if we can stack those votes for Monday afternoon. We will have no votes after the omnibus bill today if we can make progress on the pension bill and come to an agreement that we will stack those votes for late Monday afternoon.

Mr. REID. Will the majority leader yield? The ranking member of the HELP Committee, Senator KENNEDY, has indicated he is ready to begin some debate on this bill on our side this afternoon. Senator BAUCUS, as you know, is recovering from that accident where he fell. He will not be here. The Finance Committee is aware Senator KENNEDY will be managing the bill on our side. So we are ready to proceed on this matter as soon as the omnibus work is completed.

Mr. FRIST. Madam President, I very much appreciate that participation. Coming back on January 20, there were a lot of things going on. This weekend people are going back to their States to have certain meetings. It is important we continue the business. I appreciate the work on both sides this week. It has been a productive week on many important issues, and we will continue to make progress over the course of the day.

If it goes as outlined—I would like to be able after the second vote today to begin the pension debate, with both sides having people available we would have no more votes Thursday or Friday—I am not making that announcement now, but hopefully later this afternoon—and then we will stack votes for Monday afternoon. I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, the Senator from New York is on the floor and Senator BENNETT is on his way, but I want to take a moment and say I understand some of the concerns that have been raised, but this is a bill that puts Congress's imprimatur on spending for the next 9 months. It does not take last year's priorities. It takes this year's priorities.

We have had a chance to talk about it. We have had a chance to debate. We have had amendments earlier in the process. There has been a full vetting of the differences on this bill. My bottom line is, are we going to let this bill fail and have a continuing resolution that will go from January to October 1 and fail to enact the reforms in election law that will ensure the integrity of the ballot in our country during a Presidential election year? Are we going to keep $148 million from going into the National Cancer Institute when we are doing great research on the causes of cancer and the potential cures? Are we going to fail to meet the needs of our veterans by not allowing the hiring of physicians and nurses, not fully funding the pharmacy costs which are going through the roof, which we must fund for the veterans who are needing drugs as so many people in our country do? Are we not going to fully fund the impact aid schools where our military children go to school while their parents are in Iraq and Afghanistan? Are we going to let those schools' budgets be cut back? I ask, what is the alternative to passing this bill? The alternative is using last year's budget, last year's priorities, and not putting the stamp of this Congress on these priorities in place.

I think we have to look at our choices. The choices are increasing the FBI, increasing impact aid for our schools, increasing National Cancer Institute funding, increasing the ability to make sure China and other countries are complying with intellectual property laws. We will lose a lot if we do not pass this omnibus bill today and go forward with the funding programs for next year on an orderly basis.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I listened to the debate with respect to the fiscal year 2004 Omnibus appropriations bill that is before us. I agree with many of the points my friend from Texas was making about the important appropriations in this bill and the necessity for providing the funds needed to run the significant, critical programs of our Government. It is regrettable, therefore, that we are confronted with this particular choice. It was an unnecessary choice. It is a false choice.

The appropriators worked very hard. I have the highest respect for members of the Appropriations Committee. In their hard work, they produced recommendations about what funding was needed for the critical functions of our Government. If that is what we were voting on today, I do not know that there would be a debate. I am confident there would be overwhelming support for that part of the bill. But we all know what happened was not the bill that came out of the Appropriations Committee or the bills that came out of the Senate. Instead, in a conference committee, legislation was inserted into this appropriations bill that has far-reaching consequences.

So here we are being asked to support the ongoing funding of the functions of our Government, which all of us agree is important, at the cost of supporting some very serious changes in our laws that will have far-reaching consequences for the people who live in our States and our country.

As Members of the legislative body, the legislative branch of Government—because we have three branches, three coequal branches under our Constitution—we have two primary responsibilities. First, we are the voices of the people who elect us. That doesn't mean we always agree with every constituent. That would be impossible. I have 19 million constituents. But it does mean that we listen and we pay attention and we try to make the very best judgments we can about what is in the interests of the people we represent.

Then, second, we are part of the system of checks and balances among the branches of Government our Founders so brilliantly invented.

I believe this omnibus bill and the process through which it was constructed violates both of those primary duties. This bill is laden with provisions that were rejected by a vote in this body, and some by votes in the other body. We took a vote. We said, representing the people of New York or Nevada or Utah or America, we are for it or against it but here is where we stand. Apparently the majority vote is no longer the rule in Congress, much to my amazement and distress. That is because this bill has many provisions which were rejected, which were turned away, yet here they are in the bill. We are asked that we either vote for everything or risk the loss of funding for critical Government functions. To me, it just defies our constitutional system.

There is a phrase, "under cover of darkness." I think this bill represents, "under cover of conference." This is one of those processes that may sound a little arcane and even boring to people watching at home or sitting in the gallery, but this is the way our Government in this body, the Congress, works. The Senate passes something. The House passes something. Then, in order to work out any differences between the two Houses, they go to what is called a conference committee where they say: Here is what you passed, and here is what you passed. How do we compromise? Compromise is the very essence of a legislative body.

But that is not what happened this time. What happened is that the conference committee became a separate, equal, powerful, independent legislative body run by the administration. It was under cover of conference that the White House unilaterally added provisions to this bill which reflect their political ideology and agenda, whether or not the duly elected Members of the House and the Senate agreed.

Nowhere is the antidemocratic nature of this process more apparent than in the denial of overtime pay protections for 8 million Americans, including 450,000 New Yorkers. This is a significant overhaul of our Nation's worker protection laws. It was proposed under a cloak of secrecy without a single congressional hearing, without a single public hearing.

As many of my colleagues remember, when the previous administration, the Clinton administration, issued regulations governing how we work today with computer terminals and repetitive kinds of procedures which cause carpal tunnel syndrome and other sorts of problems, regulations were issued to help redesign the workplace and protect the modern worker, particularly office workers but also people on assembly lines who do repetitive work hour after hour. The Clinton administration Labor Department issued ergonomics regulations. That is the phrase that describes how we try to improve the workplace to deal with these kinds of stresses.

The Republicans in Congress attacked the Labor Department for issuing these regulations, claiming they had rushed to judgment because the Clinton administration held only 27 days of public hearings—27 days. Here we are being asked to vote to radically change the overtime compensation rules of our country, and we have never had a public hearing from this administration. Nevertheless, the changes, when they were announced, got a huge outpouring of reaction and a lot of scrutiny from workers and unions and people who know what it means to have to work hard and be told you are going to work hard and you are not going to be paid any more money for it. Many tough questions were asked.

As Members of the House and Senate learned more about these proposals, we became concerned and we said wait a minute, we don't think that is fair. On September 10 of last year, with bipartisan support, we addressed this proposed rule and we saw, in the House, a motion passed to instruct the conference committee to adopt the Senate language, which was on a bipartisan basis, to reject changes under these kinds of circumstances in the overtime compensation laws.

Now what has happened? You would have thought that ended it. But, no, the administration has refused to comply with the wishes of the majority of both Houses of Congress, and I believe the majority of Americans. So we are faced with an Omnibus appropriations bill that radically changes laws that have been in place since the 1930s. I just think everybody needs to understand this. This is not a partisan statement. This is not a political claim. This will take away overtime protection from American workers, whether you are Democrat or Republican, an Independent or pay no attention to politics.

I don't think most experts believe that workers will work less. In fact, the productivity gains that have been occurring are largely because workers in America are actually working longer hours, not fewer hours. In fact, the General Accounting Office found that workers who already are not covered by the Fair Labor Standards Act protections are more than twice as likely to work overtime; three times as likely to work 50 to 60 hours per week.

This is going to have a particularly disadvantageous impact on Americans who live in high-cost areas such as New York City. When you look at what the new rules are and the way the administration has rubbed salt into these wounds by not only changing the rules but sending out circulars to employers to tell them how they can avoid even getting into a position where they might have to pay overtime, it is not a far reach to conclude, as have many experts who have looked at this, that we are seeing with this bill a direct cut in the take-home pay and the yearly income of people who work really hard and who will continue to work hard for less money.

Three of the groups that will be most impacted are police officers, nurses, and veterans. The International Union of Police Associations and its general counsel, who is widely recognized as one of the Nation's leading experts on the Fair Labor Standards Act, estimates that 50 percent of our police officers will lose their overtime provision if this regulation is implemented.

I don't look forward to the next orange alert in any community in our country where police officers are put on 12-hour shifts, maybe 16-hour shifts, where they are asked to work double-

and triple-time shifts to protect us, and all of a sudden, no more overtime.

The same with nurses. I have an extraordinary admiration for nursing.

I know from many of the nurses with whom I work and speak on a regular basis that they are already being forced to do a lot of overtime because of cost pressures on hospitals. They are being asked to do an extra shift. They come to the end of the week, and they are being asked to work weekends. Many nurses are concerned about the quality of their work, being under pressure when they have already put in a 40-hour, 50-hour, or 60-hour workweek. But now we are going to ask them to keep working and not pay them. I am sorry, I don't understand what reality our friends on the other side and on the other end of Pennsylvania Avenue live in. We are losing nurses at a rapid rate because the working conditions with mandatory overtime are already so difficult. The average age of the American nurse is 45. These are mostly women. But they are women and men with lots of responsibility, training, commitment, and devotion. They don't mind working hard, but they have families. They have their own health to worry about. All of a sudden they are going to be told their job depends on them putting in that extra time. But we are sorry, we changed the overtime rule.

Right now, nurses who do not have a 4-year degree could be denied overtime under these proposed rules if they have "experience in nursing." How absurd is that? Of course, they have experience in nursing. They are nurses.

It used to be if you had a professional degree above a certain level you were considered a professional, you worked for a salary, and you weren't going to get overtime. But a lot of LPNs and others, after they have worked a year or 2 years, all of a sudden have experience even though they don't have a 4-year degree. So now this administration is telling their employers to work them because they are now experienced. That is their equivalent.

The cynicism of this is breathtaking. It bothers me greatly to see this great body be part of such a fraud.

Look at the estimates. Two hundred and thirty-four thousand LPNs will lose overtime. You know that a lot of nurses are going to continue to walk away from nursing. It is hard enough if you are paid for these long, difficult hours. But not to be paid for them? I just think we are going to be exacerbating the nurse shortage and undermine the quality of care available to patients.

The final category I will mention is our veterans. We have heard a lot of rhetoric about veterans in the last couple of days, haven't we? I am very proud to represent hundreds of thousands of veterans. I am very proud of the men and women serving us in uniform today. Yet this bill takes away the overtime protections to which many veterans in the workforce are now entitled.

Right now, under the law as it is written before this regulation can go into effect, only workers with a 4-year degree in a professional field can be labeled professional, and, therefore, denied overtime. The Bush administration, under this regulation, would do away with this requirement. They would allow training in the Armed Forces to substitute for a 4-year degree. I know we have an all-volunteer military. I am very proud of the young men and women who sign up to serve our country. I know when they are recruited they are told: Here is the training you can get and the additional education you can obtain in the Armed Forces. This is not only an opportunity to serve your country but to put you in a good position for the future when you get out of the military service if you do not make it a career. You will have tremendous opportunities because of these skills.

Now we are turning around and breaking faith with our veterans, too. We are basically saying: You know that training we gave you, that education you acquired in the military? Now it is going to count against you. You take a job where otherwise you would be entitled to overtime—say you become a police officer and an MP in the Army; you don't have a college degree, but you served as an MP. All of a sudden, guess what. You are not eligible for overtime anymore.

It is very hard to justify in a jobless recovery like the one we are allegedly in that we would make life harder for working Americans; that we would tell the police and firefighters and nurses and veterans and others, guess what. We are going to take money out of your pocket in order to satisfy employers who do not want to be fair to you.

We wouldn't have needed these laws if everybody lived by the golden rule, would we? If everybody got up every morning and said I am going to treat people the way I want to be treated. I am going to treat my employees the way I want to be treated, we would not have to have this law, or probably any other law. But we know, with human nature being what it is, that we have to have some protections for those people who are in less powerful positions. We are just tearing up that social contract right now.

There are many other provisions in this omnibus bill that either were voted against by this body and stuck in anyway or never considered. I am finding this an amazing experience being in the Senate. Everything that I read in civic books and that I thought was what happened in our legislative body is just being upended and thrown out the window.

Another provision slipped into the omnibus which was earlier rejected by this body on a bipartisan basis will delay the implementation of mandatory labeling of the country from which meat and vegetables are imported. I want to know where my food comes from. I would be happy if I could buy only food from New York because I would like to support my New York farmers. I would like to know whether that is a New York apple or a Chinese apple. Somebody else can go ahead and buy the Chinese apple. I want to buy the New York apple. I sure want to know where the meat I eat comes from. That is what this body voted for.

But in response to pressure from a small group of the meat and food industry executives, the administration did the bidding of the special interests instead of the vast majority of Americans. Once again, why are we surprised? And they stuck language into this Omnibus appropriations that will prevent consumers like us from knowing where the food we purchase is grown, and they will overturn a law that is very important to the farmers I represent and to American farmers and producers around our country. It is stunning that this would be done at a time when we were really focused on our flood supply, when we know we need to do whatever we can to protect our food from disease and possible terrorism.

The mad cow issue that arose a few weeks ago is something that has gotten everybody's attention focused on the quality of our food and the safety of our food.

The idea of a country-of-origin requirement was passed as part of the farm bill in 2002. Here it is 2004, and this administration wants to undo the will of the democratically elected majority of the Houses of Congress.

There are many more examples of what is wrong in this omnibus, whether it is reimposing the national television ownership cap that was already rejected in both Houses, making our media less diverse, more concentrated, and less responsive to local issues.

Senators MCCAIN and HOLLINGS held extensive hearings on this issue. They produced a Senate resolution to restore meaningful, cross-ownership limits on television stations and newspapers. It passed by a vote of 55 to 40. That was a bipartisan majority vote. The legislative branch did its job. We held the hearings, we got the evidence, we did the argument and debate, and we had the vote. It doesn't seem to matter to the folks on the other end of Pennsylvania Avenue. If it crosses one of their special interests, by George, we don't care about democracy. We don't care about majority votes. We don't care about bipartisanship. We are going to deliver to the people whom we think are on our side when it comes to special interests.

It is distressing and it is something about which I think every American should be concerned. We are undermining the checks and balances of our Constitution. We are undermining accountability. We are undermining the coequal branches of Government.

If all we wanted was a king, we would have put a king into the Constitution to do whatever the king wanted to do. What do we need a democracy for? Why do we need to elect people to come to the Senate to express their opinion, hold hearings, and have votes? Let us just cede all authority to the other end of Pennsylvania Avenue. They want control of the executive branch. They want control of the congressional branch. They want control of the pork. Why don't we just all give up and go home? It doesn't seem to matter what we vote on. It doesn't seem to matter what the majority says. The administration calls the shots, and people in this body let them do it. It is astonishing to me.

Another example: We are diverting limited educational resources to an untested, unproven, private school voucher plan which was not included in the Senate-passed bill. I think, once again, we are doing something that has no support in this body and we are letting it happen because the administration wants it to happen.

We also have an across-the-board cut in this bill, not debated by the Senate, stuck into the bill at conference, taking away money from agencies of the Government, appropriations already signed into law, including the Department of Homeland Security.

I could go on and on. It is astonishing what happened under cover of conference. It is hard to justify a process that is so flawed, so antidemocratic—with a small "D"—so beholden to and in the pocket of special interests, so willing to buckle under and do the bidding of the administration, whether or not it is in the best interests or the long-term benefit of our Nation.

It is our responsibility to do the business of those people who sent us here. By ignoring the will of the majority, by turning our backs on the Senate and the House, we are making a mockery of our system.

I know very well that during the previous administration the other side of the aisle would be up in arms. And they should have been if something such as this had gone on, no doubt about it.

I hope we will continue to stand against this mockery of the democratic process and the undermining of our legislative responsibility.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I have listened with interest to the Senator from New York and will respond to several of the things she said.

I notice the chairman of the Appropriations Committee in the Chamber. I do not wish to intrude on his time unduly because he is the real expert on this process and can explain why we are where we are far better than I can.

I do have personal reactions to several of the comments the Senator from New York has said. She talks about things that have not been passed by the Senate and gives two examples—country-of-origin labeling and vouchers—and says we are ignoring the will of this body.

But what she does not comment on and may not realize is that in both these instances, the House of Representatives took a diametrically opposed position to that which was taken by the Senate. The purpose of conference is to deal with that kind of a challenge.

I will talk about the country-of-origin labeling because I was personally involved in it. The House of Representatives said: Absolutely, we are going to kill this program. The Senate said: Absolutely, we have to keep this program. There is not a lot of room for negotiation between those two positions.

For her to say it is terrible, what came back from conference was not what the Senate passed and somehow we did it because the administration told us to do it ignores the fact that the House of Representatives has exactly the same amount of power under the Constitution as the Senate. And they took a very firm position.

What we came up with, in conference, and I was the one who suggested it so I have direct knowledge, was a compromise that said we will not take the House position and kill this program, but since the House will not take the Senate position and implement it immediately, let's simply delay the effective date to give us time to figure out a way to make it work, if it is possible to work.

I don't consider that under cover of darkness. I don't consider that a violation of what we learned in civics class about the way to resolve problems between the House and the Senate. I think it is a legitimate position that comes to a compromise between the House's firm statement and the Senate's firm statement and says we will keep the law, which is what the Senate wanted, but we will delay the implementation, which is not quite what the House wanted. I view that as a win for the Senate position.

I am a little bit troubled to have the Senator from New York say we have violated the spirit of the Constitution with this kind of a compromise and this kind of accommodation between the two.

I have said this before and undoubtedly will again. I learned from my father when he served in this body this truth: We legislate at the highest level at which we can obtain a majority. Many times the process of getting to a majority is not pretty. Many times things are done which in civics class people would get very upset about, but in order to get a majority to get the thing done, this is where we are.

This bill represents the highest accommodation of all the interests we can arrive at for which we could obtain a majority.

One other comment that I would like to make with respect to the Senator from New York and her constant repetition that all we did in this conference was buckle under to the will of the administration; all we did was accept the administration's position and over and over again; we ignored our responsibilities as the legislative branch and said whatever the king wants we will give him. This is the rhetoric we get.

I have not been here as long as many Members and certainly not as long as the chairman of the full committee who will speak next but I have been here long enough to have been in a number of Appropriations Committee conferences, most of them under the previous administration, the Clinton administration to which she referred, and I tell my constituents, in every conference of the Appropriations Committee on which I have sat—and there are a number of them—when the Clinton administration was in power, the Clinton administration made its wishes very much known. And in every instance the veto threat that came out of the Clinton administration was, if you do not increase spending above the amount you are talking about in this bill, the President will veto it.

There were times when we gave in to that pressure from the administration. We felt it so necessary to pass the appropriations bills and fund the Government that we would grit our teeth and say, all right, we will, even though it was not adopted in either House we will, in fact, increase spending in order to avoid a veto threat.

The veto threats we have heard out of the Bush administration have been the other way. The veto threats out of the Bush administration are, these spending numbers are too high and we have to cut them down in the name of fiscal responsibility.

I make that point because one of the things being said in this political season is that the Republicans have given up on fiscal responsibility; the Republicans are responsible for the runaway spending. I have been there. I have been at the conference committees. I can assure all Members that this administration is no more active in the conference committees than the previous administration, and all of the pressure out of the previous administration was to increase the spending whereas the pressure out of this administration has been to try to get the spending under control. I simply want to get that information clearly on the record as we go into this political season.

With that, I yield the floor so we can hear from the other Senators.

Ms. COLLINS. Mr. President, I rise today to discuss recent progress regarding amendment 13 to the Northeast Groundfish fishery management plan.

The omnibus appropriations bill we are currently deliberating will pause the implementation of amendment 13 for 5 months. This pause was added at my request because of inequities in this fishery management plan that unfairly discriminates against Maine fishermen. Since I announced in November that I would seek to delay implementation of amendment 13, considerable progress has been made to address the inequities in it.

Last week, the New England Fishery Management Council's Groundfish Committee held an emergency meeting to address these problems. The committee made excellent progress. Specifically, it forwarded a recommendation to the council regarding a minimum allocation of 10 "B" days-at-sea for all permit holders. This significant change will ensure that no fishermen are shut out of the fishery entirely. Further, the committee forwarded a recommendation to the full council advocating a decrease in the conservation tax for days-at-sea transfer. Both of these recommendations will soften the impact of amendment 13 on Maine's fishermen.

The groundfish committee also charged their advisors with identifying "B" fisheries in the Gulf of Maine. It is crucial that these fisheries are developed to ensure Maine's smaller vessels, which do not have the capacity to reach the grounds currently open, can utilize their "B" days-at-sea. Finally, the committee asked their advisory panel to examine the problem of steaming time, which has long worked to Maine's detriment.

I recently received a letter from David Borden, chairman of the New England Fishery Management Council, confirming that "all of the issues that [I] consider important to Maine fisherman are now being actively evaluated and considered" by the New England Fishery Management Council." Chairman Borden goes on to assure me the language that I included in the omnibus, "provided the necessary focus for the fishery management process to address these issues on a timely basis, and that process is well underway." I very much appreciate the chairman's candor and his willingness to work with me to address the aspects of amendment 13 that disproportionately harm Maine fishermen.

It is clear that in the months since my provision was added to the omnibus, the New England Council has acted in good faith to meet the concerns of Maine fishermen. Given these developments, I am prepared to lift my objections to an implementation date of May 1, 2004 for amendment 13. I will work with my colleagues to examine ways to lift the funding restriction included in the omnibus. I do this in good faith, and ask for good faith in return. My continuing effort to lift this funding restriction is contingent on both the council and the conservation community continuing to actively address the concerns I and Maine's fishing community have raised.

I am pleased that my provision had its intended effect of focusing the council's attention on the legitimate concerns raised by the Maine fishing community. I am confident that the council will continue to work to improve amendment 13 for the benefit of all New England fishermen.

Mr. HATCH. Mr. President, I rise today to discuss the sections of the consolidated Appropriations bill, H.R. 2673, that pertain to funding for the Departments of Commerce, Justice, and State. I want to recognize the conferees, especially CJS Appropriations Chairman GREGG and ranking minority member HOLLINGS for their hard work on this bill.

It has been just over 2 years since the horrific September 11 attack against our country. We must remain vigilant in fighting the threat of terrorism. Our priorities should reflect the need to ensure the security of our people. The Justice Department leads our Federal law enforcement efforts that are so critical to protecting our country.

Securing the safety and security of Americans at home and abroad should continue to be the number one priority in the Federal law enforcement budget. Such security requires providing Federal law enforcement agencies, as well as State and local law enforcement agencies, with the tools necessary to combat terrorism. Providing adequate funding for these tools is essential to law enforcement's ability to protect America. I am pleased that the Omnibus appropriations bill reflects this priority.

While we must continue to safeguard America from future terrorist attacks, we should, at the same time, exercise fiscal discipline in order to promote our economy. We face difficult budget decisions but I am optimistic that with the improving economy we can balance the need to fund fully the programs necessary to protect Americans with the continuing need to exercise the fiscal discipline that our constituents deserve.

I am especially pleased that approximately $62 million will be appropriated to the Foreign Terrorist Tracking Task Force FTTTF. This independent agency is responsible for coordinating and sharing information among agencies which is crucial to preventing terrorist attacks. The FTTTF is tasked with an enormous responsibility—gathering information from and sharing intelligence with—the CIA, the FBI, the National Security Agency and the Departments of Justice, Homeland Security, Treasury, State and Defense. Breaking down the walls between our agencies is critical to our national security, and I applaud the increase in funding for the Foreign Terrorist Tracking Task Force.

While our Federal law enforcement agencies have focused on combating terrorism, they also carry the burden of investigating and prosecuting other significant crimes. I am pleased to see that the bill includes almost $557 million for Interagency Drug Enforcement which reflects funding for the multiple Departments, including the Department of Homeland Security, the Department of Treasury, and the Department of Justice, which are responsible for cooperating and bringing together the expertise of each of the Federal agencies with the efforts of state and local law enforcement to combat major narcotics traffickers and money launderers. This represents a significant increase to assist law enforcement operations.

I am especially pleased that the Conferees accepted the House funding levels for the Drug Enforcement Administration, DEA at approximately $2.2 billion rather than the Senate's level which would have severely hampered the DEA. At a time when the DEA is shouldering a greater burden in fighting drug trafficking, I commend the Senate for increasing the DEA's funding to make sure that our communities receive all the help they can to reduce the scourge of drugs.

I am also pleased to see that the bill funds the Juvenile Accountability Block Grant, JABG, program which was recently reauthorized as part of the "21st Century Department of Justice Appropriations Authorization Act," P.L. 107–273. Congress reformed the federal role in the nation's juvenile justice system by providing relief from burdensome federal mandates and authorizing block grant assistance to States and local governments, which includes accountability-based juvenile justice programs. The authorization act strengthened the Juvenile Accountability Incentive Block Grant program.

With the passage of Trade Promotion Authority in 2002, Congress set, as one of its priorities, the successful negotiation of free trade agreements. As many of my colleagues are aware, the burden of negotiating these agreements falls on the Office of the United States Trade Representative, USTR. I submit that in order for USTR to do its job, we must ensure that they have the adequate resources necessary to perform the job that we demand of the agency.

Let's examine some of the realities at USTR. One year prior to the passage of TPA, USTR's workload was comprised of two trade agreements. One year after the passage of TPA, USTR's has taken on more than five times its prior workload, negotiating nearly a dozen Free Trade Agreements and pursuing several dispute settlement talks.

And the complexities of the negotiations before and after the passage of TPA have changed. Under the mandates of TPA, through the course of negotiating any Free Trade Agreement, U.S. negotiators seek: strong Intellectual Property Rights protections; access to telecommunications markets; access to financial markets; strong biotechnology protections; increased access to the services markets; strong investment protections; reasonable labor protections; common sense environmental protections; access to the e-commerce market; to ensure the safety of imported food; and strong dispute settlement mechanisms that help to protect America's economic interests. This is no small feat.

I am pleased that the conferees accepted the House level of funding to this important agency which provided an additional $5 million—bringing USTR's funding to $41,994,000. This additional funding is consistent with the marked increase in the agency's workload and will help ensure that USTR will be able to adequately fulfill their Congressional mandate.

I was hoping to see language in the bill which would ask the General Accounting Office, GAO, to look into several issues that will be relevant in the preparation of the 2010 census. What I would have liked to see could have been as simple as the following: the potential cost of any 2010 Overseas Census; the use of emerging technologies, including the internet, in any overseas enumeration; the feasibility of using State or Federal systems for assigning Americans living outside of the United States for purposes of appointment of Representatives in Congress among the several states; and the different ways of determining some legal basis for whom should be counted.

These are important issues that need to be more fully explored. In my State of Utah, where some 14,000 Utah residents are serving an overseas mission for the Church of Jesus Christ of Later Day Saints and are not counted in any census—this is an especially critical issue. I submit that these four issues are not only important for Utahns but for the nation as a whole. There are many citizens of this great Nation that are either temporarily living or working overseas that are not counted in the decennial census. The Congress needs to identify the best and most cost effective ways to ensure that every citizen is counted.

I would have also liked this bill to correct a provision enacted in Section 211 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999. That section was challenged before the WTO following its application in a U.S. lawsuit addressing the enforceability of a trade name confiscated by the Cuban government in 1960 without compensation to the owner. The court found the trademark to be unenforceable by the plaintiff entity, which had acquired the alleged rights to the mark from the Cuban government. Congress should bring the United States into compliance with the decision of the WTO Appellate Body in that case.

The WTO found in favor of the United States on the section 211 challenge in all respects but one: it concluded that section 211 was drafted in a manner that transgressed the national treatment and most-favored-nation obligations under the TRIPS agreement. At issue was the language of section 211 specifying that the Cuban Government, Cuban nationals and their non-U.S. successors are ineligible to own, and therefore enforce, confiscated trademarks. We should clarify that the prohibition on owning trademarks confiscated in Cuba applies to all nationals, not just Cuban nationals and their successors, thus removing the basis of the WTO's criticism.

While I urged the chairman and ranking Democratic member of the Appropriations Committee to look seriously at including this language in the bill to correct previous appropriations language, I do want to make it clear that it does not constitute a waiver of the Judiciary Committee's jurisdiction over this or any related matter.

Again, I want to thank the Conferees for their efforts.

Mr. INHOFE. Mr. President, I would like to remark briefly on a matter of critical importance to me, related to one of the bills included in this omnibus, VA-HUD. The Senate Committee on Appropriations' Report on VA-HUD contains language directing the Agency for Toxic Substances and Disease Registry—ATSDR—to assess the lead levels at the Tar Creek Superfund site in Oklahoma, and to submit a report to Congress on this assessment no later than July 31, 2004. As a Senator from Oklahoma, and as the chairman of the Environment and Public Works Committee, I cannot emphasize enough the importance of this endeavor to more fully understand the elevated lead levels we're seeing in this community, particularly in children. As the chairman of the committee with jurisdiction over both Superfund and ATSDR, I would like to take this opportunity to elaborate on my expectations of ATSDR in connection with this directive: I am urging ATSDR, in collaboration with the Oklahoma State Health Department, to work to identify significant sources and pathways of exposure to lead that may be contributing to elevated blood lead levels in children at the Tar Creek Superfund site in Oklahoma.

Mr. LEAHY. Mr. President, I come to the floor today to express my disappointment with the Omnibus appropriations bill.

It is not without some reservation that I rise today to make this speech. As a member of the Appropriations Committee I know how hard it is to draft these bills each year. Senators on both sides of the aisle have worked long and hard to produce each of the seven bills that are wrapped into this package. Chairman STEVENS and Senator BYRD were tireless in their efforts to move these bills along and have tried to keep this process on track despite the difficult hand they were dealt.

Unfortunately this year, under the influence of the administration and the pressures of partisanship, the process broke down. It is now the middle of January, nearly four months into the fiscal year, and 11 out of 15 Cabinet-level departments are running on a temporary spending measure. This stopgap measure has already caused disruptions in services and cuts to many social programs.

We should not be in this situation. Had we considered these bills in regular order we would have passed most of them long ago. The foreign operations title was written in a bipartisan manner and every member of the conference committee—Democrat and Republican—signed the conference report.

I strongly support this portion of the omnibus, and I want to commend my friend from Kentucky, Senator MCCONNELL, for working with me in such a bipartisan way to produce what I believe was probably the best, most balanced outcome we could have achieved.

Although the amount contained in the foreign operations conference report fell far short of the amount requested by the President—a fact which I find mystifying since the President's party controls both Houses of Congress—it is an improvement over the previous fiscal year. It contains several new initiatives, as well as additional funds for some very important programs.

I supported Senator DASCHLE's effort last December to pass the foreign operations bill independent of the omnibus. If we were given the opportunity to vote on the foreign operations portion of the omnibus by itself—and frankly I do not understand why we have not been given that opportunity—I would vote aye.

Instead the administration and congressional leadership used the pressure to pass these bills as a vehicle to move their agenda forward. Several provisions were added, and in some cases removed, to the package at the last minute and behind closed doors, sometimes in direct contradiction to votes taken on the Senate and House floors. We are now in a situation where the omnibus is mired down in debate over controversial issues unrelated to the underlying bill.

These are issues as serious as how much overtime our Nation's workers should be paid. The Bush Labor Department announced plans last March to overhaul the Federal rules on overtime pay. The new rules would redefine eligibility for overtime, adversely affecting nearly 8 million American workers who earn between $22,100 and $65,000 annually. I am troubled that so many working families in this country will no longer be entitled to time-and-a-half pay. And I find it disingenuous that the Labor Department is planning to include in the regulations a list of cost-cutting suggestions for businesses that will show them precisely how they can avoid paying overtime compensation to their employees.

On September 10 of last year I joined a bipartisan group of Senators in opposing the administration's overtime compensation changes. By a vote of 54 to 45 the Senate approved an amendment to the Labor-HHS appropriations bill to overturn the regulations for another year. The House joined this effort less then a month later when they instructed their conferees to support the Senate provision. Unfortunately the President threatened to veto the fiscal year 2004 Omnibus appropriations bill if it contained this provision. Late at night, without the consent of the full conference committee, congressional leaders relented and against the will of Congress the provisions were removed from the final bill.

The Labor Department now expects to have its regulations finalized by the end of March. And in testimony before the Senate Labor Appropriations Committee yesterday the Secretary was unwilling to not only delay implementation of the regulations, but even to listen to the debate about how many workers will lose overtime pay because of the regulations.

Just 2 nights ago President Bush implored us to do more to help struggling, working families across this country. He said we should lower their taxes so they have more money to spend. He said we should implement new savings incentives so they have more money saved up. And he said we should implement new programs to promote family life so they will spend more quality time together. Unfortunately, the actions of this administration to reach into the pocketbooks of hard-working families—to take away their overtime pay and keep them apart for even longer hours—speak much louder than the President's words.

The will of the Senate was also thwarted when it came to regulating the safety of our Nation's food supply. Consumers have said, in large numbers, that they want basic information about the food they consume. A recent nationwide poll indicated that 82 percent of American consumers think food should be labeled with country-of-origin information. That is why Congress mandated country-of-origin labeling—otherwise known as COOL—as part of the recently passed farm bill. The language of the COOL law states that only beef born, raised, and slaughtered in the United States can be labeled a U.S. product. Only with the country-of-origin labeling law will consumers be afforded a choice about the origin of the food they purchase and consume. The recent discovery of a mad cow case in Washington State from a Canadian cow has made clear the need to implement COOL immediately.

Unfortunately, the Bush administration has stridently opposed COOL. Language was included in this bill that effectively kills the labeling law and denies consumers essential information about the meats, fruits and vegetables they purchase.

The trend of bucking popular sentiment continued when it came to the issue of FCC media ownership caps. On June 2 of last year the FCC issued a ruling that would have relaxed media ownership restrictions from the 35 percent cap to 45 percent. After public outrage and much debate, the House and Senate approved legislation reinstating a 35-percent limitation on FCC media ownership caps. Despite this the White House successfully lobbied for last-minute increase of a permanent cap at 39 percent.

This so-called "compromise" would only serve to the advantage of media conglomerates—several of whom are already in violation of the 35-percent cap and who would otherwise be required to divest some assets in order to comply with the rule. There is no evidence that a 39 percent cap will protect the diversity of voices, or foster the competitive health of the information and entertainment industries. In fact, reasoned analysis suggests precisely the opposite. Unfortunately, Democrats were not in the room when this decision was made. The doors had been closed and communication had ceased.

I could go on. This mammoth bill includes a provision that will pave the way for contracting out thousands of Federal jobs. Bipartisan agreements were reached that would have provided basic protections for federal employees, yet these protections were dropped. Both the Senate and House voted on provisions that would have eased the restrictions on travel to Cuba, but this provision mysteriously disappeared in conference. Titles of the bill that were closed out during conference meetings were reopened after deals had been struck; compromises that were reached on a bipartisan basis were overturned later without consultation. This is not how we should be doing business. It is undemocratic. It is not how the American people expect us to represent them.

The omnibus provides over $820 million in long overdue funds that are desperately needed by Federal agencies, including hard fought increases for veterans medical care and the fight against global aids. But it is packaged with tainted goods.

Today I will vote to invoke cloture on this bill. These provisions could be fixed if the will was there, but the other side of the aisle has made it clear that they will not negotiate. Delaying this bill any longer will only do more harm to our agencies and the people they serve. But I will vote no on final passage. I cannot support the omnibus as it is written. It is a flawed document in both policy and process.

I hope that over the next few months we can start to restore the spirit of compromise, bipartisanship and consultation that used to be commonplace in the appropriations process. Another year like this will do permanent damage to this institution. We deserve and expect better in the United States Senate.

Mrs. BOXER. Mr. President, there are many parts of the Omnibus appropriations bill that I support.

There is $225 million in the bill to help prevent fires and erosion in southern California. It provides over $1.5 billion in funding for the COPS program and other local law enforcement assistance. It funds all of our education programs, including $1 billion for after-school programs, and a $710 million increase in funding to help local schools educate disadvantaged students. It provides a $1 billion increase in funding for health research. It includes a $4.3 billion increase for veterans health care. And it includes many of my requests for funding for California projects.

I wish we had a true appropriations bill that contained these things and only these things. I could vote for that. But this bill contains much more than that.

Our efforts to increase funding for health research are undermined when this bill leaves us more vulnerable to mad cow disease. Our efforts to fund job programs are undermined when this bill takes away overtime pay from millions of hard-working Americans. Our efforts to fund law enforcement are undermined when this bill makes it harder for law enforcement to track down criminals who use guns. Our efforts to fund election reform measures are undermined when this bill allows media conglomerates to control more of the information the public receives.

If the Republicans had just let well enough alone, we would have had a good bill that I could have supported. But, I cannot support this bill.

Let me discuss each of these issues.

First, this bill allows the administration to take away the overtime rights of millions of workers. Last spring, the administration proposed regulations that strip some workers of their right to overtime protection. Both the Senate and House voted to reject this regulation. But, this bill allows it to go forward.

The result is that when President Bush signs this bill, millions of workers including police officers, firefighters, emergency workers, and nurses will lose their overtime pay. Overtime pay now accounts for 25 percent of the income of workers who work overtime. Without that pay—with this new regulation many working families will be poorer.

The new rule will also threaten job creation. Requiring employers to pay a premium for overtime work encourages employers to hire more workers instead of forcing their existing workers to work longer hours. And the longer hours that America's working parents would have to work without overtime protections are hours that the new rule would steal from families. With the stroke of a pen, parents will have to work without overtime pay, and they will be forced to be away from their families.

We have to make the economy work for working families. Stripping workers of overtime protections fails that test. This is a travesty against every American who believes in fair pay for work.

Second, this bill makes us more vulnerable to mad cow disease. The 2002 farm bill includes a provision requiring that food products be labeled by their country of origin. This not only promotes U.S. agriculture, it enables consumers to know if the food they are buying is safe and healthy. It allows consumers to determine where food is from and to make purchases for their families based on this information. It allows consumers to know which beef in the grocery store was from Canadian cattle and which beef was born, raised, and processed solely in the United States.

The Senate passed an amendment to the Agriculture appropriations bill endorsing country-of-origin labeling. But this omnibus bill delays its implementation for 2 years.

The American people should not have to wait 2 years before they have the right to know that the food they are buying is safe and healthy. They should have that right, right now.

Third, the Omnibus appropriations bill would gut the Brady law by requiring the FBI to destroy gun buyer records within 24 hours of the sale of a weapon.

Right now, when someone buys a gun, an instant background check is conducted and then the FBI keeps that record for 90 days. Since many guns used in the commission of crimes are purchased soon before the crimes are committed, this 90-day database makes it easier for law enforcement to trace guns used in crimes and to find criminals.

This bill eliminates that database and makes it harder for our hard-working law enforcement officers to do their jobs and make our streets safer.

Finally, the omnibus bill allows a single company to own TV stations that reach 39 percent of the country. This comes after both the House and Senate voted to leave the limit where it is now at 35 percent.

In addition, this bill would permit more mergers between newspapers and TV stations in the same local markets.

This means that the door is opened to massive consolidation of the most important news outlets in local media markets. And that means few voices instead of many voices. It means that even fewer people—a handful of gigantic media companies—will be in control of the information the American public receives.

Groups as diverse as the National Rifle Association, the National Organization for Women, the National Council of Churches, Parents Television Council, Consumers Union, and the Leadership Conference on Civil Rights oppose changing the rules. In fact, the Senate and House voted not to change the rules. But the Omnibus appropriations bill defies the will of the Senate and House and provides a belated holiday gift to big corporations.

We can do better. We must do better. Until we do better, we should defeat this bill.

Mr. DODD. Mr. President, I rise to discuss briefly the fiscal year 2004 Omnibus appropriations bill passed today by the Senate.

When the Senate was debating this measure, there were two motions to invoke cloture on the conference agreement. I opposed both motions. I did so in the hope that the Senate would revisit and revise several issues about which I have deep concerns.

One issue is that the conference report allows the Labor Department to, in effect, deny overtime pay to approximately 8 million workers across our country. While both the House and the Senate opposed this policy by partisan majorities, that opposition was ignored by Republican conferees. Many workers who now qualify for overtime pay would find their jobs reclassified as a managerial or professional position, thus making them ineligible for overtime pay if they work in excess of 40 hours. This change is significant because overtime pay can provide as much as 25 percent of a worker's annual income. Instead of working towards creating new jobs and helping working families and individuals, the legislation creates yet another obstacle for millions of Americans to provide for themselves and their families.

Second, the conference agreement delays the implementation of a mandate that requires country-of-origin labeling of meat. In an age where justified concerns are growing over the safety of our food supply—particularly beef products—I feel that it is important for our agricultural policies to include necessary information and safeguards for consumers. The issue of country of origin labeling on certain food items such as meats and produce is an effective way to address this issue providing consumers with a measure of control and choice in their food purchases.

Third, the conference agreement excludes Senate-passed and House-passed measures to reimpose a 35 percent national television ownership cap that the FCC rescinded in June 2003. Instead the conference agreement establishes a 39-percent cap. The FCC ruling and the conference language, in my view, could clear the way for further consolidation in the broadcast media industry that could potentially allow a small number of owners to control a large proportion of our country's news, information, and entertainment sources, thus threatening to hurt both consumers and our democracy.

Fourth, the conference agreement provides for the distribution of school vouchers to students in the District of Columbia public school system. Federally funded vouchers are bad policy for the District and for our Nation. Vouchers do not have a proven or substantial record of success. Students who receive vouchers have no guarantee that they will be accepted into the private school of their choice while parents have no means with which to know whether or not the private school is raising their child's achievement level. All we know for sure about vouchers is that they deprive public schools of vitally needed resources.

Finally, the conference agreement critically underfunds educational activities in the No Child Left Behind Act by $8 billion and in title I by $6 billion. By denying localities adequate federal funds with which to raise school standards, student achievement and infrastructure standards, we are denying millions of children and their families across the country the educational resources they need to succeed.

Regrettably, these provisions were neither revisited nor revised, and cloture was subsequently invoked.

When the conference agreement was before the Senate for final consideration, I voted in favor of the bill. Despite the shortcomings mentioned above, I felt the legislation contained several important provisions that benefit both the country at large and the people of Connecticut. For instance, it contains $1.5 billion for States to make technological upgrades to their election systems. It also contains $1.2 billion in added resources for special education. In addition, it funds vital priorities in health care, law enforcement, and transportation.

On balance, I believe this conference agreement, while needlessly flawed, is worthy of support. I intend to continue to work to rectify its shortcomings.

Mr. LEVIN. Mr. President, it is difficult to oppose this bill because it funds many programs that I support and contains a number of provisions that I worked to have included. However, once again we are being asked to vote on legislation that does not reflect the will of the House and Senate. This bill cuts funding for important programs, while at the same time includes provisions not approved in either the House or Senate, while failing to include provisions passed by both chambers.

Manufacturing has been hit hard in this country. Of the 3 million private sector jobs lost during this Administration, the vast majority, about 2.6 million, are in manufacturing. This bill drastically cuts one of the few programs we have to spur manufacturing. This is intolerable. The Commerce Department's National Institute of Standards and Manufacturing Extension Partnership, MEP, program, which cofunds a nationwide system of manufacturing support centers to assist small and midsized manufacturers to modernize to compete in a demanding marketplace, is cut by 60 percent in this legislation.

Although the program was funded at $105.9 million last year, the President requested an 88 percent cut in the program to only $12.6 million in his fiscal year 2004 budget. The House approved $39.6 million and the Senate $106 million in their appropriations bills. This conference report adopts the House level of $39.6 million, a 60 percent cut to the program. The President and the Republican-controlled House of Representatives didn't even compromise with the Senate, despite the support of 58 Senators pressing for a funding level of $110 million. They are not willing to assist small and medium sized manufacturing companies who are facing strong import competition and job losses.

Further, this bill will deprive over 8 million workers of overtime pay. The administration proposed a regulation to end overtime pay for millions of working men and women. Although the House and Senate both voted to oppose this regulation, their will was ignored because of White House pressure and the language was dropped in conference. This omission will negatively impact such public servants as police officers and firefighters, including our military personnel who return home to become police officers or firefighters.

Both the Senate and House versions of the fiscal year 2004 Commerce-Justice-State spending bill included language prohibiting the FCC from implementing its decision to allow a single company to own more TV stations in the same market. The current cap is 35 percent. Despite the expressed will of both houses, the bill before us allows more media concentration and raises the cap to 39 perecent. Allowing this kind of media consolidation could be harmful to consumers.

Further, language in the bill mandates that the Justice Department destroy background check records for the purchase of guns within 24 hours of the gun purchase. Under current regulations, the Bureau of Alcohol, Tobacco, and Firearms can retain the records from gun purchases for up to 90 days. This 90-day period gives law enforcement the opportunity to review and audit gun purchase records for illegal activity and problems with the background check system. The provision requiring the destruction of records within 24 hours was inserted into the bill without a debate or discussion of its potential impact. It is incomprehensible that we are in a heightened state of alert to guard against terrorism yet we are not providing law enforcement with more than 24 hours to examine information on weapons' purchases.

Language in this bill will also postpone the country-of-origin labeling, COOL, rule that was previously enacted. The House bill would have delayed that provision for one year. This conference report contains a 2-year delay. Not only did the Senate strongly reject this provision previously, but, more importantly, this delay undermines efforts to ensure the safety of our nation's food supply. The recent mad cow incident in Washington underscored the importance of being able to trace the origin of agricultural products. If the infected cow had not been voluntarily marked as being of Canadian origin, we would not have been able to determine the origin of the disease in such an expeditious fashion. Making COOL mandatory will ensure that such incidents can be traced more quickly.

The omnibus bill also denies many struggling Americans much-needed support services. For example, Section 105 of the Labor-HHS portion of the bill will allow the government to rescind unspent, though already obligated, welfare-to-work funds. By instructing the Secretary of Labor to recapture "unexpended" funds rather than "unobligated" funds, Michigan and several other states could lose a significant amount of this important funding. Michigan is threatened with losing $16 million that it has obligated in welfare-to-work funds for FY04. If Michigan loses these funds, Detroit alone will be unable to provide 6,000 welfare recipients with job search services, education and training programs, and other employment-related services.

We need to protect our citizens from terrorism and crime, yet this bill fails to adequately fund the COPS program, an invaluable tool in making our streets and schools safer. To date, the COPS program has helped add thousands of police officers and school resource officers in Michigan. Unfortunately, this legislation cuts the COPS hiring program by $80 million—a 40 percent cut from 2003 levels and a more than 60 percent cut from 2002 levels.

At a time when we are asking so much of our military, this legislation provides inadequate funding for our nation's veterans. This legislation cuts nearly $2 billion from the budget passed by the Senate in the spring allocated $63.77 billion for services at the Veterans Administration including health care, burial services and other commitments. This shortfall shortchanges our nation's veterans after we have made great demands on them and strong commitments to them.

This bill also fails our children by mandating a .59 percent across-the-board cut which would reduce funding for No Child Left Behind programs by over $73 million, resulting in 24,000 fewer kids being served by title I. Overall, the Title I Education for the Disadvantaged Program would be $6 billion below the level authorized by the No Child Left Behind Act that the President signed in January of 2002. This cut in funding would also reduce Head Start funding by $40 million, resulting in 5,500 fewer kids attending Head Start.

I am also concerned about the private-school voucher program that this omnibus bill would create in the District of Columbia. This is a proposal that was stripped from the Senate's D.C. Appropriations bill, but squeaked through the House by just a couple of votes. I do not believe we should take our scarce taxpayer dollars away from public schools, where over 90 percent of our nation's children are educated, and divert them to private schools. Furthermore, in the No Child Left Behind Act, Public Law 107–110, Congress included strong accountability standards to demand better results from administrators, teachers, and students for all public schools. I believe we should concentrate on improving the educational level of all students at all DC public schools, rather than take some students out.

This bill severely underfunds Great Lakes and other environmental programs, highway construction projects, law enforcement programs and funding to our veterans. I cannot support this legislation as it has been brought to the floor on a "take it or leave it" basis, violating procedures which assure the Senate's input. I hope that we can work out some corrective legislation which will have the broad bipartisan support many of these important programs deserve.

• Mr. CHAMBLISS. Mr. President, I rise today in support of the conference report to accompany the fiscal year 2004 Omnibus Appropriations bill, H.R. 2673. I would first like to thank the appropriators on both sides of the aisle, especially Chairman TED STEVENS and Ranking Member ROBERT BYRD, for their diligent efforts in crafting this daunting funding package, and particularly for their agreement on several provisions significant to the people of

Georgia that will meet urgent needs in transportation, education, agriculture, and homeland security.

This body has an obligation to the American people to ensure the continuing operations of our government by annually appropriating needed funding. We also have the obligation to spend consistently within the budget restraints created by the budget resolution—the general agreement between Congress and the executive branch in terms of spending limits which this body adopted last April for fiscal year 2004. We have met this obligation since this bill adheres to that agreement.

The spending package before us funds a majority of the agencies and programs of the U.S. Government. Passing this omnibus appropriations bill toady will allow us to increase our efforts in fighting terrorism; it will strengthen our state and local first responders with increased funding; it will provide additional medical care and other benefits to millions of veterans and address the needs of our Nation's schools and universities.

For example, the omnibus bill includes $260 million for the Centers for Disease Control located in Atlanta for desperately needed building improvements. The CDC is home to some of the brightest and best scientists in the world and this money will contribute to the renovation of many dilapidated buildings in desperate need of repairs and modernization. this bill is also a very important to the State of Georgia. There are vital programs across the State that will receive necessary funding once this bill is passed and signed into law by the President.

I support the passage of this conference report to the fiscal year 2004 Omnibus Bill. Although an unforeseen medical emergency will not allow me to actually cast my vote today for cloture or passage of this conference report, I encourage my colleagues to support the passage of these measures.●

### EMERGENCY STEEL LOAN GUARANTEE PROGRAM

Mr. BYRD. Mr. President, in 1999, I helped enact the Emergency Steel Loan Guarantee Program to give American steel companies in difficult financial circumstances ready access to capital to enable them to restructure their operations, improve their productivity, and ensure a future for their hard-working employees.

For more than 4 years, this program has successfully granted Federal loan guarantees to companies like Hannah Steel in Fairfield, AL, and Wheeling-Pittsburgh Steel Corporation in my home State of West Virginia. Without the benefit of these Federal loan guarantees, it is almost certain that these companies would have gone out of business. Today, however, they are vibrant companies continuing to support thousands of workers, their families, and entire communities.

The fiscal year 2004 omnibus appropriations bill, has included a 2-year extension of the Emergency Steel Loan Guarantee Program, which otherwise would have expired on December 31, 2003. The extension was included, without objection, in the omnibus appropriations bill that passed the U.S. House of Representatives; it was strongly supported by the full Senate Appropriations Committee; and it is now awaiting final action in the fiscal year 2004 omnibus bill now pending before the Senate. A separate provision was included under Division B of the fiscal year 2004 omnibus directing the Department of Commerce to rescind $100 million in prior year unobligated balances. It is my understanding that the provision was included in order for the CJS Subcommittee to meet their allocation.

Mr. HOLLINGS. The full committee ranking member's understanding of the circumstances and provision is correct.

Mr. BYRD. Mr. President, I understand and respect the very tough decisions the chairman and ranking member of the subcommittee had to make in order to meet their allocation, but now, I understand that the U.S. Commerce Department intends to use that provision to rescind $17.7 million for the Emergency Steel Loan Guarantee Program even though they do not have the legal authority to do so.

Receiving reports that, only a few weeks ago, the U.S. Commerce Department was pursuing this particular rescission, I wrote to the Comptroller General of the United States, who heads the General Accounting Office and issues decisions in the area of Federal appropriations law. I wrote to the Comptroller General, David Walker, on December 22, 2003. I inquired as to whether the Commerce Department would have the legal authority to rescind funds from the Emergency Steel Loan Guarantee Program under the terms of H.R. 2673, the fiscal year 2004 omnibus appropriations bill. On January 15, 2004, I received a definitive response from the General Counsel of the GAO, which states that the U.S. Commerce Department is without legal authority to rescind the balance of unobligated funds from the Emergency Steel Loan Guarantee Program. The GAO stated that the unobligated funds for the steel loan program, by law, are available only to the Board of the Emergency Steel Loan Guarantee Program, and those funds are not available to the Commerce Department.

The exact words of the legal opinion that I have received from the GAO are as follows:

> The Secretary of Commerce may not legally rescind $17.711 million as planned from the unobligated balance of appropriated funds in the Emergency Steel Guarantee Loan Program to satisfy the rescission mandate in the fiscal year 2004 omnibus appropriations bill.

The GAO legal opinion further states:

> Accordingly, we conclude that the unobligated balance of the $140 million appropriation from the 1999 Steel Act is not "available to the Department of Commerce" and thus would not be subject to the section 215 rescission. Thus, the Secretary of Commerce may not legally rescind $17.711 million as planned from the unobligated balance of appropriated funds in the Emergency Steel Guarantee Loan Program.

So, I would ask my friend and colleague, Senator HOLLINGS, the ranking member of the Senate Appropriations Committee's Subcommittee on Commerce, Justice, State, and the Judiciary, if he agrees that the Commerce Department has no legal authority to rescind the unobligated balance of funds from the Emergency Steel Loan Guarantee Program in light of the legal opinion I have just obtained on this matter?

Mr. HOLLINGS. My response to my friend and the ranking member of the Senate Appropriations Committee is I absolutely agree the Commerce Department does not have the authority to rescind funds from the Emergency Steel Loan Guarantee Program.

Mr. President, it is clear. The Commerce Department has no legal authority to rescind these funds and should keep its hands off of the money in the Emergency Steel Loan Guarantee Program.

Mr. BYRD. Absolutely. Mr. President, I ask unanimous consent that my letter to the Comptroller General, David Walker, dated December 22, 2003, and the GAO legal opinion dated January 15, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
*Washington, DC, December 22, 2003.*

Hon. DAVID M. WALKER,
*Comptroller General, U.S. General Accounting Office, Washington, DC.*

DEAR MR. WALKER: With this letter, I am seeking the view of the U.S. General Accounting Office on an issue related to the implementation of H.R. 2673, a bill making omnibus appropriations for FY 2004. Section 215 of Division B—Departments of Commerce, Justice and State of the bill, would direct the Department of Commerce to rescind $100,000,000 of unobligated balances available to the Department of Commerce. In anticipation of enactment of H.R. 2673, the Department is preparing to rescind $17,711,000 from unobligated balances from the Emergency Steel Loan Guarantee Program authorized by Public Law 106–51.

Public Law 106–51 (Section 101) established the Emergency Steel Loan Guarantee Board for purposes of administering a loan guarantee program. The Board is made up of three members, the Chairman of the Board of Governors of the Federal Reserve System, who serves as Chairman of the Emergency Steel Loan Guarantee Board, the Secretary of Commerce and the Chairman of the Securities and Exchange Commission. Section 101(f)(5) of the Act appropriated $140,000,000 for the costs of the loans guaranteed by the Board. In addition, the Act (Section 101(j)) appropriated $5,000,000 to the Department of Commerce to administer the program. However, at issue is the Department's plan to rescind some of the $52,000,000 of unobligated balances of budget authority made available to the Board under Section 101(f)(5) for guaranteeing the loans.

Section 215 of Division B of H.R. 2679 only would permit the Department of Commerce to rescind obligated balances available to the Department of Commerce. Section 101(f)(5) of P.L. 106–51 clearly appropriates funds to the Board, not to the Department of Commerce. The Secretary of Commerce is a minority member of the Board. The Chairman of the Board is the Chairman of the Board of Governors of the Federal Reserve System. Pursuant to P.L. 106–51, loan guarantee agreements with affected steel companies are signed by the Executive Director of the Board, not by the Secretary of Commerce.

I seek the legal opinion of the U.S. General Accounting Office on whether the Department of Commerce would have the authority under section 215 of Division B of H.R. 2673 to rescind unobligated balances that are available to the Emergency Steel Loan Guarantee Board under section 101(f)(5) of P.L. 106–51 for the purpose of guaranteeing loans.

With warmest wishes, I am

Sincerely yours,

ROBERT C. BYRD.

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U.S. GENERAL ACCOUNTING OFFICE,
*Washington, DC, January 15, 2004.*

Subject: Proposed Rescission by Department of Commerce of Unobligated Emergency Steel Guarantee Loan Program Appropriation

Hon. ROBERT C. BYRD,
*Ranking Minority Member, Committee on Appropriations, U.S. Senate.*

DEAR SENATOR BYRD: This responds to your request of December 22, 2003, for our opinion on the Department of Commerce's (Department) plan to rescind $17.711 million of the unobligated balance of amounts appropriated for the Emergency Steel Guarantee Loan Program (Program). The Department has indicated that it would draw on the unobligated balance of the Program's appropriation to help satisfy a $100 million rescission that would be required by H.R. 2673, the bill making omnibus appropriations for fiscal year 2004, if enacted. You asked whether the unobligated balance of the Program's appropriation is available to the Department for that purpose. For the reasons provided below, we conclude that the Program's appropriation is not available to the Department for purposes of the $100 million rescission.

## BACKGROUND

In the findings section of the Emergency Steel Loan Guarantee Act of 1999 (Steel Act), Congress noted the loss of jobs and company bankruptcies in the steel industry as a consequence of increases in steel imports. Emergency Steel Loan Guarantee Act of 1999, Pub. L. No. 106–51, 101(b), 113 Stat. 252 (1999). Congress found that "a strong steel industry is necessary to the adequate defense preparedness of the United States" and that industry problems were causing a decline in the willingness of private institutions to loan money to U.S. steel companies. Id. Congress passed the Steel Act, which established the Emergency Steel Loan Guarantee Program, in order "to provide loan guarantee to qualified steel companies." Id. §101(d).

To administer the program, the Steel Act created a three-member Loan Guarantee Board comprised of the Secretary of Commerce, the Chairman of the Securities and Exchange Commission, and the Chairman of the Board of Governors of the Federal Reserve System. Pub. L. No. 106–51, §101(d), (e). To fund the costs of the loan guarantees, the Steel Act appropriated $140 million. Id §101(f)(5) ("For the additional cost of the loans guaranteed under this subsection, included the costs of modifying the loans . . ., there is appropriated $140,000,000 to remain available until expended.") Also, the Steel Act provided the Department of Commerce with an administrative support role and appropriated $5 million to the Department for that purpose. Id. §101(j) ("For necessary expenses to administer the Program, $5,000,000 is appropriated to the Department of Commerce, to remain available until expended. . . .")

The Commerce Department's fiscal year 2004 appropriation, currently before the Senate, would include a rescission of $100 million. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, H.R. 2673, 108th Cong., Div. B, §215 (2003) (hereinafter Omnibus Bill) ("Of the unobligated balances available to the Department of Commerce from prior year appropriations with the exception of funds provided for coral reef activities, fisheries enforcement, the Ocean Health Initiative, land acquisition, and lab construction, $100,000,000 are rescinded."). Subject to the limitation that the rescission come from "unobligated balances available to the Department of Commerce from prior year appropriations," the law would give the Secretary discretion to identify the sources of the rescission. Id. ("Provided, That within 30 days after the date of enactment of this section the Secretary of Commerce shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the amount of each rescission made pursuant to this section.").

## DISCUSSION

At issue here is whether unobligated Program funds are "unobligated balances available to the Department of Commerce" for rescission. The language of the $140 million appropriation itself does not identify to whom the appropriation was made, only the purpose of the appropriation. The Steel Act states, "there is appropriated $140 million" for the costs of the loan guarantees that the Board approves. The issue for us is one of statutory construction: Is the Program's $140 million appropriation available to the Board or to the Department? In interpreting statutes, the Federal courts have developed a number of well-recognized conventions, which are also known as canons of statutory construction. One important canon is that words should be considered in the context of the entire statute. See United States v. Cleveland Indians Baseball Co., 532 U.S. 200, 217 (2001); United States Ass'n of Texas v. Timbers of Inwood Forest Assocs., 484 U.S. 365, 371 (1988). We apply that canon of statutory construction in this case.

The provisions in a statute should not be viewed in isolation but in the context of the entire statute. In 2001 in United States v. Cleveland Indians Baseball Co., the Supreme Court stated that "it is, of course, true that statutory construction 'is a holistic endeavor' and that the meaning of a provision is 'clarified by the remainder of the statutory scheme.'" 532 U.S. 200, 217. See also 2A Sutherland, Statutes and Statutory Construction §46:05, at 154 (6th ed. 2000) ("A statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent. Consequently, each part or section should be construed in connection with every other part or section so as to produce a harmonious whole."). In our case law, we apply this canon of construction with equal vigor. See, e.g., Matter of Jacobs COGEMA, LLC, B-290125.2, B-290125.3, at 8, Dec. 18, 2002 ("In ascertaining the plain meaning of the statute, we necessarily look to the particular statutory language at issue, as well as the language and design of the statute as a whole."). See also B-286661, Jan. 19, 2001.

When the 1999 Steel Act created the Program, it specified that the Program was "to be administered by the Board." Pub. L. No. 106–51, §101(d). The Steel Act gave the Board decision-making powers to "approve or deny each application for a guarantee." Id. §101(e). At the same time, the Steel Act provided an appropriation to finance the costs of these guarantees; it said that "there is appropriated $140,000,000 to remain available until expended." Id. §101(f)(5).

Congress finances federal programs and activities by providing "budget authority." Budget authority is a general term referring to various forms of authority provided by law to enter into financial obligations that will result in immediate or future outlays of government funds. See §3(2) of the Congressional Budget and Impoundment Control Act of 1974, 2 U.S.C. §622(2) and note, as amended by the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101–508, §§13201(b) and 13211(a), 104 Stat. 1388, 1388–614, and 1388–620 (Nov. 5, 1990). An appropriation, such as the $140 million one enacted for the Program, is one form of budget authority. Within the context of the 1999 Steel Act, only the Board has authority to incur an obligation against the $140 million appropriation by committing the federal government to a loan guarantee. It is the Board who can approve applications for loan guarantees, and it is the Board's approval of an application that financially obligates the United States. For this reason, we view the $140 million appropriation as available to the Board, not to the Department. While the Secretary of Commerce, as a Board member, has a vote in whether to approve an application for a loan guarantee whose costs are charged to the $140 million appropriation, the Secretary, by himself, cannot approve an application and cannot incur an obligation against the appropriation.

The Department asserts that the $140 million is a Commerce Department appropriation because the Steel Act appropriated $5 million to the Department to cover the costs of administrative support to the Program. Specifically, the Steel Act appropriated $5 million to the Department "for necessary expenses to administer the Program." Id. §101(j). The Department notes that historically Commerce, Treasury, and OMB have always treated the $140 million as a Commerce appropriation. The Department performs all of the Board's bookkeeping and provides other administrative support. The Department carries the Board's staff on the Department's payroll. Treasury, the Department says, has assigned the Program's appropriation a Commerce Department account symbol, and OMB reports the Program's activity as part of the Department's budget.

We agree that the Department has an administrative role with regard to the Program's appropriation; however, the Department's argument is not persuasive when considered in the context of the Steel Act. The Department fails to recognize that while the Steel Act appropriated funds to the Department "for necessary expenses to administer the Program," the word "administer," when viewed in the context of the entire Steel Act, has a particular and very different meaning than its use earlier in the Steel Act when the Steel Act specifies that the Program "is to be administered by the Board." In this regard, the Steel Act captioned the §5 million appropriation, "Salaries and Administrative Expenses." When contrasted with the very clear decision-making authority provided the Board to approve loan guarantee applications, it seems equally clear that the Steel Act intended the Department to perform ministerial administrative tasks, such as recording obligations as a bookkeeper, and provided a specific appropriation to cover these expenses, whereas it intended the Board to perform decision-making "administrative" tasks, such as incurring obligations. The Department's Treasury's and OMB's historical treatment of the Program's appropriation that the Department finds relevant is consistent with the Department's administrative support role.

Furthermore, the words Congress selected in sections 101(f) and 101(j), especially when viewed in the context of the Steel Act, support the conclusion that Congress made the $140 million appropriation available to the Board and not to the Department of Commerce. In appropriating money for administrative support, Congress expressly appropriated the money to the Department: "$5,000,00 is appropriated *to the Department of Commerce*, to remain available until expended." Id. at 101(j) (emphasis added). Had the Congress intended the Program's $140 million appropriation, enacted in the same Steel Act, to be available to the Department as well, we would have expected the Congress to use the same phrasing as it did in enacting the $5 million appropriation. The fact that the Congress chose not to use that phrasing for the $140 million appropriation, especially when the Congress clearly said that the Program funded by that appropriation was to be administered by the Board, believes the Department's assertion.

The Department makes three other arguments. First, the Department points out that in Division B, Title II of the omnibus bill, section 211 would provide extra funding for administrative support. Omnibus Bill, Div. B, §211, Section 211 would authorize the Secretary of Commerce to use $2 million of the unobligated balance of the $140 million appropriation to supplement the $5 million previously appropriated for administrative support. The Department argues that Congress would not have made that money available to the Department had Congress not viewed the $140 million as a Commerce Department appropriation. The Department offered no support for its argument, and we found no support for its argument in our review. As we explain in this letter, all indications are that the $140 million is not available to the Department. In fact, regardless, of whether the appropriation is available to the Department, Congress still would need to act to make any amounts available for administrative support. The $140 million appropriation, as enacted, is available only for the costs of the loan guarantees and not for administrative support. There is another appropriation, the $5 million appropriation, that was enacted specifically for administrative support.

Second, the Department notes that last year, Congress enacted a rescission in the fiscal year 2003 omnibus appropriations act of the unobligated balance of the appropriation for the Emergency Oil and Gas Guaranteed Loan Program. This program was created at the same time, in the same public law, for similar purposes, and in a similar manner as the Steel Program. When the Oil and Gas Guaranteed Loan Program expired last year, Congress rescinded the remaining $920,000 unobligated balance in that program. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003, Pub. L. No. 108-7, Div. B, 117 Stat. 11, 106 (2003) ("Of the unobligated balances available [in the Emergency Oil and Gas Guaranteed Loan Program account] from prior year appropriations, $920,000 are rescinded."). The Department interpreted the 2003 rescission language as a direction to Commerce to rescind the money. The Department argues that the section 215 rescission in the Omnibus Bill is like the oil and gas rescission. In our view, the fact that in both instances it is the Department's responsibility to take appropriate action to accomplish the rescissions does not mean that the appropriations are available to the Department. Rather, the Department's responsibility is based on its statutory role to provide administrative support, such as bookkeeping, also, we note that Congress explicitly rescinded the oil and gas unobligated balance. That is not the case before us here.

Lastly, the Department finds support in the fact that section 215 in the Omnibus Bill specifically exempts from the $100 million rescission "funds provided for coral reef activities, fisheries enforcement, the Ocean Health Initiative, land acquisition, and lab construction," but does not exempt the Program's appropriation. Omnibus Bill, Div. B, §215. Commerce asserts that this implies that the Program's noninclusion in this list means that the Program's funds are not exempt from, and thus subject to, the rescission. We are not persuaded. The $140 million is not listed in the bill because it is not a Commerce appropriation, as are funds provided for coral reef activities, fisheries enforcement, the Ocean Health Initiative, land acquisition, and lab construction.

### CONCLUSION

Accordingly, we conclude that the unobligated balance of the $140 million appropriation from the 1999 Steel Act is not "available to the Department of Commerce" and thus would not be subject to the section 215 rescission. Thus, the Secretary of Commerce may not legally rescind $17.711 million as planned from the unobligated balance of appropriated funds in the Emergency Steel Guarantee Loan Program to satisfy the rescission mandate in the fiscal year 2004 omnibus appropriations bill.

If you have any questions, please contact Susan A. Poling, Associate General Counsel, at 202-512-5644.

Sincerely yours,

ANTHONY H. GAMBOA,
*General Counsel.*

### ORGANIC AGRICULTURE

Mr. KOHL. Mr. President, I am very pleased that the conference agreement with regard to the fiscal year 2004 Agriculture Appropriations bill includes funding for important programs addressing organic agriculture. However, many of the important details regarding Congress' intent for the administration of USDA organic programs were enumerated in the House and Senate reports, without reiteration by the statement of managers.

As stated in the preface of the statement of managers:

> [T]he House and Senate report language that is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

Therefore, in keeping with this general rule, it seems appropriate to engage in a colloquy to assure that there is no confusion regarding congressional intent on the important USDA programs affecting organic agriculture.

First, as stated in the Senate report, $1.5 million is provided for the National Organic Program, within the Agricultural Marketing Service account.

I would like to reiterate that it is my intent, as ranking member of the Agriculture Appropriations Subcommittee, that some of the increased funding provided for this important organic program at USDA be used to more fully comply with some of the requirements of the Organic Foods Production Act of 1990, the authorizing statute for this program. Consistent with the Senate report on this matter, part of this funding should be used to hire an Executive Director for the National Organic Standards Board, NOSB, to create an ongoing peer review panel to oversee the USDA accreditation process for organic certifiers, and to improve scientific technical support for the NOSB.

I would ask my colleague from Vermont, the ranking member of the Agriculture Subcommittee on Research, Nutrition, and General Legislation if he concurs with my comments on this matter?

Mr. LEAHY. As one who has worked a great deal in this area, I say to my friend from Wisconsin that I do agree with his comments and concerns on this matter, and believe his remarks are in keeping with the Senate report language on this matter, as well as the final conference agreement.

Mr. KOHL. I thank the Senator from Vermont.

In addition, as specified in the Economic Research Service section of the House report, $500,000 is provided for the analysis and compilation of data related to organic production, marketing and trade. The Senate report further elaborates on this matter within the Agricultural Marketing Service section, and "encourages AMS to work with ERS, NASS and RMA on the collection of segregated data on the production and marketing of organic agricultural production and marketing, as directed in the 2002 Farm Bill. Specifically, data should be collected on prices, yields, acreage and production costs in the organic sector."

It is critically important that all USDA collection data agencies coordinate in the effective use of these funds to meet the requirements of the Organic Production and Market Data Initiative—Section 7407—of the Food Security and Rural Investment Act of 2002. However, I would like to add that it is my intention that the Senate report language be used to provide guidance to USDA in the use of the $500,000 provided under the Economic Research Service account in the House report, and that ERS be the lead agency in coordinating this effort.

Again, I would ask my friend from Vermont, if he would concur with my comments regarding the organic data collection provisions of the AMS and ERS accounts of the Agriculture portion of this omnibus appropriations bill?

Mr. LEAHY. I do concur with the Senator from Wisconsin on his comments and concerns about the organic data collection and analysis provisions in the Agriculture portion of this omnibus appropriations bill.

### SMALL ENGINES PROVISION

Mrs. FEINSTEIN. Mr. President, some of my constituents are asking questions about the meaning of the small engines provision included in the fiscal year 2004 omnibus appropriations conference report. They raise the question about whether subsection (c) applies only to "new" and "nonroad" spark-ignition engines smaller than 50 horsepower. That was my understanding. I ask my colleague from Missouri, Senator BOND, one of the authors of this provision, whether that was his intent?

Mr. BOND. I say to my colleague from California, Senator FEINSTEIN, that I intended this provision to apply only to the adoption or enforcement of standards or other requirements relating to "new" engines, not existing engines or "in-use" engines. Also, I have heard from other colleagues and stakeholders regarding their desire to address in-use engines. I did not intend that this new language to apply to voluntary State programs aimed at reducing emissions from existing engines such as the Texas Emission Reduction Plan.

Mrs. FEINSTEIN. I thank my colleague, and ask whether he intended the language to apply only to "nonroad" engines?

Mr. BOND. Yes. I believe the entire provision, including subsection (c), should apply to adoption or enforcement of standards or other requirements relating only to nonroad engines.

Mrs. FEINSTEIN. I thank my colleague. I ask him also about his intent of the provision to apply only to nondiesel engines.

Mr. BOND. Yes, I believe the entire provision, including subsection (c), should apply to adoption or enforcement of standards or other requirements relating only to nondiesel engines. I used the term spark-ignition to have that meaning.

Mrs. FEINSTEIN. I thank my colleague again. I ask him also about his intent of the provision to apply only to engines smaller than 50 horsepower.

Mr. BOND. Yes. I believe the entire provision should apply only to engines smaller than 50 horsepower and not engines larger than 50 horsepower. So, in summary, the intent of this provision is to apply to adoption or enforcement of standards or other requirements relating to the control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower.

Mrs. FEINSTEIN. I thank my colleague for clarifying the intent of this provision here today.

### CALIFORNIA WILDFIRES

Mrs. FEINSTEIN. Mr. President, I briefly engage the distinguished majority leader in a colloquy about an issue of great importance to me State. I am pleased that the legislation before us provides $225 million in badly needed assistance to help the State of California recover from last autumn's devastating wildfires and to prevent a similar tragedy in the future. Of this total made available, $25 million is provided to compensate California's farmers who suffered losses in the fires.

The package of aid that I drafted contained language that would have deemed losses suffered in those fires to be the result of a natural disaster, raised the cap on payments for those losses under the Tree Assistance Program to $200,000, and would have provided upfront payments under that program instead of reimbursements for replacement costs.

It it my understanding that a portion of the language was inadvertently left out of the final conference agreement that I had discussed with the majority leader and his staff. Is that the majority leader's understanding?

Mr. FRIST. The Senator is correct. As I am sure the Senator from California can appreciate, Senators and their staff were working under severe time constraints to finalize the conference report. In this difficult environment, the language the Senator refers to was not included in the final legislation. It is my understanding that under the extreme time constraints imposed on staff to file the legislation and the lateness of the hour when this issue was brought to the conference, staff were unable to include the language.

Mrs. FEINSTEIN. I thank the majority leader for that clarification. Those elements of the relief package are crucial to the recovery of agricultural producers in my state. Some of the disaster programs administered by the Department of Agriculture do not provide relief for losses due to arson. However, it is clear to me that the wildfires in California were a natural disaster. Those losses would not have been incurred, if not the drought conditions in high Santa Ana wind conditions. Additionally, as many of the losses were of high value specialty crops, an increased payment cap is needed for adequate recovery effort.

I would ask that the majority leader work with me to ensure that the administration address the intent of my omitted language, so that USDA can administer the relief as intended and the effected producers can recover their losses.

Mr. FRIST. I commend the Senator for her dedication and diligence on this issue. I will work with her to support the intent of her omitted language for the $12.5 million funding provided in the legislation for the tree assistance program. I will discuss this issue with officials at USDA and it is my hope that the issues she has raised can be addressed by administrative action once the regulations are issued implementing this section of the legislation. However, if this is not possible due to statutory law, I commit to work with her to enact legislation that will address this unique problem of disaster assistance for producers of high value specialty orchards.

### RURAL ECONOMIC DEVELOPMENT GRANT AND LOAN PROGRAM

Mr. HARKIN. Mr. President, I am very concerned that the Department of Agriculture has not been allocating funds built up in the account for the Rural Economic Development Grant and Loan Program called the "cushion of credit." Rather than providing these funds to local rural electric cooperatives and telephone cooperatives where they can be used to create jobs and improve the economy of rural America, a considerable sum has been built up. There has never been as large a sum unspent as we have seen over the past year. USDA needs to put this money to work as the law intends.

Mr. KOHL. The Senator from Iowa is correct. These are not appropriated funds, but money that has been paid to the Rural Utility Service by local REC and telephone cooperatives when they retire debt at an early stage. And, there has always been a presumption that the money would be made available on a timely basis for qualified proposals for economic development. The department should allocate these funds to qualified applications as quickly as possible.

Mr. BENNETT. I agree with the Senator from Iowa and my ranking member. There is a long history of the Rural Economic Development Grant and Loan Program being a very effective tool to provide capital for many worthy job creating projects. I concur that the Department should release the funds sitting in the cushion of credit account to qualified applications as quickly as possible.

### POLIO ERADICATION

Mr. HARKIN. Mr. President, I rise today to thank the ranking member of the Foreign Operations Subcommittee, my distinguished colleague from Vermont, Senator LEAHY, for his support of the ongoing efforts to eradicate polio by 2005, and especially thank him for working to include language recommending $30 million in the Senate report accompanying the FY 2004 Foreign Operations Appropriations bill.

The international effort to eradicate polio has made tremendous progress. Since the global initiative began in

1988, more than 3 million children in the developing world, who would otherwise have become paralyzed with polio, are walking because they have been immunized. The number of polio cases has fallen from an estimated 350,000 in 1988 to approximately 1,500 cases in 2002. The target date for the last case of polio is 2005. When the world is certified polio free, immunizations can cease and the U.S. will save $350 million annually while the world will save at least $1.5 billion.

The major partners in the global polio eradication effort have joined with national governments around the world in an unprecedented demonstration of commitment to this historic public health goal. As the initiative runs its course, total victory can only be guaranteed through continued and unwavering commitment to the goal of a polio-free world.

It is my further understanding that the House report recommended not less than $25 million for USAID's global polio eradication activities in FY 2004.

This is similar to last year, and the final disposition was $27.5 million for polio eradication in FY 2003. My question to my friend from Vermont is how much does he expect USAID to allocate for these activities in FY 2004?

Mr. LEAHY. I want to recognize the Senator from Iowa for his leadership on this issue. He has been a champion of polio eradication and his efforts have paid off in the continuing U.S. support for the global polio eradication effort. As my friend has said, for FY 2004, like in prior years, the House and Senate Foreign Operations subcommittees recommended $30 million and not less than $25 million, respectively. It is my expectation that USAID will provide $27.5 million in FY 2004. This is no time to reduce our support for this effort as we approach the finish line.

These funds will allow for accelerated polio eradication activities, improved surveillance for polio and other diseases, and support for cease-fires in conflict zones for National Immunization Days. The United States is the largest international donor for the Polio Eradication Initiative, and the success of this program should be a source of pride for all Americans.

Mr. HARKIN. I thank my friend from Vermont for this clarification and for his and the Appropriations Committee's efforts to reach the goal of a polio-free world.

Mrs. FEINSTEIN. Mr. President, I rise in favor of the FY04 Omnibus Appropriations Conference Report, despite major concerns I have with how this bill was put together and with a number of items in the bill.

Nevertheless, we are faced with an up or down vote. On balance, I believe that the bill is a net positive and I will support it.

The best you can say about this bill is that it is a mixed bag. There are items in the bill that are good for California and the Nation, but there are a number of harmful legislative provisions attached to the bill and on a number of issues the administration was allowed by the majority to override the will of the Senate.

For example, among the harmful provisions that I hope we can reverse is language which requires next-day destruction of background check records of sales where a gun buyer successfully clears a Brady background check and is permitted to purchase a firearm. I also look forward to the Senate taking action to prevent implementation of the administration's proposed rules on overtime compensation.

Before I talk further about the bill, I want to talk about the serious and wholly avoidable problems associated with the process by which we reached a final agreement on this package.

The ranking member of the Appropriations Committee and others are correct in highlighting those issues. If for no other reason then that we should avoid them in the future.

Senator BYRD is correct when he says that adopting this conference report or facing a year long continuing resolution at FY03 levels are not the only paths out of this impasse.

If the majority leadership in the Senate and the House had chosen, we could have worked out the serious concerns that Senators of both parties have with this legislation. We all knew that there are only a handful of major issues.

However, the majority did not show any willingness to address overtime pay, country of origin labeling for meat products, media ownership rules, or outsourcing of Federal jobs.

Senator BYRD also eloquently laid out in his letter to the majority leader the instances in which the administration, at the eleventh hour, was permitted by the majority to prevail over the will of the Congress. I would like to quote what he wrote:

> Several very controversial legislative riders were added at the last minute by the Bush White House. Disappointingly, the Republican Congressional Leadership, at the insistence of the White House, capitulated to changes that were not even contemplated when the bills were before the House of Representatives and the Senate.
>
> Overriding the will of the Senate, the bipartisan overtime regulation prohibition, which passed the Senate by a vote of 54–45, was dropped. The resulting Bush administration plan would eliminate overtime pay protections for as many as 8 million American workers who currently are eligible for overtime pay. These hard-earned overtime dollars often make the difference between workers providing a better life for their families or just making ends meet.
>
> Overriding the will of the Senate and at the behest of the cattle and food marketing industries, the Bush administration actively and officially supported language in the omnibus conference that would delay implementation of mandatory country-of-origin labeling of meat and meat products. Despite the potential danger to American consumers of any delay, the country-of-origin labeling for meat and meat products, enacted as part of the 2002 Farm Bill and scheduled to take effect this fiscal year, would be delayed by two years.
>
> Overriding the will of the House and the Senate, the one-year limitation on the FCC media ownership rule was turned into a permanent cap at 39 percent. The practical effect of changes demanded by the White House is to protect Rupert Murdoch's Fox television network and CBS-Viacom from having to comply with the lower 35 percent ownership caps that conferees had included in the original conference report. The White House is boosting special corporate interests at the expense of the people's interest for balanced news and information.
>
> Overriding the will of the House and Senate conferees, and again at the Bush administration's insistence, 400,000 Federal workers will lose job protections. During negotiations, Congressional Democrats and Republicans agreed to provide basic protections for federal employees whose jobs have been targeted by the Bush White House for privatization. Because of White House intransigence, those basic protections were dropped. What remains provides so many loopholes for the Bush administration to privatize Federal jobs that little protection is provided for workers. The administration's policies encourage unfair treatment of dedicated public servants, many of whom are being forced into early retirement or the prospect of reduced benefits and lower pay.

At this point, the only choice we have is between this omnibus, which funds the Departments of Agriculture, Commerce, Justice, State, Labor, Health and Human Services, Veterans Affairs, Education, Housing and Urban Development, Transportation, and Treasury.

Under a year long continuing resolution, these departments would be funded at last year's levels. And as a result, major programs which benefit millions would be severely underfunded, and many needed projects, including hundreds in California, would receive no funding.

Indeed, there are a number of items in the bill of particular importance to me and to California that I would like to highlight: $225 million for California wildfire relief and prevention; $85 million for COPS grants for interoperable communications; A 5-year Pilot Program for school choice in Washington, DC; Increased NIH Funding; and Funding for Election Reform.

If the Omnibus were not to pass, then none of these programs would receive necessary funding.

As we all know, California suffered devastating wildfires last fall. These fires consumed a total of 738,158 acres, killed 23 people, and destroyed approximately 3,626 residences and 1,184 other structures.

And this is just the tip of the iceberg. In California, 8.5 million acres of Federal land are at the highest risk of catastrophic fire, so it is critical that we protect our forests and nearby communities and avert a similar catastrophe in the future.

That is why I am so pleased that Congressman JERRY LEWIS and I were able to secure $225 million in emergency funding.

This funding will help prevent mudslides, provide relief for farmers whose crops were burned, and eliminate a million trees killed by the bark beetles.

This funding is critical to helping prevent future fires.

As we saw in November, trees killed by the bark beetle become kindling in a serious fire, and put homes and lives at risk.

Removing them is a necessary first step toward preventing fires like the ones we experienced from happening again.

The bill also includes $85 million in grants to help first responders better communicate with each other in times of crisis.

In all too many jurisdictions, police, fire and emergency medical service personnel can't communicate with each other over the radio when an emergency occurs. This means slower response times, less coordination between agencies and lives lost.

To help remedy this problem, I sponsored an amendment to the emergency spending bill passed last year, which provided $109 million to improve the compatibility of first responders' communications systems.

Half of this funding would go to police departments and half would go to fire and emergency departments.

And in the Omnibus Appropriations bill there is $85 million in additional COPS grants for interoperable communications for police.

There are about 2.5 million public safety first responders who operate in the United States today, stationed in some 18,000 law enforcement agencies, 26,000 fire departments and 6,000 rescue departments.

When I speak to representatives of these departments, they tell me that obtaining compatible communications systems is their No. 1 homeland security priority.

The need is certainly there. The recent Council on Foreign Relations Independent Task Force on Emergency Responders report on homeland security funding—entitled "Drastically Underfunded, Dangerously Unprepared"—determined that the minimum interoperable communications need over the next five fiscal years is $6.8 billion.

As America continues to confront the threat of terrorism, it will be increasingly important to give our law enforcement, fire and emergency personnel the tools they need to respond to a possible terrorist attack effectively and safely.

This will allow fire, police and emergency medical services personnel to better communicate in times of crisis and will ultimately help save lives.

I am also pleased that the Omnibus Appropriations bill contains the $40 million DC School Choice plan to provide educational scholarships for 2,000 low-income students in troubled public schools in Washington, DC.

Washington, DC, has the third highest per pupil spending in the Nation—$10,852 a year goes to the education of each child. Yet, it has 15 failing schools and some of the lowest test scores in the country.

Before supporting Mayor Anthony Williams request for this 5 year pilot program, I thoroughly scrutinized the legislative language as it related to the constitutional safeguards, the criteria, the monitoring—and I believe the program which was ultimately agreed to is balanced, fair, and constitutionally sound.

To develop the best program we could and one that would stand a constitutional test, we made certain that the bill contained language that closely follows the Supreme Court decision in Zelman v. Simmons-Harris to help fortify it against legal challenges.

We helped ensure that the District would have a fair method of acceptance for students using vouchers in private and parochial schools and that there would be full accountability and sufficient oversight by Mayor Williams.

We made sure that the scholarship students would be given the same test that their peers in public schools receive and that their test scores would be evaluated by an unbiased researcher.

No money is taken from the public schools. As a matter of fact, $13 million in new money is provided to public schools and $13 million in new funds is added for public charter schools.

As a result of this program, some 2,000 students from failing schools will have that opportunity for one of these scholarships over the next 5 years to go to the private school of their parents' choice.

This is a worthy trial.

This bill also includes an $835 million increase in funding for the National Institutes of Health.

While this is less than the $1.5 billion increase I sought on the Senate floor with Chairman SPECTER and ranking member HARKIN, the increase is essential to furthering the advances made by NIH particularly in the field of cancer research.

Working together, Congress and two Presidents successfully completed a doubling of the NIH budget over the past 5 years.

Although the fiscal year 2004 budget increase for NIH is smaller than I had hoped for, every dollar spent will yield health dividends for people.

Because of the mapping of the human genome and the advances in molecular biology, it is now possible to develop and target drugs to specific ailments and therefore to break frontiers, to cross barriers and make uncharted progress.

The NIH is the gold standard for the discovery of these new, targeted cancer drugs such as Gleevec which is used to treat patients with chronic myeloid leukemia.

It is my hope that we can press on even further with the progress made in the fiscal year 2005 so that NIH can move closer to funding the optimal percentage of grant applications it receives.

I am pleased that the Omnibus Appropriations Conference Report meets the Federal Government's commitments under the Help America Vote Act, HAVA, which reformed the way elections are administered.

While the President requested only $500 million for HAVA implementation, the conference report provides $1.5 billion for payments to States for the purpose of meeting Federal election standards established in the act.

Following enactment of this legislation, it is vital that these funds be quickly disbursed to the States and localities so that they may implement changes to voting systems in time for the 2004 Federal elections.

As I said before, beyond process, I have a number of serious problems with the substance of the bill, and I will work over the next year to try to fix them.

One of the most egregious provisions, buried in the bill at the behest of the gun lobby, is a provision which requires next-day destruction of background check records of sales where a gun buyer successfully clears a Brady background check and is permitted to purchase a firearm.

Currently, records of criminal background checks are retained for up to 90 days in order to allow the Department of Justice to effectively identify, prevent, or prosecute attempted or completed illegal transactions.

The ability to retain a record of these transactions for up to 90 days allows law enforcement to audit the system to ensure its integrity and to correct errors that may have occurred—for instance, when a gun buyer is able to purchase a weapon when he should have been prevented from getting it.

If those records are destroyed in 24 hours, the ability to correct such mistakes is gone.

A July 2002 report by the General Accounting Office found that the 90-day retention of records allowed the FBI to investigate more than 200 purchases that were initially approved, but later found to have been sales to prohibited purchasers.

The Department of Justice will also lose the ability to adequately verify whether someone on the terrorist watch list has attempted to purchase a firearm, because the records will no longer exist.

According to the Washington Post, at least 12 and as many as 250 individuals on the terrorist watch list have attempted to buy firearms in recent months.

The bill would also prohibit ATF—now BATFE—from finalizing a proposed rule to require licensed gun dealers to conduct regular inventories of their firearms.

The purpose of the rule is to promote more timely reporting of missing and stolen firearms, in order to help ensure that firearms are not ending up in the wrong hands, as in the case of the rifle used in the DC-area sniper shootings last Fall.

Without such a requirement, gun dealers engaged in illegal sales can easily claim theft when their illegally-sold guns turn up in crime.

That may be what happened to the Bushmaster assault weapon used by John Muhammad in the DC-area sniper shootings.

Although Muhammad, a prohibited purchaser, acquired the weapon from a licensed gun dealer in Takoma, WA, many months earlier, the store reported the gun "stolen" only after investigators arrested Muhammad, recovered the gun, ran a trace, and contacted the store.

This provision should never have been put in this bill, and I will work to reverse it.

In addition, I have serious concerns about the impact of delaying country-of-origin labeling.

As we now know, mad cow disease entered the United States via a cow born in Canada. Had we had labeling in place, we could have more quickly traced the cow back to Canada.

Furthermore, polls show that 80–90 percent of Americans want their food to be labeled. In my home State of California, we have the "California Grown" program that promotes awareness, consumption and value of California agricultural products, helping the State's consumers enjoy the best of the California harvest.

All Americans deserve what Californians currently have: the opportunity to know where their food comes from, and to choose American-grown products should they wish.

Last year the White House proposed redefining the job descriptions of millions of workers and thus eliminate their right to Federal overtime protection. Left alone, these rules will go into effect this year.

The proposal could wipe out overtime pay protections and increase work hours for at least 8 million workers nationwide. This would result in huge pay cuts for many workers.

In my State of California, State law will protect most workers from the deleterious effects of this rule change. Unfortunately, public employees who are not covered by collective bargaining and some in the film industry could lose overtime protection if the administration's rule is implemented. And, although most workers in California will maintain their right to overtime through protections granted by State law, the rule change represents a movement in the wrong direction when it comes to enhancing worker protections.

For more than 65 years, we have maintained an appropriate balance between family life and work life by requiring employers to pay certain workers time-and-a-half when they work more than 40 hours in a single week.

This requirement has protected the 40-hour work week, which has been a hallmark of our economy for more than six decades.

Our workers are more productive then ever; yet, these new overtime rules will penalize those individuals who have literally built this Nation.

The men and women who will be most hurt by the rules will be the hourly workers that maintain our streets, ring up our groceries, and respond to our calls to 911.

Given the still high unemployment rate and the uncertainty still plaguing our economy, this is not the time to be making it harder for our hardest workers.

Rather, it is a time when we should be helping all workers achieve fairness in the workplace.

As I laid out, there are serious deficiencies in both the substance of and process by which this conference report was completed. That said, I believe that on balance the conference report is better for California and the Nation than the alternative and I will support it.

The PRESIDING OFFICER. The senior Senator from Alaska.

Mr. STEVENS. Mr. President, it is my understanding that the last 10 minutes before the 12 o'clock vote is reserved for the leaders.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I have not been on the Appropriations Committee as long as Senator BYRD but I have been there for many years and I can state to the Senate that it is not the first time the Senate has been faced with the prospect of voting for a conference report which had deleted items that had been passed by both the House and the Senate.

I say, frankly, I have voted for the items that had been deleted. One of them was the overtime provision. One was modified and that is the one concerning ownership limitations under the jurisdiction of the FCC of over-the-air media.

In each instance, the reason for our yielding was the other provisions of the bill. We had provisions the House is violently opposed to which many Members on both sides of the aisle thought were absolutely necessary for their constituencies or for the Nation.

I bluntly state I believe the best thing we can do is get a bill that will not be vetoed. We were looking at this in December, hopefully trying to get it passed. We are looking at it today, and I fervently pray it will pass because I know the harm being done to a lot of people all over the country by these bills not having become law when they should have before October 1 of last year.

I will speak about one particular area that has been criticized substantially, and that is the Bering Sea Aleutian Islands crab rationalization plan.

This plan, which was recommended to us by the regional council, was created under the Magnuson-Stevens Act and accomplishes two primary objectives of immediate concern: First, conservation and management of the crab resource; and, second, ending the deadly and inefficient race for this fish.

All of the press attention and misinformation on processor quota share has effectively twisted a fishery management plan for one fishery in the Bering Sea into a national debate on the regional council process and the U.S. fishery policy.

I remind my colleagues that the rationale behind the Magnuson-Stevens Act was to allow the various regions to craft their own unique fishery management plans to answer the conservation and management goals of their localities. The crab rationalization plan is no different in this regard. The North Pacific Council recognized all components of the crab fishery as a balanced, connected system, rather than competing parts. The only difference with the crab plan is a procedural one. Congress specifically directed the North Pacific Council to develop a plan that balanced harvesters, processors, and communities. Now Congress must implement the council's proposal.

The North Pacific Council voted unanimously—11 to 0—to recommend this voluntary, what we call, three-pie cooperative that recognizes investments made by harvesters, processors, and communities. It is a product of extensive analysis with numerous opportunities for public comment, hundreds of hours of public testimony, and an open and transparent public debate by the council.

The Alaska communities that are dependent on the crab resource being processed in their plants all support the plan. The vast majority of opposition has come from a vocal minority that want to receive a better deal and environmental groups that do not want any form of rationalization and would like to lock up marine resources. The state of the Bering Sea crab fisheries is poor, and the crab plan developed through this regional council process needs to be implemented now.

Opponents of the crab rationalization plan raise concerns about anticompetitive effects and potential antitrust violations. The crab plan is not exempt from antitrust laws. It is not exempt from antitrust laws. In fact, the provision specifically states the Secretary may revoke any processor quota share held by a person found to have violated antitrust laws. The plan contemplates no private, anticompetitive action, and will be "actively supervised" by the council and the State of Alaska.

Despite the fact the crab plan is not exempt from antitrust laws and will be reviewed by the council, which can make changes as needed, and there will be a mandatory information collection and review process developed by the Secretary of Commerce and the Department of Justice to determine whether any illegal or anticompetitive acts have occurred, opponents still point to an opinion letter by the Department of Justice that theorizes about "potential" anticompetitive abuses. Nowhere does the Department of Justice opinion letter state that individual processor quota shares violate antitrust laws.

The Department of Justice letter—it is an opinion letter—recommends that, what we call, IPQs not be used because they are economically inefficient. However, the Department of Justice admits it "did not consider factors outside the purview of antitrust laws such as the social goal of protecting jobs in historic fishing villages or balancing the regulatory effects evenly among harvesters and processors."

This is where the Department of Justice letter and most opponents of the crab plan miss the point entirely. The Magnuson-Stevens Act requires the regional councils to consider—and I quote again—"protecting jobs in historic fishing villages." This consideration required by law will always be economically inefficient.

Pursuant to national standard 8 under the Magnuson-Stevens Act:

> Conservation and management measures shall take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

That is section 301(A)(8) of the Magnuson-Stevens Act.

The North Pacific Council's crab plan is completely consistent with the goals of the Magnuson-Stevens Act to provide for the sustained participation of remote coastal communities in the Bering Sea in the crab fishery and minimize adverse economic impacts on these communities.

I remind the Senate that half the coastline of the United States is off my State of Alaska. This council had an enormous problem to deal with, and it dealt with it unanimously.

Next, the opponents argue that the crab plan is precedent setting and will spread to other regional councils. This is a fishery management plan for only one fishery in the Bering Sea. In fact, the provision of the bill specifically provides that "a council or the Secretary may not consider or establish any program to allocate or issue an individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands." It would take another act of Congress to approve a similar plan.

This crab plan is not precedent setting. It is an extension of the efficiencies and successes achieved under the American Fisheries Act, which we call the AFA. However, where the AFA has a closed class of processors that can participate in the Bering Sea pollock fishery, the crab plan provides for an open class of processors and allows for new entrants in the processing sector.

Opponents of the crab plan have argued that processor quota share is not needed to make the fishery safer or to provide for protections for the communities. My suggestion is these individuals who make those comments should visit the Pribilof Islands 800 miles west of my home near Anchorage. The Pribilof Islands are located in the middle of the Bering Sea. Or they should visit Dutch Harbor in the middle of January when the crab fisheries are in full swing. They can come by my office and see a picture of a crab fishing boat in mid-January, with ice 5 or 6 inches on the deck and on the rigging.

The middle of January is a terrible time, but that is the time when this great crab resource must be harvested. These communities are dependent on this crab resource and have made substantial investments to process rapidly the product during the mad race for fish in the current derby-style fishery. That means there was a very short period of time in which the crab could be harvested, and all the boats rushed in from everywhere trying to see if they could catch a portion of that resource. These communities have become dependent upon the crab resource crossing their docks.

Now, the crab fishery is a unique one in that there is a very high dollar value for a small amount of resource that can be processed quickly. If the crab plan only provided for harvester-only quota share, it would ultimately result in a de facto processing quota for the exclusive group of boat owners that control the harvesting rights to the resource.

Currently, in the Bering Sea crab fishery there is a surplus of catcher-processor vessels and floating crab processors that can be leased or bought cheaply. This mobile processing capacity in combination with a harvester-only share would enable fishermen to form cooperatives and vertically integrate such that none of the crab resource would ever have to come to shore-side processors.

Substantial investments made by shore-based processors would be lost and communities such as Unalaska, Adak, St. Paul, St. George, Akutan, and King Cove would lose out on processing jobs, taxes, and associated revenues. The North Pacific Council understood this and developed a plan that recognized the commitments made by all sectors of this fishery and tied the resource to the communities that have historically processed the crab.

Safety will also be achieved by this crab plan; this point is irrefutable. The reality is, if we do not pass the crab plan in its entirety now, it will be many years, possibly even 10 years, before the council could develop another rationalization plan and fully implement it.

The North Pacific Council is developing other comprehensive rationalization programs for the Gulf of Alaska groundfish fisheries and will likely turn to the Bering Sea nonpollock groundfish fisheries after that. This council cannot simply stop work on these other programs and address crab rationalization again. It would be extremely unfair to those other fisheries and would result in those programs having to be completely redone because data and factors would inevitably change causing the council recommendations and considerations to be vastly different.

If the crab plan does not move forward in its entirety the deadly race for fish will continue.

I believe some harsh realities about the Bering Sea crab fishery will illustrate why we must implement this provision immediately. The Bering Sea Aleutian Islands crab fishery is rated the most dangerous occupation in the United States. From 1990 to 2001, there were 61 fatalities and 25 vessels were lost; and in the recent October 2003 red king crab fishery, boats were lost and a person killed. This past October crab fishery was one of the worst weather-wise ever, with nearly constant gale force winds and huge ocean swells. Under the crab plan fishermen could have chosen to wait until the weather cleared to harvest the crab.

That is the main point. Instead of regulating the time within which a crab must be caught, they regulate the catching of the crab and let the fishermen decide when it is safe to fish. Lives will be saved if we approve this plan.

Conditions are even more extreme during the winter crab fishery in the Bering Sea when it is almost always dark, extremely cold, and the seas send freezing ocean spray that ice down the crab vessels. I have a picture of that in my office. The derby-style fishery requires deckhands to work all day and all night, outside on icy decks, in rolling 10- to 20-foot seas, retrieving 700-pound steel pots, sorting crab and then dropping the pots in new places.

Obviously, this is very dangerous, but it is also very inefficient and damaging to the resource. The boats are racing to harvest the crab before the guideline harvest levels are reached, which requires them to pull their pots early not allowing them to "soak" longer, permitting younger crabs to escape. The result is the younger crabs are unnecessarily killed causing the stocks to suffer. We require the returning to the sea of the younger crabs. This plan will assist in implementing that requirement.

If we do not implement this provision lives will continue to be lost and the resource and the environment will suffer. The opposition of a vocal few that believe they deserve a better deal and environmental groups that want to turn the waters in the North Pacific into vast marine reserves or "no-take-zones" are behind the opposition to crab rationalization. Their attacks are shameful, self righteous, and disingenuous. We have an obligation to protect the crab resource in the Bering Sea and prevent any further loss of life in this fishery. This is exactly what crab rationalization will achieve and to argue anything else is just not true.

Three years ago Congress directed the North Pacific Fishery Management Council to analyze the management of the Bering Sea Crab fisheries and determine whether rationalization was necessary. The North Pacific Council completed its study and recommended a rationalization program that recognized the historical participation in the fishery of remote Alaska fishing communities, harvesters, and processors. The "Three-pie Voluntary Cooperative Program" developed by the North Pacific Council protects the resource and ends the dangerous race for fish. Section 801 of Title VIII-Alaskan Fisheries of the FY2004 Consolidated Appropriations conference report directs the Secretary to implement the North Pacific Council's crab rationalization program in its entirety.

Section 801 amends section 313 of the Magnuson-Stevens Fishery Conservation and Management Act by adding a new subsection 313(j). Paragraph 313 (j)(1) directs the Secretary to approve and implement the North Pacific Council's rationalization program for the Bering Sea/Aleutian Islands crab fisheries, including all trailing amendments. It also clarifies that the Secretary may approve and implement additional trailing amendments approved by the North Pacific Council. The Secretary must implement all parts of the crab rationalization program that were reported to Congress between June 2002 and April 2003, and all trailing amendments including those reported on May 6, 2003, no later than January 1, 2005. Any further amendments approved by the Council should be corrective in nature or address unforeseen problems with the overall functionality of the crab rationalization program. Primary elements of the Voluntary Three-pie Cooperative crab program that made three separate allocations, one to the harvest sector, one to the processing sector, and one to defined regions, should not change as this was the basis of understanding of how the crab fisheries would be rationalized in the Bering Sea and Aleutian Islands. It is imperative that the deadly and inefficient race for crab in the harsh winter months in the Bering Sea ends. Congress expects the Secretary to meet the statutory deadline of implementation of the rationalization program in time for the 2005 crab fisheries. Congress does not expect the Council to revisit particulars of the crab rationalization program that were part of the initial report to Congress in June of 2002, such as individual harvest shares, processing shares, the 90/10 split of "Class A" and "Class B" shares, regional share designations, voluntary harvester cooperatives, and community development quota allocations, to name a few.

Paragraph 313(j)(2) directs the Secretary to approve all parts of the North Pacific Council's crab program, including harvester quota, processor quota, and community protections. It also includes a non-severability clause that prevents a court from overruling only certain parts of the program. If any part of the program is found to violate the law, the entire program fails and the Bering Sea/Aleutian Islands crab fisheries will operate under their current open-access management scheme. It also prevents processors from improperly seeking crab deliveries harvested under a harvester's open-delivery quota.

Paragraph 313(j)(3) authorizes the North Pacific Council to recommend to the Secretary and necessary changes after implementation of the crab program to continue to meet conservation and management goals set out in the program for the Bering Sea/Aleutian Islands crab fisheries.

Paragraph 313(j)(4) specifies that the loan program defined under the crab rationalization program for captains and crew be authorized pursuant to relevant sections of Title XI of the Merchant Marine Act as amended for fisheries financing and capacity reduction and for direct loan obligations for fisheries financing and capacity reduction. The loan program for crab fishing vessel captains and crew members is to be a low interest loan program similar to the loan program under the halibut and sablefish IFQ program.

Paragraph 313(j)(5) authorizes $1,000,000 each year from funds available in the National Marine Fisheries Service account for Alaska fisheries activities to implement the program.

Paragraph 313(j)(6) specifies that the antitrust laws of the United States apply to the crab program. It requires the Secretary of Commerce to work with Department of Justice and the Federal Trade Commission to develop and implement a mandatory information collection and review process to monitor the crab program and ensure no anticompetitive acts occur among persons receiving individual processing quota. If any person receiving individual processor quota is found to have violated a provision of the antitrust laws the Secretary may revoke their processor quota share.

Paragraph 313(j)(7) requires individual processor quota share under the crab program to be considered a permit and subject to sections 307 (Prohibited Acts) and 308 and 309 (penalties and criminal offenses) of the Magnuson-Stevens Fishery Conservation and Management Act. It specifies that, like individual fishing quota, issuance of individual processor quota share does not confer any compensation right if it is revoked or limited, and does not create title or other interest in or to any fish before purchase from a harvester.

Paragraph 313(j)(8) specifies that the restriction on the collection of economic data in section 303(d)(7) of the Magnuson-Stevens Act will not apply for any processor that receives individual processing quota under the crab program. In addition, the restriction on the confidentiality of information in section 402(b)(1) will not apply when the information is used to determine eligibility or verify history for individual processing quota. This is consistent with the exception to the confidentiality of information requirement under the Magnuson-Stevens Act for verifying catch under an individual fishing quota program.

Paragraph 313(j)(9) specifies that sections 308 (civil penalties and permit sanctions), 310 (civil forfeitures), and 311 (enforcement) of the Magnuson-Stevens Act will apply to the processing facilities and fish products of any person holding individual processing quota. In addition, to ensure compliance with the crab program it may be necessary for the Secretary to inspect a processor's facilities, therefore facilities owned or controlled by a person holding individual processing quota will be subject to the prohibited acts of section 307(1) subparagraphs (D), (E) and (L) of the Magnuson-Stevens Act.

The North Pacific Council is recognized for developing novel and innovative approaches to conservation and management of the abundant fisheries in the North Pacific. The "Three-pie Voluntary Cooperative Program" for rationalizing the Bering Sea and Aleutian Islands crab fisheries is another example of that creativity. It is the product of three years of public meetings and discussion by industry sectors, citizens and affected communities, two years of discussion and development by the North Pacific Council and its Advisory Panel, and nearly two years of extensive and thorough analysis by Council staff, with technical assistance from the National Marine Fisheries Service, Alaska Department of Fish and Game, and independent economists and fisheries consultants.

The Council meticulously constructed the crab rationalization program to achieve bold conservation and management goals for the resource; but also considered the very unique reality of a high value, capital intensive, high risk fishery that is prosecuted entirely in the distant waters of the Bering Sea and Aleutian Islands. The Council has done a great job crafting the Three-pie Voluntary Cooperative crab rationalization program and it is expected to implement the program in its entirety, including all trailing amendments, as reported to Congress in June of 2002. The Council should not revisit the particulars of the crab program, but should continue to work with the Commerce Department of ensure that the crab program is implemented in its entirety in time for the 2005 winter crab fisheries.

The Magnuson-Stevens Act requires fishery management plans and amendments to provide for the sustained participation of communities in the fisheries it had historically depended on for employment and economic opportunity. Small, isolated communities like St. Paul and St. George located on the Pribilof Islands, and Adak on the Aleutian chain have become dependent on the crab resource crossing their docks. This plan slows down the pace of the fishery, achieves efficiencies in harvesting the resource, manages and conserves the resource better, and helps decapitalize the fishery.

While there will inevitably be a degree of economic dislocation in the communities dependent on the revenues. The crab rationalization program addresses these concerns by tying the crab resource to the communities that historically processed the crab. Processor quota share is a form of community protection which maintains historical processing capacity in the communities. Processor quota share should remain in those unique, isolated committees like St. Paul, St. George, King Cove and Adak: communities completely dependent on the crab fishery, that do not benefit from multispecies processing and other economic opportunities. The North Pacific Council determined that for the crab fisheries, processor quota share was a necessary safeguard to protect the investments made by the processing sector and more importantly, to maintain the economic benefits in the communities that have historically depended on the resource.

Section 802 of Title VIII-Alaskan Fisheries directs the Secretary in consultation with the North Pacific Fishery Management Council to establish a pilot fisheries management program that recognizes the historic participation of fishing vessels and fish processors in the central Gulf of Alaska rockfish fishery. The provision delineates the years and types of rockfish that should be considered for a pilot rationalization program to allow for increased use and value in the fishery. The pilot rockfish program will expire when the North Pacific Council authorizes a comprehensive rationalization program for Gulf of Alaska Groundfish and implemented by the Secretary, or 2 years from the date of implementation, whichever is earlier. The pilot program contemplates new entrants into this fishery and provides a set-aside of up to 5 percent of the total allowable catch of such fishery for catcher vessels not eligible to participate in the program. In addition, the five percent that is available for new entrants must come into Kodiak, Alaska for processing and can be processed by processors that have not historically participated in the fishery. The North Pacific Council will establish catch limits for nonrockfish species and non-target rockfish species currently harvested along with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which should be based on historical harvesting of such bycatch species. The Gulf of Alaska rockfish pilot program should also recognize the historic fishing and processing participation of catcher-processors that have historically participated in this fishery, and should utilize the same years and species of fish considered under the provision.

The intent of the pilot program is to consider the historic participation of all of those that have been involved in the fishery. The Gulf of Alaska rockfish pilot program does not authorize individual processing quota share for processors in this fishery. The "historic participation of fish processors" under this pilot program should be considered pursuant to the cooperative model under the American Fisheries Act, or any other manner the North Pacific Council determines is appropriate. This provision in no way authorizes individual processor quota share for the comprehensive Gulf of Alaska groundfish rationalization program that the North Pacific Council is currently developing. This pilot program is intended to allow for better conservation and management of the central Gulf of Alaska rockfish and extend the work year for processing jobs in Kodiak.

Section 803 of Title VIII—Alaskan Fisheries directs the Aleutian Islands pollock allocation to the Aleut Corporation for economic development in Adak, Alaska. If the North Pacific Council opens the Aleutian pollock fishery, the allocation of pollock for economic development in Adak will be restricted by the prohibited acts contemplated under section 307 of the Magnuson-Stevens Fishery Conservation and Management Act and subject to the penalties and sanctions under section 308 of the Act, including the forfeiture of any fish harvested or processed. Two classes of vessels may harvest this pollock allocation: vessels that are 60 feet or less in length overall and have a valid fishery endorsement can harvest the Aleutian pollock allocation and deliver it to Adak for processing; and vessels eligible to harvest pollock under section 208 of Title II of Division C of Public Law 105–277 are permitted to form partnerships with the Aleut Corporation to harvest the Aleutian Islands pollock allocation for economic development in Adak. Section 803 does not waive the requirements of the Magnuson-Stevens Act, Endangered Species Act, National Environmental Policy Act or any other federal laws. The North Pacific Council and NMFS should be cautious in implementing section 803(a) to ensure that any reopening of a directed Aleutian Islands pollock fishery is accomplished in full compliance with all applicable law, and without disrupting 2004 groundfish fisheries which have already commenced.

In an effort to gradually establish a small boat fleet in Adak, subsection (b) of section 803 provides that during the years 2004 through 2008, up to 25 percent of the Aleutian allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under section 208 of Title II of Division C of Public Law 105–277. Establishing a small boat fleet will be critical for the economic diversification of Adak and the revenues generated from the use of the Aleutian Islands pollock allocation will allow for greater investment opportunities in this community. For purposes of implementing this section, section 206 of the American Fisheries Act (AFA) is redefined so that the allocations in section 206(b) of the AFA should only apply to the Bering Sea portion of the directed pollock fishery.

Subsection (c) of section 803 codifies one of the longest standing conservation and management measures of the North Pacific Fishery Management Council, the 2 million metric ton cap for groundfish in the Bering Sea. The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. Upon the recommendation of the North Pacific Council and approval of the Secretary of Commerce, and only if consistent with the conservation and management goals and requirements of the Magnuson-Stevens Fishery Conservation and

Management Act, the allocation of Aleutian pollock for economic development in Adak, may be in addition to the 2 million metric ton optimum yield. This treatment of the Aleutian Islands pollock allocation would only be during the 2004 through the 2008 fishing years, but only if harvests in excess of the cap do not result in overfishing and then only to the extent necessary to accommodate a directed pollock fishery in the Aleutian Islands and should not adversely affect the current participants in the Bering Sea pollock fishery in the near term. Eventually this pollock allocation will come under the combined optimum yield for all groundfish in the Bering Sea and Aleutian Islands 2 million metric ton cap by taking proportional reductions in the total allowable catches for each of the existing groundfish fisheries as necessary to accommodate the establishment of the Aleutian Island pollock fishery.

Subsection (d) of section 803 allows the North Pacific Fishery Management Council to recommend and the Secretary to approve an allocation of Aleutian Islands pollock to the Aleut Corporation for the purposes of economic development in Adak pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The North Pacific Council should consider pollock allocations given to the various groups that participate in the Community Development Quota program to recommend a reasonable amount of the Aleutian Islands pollock to the Aleut Corporation for purposes of economic development in Adak and in no case should this amount exceed 40,000 metric tons.

Nothing in this section requires the North Pacific Council to open the Aleutian Islands pollock fishery. The Council should not take any action in regards to this fishery which would require a new consultation under the current biological opinion or Endangered Species Act covering Steller sea lions.

Section 804 of Title VIII—Alaskan Fisheries prohibits any Regional Fishery Management Council or the Secretary from approving any fishery management plan or plan amendments to allocate or issue individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands.

In closing, I don't know of any time when we have tried to be bipartisan on a greater scale than in these seven bills in the omnibus bill. I personally have reviewed requests from Senators from both sides of the aisle. We have done our utmost to meet the most urgent needs in their States. We have talked to chairmen of the various committees and tried to work with them. In some instances the chairmen disagreed, but we have taken positions that are consistent with a majority of the committees in those instances.

I believe this is a good bill. The problem we face now in this cloture vote—I hope all Senators will consider it—is we are in an election year. We must once again face 13 appropriations bills for 2005. If we do not approve this bill, this omnibus bill, we will have to turn and go back and try to do what we should have done by October 1 of last year. That will obviously impede consideration of 2005 bills and, in my judgment, would ultimately lead to a post-election session. I don't know how many other Senators have lived through post-election sessions that were contentious, but I believe one this year would be very contentious. I hope the Senate will set its goal not to be in session after the election this fall.

We have Members who are retiring. Some Members may be defeated. The object of getting done before the election is to put to rest the disputes in the Senate and go on to the Presidential election and give time after the Presidential election to get ready for the next two Congresses which will come under the term from 2005 to 2009.

I thank all members of the committee for their cooperation with me. I have enjoyed working with the minority leader, Senator DASCHLE, the assistant minority leader, Senator REID, as well as our leaders, Senator FRIST and Senator MCCONNELL, and with Members of the House.

This was a most difficult bill. It has been most difficult because of the fact we are at war. We are not only at war, but we created a new department which had to be funded and people had to be taken from the existing departments in order to staff that new department. We had to figure out the allocation of funds to this new department in a fair way that did not disturb the functions of the balance of these entities that were left in the former departments.

This Congress ought to congratulate itself for having reacted to the post-September 11, 2001 tragedy. We created a department which has made the United States safer, and we have funded the needs of our men and women in the Armed Forces who have answered the call of our country and our Commander in Chief.

I pray in this year 2004 we will not have any further disasters of that type, but the war on terrorism continues. A lot of the money that is in this bill goes to try to stave off further attacks on our people and historic objects in this country. We all are conscious of how much money that is taking. All you have to do is go through any airport to realize how life has changed since September 11, 2001. The money in this bill has been efficiently allocated. To the maximum extent possible, we have tried to deal with the requests of every Senator.

I see the minority leader now. He and I have talked at length about the COOL program, the country-of-origin labeling. I opposed that provision. We deleted it here in the Senate. Again, when we got to the conference, it was not possible to have the conference complete without that provision in it. It was a judgment that we ought to get the bill to the Senate and get it approved and avoid a veto. I am not happy about that.

There are other provisions in this bill I am not happy about. But I can state to the Senate, in all, this bill is a good consensus. It is good for the country, and it will fund the agencies that need the money now. We could not fund this Government during a period of war that is going on in Iraq and our war on terrorism under a continuing resolution. I thank the minority leader for his statements the other day. The worst dream the chairman of the Appropriations Committee can have is the problem of facing up to whether the Deficiency Act will require shutting down the Government if we don't pass the bills. I hope and pray we will pass this bill today and avoid that contingency.

Mr. President, there are several provisions in the FY04 Omnibus Appropriations bill that merit further explanation.

The Transportation measure included $8 million for runway lighting in Alaska. Of the funds made available, it is the Committee's expectation that $3 million would be made available for laser technology in Girdwood, Alaska and Merrill Field in Anchorage, Alaska upon certification of the technology. I urge the FAA to act as quickly as possible to favorably approve the certification petition.

The Transportation bill included $2.3 million for "trail and parking improvements" for the Seward multi-agency visitor center in Seward, AK. Those funds are also available, if necessary, for the acquisition and completion of the plaza between Washington Street and the beginning of the historic Iditarod Trail in the Park Service/Portico Group plan.

Both the VA–HUD bill and the Agriculture appropriations bill include funds for rural water and sewer improvements in rural Alaska. The VA–HUD bill directs that beginning in FY05, EPA must set aside 25 percent of the funds for hub communities and a priority list must be established that will remain in effect for three years. The Rural Development Administration should follow the same process so the funds can be administered together to reduce administrative overhead.

In the Energy-Water appropriations bill adopted earlier, questions have been raised concerning Congress' intention with respect to the Douglas Harbor. Congress provided $3 million to the Corps of Engineers to construct the causeway and breakwaters at the harbor entrance. The Committee urges the corps to commence construction of that project during this construction season if at all feasible.

Funds were included in the Commerce, Justice, State section of the bill and earlier in the Interior appropriations bill concerning mass marking of fish that should be implemented to be consistent with one another. Both bills fund mass marking of fish produced in federally funded hatcheries. Marking refers to modifying the appearance of an immature fish in a hatchery so that when it matures there is an external mark that identifies it as originating from a hatchery. Mass marking refers to marking all or a substantial proportion of the fish releases from a hatchery. By mass marking the hatchery fish, fishery management agencies can direct fishery harvests on marked hatchery production while avoiding unmarked fish that might come from a depleted or endangered stock.

However, fishery management agencies all along the Pacific coast, in both Canada and the United States rely on one type of marking as a basis for identifying different stocks of salmon and obtaining information on those stocks that is vital to conservation and management programs. To assure that the mass marking program does not interfere with this crucial scientific program, it is the committee's intent that mass marking programs supported by Federal funding will ensure that hatchery Chinook salmon that are marked by removing all or part of the adipose fin are also tagged with a microwire tag or alternatively mark the fish with some other mark. This will help preserve the validity of the existing stock identification data base while also realizing the objectives of the mass marking programs by enabling increased harvests of threatened or depleted stocks.

The Justice Department budget within the Commerce, Justice, State bill included $12.5 million for internet safety for children. The committee urges the department to work with I-SAFE consistent with the Senate Report.

Mr. President, the significant number of Alaskans that are descendants of our original indigenous Indian, Eskimo, and Aleut inhabitants are a great source of pride and a unique part of our heritage. A majority of those Native Alaskans reside in one of more than 200 small rural villages.

Alaska is also unique in that, since the purchase of Alaska in 1867, Congress has adopted and implemented an Alaska Native policy that is different in a most important respect from the Native American policies that Congress has adopted and implemented in the "lower 48."

Congress created Native corporations and since statehood has required Alaska Natives to comply with the same criminal, civil, and regulatory enactments of the Alaska State Legislature to which all other Alaska residents are subject.

Like all citizens of my State, Alaska Natives participate in the development of those enactments by electing residents of the communities in which they live to serve in the Alaska State Legislature. In that regard, I am immensely proud that Alaska has a tradition of Native American involvement in the State political system that is unrivaled by that of any other State. The first Alaska Native was elected to our territorial legislature in 1924. In 1959 ten Alaska Natives served in the first Alaska State Legislature. And today, 10 of the 60 members of the 23rd Alaska State Legislature are Alaska Natives.

During the Clinton administration, the Secretary of the Interior, his solicitor and Ada Deer, the Under Secretary of Indian Affairs, argued that there are more than two hundred sovereign tribal governments in Alaska. Many believe that policy was wrong, as a matter of law, while others assert that tribes have always existed. The provision in this bill creating a rural justice commission does not take sides in that dispute. Rather it seeks a practical solution to the issue of rural justice and law enforcement.

One of the more pressing problems we now face is the issue of Department of Justice grants that have been issued to Alaska Native tribes. These grants have been used to create tribal courts that in some instances may exceed their lawful jurisdiction and to hire tribal police who are not currently authorized to enforce State laws.

Since the Appropriations Committee reported S. 1585 to the Senate in September, I was contacted by a number of Alaska Native leaders who have expressed legitimate concern that the State of Alaska's and the Federal Government's criminal justice systems need to be configured in new and innovative ways in order to better meet the unique law enforcement challenges that we face throughout rural Alaska. In order to facilitate an analysis of, and a constructive dialogue regarding, that very important subject, at my request the conference committee that I co-chaired included section 112(a)(2) in title I of division B of the H.R. 2673 conference report. This provision establishes an Alaska Rural Justice and Law Enforcement Commission that will study the criminal justice system in rural Alaska and then submit recommendations to Congress and the Alaska State Legislature regarding ways in which those systems can be improved.

Also at my request, the conference committee include a new section 112(a)(1) which prohibits the Department of Justice from making grants to Alaska Native organizations that are located in communities that have fewer than twenty-five permanent Alaska Native residents, as well as communities that are located within the municipality of Anchorage or one of six designated boroughs. The purpose of section 112(a)(1) is to allow rural communities grants to continue during the fiscal year during which the Alaska Rural Justice and Law Enforcement Commission will be developing its recommendations.

I want to emphasize that the conference committee does not intend the enactment of section 112(a)(1) to express a view as to whether the 108th Congress believes that either a prior Congress or the Secretary of the Interior, acting lawfully pursuant to authority he has been delegated by Congress, has created "federally recognized tribes" in Alaska. Nor does the conference committee intend the enactment of section 112(a)(1) to create "federally recognized tribes" in Alaska by implication. The amendment takes no position on the issues which are now pending before the courts.

I also note that when this provision was originally drafted, we hoped the bill would become law back in September. The deadlines established in the amendment reflected that hope. But now, in January 2004 those deadlines are unrealistic and unachievable. Therefore the Commission should have through this year to complete its work and issue recommendations.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, as I understand it, each leader has 5 minutes prior to the vote. I spoke early this morning. Let me again summarize my concerns.

I have heard others express the fact that on the country-of-origin labeling, we had one position in the Senate and the House had another, and that this represents a compromise. I will come back to that issue. I acknowledge that in the case of country-of-origin labeling, the House and Senate had two different positions. I would say, though, that on the issue of overtime, on the issue of media concentration in particular, both had rollcall votes cast in the House and in the Senate taking strong positions in opposition to what has now been presented to us in conference.

My earlier remarks expressed the deep concern for the institution when in conference there is an ability on the part of a few people to override the majority in both the House and Senate on issues as important as these. So I think we have to be concerned about democracy and about our Republic as occasions such as this arise. Maybe it is not unprecedented, but I don't care how unprecedented or precedented it may be, it is a bad practice. I believe it ought to be stopped.

I also expressed this morning my concern about media concentration. I will not elaborate, except to say I am troubled when not only the White House but those in the House who hold a different position can override the majorities in the House and Senate.

I am also concerned about the policy itself. Increased media concentration is not good for this country, and those who advocate and support the free enterprise system certainly would have to share that concern. We will say a lot more about that also in the future.

My two greatest concerns have to do with the overtime provision and country-of-origin labeling. For the life of me, I cannot understand why this body, this Congress, would ever want to take away the rights to overtime and make the extraordinary statement today that we are not going to reward work, that people who work overtime, work hard and play by the rules, are actually going to be penalized for working hard and overtime in a week or a month.

I know of a lot of people who desperately need these resources to make ends meet, pay for groceries, for insurance, and the house payment. For us, as an official Government policy, to say, no, we are going to devise ways in which to deny you overtime pay for the first time in 70 years is abhorrent. It is just wrong.

I know I only have 5 minutes, so I will leave it at that. Simply again, I will reiterate how deeply concerned many of us are for this dramatic change in the way we look at rewarding work.

Finally, country-of-origin labeling. We have had an unfortunate set of circumstances in the last month right around Christmas; we had the first case of mad cow disease. The administration has done some things right, but, for the life of me, I cannot understand why they would not support an action already in law and a policy in 43 other countries—an action that simply says we have a right to know not only the contents of our food, not only the nutritional value of our food, but the origin of our food. We know the origin of everything else. Why is it so hard for us that we have to say we need 2 more years to study whether it makes sense for us to know the origin of our food?

The Japanese are saying: We are not going to give you 2 years. You are not going to export food to our country unless you can tell us where it came from. We are going to deny American exports so long as you cannot label them.

Again, the administration is saying that doesn't matter; we are for free trade; we just don't care whether the Japanese want us to label our food.

Some have suggested there ought to be a voluntary system. We have tried that. Give me a break. That will not work because it has not worked for years, decades, generations. We need a mandatory system.

I am out of time. I will simply say this, and I will use leader time for the additional time. I know there is a need to vote soon. These issues will not go away. We intend to come back with congressional review resolutions, amendments, freestanding bills, to Rule XIV bills on the calendar. We will come back on these. This is not the end but the beginning. We will not rest until this job is done.

I have indicated to my colleagues that I intended to make a unanimous consent request, as we have with some of these other provisions. I will do so at this time before I yield the floor.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a concurrent resolution, which I shall send to the desk, correcting the enrollment of the omnibus conference report, striking the language which delays the implementation of country-of-origin meat labeling regulations; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, the time has come to move ahead and complete the unfinished work of the first session of the 108th Congress.

We have had good debate over the course of the morning and yesterday—in fact, this week. I have made it very clear as to the importance of this vote, the significance of the vote we will take in 4 or 5 minutes. If we fail to enact this legislation, we will do very clear things. We will curtail our efforts in the fight against terrorism; it won't be as effective. We will weaken funding for our food security system if we don't pass this legislation. We will not have as secure and as strong a system inspecting our food. We will create hardships for millions of veterans, which is unnecessary. That is what this vote, in part, is about. We would put at risk millions of lives of people who suffer from AIDS and the global effort to fight one of the most moral humanitarian and public health challenges of our time. We would be shortchanging the needs of our schools, our communities, our States, and needy and disadvantaged Americans.

There are people who have said this legislation spends too much. I will once again point out and stress what I mentioned 2 days ago. This bill abides by the spending limits agreed to by Congress and the executive branch, excluding those two emergency supplementals enacted last year for the conflicts in Iraq.

Appropriations spending authority will increase less than 3 percent between the year 2003 and 2004, with passage of this bill. The alterative to passing this bill is stark—a full-blown continuing resolution for the seven outstanding appropriations bills.

Compared to doing the right thing and passing this legislation, Senators do have to be reminded one more time that the alternative would mean title I and special education programs would be reduced by $2 billion; the National Institutes of Health would be cut by $1 billion; veterans medical care would be reduced by $3.1 billion; highway funding would be reduced by $2.2 billion; global HIV/AIDS funding would be reduced by nearly $1 billion. That is what is at stake in this legislation.

The legislation doesn't please everybody. That is what much of the debate has been about over the last 48 hours. I recognize that, and I recognize that part of the legislative process is for us to come together and express our beliefs and wishes and have that debate and compromise.

Compromises are never going to please everybody. There are provisions in the bill I would have preferred to be different, but I have learned, especially over the course of the last year as majority leader, that you do the best you can. Compromise and negotiation are part of the legislative process.

I want to respond, as the Democratic leader made clear in his remarks this morning, the legislative process isn't over with this legislation. It is not over. This is another very important step that we have taken, but issues that have been expressed as issues of concern on the floor of the Senate will—and I understand that—be revisited again and again in our legislative process. The great thing about our legislative process is that people will have that opportunity.

It is time to move on the country's demand that we complete action on this bill and, thus, in closing, I do ask all my colleagues to vote for cloture and move America forward.

I yield the floor.

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and Related Agencies for fiscal year 2004, and for other purposes:

Bill Frist, Rick Santorum, George Allen, Robert F. Bennett, Jon Kyl, Ted Stevens, Kay Bailey Hutchison, Ben Nighthorse Campbell, Mitch McConnell, Judd Gregg, Orrin G. Hatch, John Cornyn, Christopher Bond, Saxby Chambliss, Sam Brownback, Larry E. Craig, Richard Shelby.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2673 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nebraska (Mr. HAGEL), are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER (Mr. TALENT). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 32, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—61

Alexander
Allard
Allen
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dayton
DeWine
Dole
Enzi
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Kyl
Landrieu
Leahy
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Reid
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—32

Akaka
Bayh
Biden
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Daschle
Dodd
Dorgan
Durbin
Ensign
Feingold
Graham (FL)
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Levin
Lincoln
McCain
Nelson (FL)
Pryor
Reed
Rockefeller
Sarbanes
Snowe
Stabenow
Wyden

NOT VOTING—7

Baucus
Chambliss
Domenici
Edwards
Hagel
Kerry
Lieberman

The PRESIDING OFFICER. On this vote the yeas are 61, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the question now is on the adoption of the conference report to accompany H.R. 2673.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nebraska (Mr. HAGEL) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—65

Akaka
Alexander
Allen
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dodd
Dole
Durbin
Enzi
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Kyl
Landrieu
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—28

Allard
Bayh
Biden
Boxer
Byrd
Clinton
Conrad
Corzine
Daschle
Dayton
Dorgan
Ensign
Feingold
Graham (FL)
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
McCain
Reed
Rockefeller
Sarbanes
Snowe
Stabenow
Wyden

NOT VOTING—7

Baucus
Chambliss
Domenici
Edwards
Hagel
Kerry
Lieberman

The conference report was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, today I voted against cloture and against the fiscal year 2004 Omnibus appropriations conference report because it does not fund West Virginia's priorities—short changing veteran's healthcare by about $700 million and education by $6 billion, as well as many other essential programs. I was also very concerned that provisions were added to the legislation at the insistence of the White House and over the will of both Houses of Congress to cut overtime pay for 8 million workers. Not long ago, the Senate and the House rejected this administration's Department of Labor regulation that would reduce the overtime pay of workers, and yet this bill includes just such a change.

The process that produced this bill was unfair and does not give Congress its due opportunity to protect the priorities of the citizens of our states. This kind of process means West Virginia loses its right to be properly represented.

Additionally, the will of Congress to implement stronger food safety provisions to require country-of-origin labeling for meat products has been ignored. This legislation delays action on such labeling for another two years: a troubling result given the concerns about mad cow disease.

In previous action, the House and Senate conferees agreed to provide basic protections for Federal employees targeted for privatization by the administration, yet this legislation guts such protection placing 400,000 Federal workers in jeopardy without protections.

What's more, this legislation included an across-the-board cut in all programs, and that is not a responsible budget practice. Such a cut means that 24,000 fewer children will be served by title I in their schools, 26.500 fewer veterans will get health care, and $170 million will be lost for needed highway construction.

Under the process imposed in this must pass legislation, Senators have no chance to offer amendments or make changes. This is simply not right, and therefore, I vote no in protest. I vote no, to taking away the rights of West Virginians.

I understand that the votes are there to pass the underlying legislation to keep the government functioning and provide support to West Virginia projects. I agree that VA healthcare funding needs to be increased, but this bill falls far short. I agree with the $1 billion increase for the Title 1 education program, but I also must point out that we are still $6 billion short of the amount promised for the No Child Left Behind Act.

Again, my vote is a protest vote against the effort to rob West Virginia of its representation in the appropriations process and in opposition to the egregious provisions inserted into this legislation without bipartisan support, or full and fair discussion. I am pleased that after over 4 months, Federal funding is decided, but the process must be changed.

The PRESIDING OFFICER. The Senator from Kentucky.

## PENSION FUNDING EQUITY ACT OF 2003

Mr. MCCONNELL. Mr. President, pursuant to the order previously agreed to, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3108, the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Committee on Finance is discharged from further consideration of the measure and the clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of this piece of legislation. I join the Senator from Iowa, the chairman of the Finance Committee, along with the senior Senator from the Democratic party on my committee, Mr. KENNEDY, and I believe Senator BAUCUS. We worked long and hard to address this issue—and it is a critical issue—of how we make sure the pension system in this country, or especially relating to defined benefit pensions, is maintained in a viable and strong way.

The pension system in this country is, regrettably, in trouble. But the amendment being offered today is designed to restore stability to the pension system and give us the time to solve the broad, difficult problems facing the pension system.

Last week, when the Pension Benefit Guaranty Corporation released its annual report outlining record losses, Labor Secretary Chao put the issue in proper perspective when she said:

> While PBGC [Pension Benefit Guaranty Corporation] is not in crisis—the agency has sufficient assets to meet its obligations for a number of years into the future—it is clear that the financial integrity of the federal pension insurance system is at risk. It is equally clear that comprehensive reform of the nation's pension funding rules must be enacted to strengthen the financial health of the defined benefit pension system.

Time is the key thing here. That is why we need to legislate today. The amendment gives critical players the time they need in the area of reform to accomplish the changes necessary to get through this period in front of us.

There is in this bill a temporary interest rate fix which gives Congress time to review all of the options and make the right decisions on funding, reporting, and many other issues facing the troubled pension system.

There is also in this bill something called the deficit reduction contribution relief area which gives airlines and steel companies the time they need to get their affairs in order after a unique and unusual period of pressure.

Further, there is reform in the area of the multiemployer pension system which will give relief to management and labor to get their agreements in order relative to collective bargaining in order to make sure those funds are solvent.

No one—Congress, employers, nor unions—is absolved of responsibility under this amendment. By granting time, we do not reduce—that should be stressed—anyone's debts nor allow anyone to avoid liability for debts they have voluntarily accepted.

What we do is provide the necessary breathing room so reforms and repayments are made in a responsible and manageable fashion and not under the threat of "the sky is falling" situations we confront today.

The amendment has essentially four elements, as I have outlined. First is reform of the 30-year Treasury note as being the vehicle by which we assess pension funding. Second is temporary relief for specific single-employer pension plans from deficit reduction contributions, such as airlines and steel. Third is a 2-year delay in the amortization of recent investment losses experienced by multiemployer pension plans and the imposition of significant improvements in the disclosure of information requirements of those plans to their participants, which is critical.

Turning to the interest rate fix issue, this is the key issue for me. I have spoken about this a number of times on this floor. In fact, back in May I said: Now is the time to address this. I guess "now" has become now. But the fact is, we have today a system where 30-year Treasury bond rates are required in the current pension law for funding purposes.

We will replace that with a conservative rate pegged to the high-quality bond corporate basket. The reason for this is that 30-year bonds essentially do not exist anymore so we have an artificial rate under which we were requiring companies and pension funds to be funded. The practical effect of that was that the bond rate was artificially low, which meant the return on these funds was artificially low and the funding requirements became, unfortunately, in real terms, extraordinarily high and inconsistent with what a realistic rate would be.

By shifting to a corporate basket of high yield corporate bonds, we will correct this problem, significantly improve the viability of the pension system, and allow the corporations, for a period of 2 years, to use this temporary fix. It is a temporary fix.

Two years is a risk, I admit. Whether or not we can put in place the necessary law changes and reach agreement between the various players that are involved at the table, including the unions, corporations, and the guaranteed fund is a question.

It is a short timeframe to resolve this issue. I would have preferred more time so we could be sure we would reach an accommodation and a timeframe that were realistic, but that is not what others wanted. It was not what we were able to accomplish. As we all know, legislating is sometimes the art of compromise, and in this instance that was the case.

So we have a 2-year hiatus using a basket of high yield corporate bonds as the new benchmark for funding. That will be positive relief, and it will mean, in practical terms, that funds which would have been artificially flowing into funding pension funds—and unnecessarily flowing into those funds as a result of having to use the low Treasury rate—will now be flowing into capital investment which translates directly into jobs. That is what this is about, protecting jobs and protecting pensions.

The second area is the deficit reduction contribution relief function. The amendment grants 2 years of relief to the airline and steel industries from mandatory deficit reduction contributions. Other companies may also apply to the Treasury Department for similar relief. Companies getting relief must remain current on their pension obligations and cannot increase the benefits that they create under their pension funds during this period.

Airlines are the main focus of the deficit reduction contribution relief. Airlines are the main focus because of the unique stress these companies have suffered. In recent years, profit pressures within the U.S. airline industry have been amplified by severe pricing competition, the recession, and, most importantly, by the effects of terrorism and the war in Iraq. Severe acute respiratory syndrome, SARS, also created pressure on the entire industry, especially those flying overseas.

The industry is in transition. The public has been reluctant to return since September 11 to the level of travel we had before September 11. Two airlines have already filed for bankruptcy protection. Others may follow suit. It is our intention with this amendment to ensure that pension rules are not the determining factor in selecting which airlines survive and which fail. We should not be kicking airlines over into bankruptcy on the issue of pensions. If that happens, it should be a function of their operating activity in the area of competing for passengers.

The PBGC is also concerned about the steel industry, especially two specific companies which have filed bankruptcy. Last year the agency absorbed the largest pension plan in its history when it trusteed the Bethlehem Steel plan. Only a few steel company pension plans still exist.

The DRC portion of the amendment gives these plans in this troubled industry a chance to get their finances in order without the imminent threat of a takeover by the PBGC. The DRC provisions are important safeguards to the system and especially to the PBGC. Plans taking the relief must pay 20 percent of their obligation in the first year and 40 percent of their obligation the second year or the plan's expected current liability for the year, whichever is greater. This ensures that no plan will lose ground and become worse off than it was when we started this process. Plans that are funded at only 75 percent or less are also prohibited from increasing benefits during this 2-year moratorium. There is strict accountability. Furthermore, there has been talk of freezing the PBGC guarantee for these plans.

The multiple employer benefit plan relief is another area that this bill addresses. What the amendment does is allow plans to suspend amortizing their experience losses for 2 years. Multis may amortize experience losses over 15 years under current law. Multiemployer plans also would be required, under the amendment, to send annual notices to all participants disclosing the funding status of the plan. This is an important reform. It will mean that we will have transparency in multiemployer programs—something we don't have today—so employees can find out the status of their plans. This reform will have a very positive impact.

Without this relief, many companies participating in multiemployer plans will face significant taxes and monetary penalties. This is an attempt to address that problem over the next 2-year period. It is done as a result of pressure which we are seeing within the industry to move out of these types of plans and, in fact, abandon the field of pensions completely in the area of defined benefits plans.

We understand that if we do not reform these plans and their funding more substantively over the 2-year hiatus being granted to us, we will have lost a huge opportunity to make available to employees effective pension benefits.

Our goal is to make sure we don't arbitrarily force a number of employers out of the pension area simply because we have an artificial rate at which they have to fund their plans; that we don't create an atmosphere where, in the area of airlines and steel, we are essentially forcing these industries into bankruptcy because of their pension structure but, at the same time, not create an atmosphere where we unduly undermine their commitment to their pension structure; thirdly, not create an atmosphere where multiemployers basically abandon the field of pension activity and we end up with many employees not having the opportunity to participate in pensions.

That is our goal. Our basic goal is to assure that we have a viable pension system for our employees and the option, as part of that viable pension system, that we have a strong defined benefit element of the system. We know, regrettably, that as we came out of the period of the bubble of the 1990s, tremendous pressure was put on these different pension plans because of their investment experience. It was not unique to pension plans. Many American citizens who invested in the 1990s found the same problem. At the end of the 1990s, most of these plans were extremely solvent and strong. Today they are weak. They need this type of relief in order to get through this period.

We have been through this type of experience before. I point to the Chrysler bailout process as an example of how the Government, through intelligent approaches toward companies that are in stress, could maintain those industries and be sure that they work their way through the process during the hard times and, as we move back into a strong economy, have the opportunity to do the reform necessary to strengthen those plans so they get them back up to speed.

This is a much more logical approach than the haphazard, sky-is-falling approach of forcing the plans through reorganizations, through dramatic funding events that are artificially created through the interest rates or by making the plans much less attractive because the pension costs are so high. So I think the bill makes sense. There is consensus on it and we should move forward with it.

Before I yield the floor, I thank the chairman of the Finance Committee for his commitment to this effort and the strong work of his staff in this area, and the cooperation which the Health, Education, Labor, and Pensions Committee has had on this effort.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, in turn, I thank the Senator from New Hampshire as the chairman of the committee dealing with some pension legislation. I thank him for his cooperation. That cooperation has been over a long period of time, going back to at least a year when we started efforts to work together on pension legislation so we would have a solid approach on the floor of the Senate.

Mr. President, the replacement of the so-called "30-year Treasury" interest rate has reached an emergency. This is the statutory rate used to value pension liabilities.

There is an inverse relationship between interest rates and pension liabilities: As interest rates go up, pension liabilities go down. Conversely, as interest rates go down, pension liabilities go up. Small changes in interest rates mean big differences in pension contributions.

Current interest rates are at historic lows. Low interest rates have caused pension plan liabilities to skyrocket. To make matters worse, the recession that began in 2000 brought down stock values.

The combination of unusually low interest rates and the decline in stock values have combined to worsen the pension plan funding problem. Just when you think things can't get any worse, they do.

In October 2001, the U.S. Department of the Treasury discontinued the 30-year Treasury bond. The 30-year bond is the statutory rate used by pension plans to value their liabilities. While the Treasury Department still calculates the yield on the 30-year Treasury bond, the number is increasingly "soft."

To help plans cope with high funding requirements, Congress adjusted the rate to 120 percent of the 30-year Treasury shortly after the terrorist attack of September 2001. That adjustment was effective for 2002 and 2003. Plans were depending on Congress to extend that relief before December 31, 2003. We missed our deadline.

At the end of the last session, we needed unanimous consent to pass an interest rate bill, but we did not have UC to proceed. The objections were not over replacing the rate, they were over deficit reduction contribution, or "DRC relief" and over relief to mutliemployer plans.

Let me talk about DRC relief for a moment. There is an honest difference of opinion in the Senate over whether or not to grant DRC relief to underfunded pension plans.

The real answer to the question of whether underfunded plans should be given DRC relief is: It depends.

If a company is otherwise healthy but in a cyclical industry, should the combination of the economic downturn and an arbitrary pension rule force them into bankruptcy?

I respectfully suggest that DRC payments should not force an otherwise healthy company into bankruptcy. Remember, the company could survive if the Government takes its thumb off the pension DRC scale for a little while.

So what should Congress do?

The Senate Finance Committee decided that we should provide temporary relief to overburden plans. The HELP Committee did not take action on this issue.

Out of respect to the HELP Committee, we agreed to winnow back the relief to qualifying airlines and steel firms, but to allow others to apply to the Government for relief so long as they meet the qualification requirements. The bill provides only 2 years of limited DRC relief. Relief for 2004 is limited to 80 percent of the deficit reduction contribution.

In 2005, the DRC relief is further limited to only 60 percent of the otherwise payable deficit reduction contribution.

Plans that were poorly funded in 2000 are not eligible for this relief. We are concerned that for the healthy companies, the DRC creates an artificial cash demand on companies. The DRC is well-intentioned, but it may be a flawed requirement.

We wish we had time now to simply reform the DRC. If we had anticipated the amount of time it has taken us to get to this point, we would have reformed the DRC. As an alternative to reform, we are providing short-term DRC relief to qualifying companies.

Now, let me turn to the multiemployer plans.

The same fiscal and financial conditions that have caused the pension funding crisis among single-employer plans are working against the multiemployer plans.

Since we have already given 2 years of relief to single-employer plans (in 2002 and 2003), it is only fair that we now provide some relief to the multiemployer plans.

This amendment gives multiemployer plans an extra couple of years to amortize their experience losses. If we don't give them relief, excise taxes will cascade down the employers who contribute to the plan. The excise taxes and penalties will hurt the employers—not the unions. The excise taxes start at 5 percent, but they quickly increase to 100 percent.

These taxes do not help fund the pension plan. They just enrich the Federal Government.

The reason that this relief is a little different from the single-employer language is that the multiemployer plans are structured very differently than a single-employer plan.

A multiemployer plan consists of tens, or hundreds, or a thousand employers contributing to the same fund. Each employer may have a slightly different arrangement for its work force. With all those employers and all the potential differences in the individual arrangements, the plan cannot change overnight.

The language that we are bringing to the floor gives the multiemployer plans a little extra time to rearrange their contributions and benefits before these excise taxes would take effect. It gives the plans time to go back to the bargaining table and renegotiate.

This package has been drafted to give temporary funding relief to both single-employer and multiemployer defined benefit pension plans.

Currently these plans are straining to pay their contributions. Relief is limited in duration. It will expire at the end of 2005.

Our objective is always to balance the requirement that participants' benefits be funded and guaranteed, but to do so without driving otherwise healthy employers into insolvency.

Pension funding rules need to be revised. We know that. While we work toward that goal, however, this proposal will lessen the burden that usually low interest rates place on plan funding.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to speak on behalf of the members of the Finance Committee, and in particular for Senator MAX BAUCUS, and for members of our committee. I think now of our good friend and good ally to the chairman of the committee and to the other members of the Finance Committee who have been working on this legislation for a significant period of time.

Most of us remember the mishap that happened to Senator BAUCUS some time ago, during an event that very few, if any, of us would participate in—a 50-mile road race. During that race, he slipped and had a small accident, or so he thought at the time, but still continued the race. Then, because of complications that took place a number of weeks after the mishap, additional treatment and care was necessary. So he is not present with us today.

Senator BAUCUS wanted the Senate to move ahead on this legislation, which is typical of Senator BAUCUS. He encouraged us to go ahead and he told the leadership on our side and on the other side, that he wants the Senate to work its will on this legislation because it is enormously important.

All of us are very mindful today that Senator MAX BAUCUS has been facing a challenge in terms of recovery. He is doing well. He is getting better. He will soon be back with all of us.

I certainly thank him—and I think I speak for all of us on our side—for all the good work he has done in terms of the development of this legislation. His work has been indispensable and extremely important.

I also thank the chairman of the Finance Committee, Senator GRASSLEY, and the chairman of the HELP Committee, Senator GREGG, for their work on this legislation. This legislation has an enormous impact on workers in this country, and it has an incredible impact on small businesses and other businesses in this country that are trying to be responsible and do the right thing.

All of us understand that retirement income is dependent on a three-legged stool comprised of Social Security, personal savings, and a pension. Those are the three elements which men and women, who have worked hard and played by the rules, look to in terms of their future and of their golden years. That is why it is so important that we preserve Social Security.

We are all mindful of what has happened in recent times in terms of personal savings, where savings have been reduced as a result of a lot of different factors and forces. The market has been off. And although it has come back to some extent in the last few weeks, overall there has been a loss among many of those who had 401(k)s.

Then there is the serious challenge to the whole pension system. It is indispensable that we find common ground and work to deal with this issue which is of such incredible importance. The fact we have been able to work on both sides of the aisle on this extremely important legislation is, I think, enormously significant.

The chairman of the Finance Committee and I have enjoyed working with my colleague and friend from New Hampshire, Senator GREGG. We haven't cosponsored or worked together all that many times, but I always enjoy it when we do, and even when we differ, I enjoy that as well.

I can't underscore enough the importance of this legislation, and we are extremely hopeful that the kind of agreement we have had so far will continue to be the basis of the legislation as it moves forward.

Defined benefit pension plans are, as I mentioned, a key part of retirement security for millions of Americans. They promise a monthly benefit starting at retirement and continuing for the rest of your life. Defined benefit plans are different from defined contribution plans and all the other pension plans. Only a defined benefit plan provides benefits backed by the Pension Benefit Guaranty Corporation.

Americans in every industry benefit from these plans. Nearly 35 million workers and retirees are covered by single employer plans, and 9.7 million more are covered by the multiemployer plans. One in every five workers participates in a defined benefit plan.

But today the secure retirement of these workers is at risk. As we have heard from many experts, a "perfect storm" is overtaking defined benefit plans. The longest downturn in the stock market since the Great Depression, combined with a troubled economy, and historically low interest rates have led to the underfunding of many of these pension plans, and the storm threatens to wreck the pension dreams of millions of Americans.

This amendment that Senator BAUCUS, Senator GRASSLEY, Senator GREGG, and I are offering will provide immediate short-term measures needed to deal with this temporary crisis.

The amendment has the broad support of Democrats and Republicans, employers and unions. Despite our differences, all of us agree that employees deserve to receive the benefits promised by their pension plans. To protect the security of their retirement, we need a solution, and we need it quickly.

Our amendment takes three steps to help defined benefit pension plans. First, it temporarily replaces the 30-year Treasury bond rate used to calculate employers' contributions to pension plans with a corporate bond rate.

As the interest rate on 30-year Treasury bonds has fallen, the decline has created huge uncertainties for pension plans. As many as 20 percent of defined benefit pension plans are at risk of being terminated or frozen. Temporarily replacing the 30-year Treasury bond rate will stabilize these plans and enable them to continue to provide the benefits they have promised.

Second, our bill provides for additional deficit reduction contribution relief.

Although the Bush administration keeps speaking of an economic recovery, the recent economic growth has not translated into job security for Americans—indeed, only 1,000 jobs were created in December. Many sectors, such as the airline and steel industries, continue to struggle.

The men and women in the airline industry are well aware of the threat to their jobs. Over 100,000 airline workers have lost their jobs in the last 2 years, and thousands more are accepting cuts in pay and benefits to preserve their jobs. These workers have done their part to keep the skies safe and keep their companies flying and they need our help to protect their jobs and pensions.

The steel industry is also struggling to find new ways to increase efficiency and compete in the world market. But the industry continues to face serious challenges, and relief is essential.

The deficit reduction contribution relief in our amendment would provide relief from these payments to companies that had well-funded pension plans in the past and need extra assistance now. These are companies that have met their responsibility and through the confluence of events are today challenged. This helps provide temporary relief.

This relief is needed to help protect the pensions and jobs of workers in these industries. These are industries that can come back—and must come back—to help drive our economic recovery.

Our amendment also includes important relief for the multiemployer plans, which fill major needs in our pension system by providing pensions to many low-wage workers, as well to short-term and seasonal workers who might not otherwise be able to earn a pension.

Forty percent of these workers are in construction, building homes and offices. They worked around the clock at the World Trade Center site after the tragedy of September 11. Because many construction jobs are short term, these workers rely on multiemployer plans to guarantee their retirement.

Thirty percent of these workers are in retail or service industries. They clean hotel rooms and corporate offices. They bag groceries and serve food in restaurants. They do not have golden parachutes or executive stock options. Without a multiemployer plan, many of them would have no pension at all.

Ten percent are in the trucking services, traveling across the country at all hours of the day and night to deliver goods safely to stores, factories, and homes. A multiemployer plan helps them reach their retirement destination safely, too.

Multiemployer pension plans also help employees of small businesses. Only 8 percent of companies with fewer than 100 employees offer a defined benefit pension plan. Many small businesses find it most affordable to provide such benefits through a multiemployer plan. As one pension expert testified before the House, multiemployer plans "provide literally tens of thousands of small employers with the opportunity to provide competitive and comprehensive benefit plans to their employees . . . which would otherwise be too expensive and administratively complex for them to provide on their own." The larger companies can provide the self-insurance, so to speak, for the pension plans. The smaller ones have to be involved in these multiemployer plans that include a variety of different companies.

Like single-employer plans, the multiemployer plans have been devastated by the stock market. Because of these losses, the plans are in trouble. The modest relief in our amendment will provide both companies and workers with more time to negotiate contracts to meet the soaring funding needs.

These three bipartisan steps provide a vital temporary solution to the problems faced by the Nation's pension plans. Once these problems have passed, more must be done to preserve and expand the defined benefit system that means so much to so many employees today. Our amendment provides 2 years of relief enough to allow us to begin.

I urge my colleagues to join in providing this much-needed protection to the millions of hard-working Americans who have worked for and earned a secure retirement.

To review the highlights of this legislation one further time, there are 35 million Americans who are covered by the single-employer defined benefit pension plans. This gives some idea of the importance. There are 9.7 million, effectively 10 million, more who are covered by multiemployer defined benefit pension plans. This is effectively 45 million employees who are going to be affected, and obviously thousands of employers. Only defined benefit plans provide a secure monthly benefit backed by the Pension Benefit Guaranty Corporation.

What are the factors? Why is this legislation necessary? Why is it needed? I mentioned in my other comments about the "perfect storm," the series of events which have taken place. These are the factors which have impacted these pension programs in an adverse way.

First, the prolonged downturn of the stock market during this administration, the longest since the Great Depression; extremely low 30-year Treasury bond interest rates. Bond interest rates have been low. That has had some positive impact, obviously, in terms of the refinancing of automobiles and homes, which has been extraordinarily important, but adverse in terms of these pension programs. The weak economic conditions mean the companies cannot afford to make the additional payments and pay excise taxes imposed by our pension laws. Because of the economic pressures, the companies are hard pressed to meet their responsibilities. They have been responsible in trying to set up these pension plans. They want to provide for their workers. They want to do the right thing. This helps them, at least in a temporary way, to deal with those issues.

Those are basically the reasons why this legislation is necessary. This is a temporary program, but it affects almost 45 million of our fellow Americans.

I want to mention one other factor, and that is that multiemployer plans provide literally tens of thousands of small employers with the opportunity to provide competitive, comprehensive benefit plans to their employees, which otherwise would be too expensive and administratively complex for them to provide on their own.

This really helps the small businesses in a very important way. I will give some idea to our colleagues about the people who are affected by this action. Multiemployer plans provide pensions to low-wage workers, and workers in seasonal or short-term employment. They provide pension plans for workers in many industries. 38 percent are in the construction industry, clearly the largest industry. Truck transportation is 9.8 percent; services, 15 percent; retail trade, 14.5 percent; 15.2 percent of all of those workers are in manufacturing. I think all of us understand the challenge this Nation is facing in retaining manufacturing jobs in America. This is enormously important in helping preserve it. There are a lot of different elements in terms of what we are going to have to do to preserve manufacturing jobs, but this is vital.

This chart gives the idea. It is manufacturing, it is retail and service, it is transportation, again, it is construction. For individuals who are moving from project to project, by the nature and definition of the construction industry, they absolutely need the multiemployer plans. They work. They have been successful. But they are hard pressed, as I mentioned.

This is a balanced program. It is a temporary program. It has the broad support of employers, large and small.

It has the support of workers from large companies and large unions to small companies and individual workers. It responds to a very important and significant issue, which is, I think, at the heart of the American dream, and that is how we are going to view retirement. The Greeks used to define a great civilization by how it cared for its senior citizens. These are the men and women who have sacrificed, the ones who helped bring this Nation out of recession, who fought in the various wars in which we have been involved and, most important, they have sacrificed for their children. They have sacrificed for their children's educations or for whatever challenges they had.

But they have been working hard, over a lifetime. They have been prudent and they have saved. Now, at the time when they are getting close to retirement, because of forces and factors far beyond their control—that retirement is threatened in a very significant and important way.

This legislation makes sense. It has broad support. I am hopeful we can pass it. It is necessary and it is important.

I commend our leader, Senator FRIST, for scheduling this as an early priority in this session. I think it is a matter of enormous importance and consequence, and it is a great priority. I commend the leaders for giving the Senate the opportunity to take action on it.

Mr. President, I yield.

Mr. GRASSLEY. Mr. President, I want to follow on what Senator KENNEDY said in his opening remarks about this bill being here through a great deal of cooperation between two committees, and Republicans and Democrats within those committees. It also gives me an opportunity to thank Senator BAUCUS because I always have a very close working relationship with him on our Finance Committee. This is a result of that cooperation. But, as I previously said, and it has been alluded to by Senator KENNEDY and Senator GREGG, this is an issue where two committees, the Finance Committee and the Health, Education, Labor, and Pensions Committee share jurisdiction. So we have had a remarkable cooperation between the two committees, and that includes Senator KENNEDY's cooperation to get this bill out and hopefully not only get it to the floor but that this sort of cooperation helps us expedite this bill.

This is a very important piece of legislation and is needed by a lot of segments of the economy in order to keep companies viable.

In addition, I hope we will be able to have Senator BAUCUS back with us quickly. Originally when he left the hospital we heard it might be 2 weeks' recovery. I hope that is coming along OK and he should be back here with us very shortly.

Mr. President, I will suggest the calling of a quorum.

Mr. KENNEDY. If the Senator will withhold, we understand the leaders have set this time now for debate. We are here and ready for debate and discussion. This is enormously important. The leaders wanted us to try to consider the concerns of the Members on both sides of the aisle today. We are going to be at our posts, Senator GRASSLEY and myself, today and also on Monday.

I think it was the leader's desire to stack the votes for Monday afternoon. It is now Thursday afternoon, quarter of 2. We are here and ready for action. We know some Members have spoken with us about their concerns about different provisions. We are ready to deal with those issues, or at least be able to debate them and make sure that our colleagues are going to be fully informed about them by the time we vote.

I certainly hope those who do have amendments would come over here and present them so we might be able to consider them, work on them through the afternoon or through the evening, and make as much progress as we can. I hope we are not going to be left for these to come in at a later period. We are prepared to consider these issues at the earliest possible time.

Mr. GRASSLEY. Yes, the unanimous consent provision does allow for amendments, an equal number on both sides. We hope the people who are interested in following that rule will come over. I have been told there is at least one Member on my side of the aisle who should be here shortly to offer an amendment. I urge that to happen.

Obviously, we will be glad to have debate and accommodate everybody in any way we can.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. LOTT. Mr. President, what is the parliamentary situation? I wish to speak on the pending legislative issue, the pension bill. Is the floor open for comments?

The PRESIDING OFFICER. Yes, it is.

Mr. LOTT. Mr. President, I rise in support of this legislation. I commend the Senators who have been involved in working out most of the disagreements, including Senators GRASSLEY, BAUCUS, GREGG, KENNEDY, and, of course, our leaders, Senator FRIST and Senator DASCHLE, who have all been involved in working through the difficulties of this legislation.

Quite frankly, this is complicated and difficult legislation to understand. A lot of times, people start referring to issues by acronyms such as COLA or DRC. If you are not really involved in the intricacies of pension issues and, particularly, this area of deficit reduction contribution, you can get lost in the details. You can even be misled as to what the reason for it is and what the impact will be.

I have followed this issue because I am a member of the Finance Committee, which has jurisdiction in the area of pension plan contributions, and also as chairman of the Aviation Subcommittee of the Commerce, Science, and Transportation Committee. I do believe the airline industry is in a difficult situation now, but I think they are a critical part of America's economy and our transportation system. There is no question that they have been greatly impacted by fuel costs, the events of 9/11, and even, temporarily at least, by the war in Iraq. They have been struggling to deal with those issues. They also have had mistakes in their past, in management decisions. Some of the contracts they have with labor put real pressure on them in terms of being able to make enough money to pay all the costs of delivering this service. Regardless of that, I think it is hugely important for America that we have a viable and available airline industry.

We have been doing things to try to help them. Right after 9/11, we passed major airline relief, leading up to the war in Iraq. In the aftermath of 9/11, we provided direct assistance to the airlines. Late last year, we passed the Federal Aviation Administration reauthorization, a significant multiyear legislation that was hard to get through, but we got it done. It was supported by management and labor and the administration in the end. That gives some certainty about what the administration will be doing, what they can do. We opened up some areas that needed some changes. This area is also very important to the survival of some of our airlines.

Some will argue that it gives the major airlines an advantage over the smaller airlines. I certainly am not in a position to want to do that. I want all of our airlines to be able to meet the responsibilities and commitments of their pension plans but also to be able to stay in business and provide service. We need the shorter routes, the ones that fly from point to point, and the hub airlines. I want a healthy airline industry. This is one step in that process.

Some people will attack this legislation and say the airlines brought it on themselves. Sure, they have made mistakes, but a lot of things they are being hit with cannot be put at their doorstep as being their fault. They didn't cause 9/11. They have not been responsible for the increasing and up and down prices of fuel. A number of factors that have played into their economic situation they cannot be blamed for. They have certainly made mistakes, but this is not something they brought on. This is a requirement in the law that we put on them. This is a part of the PBGC legislation, where they have to pay into the pensions, and we capped how much they could pay in.

A few years ago, in 2000, the airlines were committed and paying, I think, 100 percent of what was needed. But in the last year or two, they have fallen under severe pressure, and, as a result of the quirks in the law, they now would have to pay an accelerated penalty, even more money, because of the 30-year Treasury bond calculation process to determine how much they paid in. That has come to a conclusion. They have to go to a new system.

My point is that I think this DRC relief is the right thing to do. It is a temporary 2-year deal. They are not absolved of all of their responsibilities. It is an 80-60 percent—80 percent relief in the first year, 60 percent in the second year, and only plans that were not subject to the deficit reduction contribution relief in 2000 would be eligible for this relief.

The plans would not be able to increase benefits if they were 75 percent funded or less. An application process would allow companies that are not in those industries to request DRC relief if they were not subject to the DRC in 2000.

This is a temporary modification to provide relief to allow airlines to work through the difficulties they are having now. I believe this relief will enable them to move forward and fulfill their commitments in the future.

It is not going to bring in all of the plans. It is targeted at airlines and steel only, and I understand only a couple of steel companies would be affected by this.

This legislation is bipartisan. Democrats and Republicans have been working to try to address some of the concerns and deal with the recognition that interest rates have contributed to this problem, stock market declines have contributed to this problem, and what would we do to be of assistance to the airlines. But it also makes sure the PBGC is not left holding the bag. I think we have come up with the right solution.

Some people will argue the DRC relief will actually worsen the financial standing of the PBGC. I am concerned about the financial stability of the PBGC, but I think this temporary, limited relief will actually be in its best interest. If we do not do this, some of these airlines will go into bankruptcy and PBGC will have an even more difficult situation on their hands. If these companies wind up taking chapter 11, then the pension fund is going to have a problem.

The point might be made: Let's wait for the bigger pension reform bill. I know Chairman GRASSLEY and others want to have broad pension reform. We need to do that. But we are not going to be able to do it in the next month or two, and I don't even think we are going to be able to get it done this year. We need to do it. We ought to do it. This problem is imminent. If we don't act by April 1, these airlines and steel companies are going to have to pay at the accelerated rate, which they are not going to be able to do. So it is timely. We have to act now because in a very short period of time, the roof will come falling in on these companies.

I understand there may be a couple of amendments. I appreciate the fact that Members did work with me on a provision I had concerning multiemployer withdrawal liability. We worked on compromise language that is in the legislation which I think is acceptable. Many of the questions that were raised by the chairman of the Budget Committee and by Senator KYL of Arizona have been addressed. I understand they may have an amendment or two. We ought to debate those amendments and have a vote. But then I hope my colleagues will allow this legislation to move forward, go on to conference, and let's get it done in a timely fashion. It is in the best interest of the airline industry and, I believe, the PBGC, and the American taxpayer.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, is time controlled?

The PRESIDING OFFICER. It is not.

Mr. BYRD. I thank the Chair.

Is the distinguished senior Senator from Massachusetts a manager of the bill?

Mr. KENNEDY. The Senator is correct. We have had a good discussion by those who are the principal sponsors, and we are awaiting, hopefully, those who would like to amend the bill, but they have not indicated they are on their way just yet, so we have some time. If the Senator would like to speak, we obviously would like to accommodate him in any way.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I always like to be on God's side, and then I like to be on Senator KENNEDY's side. If there is a choice between the two, why, I think I will pass for the moment.

Mr. President, it is not hyperbole to suggest that the sky is falling for too many American workers. You could also say that the ship is sinking. You could say that the mine wall is collapsing, that the dam is giving way, or use any number of metaphors for a looming disaster to describe the current state of America's private pension system.

The entire system is wobbling under assaults from every direction. On the one side, the stock market plunge has left the pensions for over 44 million workers underfunded by an estimated $350 billion. Last year, the Pension Benefit Guaranty Corporation had to assume the pension obligations for scores of bankrupt companies, ranging from airlines to steelmakers, pushing the PBGC's balance sheet into the red by an alarming $11.2 billion.

On the other side, the assault is coming from historically low interest rates that have triggered painful new funding requirements for employers. Even companies that want to provide for their employees find themselves unable to compete in a global marketplace against competitors unencumbered by the legacy costs of pension and health care benefits.

U.S. employers are warning they will be forced to freeze their pension plans or terminate them unless the Congress provides them with relief from their pension obligations. Yet, with $350 billion in underfunded pensions and a growing deficit, the Federal pension insurer is warning that unless those pension obligations are funded, a massive taxpayer bailout, akin to the 1980s savings and loan crisis, is just over the horizon.

At a time when working families are looking for assurances that their pensions will be protected and their retirement will be secure, the Congress is offering neither assurances nor security. This legislation provides funding relief to employers, but it does little to ensure that the pension benefits promised to workers will be there when they retire.

While this short-term patch may be necessary to keep the ship afloat for a while longer, it does not change the fact that the ship is sinking, and the Congress has not yet readied the lifeboats.

The Congress is telling workers that once the needs of business have been addressed, then it can act to ensure their pensions are fully funded. The Congress is wagering that the pension system will stay afloat that long. It is a theme I have noticed repeatedly during the tenure of this administration. While the top of the economic pyramid receives immediate relief, the hard-working middle class is given only vague promises, uncertain promises of uncertain relief and delayed benefits. I have seen it over and over and over. The corporate elite receives immediate tax cuts, while America's working-class families, the people who work with their hands, the people who get their hands dirty, the people who are soiled in grime when it is time to go home and have supper, are told to wait, wait for the economy to survive.

The pharmaceutical industry receives billions of dollars in taxpayer subsidies while middle-class families wait endlessly for lower drug prices.

Corporate profits continue to increase while middle-class families wait for those profits to trickle down to them. In asking middle-class Americans to wait for the economy to improve, wait for health care costs to go down, wait for their wages to rise, it confirms that this administration of corporate CEOs and Texas oilmen do not have the slightest comprehension of the plight of American workers, the people who work with their hands, who get their hands dirty, who get their fingernails dirty, whose shirt sleeves are dirty. They are the American worker.

It is a grim, bleak time for working Americans. Two and a half million jobs have disappeared under this administration's economic stewardship. Most of them are in our once powerful manufacturing sector, which has lost jobs for 41 consecutive months. Just come to West Virginia and see what has happened. The glass plants have gone. The pottery works have gone. The steel mills, to a large degree, have gone. The coal industry, which used to employ 125,000 men when I first came to Congress, today employs perhaps 15,000, 16,000, 18,000 workers who mine just as much coal as in the days when there were 125,000 men working in the mines.

Yes, 1 million jobs have been lost. Where have they gone? They have gone overseas. Eight million workers are unemployed, without hope for tomorrow, listening to their children, listening to their spouses, saying: Where will we go? What will we do? What will happen to us?

Eight million workers are unemployed. Half a million discouraged workers have dropped out of the labor pool saying there is no hope; hope is gone; the hope to which I held for these many days, these many weeks, these many months is gone. Three and a half million workers are collecting unemployment benefits, with an average 350,000 workers signing up for benefits each week. At the same time, 80,000 jobless workers are exhausting their unemployment benefits each week, forcing them to cut back on health care, forcing them to cut back on food purchases. Workers are losing their health insurance. Two and a half million more people joined the ranks of the uninsured last year, the largest single increase in a decade. Think of that.

Put yourself in the shoes of these who go to bed hungry, who go to bed with heavy burdens, the burdens of forlorn hopes. With health care costs spiraling out of control, 44 million people must do without health insurance. Retired workers are forced to do without lifesaving drugs, without digoxin, without Coumadin, without Singulair. For those workers with health insurance, the out-of-pocket costs are soaring, more than doubling for employees of large companies since 1998. Costs are up sharply and going up more, too, for workers who pay monthly premiums but rarely see a doctor. Worker pensions are in danger, with the Federal pension insurer taking over 122 plans last year, slashing the pension benefit promised to over 200,000 workers. Two million additional Americans fell into poverty in 2002.

Yes, we can afford to rebuild the oil pipeline, the oil wells in Iraq. Yes, we can afford to rebuild the infrastructure in Iraq. What about our own people? What about our own workers, who with their sweat and their toil have built this country and made it the wonder of the world? Not coincidentally, almost 2 million workers earn wages at the statutory minimum, $5.15 per hour. These are real people. It may be hard to comprehend that there are people who are working for that minimum wage, and that that minimum wage is the only thing that stands between them and their children and starvation. These are real people. These are real stories about working people in this land of the free, this home of the brave. These people earn their wages at the statutory minimum of $5.15 per hour. Think of it. Their wages are eroded every year by inflation, with the real value of the minimum wage dropping. While the wealthiest taxpayers receive tens of thousands of dollars in tax cuts, the administration denies a meager $1.50 per hour raise to our most impoverished workers. These administration people who oppose an increase in the minimum wage come from the other side of the tracks.

To quote President Franklin Roosevelt, the test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little.

After three colossal tax cuts, this administration has denied much to those who have little in order to provide more to those who have much. The American worker—have you ever been a worker? The American worker has once again become the forgotten man. While the administration is offering only vague promises of hope, the American workforce is forced to endure the most hostile assault in decades. The Bush administration has tried to repeal the 40-hour workweek and strip workers of their right to overtime pay. Think of that. It has attacked the civil service system. It has repealed the safety rules necessary for the protection of America's workers. It has neglected their health and safety in the workplace. Now the administration is blocking an increase in the Federal minimum wage.

It is blocking efforts to provide unemployment benefits to jobless workers. It is trying to push through a rule to strip 8 million workers of their hard-earned overtime pay. And it does so always with the promise that these benefits for businesses and the corporate elite will one day trickle down to the middle class. This is not the record of an administration that understands the needs of working families.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. BYRD. Yes.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Massachusetts.

Mr. KENNEDY. I commend my friend from West Virginia on speaking of the forgotten man, the worker of this country, because he has just listed the series of actions which threaten the well-being and the livelihood of millions of families. As he says these words, I think it is important that our colleagues and the American people understand their significance.

He mentions, for example, the failure to act on the minimum wage. It has been 7 years since we have acted on an increase in the minimum wage—7 years. The purchasing power of the minimum wage now is just about as low as it has ever been. The minimum wage, as it is defined, is for people who work hard, who play by the rules. This is an issue which affects women because the majority of recipients of the minimum wage are women. It affects their children because many of the women have children. So it is a children's issue. It is a family issue. It is a civil rights issue because many of those who receive the minimum wage are men and women of color. It is a fairness issue because if you work hard and play by the rules, 40 hours a week, 52 weeks of the year, in the country that has the strongest economy in the world, that is the United States of America, you should not have to live in poverty.

We have been blocked, as the Senator remembers, by our friends on the other side from even having a vote. We have a majority in this body who support an increase, but we are blocked.

The Senator speaks about unemployment compensation. The Senator well knows there are 90,000 workers a week who are losing their unemployment compensation. Our friends on the Republican side, have blocked even a temporary extension on it—90,000 a week.

Overtime? Eight million. I discussed this earlier today. I am not sure whether the Senator is familiar, I am not sure how many Americans are familiar, with the definition of professionalism in the Labor Department's proposed regulation, which will make American workers ineligible for overtime. This definition will include training received in the Armed Forces of this country. There are 200 different training programs that men and women receive in the Armed Forces. They go for this training, they serve in Iraq with the finest military in the world, and then they come back, and are hired here, and under the Bush proposal on overtime, can be denied overtime pay because they have received training in the military.

Can someone possibly tell us why? Why would the administration include training programs in the military? An important incentive for many young people to join the military is to get the education and training. I see my friend from Tennessee, who served as a Secretary of Education. He knows the value of education and training. Here we find the training which veterans of our military have received while serving our country will make them ineligible for overtime pay. This proposed rule would also deny overtime, to firefighters, police officers, and nurses.

The Senator, when he speaks about the forgotten man, speaks wisely about his people in West Virginia, but he speaks for all those workers in my State, too, and I daresay for workers around this country. He mentions these words, these words that have real meaning: before eliminating overtime pay, consider the family that is struggling to pay the mortgage, feed their family, clothe their family—people who are working hard.

The final point I want to mention to the Senator, although I know he knows this already, is that this proposed regulation works against women. Many of the professions which will be denied overtime pay are professions dominated by women, wives, mothers, working hard, trying to provide for their families, playing by the rules.

There are many things wrong with our economy. But maybe the good Senator from West Virginia can tell me, of all the things that are wrong with our economy, why is it that singling out these working families for a reduction in pay is so important? I just cannot understand it. The Senator was here when we voted in this body against the administration's proposal. The House of Representatives voted against it. Then in the middle of the night the provision preserving overtime pay was stripped out of the omnibus bill. I know that is an enormous concern to many families.

I just want to know whether the Senator doesn't believe we ought to be addressing issues in this Congress that are necessary to protect the interests of the working people. Does he join in the challenge this presents? Does he join me in saying to those workers who are listening to the Senator from West Virginia, we are not going to let them down, we are going to battle on these issues on the days ahead?

Mr. BYRD. Mr. President, the very able Senator from Massachusetts, Mr. KENNEDY, has led this fight to increase the minimum wage time and time and time again. I admire him for it.

Yes, this administration has joined in the maiming and the raping of the Constitution and the rules of the Senate and in doing as it did with respect to the items that were changed in conference, the items that were added in conference, the items that passed each of the two Houses and were deleted in conference. What a shame. What a disgrace. I have been a Member of Congress 51 years, going into 52 years, and I have never seen such a disgraceful act as that which was done while you, the American working people out there, were asleep—were asleep. These changes were being made behind closed doors. The minority was not present.

What would John Taber, the Republican chairman of the House Appropriations Committee when I came to the House—what would he think of this underhanded method of operating? What would Joe Martin, Speaker of the House of Representatives from Massachusetts in that day—what would he think? The Republicans of that day would not have stood for it. They believed in the American system. They believed in the Constitution. This is a disgrace. It is a shame, the way this Congress has acted, the way the Republican leadership in both Houses, and the White House, has acted in dealing with the taxpayers' money, the working people, the common people.

You know, I say to the distinguished Senator from Massachusetts, I came into this world and was an orphan after 1 year.

I grew up in a coal miner's home. I married a coal miner's daughter. Some leaders of this administration ought to know what it is to have to buy a stick of pepperoni, a piece of longhorn cheese and a box of crackers, sit down on railroad rails and eat that humble fare, and what is left put into a paper bag to eat the next morning for breakfast. This crowd down here in the White House doesn't know what it is. They come from the other side of the tracks. They do not know what it is to get their hands dirty working long hours at night, working to scratch out a living for their spouses and their children. They do not know what it is to walk into a coal miner's home and go to the cupboard and look and see what that family has left to eat. No. They grew up in the corporate boardrooms of this country. They do not know what it is.

When God turned man out of the Garden of Eden and told him to earn his bread by the sweat of his brow, that has been the lot of the workingman. Then to see that workingman further trampled by the policies and programs of this thoughtless administration is a story in itself.

This is not the record of an administration that understands the needs of working families. American workers are sinking on the *Titanic* and this administration can only promise workers to send back the lifeboats once the first-class passengers have been taken to safety.

I recall the great *Titanic*. It went down I believe on April 15, 1912. I believe 1,517 passengers and workers on that great *Titanic* went to their deaths in the depths of the deep blue ocean. Now this administration promises workers to send back the lifeboats, but only after the first-class passengers have been taken to safety.

Americans would have to look back to the Hoover administration during the nadir of the Great Depression to find an administration that has treated workers more shabbily. I grew up in that Hoover administration. The first 20 years I was in politics, I campaigned against the Hoover administration. It was gone but not forgotten. I have seen those window shades, those boarded-up windows on the store buildings and business places and homes of people in southern West Virginia. They were called "Hoover window shades."

In 1932, Presidential candidate Franklin Roosevelt blasted the Hoover administration and blasted the Republican-controlled Congress for ignoring the plight of American workers, workers who Roosevelt claimed had become the "forgotten man" under the Hoover administration's top-down economic policies.

I am glad I lived in the Great Depression. I am sorry we had to have one, but since we had one, I am glad I lived in the Great Depression. I am glad that there are a few people still alive in this country who remember the Great Depression.

The "present condition of our Nation's affairs is too serious to be viewed through partisan eyes for partisan purposes," the future President Franklin Delano Roosevelt charged. "These unhappy times call for the building of plans that rest upon the forgotten, the unorganized but the indispensable units of economic power, for plans . . . that build from the bottom up and not from the top down, that put their faith once more in the forgotten man at the bottom of the economic pyramid." The forgotten man.

I urge Senators to heed those words and to offer workers more than just ideologically based promises that would have us view the plight of America's workers from the top down, rather than from the bottom up.

This year, the Congress must extend unemployment benefits. It must protect workers' pensions. It must increase the minimum wage. It must protect the overtime pay of our Nation's workforce.

The administration has invested its energies, its resources, its political fortunes in those at the top of the economic pyramid, and this administration has abandoned—abandoned the workers at the bottom of the economic pyramid. The elected representatives of the people in this Chamber must not do the same.

I close with Edwin Markham's poem.

THE RIGHT TO LABOR IN JOY

Out on the roads they have gathered,
A hundred-thousand men,
To ask for a hold on life as sure
As the wolf's hold in his den.

Their need lies close to the quick of life
As rain to the furrow sown:
It is as meat to the slender rib,
As marrow to the bone.

They ask but the leave to labor
For a taste of life's delight,
For a little salt to savor their bread,
For houses water-tight.
They ask but the right to labor,
And to live by the strength of their hands—

They who have bodies like knotted oaks,
And sinews like iron bands.

And the right of a man to labor,
And his right to labor in joy—
Not all your laws can strangle that right,
Nor the gates of hell destroy.
For it came with the making of man,
And was kneaded into his bones,
And it will stand at the last of things
On the dust of crumbled thrones.

I yield the floor.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I know we will have more opportunity to debate this legislation in the coming days. I wanted to come to the floor for a few moments to express my gratitude and my admiration to those colleagues who have worked so diligently to bring us to this point. We deal with a lot of divisive issues in the Senate. We just dealt with one moments ago, the Omnibus appropriations bill. People sometimes ask me, as I travel the country and in my home State: Why don't you all ever get together on something?

Here is an illustration where Republicans and Democrats have gotten together with a work product that I think merits our support, and I say our enthusiastic support. Senator KENNEDY, of course, one of our key sponsors of this legislation, particularly deserves great thanks and great recognition for the work he has done to get us to this point.

We have a pension time bomb in this country. That time bomb is going to explode with even greater impact on the lives of millions and millions of Americans unless we begin dealing with the issues of retirement security.

A couple of nights ago, when I had the pleasure of responding to the State of the Union, one of the points that I made and I know is shared by my colleagues, especially on this side of the aisle, is on the issue of pension security. Retirement security is increasingly becoming an issue of great interest and concern to not only our retirees but to so many of our workers who are today concerned about whether they can retire at all as a result of the problems with pensions.

I have some charts I know have already been used, but in case others missed the opportunity to walk through these charts and to hear the explanation of this legislation, I want to share a couple of observations, first about our circumstances, and then why I believe this bill is as good as it is.

This chart talks about the defined benefit plans that are currently available, and we have defined benefit plans that have worked well over the course of the last 50 or 60 years, in particular. Thirty-five million Americans are covered today by plans that have been incorporated and utilized within corporations and businesses to provide a defined benefit at retirement.

Mr. President, 9.7 million Americans are covered by multiemployer pension plans, only a fraction of what single-employer defined benefit plans entail, but both the multiemployer and single-employer plans are currently the ones that are causing employers, employees, and retirees very serious concern.

Only defined benefit plans provide a secure monthly benefit backed by the Pension Benefit Guaranty Corporation, and that is where we begin to run into some very serious problems.

We have 35 million Americans covered by single-employer plans and 9.7 million Americans covered by multiemployer defined benefit pension plans.

What has happened, of course, over the last couple of years in particular—but it goes back longer than that—is that a perfect storm has been created that has caused grave concern to those analyzing the viability of these pension plans. The perfect storm involves a number of factors that threaten the very essence of defined benefits as we have known them now for so long.

The first factor in the defined benefit plan was a prolonged downturn of the stock market during this administration, the longest downturn we have had since the Great Depression, almost 70 years ago. We have had extremely low 30-year Treasury bond interest rates, and that, too, has contributed to the funding problems some defined benefit plans face. Then we have had weak economic conditions, which means companies cannot afford to make the payments and pay the excise tax imposed in the pension laws themselves.

So we have one of the worst economic circumstances that could possibly befall these pension plans as pension designers and pension officials were attempting to struggle with the responsibilities and the direct legal requirements provided of these pensions.

That is why this legislation is so important. This legislation addresses that perfect storm. It addresses the circumstances we are now facing across the country.

What the Grassley-Baucus-Gregg-Kennedy legislation provides is only temporary relief but, nonetheless, important and essential relief if we are going to deal with this perfect storm of circumstances.

The legislation temporarily replaces the 30-year Treasury bond with a corporate bond rate. That will help stabilize these circumstances and begin putting some greater confidence within the system.

It provides targeted additional deficit reduction contribution relief to the hardest hit industries. We can walk through those, but there are some, such as the airline industry, that are really suffering very serious consequences as a result of this perfect storm. Some industries have been hurt worse than others. Airlines, perhaps, have been hurt the hardest of all.

The legislation also provides temporary relief to the multiemployer pension plans by giving employers and workers time to negotiate changes to the contributions and benefits in order to preserve these pension plans in the first place.

Again, this is a very commonsense approach, an opportunity for us to say, at least in the short term, that we recognize the problem. We understand this is not going to be resolved with only these actions, but this will go a long way to providing that temporary relief and that confidence that is going to be required if we can ensure we begin to turn around the circumstances we are facing in this perfect storm today.

One of the most important aspects of this legislation, in my view, is the third piece of the proposal that I have just described which deals with multiemployer plans. I am concerned, frankly, that we may sometimes minimize the importance of these plans and not fully appreciate the magnitude of their importance to millions of workers. Those 9.7 million workers have only this to fall back on. We need to be fully appreciative of the importance these plans have in the daily lives of the American workers today.

What they allow workers to do is earn pensions under many different employers, as I said a moment ago, helping workers in short-term or seasonal employment. We are talking about construction, hospitality, entertainment, sometimes retail. This is their only opportunity. They have no real access to retirement security unless they have access to a multiemployer plan. They couldn't earn pensions in the single-employer system. It doesn't exist for them. Multiemployer plans provide pensions to low-wage workers—hotel workers, restaurant workers, janitors, the people who work through the night oftentimes so that the buildings are clean when we come back; the people who oftentimes are the workers in the kitchen.

This is a critical source of pensions for employees in small businesses as well. In South Dakota, that is the bulk of our business community—small business. We have thousands and thousands of small business employees who have absolutely no access to pensions today were it not for the multiemployer system that we created.

We are talking about a serious concern and, I would say, a serious response to that concern as we consider this legislation today.

I think this chart lays out very vividly in a picture what I just described in more rhetorical terms. The multiemployer plans provide some help to workers in virtually all industries: 15.2 percent of those 9.7 million Americans are in manufacturing; 14 percent in retail trade; 15 percent in services; almost 10 percent in truck transportation; and 38 percent in construction.

This chart in particular caught my attention because we are talking about South Dakota, and we are talking about rural States in particular, but we could be talking about any State. Multiemployer plans provide literally tens of thousands of small employers with the opportunity to provide competitive, comprehensive benefit plans to their employees, which would otherwise be too expensive and administratively too complex for them to provide on their own.

As so many of my colleagues know, one of the concerns we have in our State is young people taking flight, leaving our State, once having been educated. We oftentimes in our State compare it to a good crop. The crop is grown, it is nurtured, and then somebody from out of State comes along with a combine, harvests the grain, takes it to another country, sells it, and makes a profit.

In some ways that is a little bit like our young people. We educate them, nurture them, teach them our values, and then somebody comes along and hires them away before the first employer has a chance. One of the reasons they are able to hire them away is oftentimes they can provide better wages and better benefits.

Well, this is an opportunity for South Dakotans. South Dakota small businessmen and other rural small businesses, to say, look, we have an opportunity to keep you in our State, to provide you with a competitive pension benefit, so you do not have to leave and go to a big city. That is important as well to small businesses that otherwise are not able to be competitive.

So this is not just a retirement bill; this is not just a pension security bill. This is legislation that will provide competitiveness to small businesses, whether it is in any one of the industries I mentioned. We have to find ways to ensure that we level the playing field between big business and small. In part, this legislation will do it.

So I will end where I started. I am very appreciative of the efforts made by our colleagues to get us to this point, to contribute to public policy in a way that I think will send hope to millions of workers and retirees who are concerned about being right in the center of that perfect storm today, and, of course, to millions of small businesspeople who want very much to be able to provide benefits in a meaningful way and therefore compete, as they do so effectively each and every day, in our free market system today.

So I likely will have more to say about this legislation prior to the time we vote on final passage. I again thank my colleague Senator KENNEDY for his leadership and those who have brought us to this point. This is good legislation. It merits our support.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2233

(Purpose: Substitute amendment to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to temporarily change the determination of the interest rate used for funding and other purposes from use of the 30-year treasury bond rate to a composite corporate bond rate, and for other purposes.)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY, proposes an amendment numbered 2233.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

AMENDMENT NO. 2234 TO AMENDMENT NO. 2233

Mr. KYL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2234 to amendment No. 2233.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected)

At the end of section 3, insert:

(____) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term "applicable period" means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the second plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term "applicable plan year" has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

Mr. KYL. Mr. President, let me describe briefly what the background of this amendment is and what the amendment will do—the effect of the amendment is actually quite simple—and then I will discuss the reasons for it.

As you are aware, the background of this legislation is the House-passed bill, H.R. 3108. An amendment to that bill has been offered by the chairman of the Finance Committee, the ranking member, and others that would make some corrections to the House bill, H.R. 3108 and, among other things, provide for a partial waiver of some payments that otherwise would be made into the fund that helps to guarantee the pension benefits of employees.

We are aware of the fact that the Federal Government has undertaken a responsibility for ensuring that pensions which are funded by employers will actually be there when the employees need to collect on those pensions. But in some cases, corporations run out of money, go bankrupt, go out of business, or otherwise can't meet these obligations. In that situation, the Federal Government has to step in and has agreed to do so under certain terms through the Pension Benefit Guaranty Corporation. As a result, we have an obligation to ensure that the funding for these contingent liabilities is secure. Part of the way we do that is to ensure that the employers that make the obligations to their employees pay in enough money to be able to pay for the benefits they have promised.

The problem is that some of these corporations are not in very good shape. As a result, there is a fear that they are not going to be able to make the contributions they need to make in order to pay the benefits to their employees when the time comes.

As a result of this concern, what we have done is to say these corporations need to make some catchup payments to ensure the money will be there. This is necessary in part because of a technical problem in the way that the funding was fixed based upon a U.S. Government security that is no longer issued, as a result, we are having to substitute a different basis for the payment which will be a blended corporate bond rate, a technicality, but that is going to be the basis for a couple of years of contributions for corporations until another method is devised.

In the meantime, corporations whose pensions are underfunded are being required to make up some of these contributions, and it is called the deficit reduction contribution, or the DRC, to reduce the deficit that has been created and that we need to make up if the money is going to be there for the employees when it comes time to collect their pensions.

This deficit reduction contribution, according to the amendment offered by Senators GRASSLEY, BAUCUS, GREGG, and KENNEDY, as I understand it, would apply to those entities that are 90-percent funded or less. In other words, where the plan does not fund its benefits at 100 percent, can't pay 100 percent, it can only pay 90 percent or perhaps even less. So for those entities that are in this kind of financial shape, they are going to have to make a deficit reduction contribution, a special catchup contribution.

Under the amendment, they are going to actually be given a waiver of part of this contribution. The idea is that they can't afford to make the full contribution; therefore, we are only going to make them pay part of it. In fact, we are going to waive 80 percent under the amendment—80 percent of this obligation—in the first year and 60 percent of the obligation in the second year. That means they are only making 20 percent in the first year and 40 percent in the second year of the obligation they have. These are corporations that are in difficult financial condition right now and cannot pay the full 100 cents on the dollar that their employees would be entitled to when those employees attempt to collect their pensions.

We clearly have a difficult situation here. The purpose of the amendment, obviously, is to have them pay something in and try to stay economically viable in the meantime. The concern, of course, of the Pension Benefit Guaranty Corporation and others is that all we are doing is digging the hole deeper or, in effect, throwing bad money after good is another way of putting it.

What we are doing is giving companies that might well fail a chance to incur further obligations, not pay for those obligations, and then put the taxpayers at risk for the additional obligations incurred during this 2-year period of time. That is the risk. That is the concern we have.

Clearly, if that transpired, there would be several losers. In the first place, this partial waiver would be harmful to the workers themselves because they jeopardize the expected pension benefits, especially for those workers who are supposed to receive larger pensions than the Pension Benefit Guaranty Corporation will actually guarantee.

One category of people is airline pilots, for example. So companies should be required, in my view, to fund their pension promises to their employees. They should not be excused from these promises because, in effect, what they are doing is making bargains that are easy to make with unions and with others, promising to make payments, and then saying: We are sorry, we can't make them, but we would like to have the Federal Government bail us out.

The Pension Benefit Guaranty Corporation right now estimates $400 billion in unfunded liabilities. That is a lot of money to be backing up. Last year their deficit was $11.2 billion.

The amount of the waiver we are talking about is about $16 billion in benefits. So according to the relief that is being granted by this partial deficit reduction contribution waiver, the PBGC, or the Pension Benefit Guaranty Corporation, would lose about $16 billion worth of funding relief. That is money that obviously may be required at some future date but will not be there because we are not asking these companies to pay in that amount of money.

Another loser: We think it is unfair to the healthy plans, to those corporations and employees who have actually been part of businesses that have paid attention to their economics, have ensured they are putting enough money into their pensions to fund the benefits that their employees are due.

If the underfunded plan fails to pay the amount they are supposed to and the insurance premiums then go up, the healthy plans are the ones that end up paying that difference. I believe it is unfair to excuse these companies that have made the promises and then not require them to go ahead and pay that money and fulfill their promises.

It is also unfair to competitors. Stop and think about an airline, for example. I feel this may well be the situation because the waiver is granted to certain airline companies that need it, allegedly, and to a couple of steel companies. It is a very selected kind of waiver. The competitors of the airlines—the airlines that have been trying to watch their pennies and not overcommit themselves in their pensions—will be at a disadvantage. They have made their commitments to employees. They have paid the money into their pension plans to make sure they can pay those commitments to employees, and now their competitors, that maybe have overpromised or are now going to be underfunding, will be able to take that difference and apply it to other aspects of their business to compete with the airlines that have done a good job.

There is nothing that says they cannot take the difference and undercut the other airlines in terms of their fare structure. That could easily happen, and there is nothing we have here that precludes that from happening. That is a very big concern I have.

We should not be playing favorites, one company against another, in a particular business, and the airline business is certainly one in which this might apply. In effect, it is a backdoor bailout for some companies, those who have not been able to fund the benefits they have promised to their employees. It seems to me, therefore, another potential loser are the competitors of the airlines we would actually be benefiting here. Finally, it is a big loss to the American taxpayer if the taxpayer ends up on the hook for these deficits.

As I said, the PBGC reported a deficit of $11.2 billion in its single-employer insurance plan for fiscal year 2003, which is a record deficit. Even though it estimates it will have assets sufficient to meet obligations for the foreseeable future, the PBGC estimates the sum total of all the single-employer pension plan underfunding amounts to about $400 billion, and it is Congress, meaning Congress on behalf of all U.S. taxpayers, who will be held responsible to bail out the Pension Guaranty Board rather than to allow the entire insurance system to collapse.

In my view, these waivers are the wrong thing to do for the employees, for the competitors, for the system, and certainly for the American taxpayer. Companies that habitually underfund plans should not be bailed out at the expense of others. I think the primary reason we are even thinking about doing this is because at least one of the companies that would be eligible simply cannot post the security or the bond that is required to obtain a general funding waiver from the Treasury Department.

Let me make a point that in the law there is already an ability of these companies to seek a waiver. It is the general waiver authority that can be sought from the Treasury Department. To do that, you have to prove some things. You have to post a bond and you have to prove some things to the Department of the Treasury. Why can't these companies go through that process? Why do they need special relief from the Congress to bail them out? Is it too much to ask that they just follow the current law and apply for the regular waiver as they have the right to do today? It seems to me that would be the appropriate way to handle this.

We have the amendment before us, and the reason I have offered this second-degree amendment is at least in one small way it limits the liability of the taxpayers should things go wrong. That is the purpose for this amendment.

Now what is it? It is called a hold-harmless provision. What it says is the PBGC, the guaranty board, would be held harmless for any benefit accruals that occurred during the waiver period—the waiver period is 2 years—or that occur 2 years after that. If a plan fails during this DRC waiver period, or within 2 years after the waiver period, then the PBGC would only have to fund the benefits that accrued up to the time the waiver was claimed. It would not have to finance any benefits that accrued after the waiver was claimed. If you stop to think about it, this makes very good sense. It is obviously important to protect the going businesses, the healthy plans, and the taxpayers with this kind of hold harmless.

One of the big dangers with this waiver of these companies that are not funding their pensions adequately is these plans claiming the waiver are going to fail, anyway. The whole point of doing this for them is they are very close to failing, and the argument made on their behalf is they are about to fail. You do not want them to fail, do you? You do not want the Government to have to make good on all of these pension guarantees. Let's keep going for a little while longer, and if we waive the pension benefit they have to pay in, the amount of the contribution they have to pay in, then maybe they can stay in business a little longer.

Well, maybe they can; maybe they cannot. That is a big gamble we are taking. What we are saying in the legislation is, all right, we will try to help keep you afloat for another couple of years, but if you fail during that period of time or within 2 years of that period of time, we should not be on the hook. We are doing our part to bail you out, but we are not going to pay all of your past benefits, all of the benefits that have accrued to date, plus the benefits you accrue from now forward by virtue of the fact that we have put in the money, or conversely we have granted a waiver to you so you can stay in business during this period of time.

We would in effect be saying we will help you stay afloat to incur new benefits that then we are going to pay for, and it would be unfair for the taxpayers to be on the hook for that. So this hold-harmless provision would mitigate this potential. It would limit the drains on the healthy plans. It would limit the amount of the money the taxpayers would be on the hook for, and I think it is eminently fair. It seems to me to be impossible for these companies to argue that not only should they have this special benefit nobody else has, that gives them an advantage over their competitors, that keeps them in business a little while longer, not only should they have that and put at risk for the American taxpayers that they are going to have to get bailed out, but also during this period of time that they are trying to get back on their feet charge the taxpayers with the new benefits that are accrued during that period of time. That is what the hold harmless is designed to try to protect against. We will take care of the benefits you have incurred up to now, but nothing incurred from now forward during this 4-year window of time. That seems to be eminently reasonable to me, and what I hope is that even though this will not be voted on until probably next Tuesday, my colleagues could take a look at this, consider whether it is worth supporting, and perhaps we could—I will not even call a rollcall vote if Members are willing to support the amendment and we can prevail on it, but I do insist we get this passed.

There is another amendment I will file, but I do not intend to send to the desk at this time, that I think would further strengthen the situation so it is not quite as big a potential drain on the taxpayers. It has to do with the fact that I think it totally reasonable to ask these companies if they are going to ask for this waiver today that that be it, that they not be asking for any more waivers in the future.

The other idea I have that I will perhaps offer later is a plan that accepts this DRC funding waiver we are offering in the original amendment would then not be able to apply for a general funding waiver for 2 years after the waiver period ends. Otherwise, all we are doing is essentially postponing the inevitable. If they intend to file for a general waiver after 2 years, they can clearly file for a general waiver today. If they think they can prove the case that they need to get that general waiver from the Department of the Treasury in 2 years, then they could do it today.

In effect, under the manager's amendment, they have a 2-year holiday for making their full DRC payments, which are designed to bring their plans into full funding. I believe it would be inappropriate to allow a plan that claims this 2-year DRC waiver at the end of that period to then seek the general waiver for 2 more years, and would note the fact that the companies that apply to the Treasury for this have to show there is a substantial business hardship—they ought to be able to show that—that it is temporary. If it is not temporary, then I do not know why we are throwing taxpayer money at the problem in the first place.

It is reasonable to expect the plan cannot continue unless the waiver is granted. That is in effect what at least one of these companies has been telling Members of Congress that they have to have this relief or else they are not going to be able to stay in business. At that point then the Secretary of the Treasury can demand of them some security, some kind of bond, and grant this waiver.

I do not know why that general authority in the statute today is not adequate to take care of this problem and why we have to grant this specific waiver. It seems to me if we grant this specific waiver, then it is not unfair to ask them to commit to us that they are not going to seek additional waivers after that.

But, again, that is something that I think makes sense. I may offer that amendment later. But the amendment that I do offer, which I think is eminently reasonable and which I cannot imagine my colleagues would not support, is simply an amendment that would hold the taxpayers harmless for events that occurred during the period of time this specific waiver is in effect, and for a period of 2 years after that.

I conclude by saying I think we are on a bit of a slippery slope with this entire approach. It was entirely appropriate for the House of Representatives to focus on the need for some kind of temporary substitute formula for contributions because the old formula clearly couldn't work anymore. The Government was no longer issuing the securities on which the formula was based.

There were different choices we could have made. I thought the Treasury Department had the best solution, but that solution would have required the companies to pay in more money than they were willing to pay in. That probably is the most fiscally sound. But what was decided on as a compromise was this temporary corporate bond rate. I do not think that is enough to assure the corporation pension benefits will be secure, but that is what is before us.

By itself, I would be willing to support that for a couple of years. But what I am not willing to support is this waiver of the payment for just two companies in one business, steel, and certain airlines that say they need it and for some reason don't want to go the general waiver route. I think this is entirely too generous.

But if we are going to do that, then I say at least let's ask for a "hold harmless" during the period of the waiver and for a period of 2 years afterward so at least we, the taxpayers, are not liable for new benefits accrued during this period of time that we are trying to help these companies out. That, I think, is the least we could expect.

I hope we will have a chance to visit a little bit more on this with colleagues when they are here on Tuesday or perhaps on Monday morning, and we can have a vote at that time. Therefore, for the time being, that is the extent of my discussion on this particular amendment.

Mr. President, seeing no other Member here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VOTE EXPLANATION

Mr. DOMENICI. Madam President, today, Thursday, January 22, I am necessarily absent because I am needed in New Mexico. Today, President George W. Bush is visiting Roswell, NM to address the pressing issue of terrorism. Not only do I have the pleasure of welcoming the President to my home State, but I also have the distinct honor of introducing him at his speech in Roswell.

Roswell is home to the International Law Enforcement Academy and a short drive away is the Federal Law Enforcement Training Center in Artesia. These two outstanding facilities are playing critical roles in the "War on Terrorism."

Were I present today, I would vote "yea" on the Omnibus Appropriations bill, H.R. 2673.

## HONORING SENATOR BIRCH BAYH

Mr. DODD. Mr. President, I rise in tribute to a distinguished public servant, and a member of the Senate for 18 years, Senator Birch Bayh of Indiana.

Today, Senator Bayh is celebrating his 76th birthday. Earlier this week, I had the privilege of participating in an event honoring Senator Bayh at the University of Connecticut. Senator Bayh was recognized for his role as a chief architect of title IX, the historic legislation that prohibits discrimination against women in education.

Before title IX became law in 1972, American women and girls were treated as second-class citizens in our educational system. They were discouraged from studying subjects like math, science, and law. Many schools and universities had separate entrance requirements for male and female students—and many others did not admit women at all. Those women who did gain admission were often subject to discriminatory policies. Some were denied scholarships and other forms of financial aid. Others were excluded from honor societies, clubs, and other organizations and activities.

Thanks to title IX, women have taken their rightful place in American education—as students, teachers, professors, even university presidents. And equality in education has helped women find opportunities for success in virtually every aspect of American life. Today's women in America are doctors, lawyers, engineers, and business owners. They are mayors, governors, judges, and legislators. This distinguished body is privileged to count 14 women among its Members. And the day will likely soon come when this country elects its first woman President.

Title IX's impact is felt not only in the classroom and the boardroom, but in the locker room as well. Since title IX was passed, the number of women playing collegiate sports has increased from about 32,000 to nearly 150,000. Today, 3 million high school girls play competitive sports, compared to only 300,000 thirty years ago. America has a successful professional women's basketball league. And every 4 years, the Women's World Cup in soccer attracts thousands of spectators, and millions of TV viewers, across our Nation. The University of Connecticut, whose female student-athletes excel in both academics and athletics, is a shining example of the dramatic and positive change that title IX has brought to our Nation.

Birch Bayh was an ardent supporter of women's rights during his years of service in the Senate. In addition to title IX, he also helped craft the Equal Rights Amendment, which has been ratified by 35 States, including my home State of Connecticut. I would like to thank Senator Bayh as well as the many others who helped make title IX a reality. In particular, I'd like to recognize my friend and colleague Senator TED STEVENS for his role as the lead Senate cosponsor, as well as the bill's sponsors in the House, the late Edith Green of Oregon and the late Patsy Mink of Hawaii.

And last but certainly not least, I'd like to express my appreciation and admiration for the countless girls and women in America over the years who fought to open doors that for so long were closed to them—from schools to offices to military bases to voting booths. The long journey towards gender equality is not yet complete. But achievements like title IX show that there has indeed been taken great and meaningful strides in the right direction.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Terrianne Summers, a 51-year old transgender activist was shot in the back of the head while getting out of her car in her driveway. Summers, a retired Navy Lieutenant Commander, organized a local protest against the Winn-Dixie supermarket chain in January after an employee was fired for cross-dressing off-duty.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## HONORING OUR ARMED FORCES

### SERGEANT JARROD BLACK

Mr. BAYH. Madam President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Peru, IN. Sgt. Jarrod William Black, 26 years old, died in Ar Ramadi, a town 60 miles west of Baghdad, on December 12, 2003, after his vehicle was hit by an improvised explosive device. Jarrod joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Jarrod was the 22nd Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Jarrod leaves behind his father, Bill, his mother, Jane, his wife, Shawna, his brother, Brandon, and his sons, Jacob and Jason. Only 1 week after being deployed to Iraq the young couple found out that they were expecting a baby girl. May she grow up knowing that her father gave his life so that young Iraqis will some day know the freedom she will enjoy.

Today, I join Jarrod's family, his friends, and the entire Peru community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Jarrod, a memory that will burn brightly during these continuing days of conflict and grief.

Rowland Garver, Jarrod's grandfather and an Air Force veteran of 20 years, told Jarrod's hometown paper, the Peru Tribune, that the death of his grandson brings home the reality of war. These words of reflection and loss sting the hearts of all who know the worry and honor of having loved ones serve our Nation overseas.

During the last phone conversation that Jarrod had with his family, he called his mother and told her that he loved her and was being safe. His mother says that God granted her that one last conversation with her son. Today, Jarrod's family remembers him as a true American hero, and we honor the sacrifice he made while serving his country.

Jarrod graduated from Peru High School in 1999, where he was an avid Peru Tigers fan. Friends and family members remember Jarrod for the love he had for his entire family, and for his energetic personality, which he often demonstrated while cheering on his favorite team, the Indianapolis Colts.

After joining the Army in 1999, Jarrod left to begin full-time duty in Fort Riley, KS. Jarrod served on a tanker as part of the 1st Battalion, 34th Armor Division, 1st Infantry Division. He was deployed to the Middle East in September.

As I search for words to do justice in honoring Jarrod's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jarrod's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Jarrod Black in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Jarrod's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

### HONORING SPECIALIST LUKE P. FRIST

Mr. BAYH. Madam President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Brookston, IN. Specialist Luke Frist, 20 years old, died at the Brooke Army Medical Center at Fort Sam Houston, TX, on January 5, 2004, following an attack, 3 days prior in Baghdad, Iraq, when the fuel truck he was driving struck an improvised explosive device.

After joining the Army Reserves, Luke was assigned to the 209th Quartermaster Company in Lafayette, IN. Luke served on a fuel tanker as a petroleum specialist during his deployment, which began in May 2003.

Luke was the twenty-third Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, Dennis, his mother, Pattie, and two sisters. When Luke joined the Army Reserves, he was following in the military footsteps of his parental grandfather, who served in World War II. With his entire life before him, Luke chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Today, I join Luke's family, his friends, and the entire Brookston community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Luke, a memory that will burn brightly during these continuing days of conflict and grief.

Luke's family recalls his being in good spirits during his last phone call home. According to his sister Johanna, Luke "wanted to fight for his country and be the best of the best . . . . He died doing what he loved." Today, Luke's family remembers him as a true American hero, and we honor the sacrifice he made while serving his country.

Luke graduated from Tri-County High School in 2001. He was an active member of the student body, playing the trombone and tuba in the band, playing on the football team, and throwing shot put as a member of the track team. Friends and family members alike remember Luke for his energetic personality, his passion for being outdoors, and his dedication to making his dreams become a reality. When Luke was activated, he was working full time while attending classes at Ivy Tech State College in Lafayette, with plans to transfer to Purdue University to pursue a career in landscape design.

As I search for words to do justice in honoring Luke's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Luke's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Luke P. Frist in the official RECORD of the U.S. Senate for his service to his country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Luke's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless us all.

## HONORING SENATOR WILLIAM ROTH

Mr. FEINGOLD. Madam President, today I would like to pay tribute to a man who served in this body with distinction for 30 years, Senator William Roth.

Senator Roth was first elected to the House of Representatives from his adopted State of Delaware in 1966. He immediately made a name for himself as he shed light on wasteful Government spending. His fight against Government waste and abuse continued when he was elected to the Senate in 1970, where he served the people of his State honorably for three decades and chaired both the Governmental Affairs and Finance Committees.

Senator Roth will forever be remembered for the respect he paid to this institution and to his colleagues. That respect was returned many times over by his colleagues, who knew they could count on his integrity, civility and all-around decency. In a time when many feel partisanship is on the rise, those qualities are sorely missed. Senator Roth should be looked to as an example for all Members of the Senate.

Senator Roth's modest demeanor belied his accomplishments and influence. He played significant roles in many tax policy debates over the years and was a lead force in Congress with respect to efforts to "reinvent" the Federal Government during the 1990s. He also was a defender of the environment, opposing ocean dumping, oil drilling in the Arctic National Wildlife Refuge, and incineration of toxic waste.

I am honored to have served with Senator Roth and he will be truly missed.

### JUDICIAL NOMINATIONS

Mr. LEAHY. Madam President, we open this year confronted with three additional disappointing developments regarding judicial nominations: the Pickering recess appointment, the renomination of Claude Allen, and the pilfering of Democratic offices' computer files by Republican staff.

Late last Friday afternoon President Bush made his most cynical and divisive appointment to date when he bypassed the Senate and unilaterally installed Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit. That appointment is without the consent of the Senate and is a particular affront to the many individuals and membership organizations representing African Americans in the Fifth Circuit who have strongly opposed this nomination.

With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in American history. Through his extreme judicial nominations, President Bush is dividing the American people and undermining the fairness and independence of the federal judiciary on which all Americans depend.

After fair hearings and open debate, the Senate Judiciary Committee rejected the Pickering nomination in 2002. Originally nominated in 2001 by President Bush, this nominee's record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Rejected for this promotion by the Committee in 2002 because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances, Judge Pickering's nomination was nonetheless sent back to the Senate last year by a President who is the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

The renomination of Charles Pickering lay dormant for most of last year while Republicans reportedly planned further hearings. Judge Pickering himself said that several hearings on his nomination were scheduled and cancelled over the last year by Republicans. Then, without any additional information or hearings, Republicans decided to forego any pretense at proceeding in regular order. Instead, they placed the name of Judge Pickering on the committee's markup agenda and pushed his nomination through with their one-vote majority. The Committee had been told since last January that a new hearing would be held before a vote on this nomination, but that turned out to be an empty promise.

Why was the Pickering nomination moved ahead of other well-qualified candidates late last fall? Why was the Senate required to expend valuable time rehashing arguments about a controversial nomination that has already been rejected? The timing was arranged by Republicans to coincide with the gubernatorial election in Mississippi. Like so much about this President's actions with respect to the Federal courts, partisan Republican politics seemed to be the governing consideration. Indeed, as the President's own former Secretary of the Treasury points out from personal experience, politics governs more than just Federal judicial nominations in the Bush administration.

Charles Pickering was a nominee rejected by the Judiciary Committee on the merits—a nominee who has a record that does not qualify him for this promotion, who injects his personal views into judicial opinions, and who has made highly questionable ethical judgments. The nominee's supporters, including some Republican Senators, have chosen to imply that Democrats opposed the nominee because of his religion or region. That is untrue and offensive. These smears have been as ugly as they are wrong. Yet the political calculation has been made to ignore the facts, to seek to pin unflattering characterizations on Democrats for partisan purposes and to count on cynicism and misinformation to rule the day. With elections coming up this fall, partisan Republicans are apparently returning to that page of their partisan political playbook.

Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a Presidential appointment to the Federal bench.

In an editorial following last week's appointment, The Washington Post had it right when it summarized Judge Pickering's record as a federal trial judge as "undistinguished and downright disturbing." As the paper noted: "The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection." Instead we see another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts. I will ask unanimous consent that this editorial be printed in the RECORD. The New York Times also editorialized on this subject and it, too, was correct when it pointed out that this end-run around the advice and consent authority of the Senate is "absolutely the wrong choice for one of the nation's most sensitive courts." I will ask unanimous consent that this editorial also be printed in the RECORD.

Civil rights supporters who so strenuously opposed this nominee were understandably offended that the President chose this action the day after his controversial visit to the grave of Dr. Martin Luther King, Jr. As the Nation was entering the weekend set aside to honor Dr. King and all for which he strived, this President made one of the most insensitive and divisive appointments of his administration. I will ask unanimous consent that the op-ed published in the Chicago Sun Times by the Reverend Jesse Jackson be printed in the RECORD. In this op-ed, Reverend Jackson observed that this President "has shown a remarkable cynicism about playing racial politics."

So many civil rights group and individuals committed to supporting civil rights in this country have spoken out in opposition to the elevation of Judge Pickering that their views should have been respected by the President. Contrary to the false assertion made by the Wall Street Journal editorial page this week, the NAACP of Mississippi did not support Judge Pickering's nomination. Indeed, every single branch of the Mississippi State Chapter of the NAACP voted to oppose this nomination—not just once, but three times. When Mr. Pickering was nominated to the District Court in 1990, the NAACP of Mississippi opposed him, and when he was nominated to the Fifth Circuit in 2001 and, again, in 2003, the NAACP of Mississippi opposed him. They have written letter after letter expressing their opposition. That opposition was shared by the NAACP, the Southern Christian Leadership Conference, the Magnolia Bar Association, the Mississippi Legislative Black Caucus, the Mississippi Black Caucus of Local Elected Officials, Representative BENNIE G. THOMPSON and many others. Perhaps the Wall Street Journal confused the Mississippi NAACP with the Mississippi Association of Trial Lawyers, which is an organization that did support the Pickering nomination.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

Then, just 2 days ago, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee, someone of the caliber of sitting U.S. District Court Judges Andre Davis or Roger Titus, two former Maryland nominees whose involvement in the State's legal system and devotion to their local community was clear. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary.

The third disappointment we face is the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the Committee. As revealed by the Chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and on to people outside of the Senate. This is no small mistake. It is a serious breach of trust, morals, and possibly the rules and regulations governing the Senate. We do not yet know the full extent of these violations. But we need to repair the loss of trust brought on by this breach of confidentiality and privacy, if we are ever to recover and be able to resume our work in a spirit of cooperation and mutual respect that is so necessary to make progress.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. One way to measure that cooperation and the progress we have made possible is to examine the Chief Justice's annual report on the Federal judiciary. Over the last couple of years, Justice Rehnquist has been "pleased to report" our progress on filling judicial vacancies. This is in sharp contrast to the criticism he justifiably made of the shadowy and unprincipled Republican obstruction of consideration of President Clinton's nominees. In 1996, the final year of President Clinton's first term, the Republican-led Senate confirmed only 17 judicial nominees all year and not a single nominee to the circuit courts. At the end of 1996, the Republican Senate majority returned to the President almost twice as many nominations as were confirmed.

By contrast, with the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of Sept. 11 and their aftermath, the Senate has already confirmed 169 of President Bush's nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly 4 years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1995.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 that Republicans controlled the Senate during the Clinton presidency years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit court judges confirmed during all of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the Federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

I congratulate the Democratic Senators on the Committee for showing a spirit of cooperation and restraint in the face of a White House that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this administration continues down the path of confrontation. While there have been difficult and controversial nominees whom we have opposed as we exercise our constitutional duty of advice and consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

I ask unanimous consent that the materials to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### END RUN FOR MR. PICKERING

[From the Washington Post, Jan. 18, 2004]

President Bush's decision Friday to install controversial judicial nominee Charles W. Pickering Sr. on the U.S. Court of Appeals for the 5th Circuit using a recess appointment is yet another unwarranted escalation of the judicial nomination wars. We have lamented some of the attacks on Mr. Pickering, but his record as a federal trial judge is undistinguished and downright disturbing, and Senate Democrats are reasonable to oppose his nomination. Installing him using a constitutional end run around the Senate only inflames passions. The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection.

The recess appointment—the president's power to temporarily install federal officers without Senate confirmation—is a uniquely bad instrument for federal judges. Judges are supposed to be politically independent. Yet Mr. Pickering will be a controversial nominee before the Senate as he considers cases and will lose his job in a year if he is not confirmed. Even his supporters should understand that he will be subject to the political pressures from which judges are supposed to be insulated.

We don't rule out the recess appointment in all circumstances. At times judges have commanded such uniform support that presidents have used the power to get them in office quickly, leaving the formality of confirmation for later. We supported, moreover, President Bill Clinton's lame-duck recess appointment to the U.S. Court of Appeals for the 4th Circuit of Roger Gregory, who, like Mr. Pickering, was held up in the Senate. But there was a big difference: Mr. Gregory was not controversial. His nomination, in fact, was eventually resubmitted to the Senate by none other than President Bush. It was held up initially because of a long-standing dispute over appointments to that court, not because of any concerns about the nominee himself. There was reason to hope that Mr. Gregory would be confirmed—as, indeed, he was. In this case, Mr. Bush has used a recess appointment for someone who cannot, on his merits, garner a vote of confidence from the Senate and who has no prospect of confirmation in the current Congress.

We don't support the filibuster of nominees, but the answer to Democratic obstruction cannot be the appointment or installation of temporary judges who get to hear a few cases over a few months, all the while looking over their shoulders at the senators who oppose them. The great damage the judicial nomination wars threaten over the long term is to erode judicial independence, to make judges constantly aware of how they might have to answer to the Senate for a given opinion. Using the recess appointment to place Mr. Pickering on the 5th Circuit has made that danger into a realty.

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### A JUDICIAL END RUN

[From the New York Times, Jan. 17, 2004]

President Bush has used the only avenue remaining to him to install Charles Pickering Sr. of Mississippi on the Fifth Circuit Court of Appeals: a recess appointment, which avoids the confirmation process. That recess appointments are a perfectly legal device used by other presidents in the past does not make this appointment any more palatable. Mr. Pickering is absolutely the wrong choice for one of the nation's most sensitive courts.

Mr. Bush claimed that only a "handful" of senators had opposed Mr. Pickering. The opposition was in fact a good deal broader than that.

Mr. Pickering was rejected in 2002 by the Judiciary Committee when the Senate was still in Democratic hands. When the same committee, in Republican control, approved him last fall, the nomination was blocked by a filibuster. Another attempt on the president's part to win Senate approval of Mr. Pickering's nomination would almost certainly have produced the same result.

The reasons are clear enough. Over the years, Mr. Pickering has displayed skepticism toward cases involving civil rights and expressed doubts about well-settled principles like one person one vote. The Senate inquiry into the nomination uncovered troubling questions of judicial ethics. Mr. Pickering took up the case of a man convicted of burning a cross on the lawn of an interracial couple, urging prosecutors to drop a central charge and calling a prosecutor directly. He also seems outside the mainstream on abortion rights.

Mr. Pickering is not the only hard-right candidate Mr. Bush has pushed for high judicial office. But his nomination was among the most troublesome. As Senator Charles Schumer said, Mr. Bush's decision to bypass the Senate in this manner is "a finger in the eye" for all those seeking fairness in the nomination process.

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### Bush Insults King's Legacy Again

[From the Chicago Sun Times, Jan. 20, 2004]

(By Jesse Jackson)

Monday marked what would have been Dr. Martin Luther King's 75th birthday. And once more, President Bush chose the occasion to issue a cold and calculated insult to African Americans and Dr. King's memory.

Last year, the president chose Dr. King's birthday to announce his decision to ask the Supreme Court to overturn our civil rights laws by challenging the University of Michigan's affirmative action program. Despite its conservative majority, even this Supreme Court found that too offensive to constitutional guarantees of equal rights, and ruled against the president's case.

This year, the president took time from his big-donor fund-raising to lay a wreath at Dr. King's grave and call for racial reconciliation. Then after collecting $2.4 million from wealthy beneficiaries of his tax cuts, he announced he would make a recess appointment of Judge Charles Pickering.

Pickering shares views, history and friendship with Mississippi Sen. Trent Lott, who was removed from leadership of the Senate Republicans after he celebrated the segregationist cause of the Dixiecrats. Pickering, with a history of embracing racist causes, was rejected by the Senate Judiciary Committee when Democrats held the majority.

Bush renominated him when Republicans took over, but Pickering's views are so extreme that Democrats made him one of only six judges they have blocked. Now the president chooses Dr. King's holiday to announce his symbolic appointment to the bench. From Willy Horton to Charles Pickering, the Bush family has shown a remarkable cynicism about playing racial politics.

But the true insult to Dr. King's memory is not Bush's symbolic politics; it is the substance of his policies. Here the contrast is stark.

Dr. King called on America to measure itself from the bottom up, not the top down. As the Bible taught, we should be judged on how we treat the "least of these," not how we cater to the most powerful.

Even many of Bush's supporters acknowledge he is the reverse: His policies are designed to reward the wealthy and serve the corporate interests that pay for his party. On his watch, we've mortgaged the store to lavish tax breaks on the wealthy, even as support for the poor has been cut, and working people have been abandoned.

Dr. King devoted his life to fighting against poverty, for peace; against racism, for equal opportunity. In the midst of the Vietnam War, he courageously challenged America's wrongheaded intervention, and warned of the moral poverty of a country that spent more on its military than on its people.

Bush's priorities are literally the reverse. He has done nothing as poverty has worsened, while finding his "mission" in endless wars abroad. He'll spend over $200 billion toppling Saddam Hussein, while cutting back on programs designed to give every child a healthy start.

Dr. King's politics came from his deep and abiding faith. Bush's faith seems defined by his politics. King spoke in pulpit after pulpit challenging the faithful to join the movement for social change. Bush, at his best, goes to churches to preach social service, urging the congregation to accept the status quo and help minister to its victims. Like Moses, King led his people out of oppression. Like Pharaoh, Bush urges people to adjust to their condition.

Dr. King's legacy is as important today as at his death because things haven't gotten much better. A report by United for a Fair Economy shows racial inequities in unemployment, family income, imprisonment, average wealth and infant mortality have gotten worse since he died. And progress in areas like poverty, homeownership, education, and life expectancy has been so slow it will take literally centuries to close the gap.

As Americans celebrate Dr. King's birthday and listen to President Bush's State of the Union address tonight, we must remember King's warning of the moral peril of a nation that fails to create opportunity for all of its people.

No longer do we hear of a War on Poverty, which as Dr. King noted was "barely a skirmish" before abandoned for war abroad. Instead, as Dedrick Muhammad, author of the UFE report, observed: We are left with a "compassionate conservatism, which has been very conservative in its compassion."

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[From the Wall Street Journal, Jan. 19, 2004]

### The Pickering Precedent

President Bush's recess appointment of Charles Pickering Sr. to the federal appeals bench last Friday is a welcome move, not least because it shows he's willing to carry the fight over judicial nominees from here to November. Mr. Pickering will now get the honor of serving a year on the Fifth Circuit Court of Appeals, and at 66 years old might well make this his career coda. The Mississippi judge was one of Mr. Bush's first nominees, in May 2001, and has always had confirmation support from a bipartisan majority of Senators. But he has been denied a floor vote by a minority filibuster orchestrated by Northeastern liberals Ted Kennedy, Hillary Rodham Clinton and her junior New York partner Chuck Schumer.

Mr. Bush has every right, even an obligation, to use his recess power to counter this unprecedented abuse of the Senate's advice and consent power. A filibuster has never before in U.S. history been used to defeat an appellate court nominee, but Democrats have used it against six of Mr. Bush's choices. All of them have enough bipartisan support to be confirmed if they could only get a full Senate vote.

One of the more despicable elements of the anti-Pickering smear has been the use of the race card, even though the judge has the support of the African-Americans who know him best, including the Mississippi chapter of the NAACP. Mr. Pickering sent his children to the newly integrated public schools in that state in the 1960s, and he helped the FBI in prosecutions of the KKK, testifying against the imperial wizard in 1967 at some personal risk.

But these facts are irrelevant to liberals who are panicked after their recent election defeats and are clinging to their last lever of national power through the appointed judiciary. They're hoping the public won't notice or care much about this power play, which means that Mr. Bush and Republicans will have to keep the issue front and center. Five Southern Senate seats are open this year, and voters in those states in particular deserve to know how much the bicoastal Democratic liberals despise their values.

## ELECTRIC RELIABILITY ACT OF 2004 AND ELECTRICITY NEEDS RULES AND OVERSIGHT NOW ACT

Mr. FEINGOLD. Madam President, I would like to express my support for two bills that my colleague, the junior Senator from Washington, introduced this week and that I am pleased to cosponsor: the Electric Reliability Act of 2004 and the Electricity Needs Rules and Oversight Now Act, or ENRON Act. I strongly believe that the country needs to achieve a balanced national energy policy. An essential part of a national energy policy should be to ensure electricity reliability and to protect consumers from energy market manipulation. If Congress cannot agree on an omnibus energy bill, then we must act to pass these stand-alone bills on electricity reliability and market manipulation.

Our citizens deserve a reliable, safe power grid. This is one of the country's most pressing energy needs. We have to do all that we can to prevent blackouts like the one that hit the east coast and Midwest last August and the Electric Reliability Act of 2004 takes a crucial step toward that goal. The bill grants the Federal Energy Regulatory Commission—FERC—the explicit authority to create mandatory electric reliability standards. FERC can also approve the formation of electric reliability organizations, which will, subject to FERC review, enforce these standards. Strong and enforceable electric reliability standards will help ensure that our citizens and businesses do not have to worry about their respective lives and livelihoods being disrupted by blackouts.

In fact, a joint investigation by a United States-Canadian task force found that the lack of mandatory reliability standards contributed to the August 14, 2003, blackout. This massive outage affected 50 million people in eight U.S. States and parts of Canada. The task force report found that an Ohio-based utility and regional grid manager together violated at least six reliability standards on the day of the blackout. Examples of the reliability violations that contributed to the blackout included: not reacting to a power line failure within 30 minutes, not notifying nearby systems of the transmission problems, failing to analyze what was happening to the grid, inadequately training operators, and failing to adequately monitor transmission stations. Since the industry is largely self-regulated, violations of these voluntary reliability standards carry no penalties.

In testimony before the Senate Governmental Affairs Subcommittee on Oversight of Government Management last fall, regulators declared that enforceable reliability standards are vital to a secure power grid. This bill is an important step toward that goal. It provides for enforceable, mandatory electric reliability standards to ensure that our Nation has a secure, reliable power grid.

In addition to securing our Nation's power grid, we must protect consumers from energy market manipulation. We cannot let the market abuses that took place during the Western energy crisis a few years ago happen again. The ENRON Act would prohibit the use of manipulative practices like the schemes used by Enron and other energy traders that raised prices and put consumers, and the reliability of the electric transmission grid, at risk. We learned from this crisis that electricity markets need close Government oversight to ensure that companies do not engage in risky trading schemes leading to soaring energy prices and their own possible financial failure. In both cases, consumers—the people who depend upon the electricity these companies generate or trade—are the losers.

Energy market manipulation crippled the west coast during 2000-2001. Just last month, a former energy trader pleaded guilty to manipulating natural gas markets 2 years ago during the west coast power crisis. This trader admitted to supplying false reports to trade industry publications that calculate the price of natural gas indexes, which are used by derivative traders to buy and sell natural gas futures and real-time transactions. This manipulation apparently benefitted the energy company at the expense of energy consumers.

Other Enron-style trading practices include "ricochet" electricity deals. In a ricochet transaction, Enron sent California-generated power to another company. The electricity was then sold back to California, but billed as being generated outside the State. Prosecutors state that this practice allowed Enron to evade California electricity price caps. There is also the "Death Star" trading scheme. Apparently, Enron attempted to generate revenue by fraudulently charging fees for services Enron did not provide. Enron charged California for electricity that was not delivered. Charging the State for undelivered power prevented the State from alleviating backlogged transmission lines. This market manipulation scheme was especially harmful since it came at a time when part of the State experienced rolling blackouts.

In June, FERC deprived Enron of its right to trade power and natural gas. Even though the company is barred from the energy-trading industry it helped create, market manipulation remains a threat to consumers. In December 2003, another energy company agreed to pay $1.7 billion to resolve market manipulation claims brought by the California Public Utilities Commission and various business and residential consumers. Other companies allegedly bought and sold natural gas simultaneously at the same price to make demand appear greater.

The ENRON legislation requires the Federal Energy Regulatory Commission to prohibit the use of manipulative practices like these that put at risk consumers and the reliability of the transmission grid. The Senate recently went on record in support of barring abusive market practices when it approved an amendment to the fiscal year 2004 agricultural appropriations bill offered by Senator CANTWELL. I am disappointed that this language was stripped from the omnibus spending bill.

I think the August blackout should make clear to all of my colleagues the need for improvements in the power grid system. We need to make the electric grid safer and more reliable for all Americans and we also need to prevent manipulation of electricity markets. For those reasons, I encourage the Senate to move forward and act quickly with respect to these bills.

## THE NEED FOR COUNTRY-OF-ORIGIN LABELING

Mr. JOHNSON. Madam President, I rise today to speak about country-of-origin-labeling, an issue of critical importance to farmers, ranchers and the consumers in our great country.

Yet even as our country grapples with its first case of mad cow disease, the Republican leadership and special interest groups aligned with the packing industry celebrate the possible delay in the implementation of my country-of-origin labeling law.

Yes, country-of-origin labeling is the law. We voted on it and it was included in the last farm bill. Yet today I stand before you, concerned that an action in the dead of night by certain House members will sink this law, a law that is good for consumers of beef as well as producers of beef.

Country-of-origin-labeling will help American producers market their beef as the superior product we know that it to be. It will also help American producers choose a product they know is safe while avoiding foreign product produced without the safeguards provided by the United States Department of Agriculture.

Just a few weeks ago it was discovered that a cow from Canada was discovered with mad cow disease, yet consumers have no way to distinguish meat from a Canadian cow from meat from an American or Mexican cow.

As recent events have shown Americans still have confidence in American beef and we must give them the ability to choose that beef. This law is also critical to our ability to begin exporting beef to countries, such as Japan, that closed their border to our beef after the recent case of mad cow in Washington State. Forty-eight out of 57 of the United States' largest trading partners, including Japan, have country of origin labeling. Why can't we? I ask, why can't we?

It dismays me, that there are people opposed to this law. It will allow consumers to make their own decisions about food safety, a critical issue in today's world of weapons of mass destruction and terrorism.

I ask unanimous consent to print in the RECORD an article written by Lee Pitts titled "Who Killed COOL?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WHO KILLED COOL?

(By Lee Pitts)

COOL has been universally praised by producer and consumer organizations alike. The overwhelming majority of farmers and ranchers supported it and COOL even had bipartisan support in Congress. So what went wrong? Who killed COOL?

Here's a Most Wanted list of the thieves who stole COOL from us and killed it in cold blood until COOL is deader than a can of Argentinean corned beef.

#### THE MAN WHO WOULD BE KING

To see who killed COOL just follow the money. And we can start right at the top. George Bush has been vehemently against COOL from the beginning. But one wonders why Bush would feel so passionate about legislation and use up political capital on something that will anger the very people who helped elect him in a very tight presidential race. Surely Bush must have had good reason to betray us? In fact, he had had millions of reasons. Plain and simple . . . Bush sold out to BIG business.

Remember this name: Tom Hicks. According to Forbes Magazine Mr. Hicks is the 350th richest man in America with an estimated net worth of $750 million. Hicks heads up a leveraged buyout outfit called Hicks, Muse, Tate and Furst. One of their better deals was buying Dr Pepper and 7-Up for $15 million and selling it after two years for $700 million. Hicks is also the man who made our current President a multimillionaire by buying the Texas Rangers from a group that included George W. In some circles Mr. Hicks is known as "The man behind the throne at the White House."

In May, 2002, Hicks, Muse, Tate and Furst bought 54 percent interest, along with ConAgra, in Australia Meat Holdings, that country's largest meat processing company. Needless to say, the firm sends a lot of meat in this direction. Do you think Mr. Hicks' meat packing interests might have anything to do with Bush's concern about COOL? If Mr. Hicks calls Bush, I wonder, does he have any trouble getting through?

The Texas Cattle Feeders, no doubt, also leaned on their favorite son. The TCFA's members import thousands of Mexican steers every year into the U.S. where they would like to continue passing them off as domestics. Don't you find it interesting that the

Representative who came up with the legislation to delay COOL for one year, Mr. Bonilla, was a Texas House member. In the Senate there was a similar attempt by Senator Cornryn. Surprise, surprise . . . Mr. Cornryn is from Texas too.

### USDA: UNITED STATES DEPARTMENT OF ANN

If you're looking for the killers of COOL you can take a line from Casablanca and, "Round up the usual suspects." Ann Veneman and her cronies at the USDA surely are guilty. We all know by now that Veneman is a free trader, that's why she's currently trying to rewrite the rule book to reopen the border with Canada to live cattle. COOL could be an impediment to Veneman's vision of one global marketplace.

We shouldn't be surprised by Ann's actions, she's sold us out before. Like with mandatory price reporting. USDA officials said COOL is a bad idea because "there is no definitive data available to quantitative the benefits of COOL." In one voluminous COOL report there was page after page of reasons why COOL is bad but there was not a single sentence suggesting a benefit. If one didn't know better, a casual observer might think the USDA was being biased. You think?

The USDA completely ignored a University of Florida study that outlined the many benefits of COOL. The USDA came up with cost estimates between $582 million and $3.9 billion but it was always the higher figure they quoted. The Florida study concluded that COOL would cost a fraction of that and said consumers would be given a choice and producers would benefit by increased demand for U.S. produced food. All good! At exactly the same time Veneman saw no benefits to COOL, Japan and Korea were making it clear they wanted only U.S. labeled beef. Also, at the same time a hepatitis outbreak was killing three people and sickening 259 in Georgia and 16 people in North Carolina. The feds aren't completely sure the same strain sickened 600 people in Pennsylvania in the Nation's biggest known outbreak of the disease. But they are sure it was Mexican onions that caused the outbreaks in Georgia, Tennessee and North Carolina. Gosh, if only the onions were labeled so consumers could decide for themselves if they wanted to risk death by liver failure.

If she had bothered to look Veneman could have also seen at least one major benefit from COOL by looking northward to her Canadian buddies. They started labeling their beef after the Mad Cow scare and it paid off big time when Canadian consumers started eating more domestic beef to show their support for the domestic industry.

And how's this for irony: A couple days after killing COOL the feds announced they were launching a major initiative to track food imports for national security reasons!

### THE MEAT WE EAT

The food processing industry hates COOL because their business models are based on being able to buy product anywhere around the globe, wherever it is the cheapest. Then they have a U.S. inspection stamp placed on it and mix it in with domestic product. If you doubt that multinationals would have the breadbasket of the world turned into a beggar nation consider that 11.6% of beef eaten in the U.S. is imported, 40% of lamb, 16.6% of all vegetables, 23.1% of fresh and frozen fruit, and even 10% of wheat and wheat products. Talk about carrying coal to Newcastle!

Meat packers don't want COOL because it would diminish the profits they are making on cheap imports, like the obscene profits they are now making on Canadian boxed beef. COOL would derail this business model. So when COOL legislation passed all the hurdles and road blocks and looked like it would become a reality the packers were willing to resort to dirty politics in an effort to kill it.

First the packers said it would cost too much. What they should have said it would cost THEM too much if they had to start buying more U.S. beef because consumers were demanding it. We know exactly how much extra COOL will cost ranchers. You can currently get your calves verified as born and raised in the U.S. using a USDA approved process for 50 cents apiece. That's half of the beef checkoff buck. That doesn't seem like too much, does it?

Globalists hate COOL because it will build demand for U.S. products, exactly what they don't want. COOL would dampen their plans to outsource production to the cheapest supplier because the only place to get U.S. products is guess where? U.S.

### THE BOTTOM LINE

Ann Veneman herself helped identify some of the culprits who killed COOL. She fingered the NCBA, the National Pork Producers Council and the United Fresh Fruit and Vegetable Association as the groups responsible for blocking its implementation. Yes, the primary contractor for your checkoff dollars, an outfit that may not even exist without your beef bucks, the NCBA, stabbed you right in the back. Again.

In the 2004 election cycle so far, agribusiness interests have given President Bush $1.8 million—ten times as much as the next recipient. The NCBA is one of the top agribusiness contributors. They even gave Bush a cowboy hat at their convention.

After the Conference Committee derailed COOL the NCBA issued a press release saying, "Congress carefully considered possible dangers of the law before delaying implementation for two years." Chandler Keys, NCBA's lobbyist said that mandatory labeling would damage trade relations with Mexico. (Although Mexico currently requires country of origin labeling of U.S. beef exports.) NCBA President Eric Davis said, "Many producers were concerned that these mandatory regulations could have a negative effect on their bottom line."

Leo McDonnell of R-CALF had a different viewpoint: "Despite NCBA's claim that independent cattle producers do not want mandatory country of origin labeling, 76 U.S. cattle associations, representing 26 states and including 17 NCBA state affiliates, worked with R-CALIF USA to pass mandatory COOL in the 2002 Farm Bill."

In every poll this reporter has seen an overwhelming majority of ranchers and consumers voice their support for COOL. Both the American Farm Bureau and the National Farmer's Union supported it. Even the NCBA admits it: "What our members have told us through votes was they want a country-of-origin labeling program that is beneficial to both them and to the consumers," said Jim McAdams, a Texas cattleman and NCBA VP. The NCBA, after killing COOL, then had the audacity to announce it was launching plans to create a VOLUNTARY pilot country-of-origin labeling program that would differentiate U.S. meat products from foreign meat. Dun . . . we already have a voluntary program and it doesn't work.

According to Leo McDonnell the real bottom line is this: "The interests of producers are being compromised by organizations purporting to represent producers, but who actually incorporate the financial interests of packers in their policies" That's putting it nicely. Other response to the killing of COOL was swift and angry:

The New Mexico Stockgrowers had given the NCBA a couple chances to come around but COOL was the last straw. It exposed NCBA once and for all for what they really are: A mouthpiece for the Texas and Kansas cattle feeders and the Big Three packers. The stockgrowers recently voted to end their association with the NCBA because they no longer represent them. (I'd argue they never did.)

Fred Stokes of the The Organization of Competitive Markets said: "Country-of-origin labeling has precipitated a war. Food producers and consumers are on one side with food cartels and their lackeys on the other. Regrettably, the leadership in our government has come down on the wrong side."

NFU President Dave Frederickson said, "This two-year delay is undoubtedly a tactic to make this widely popular law more vulnerable to repeal after the presidential elections. The delay will effectively kill COOL for meats, fruits and vegetables. Wild fish would be the only food item exempt from the delay, which should prove beneficial for salmon fishermen in Senate Appropriations Committee Chairman Ted Stevens' state of Alaska. There is definitely something fishy about this process."

"This is just another example of the White House and Republican leadership allowing their biggest corporate contributors to set policy," responded Presidential candidate Howard Dean. "Since being elected, George Bush has consistently put the interests of corporate agribusiness ahead of family farmers and rural America."

South Dakota Stockgrowers Assn. President Ken Knuppe said, "This is a slap in the face to all of the cattle producers who've fought so hard for this legislation. It is clearly a political move, not an attempt to benefit producers or consumers."

Perhaps Paul Ringling, President of the Montana Cattleman's Assn said it best: "NCBA, packers and USDA have an unholy, incestuous alliance."

Some say the battle over COOL is not yet lost. Although the House approved the Conference Committee report the Senate will vote on it on January 20. But Tom Harkin does not expect COOL to be in the final bill. "They won't remove COOL . . . they just won't give it any money," says Harkin.

The only way to override the Conference Committee action is to defeat the omnibus spending bill which would also shut down the federal government. As tempting as that sounds . . . don't count on it happening.

If you must do something to voice your displeasure you could dial the phone number (202-456-1111) and give a tape recorder a piece of your mind. And you could quit any group that played a role in COOL's defeat. I've heard some people who are so upset they are going to refuse to pay the checkoff, seeing how it's unconstitutional anyway. For sure you should join R-CALF. As for Bush . . . if the next Presidential election is as close as the last one, Bush may have a lot more time to spend with his "BIG Bidness" buddies as a result of his COOLish behavior.

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## REMARKS OF DR. JOHN BRADEMAS

Mrs. FEINSTEIN. Madam President, our distinguished former colleague in the House of Representatives, now president emeritus of New York University, Dr. John Brademas, delivered an address last month in Rabat, Morocco, at a conference on "The Dialogue of Cultures."

The conference, sponsored by the Ministry of Culture of Morocco, focused on the relationships between the West and the Arab world.

John Brademas served in Congress, from the State of Indiana, for 22 years—1959-1981—the last 4 as House majority whip. He established a particular reputation for his leadership in writing legislation to support schools, colleges and universities, libraries and museums, the arts and humanities, and to provide services for children, the elderly, and the disabled.

A graduate of Harvard University, Dr. Brademas was a Rhodes scholar at Oxford University where he earned a Ph.D. Last year, Oxford University awarded Dr. Brademas the honorary degree of doctor of civil law, with a citation that described him as "a man of varied talents and extraordinary energy, the most practical of academics, the most scholarly men of action."

On leaving Congress, Dr. Brademas became president of New York University, a position he served from 1981 until 1992, when he became president emeritus, the position he now holds.

Mr. President, in light of the great importance of developments between the United States and Islamic countries, I believe my colleagues will read with interest Dr. Brademas's thoughtful address in Morocco, and I ask unanimous consent to have his remarks printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### REMARKS OF DR. JOHN BRADEMAS ON "EDUCATION AND CULTURE: FORCES FOR PEACE IN A TROUBLED WORLD"

I am for several reasons honored to have been invited by the distinguished Minister of Culture of the Kingdom of Morocco, His Excellency, Mohamed Achaari, to take part in this conference on the theme, "Is the Dialogue Between Cultures Possible?"

This is the first time I have been in Morocco, and my wife and I have immensely enjoyed visiting the famed cities of Casablanca, Fès and Marrakech and seeing some of the wonders of this beautiful country.

I have to thank my friend, a brilliant and energetic Moroccan, Karim Errouaki, for having suggested I join you even as I am pleased to see here other friends such as Dr. Federico Mayor, the former Director General of UNESCO; Professors Edward Nell of the New School University, Bernard Lewis of Princeton and my New York University colleague, Noah Feldman.

And I greatly value the opportunity to meet the distinguished former Prime Minister of France, Michel Rocard, and so many other eminent political leaders, scholars and writers gathered this weekend at the Kingdom's Royal Academy.

As an American, I am well aware that Morocco was the first country, in 1777, to extend diplomatic recognition to the United States, and our two nations have enjoyed friendly and cordial relations now for over 200 years. Secretary of State Colin Powell spoke of this friendship only a few days ago in Marrakech.

In light of 9/11, the war in Iraq, the ongoing strife in Afghanistan, the continuing conflict between Israelis and Palestinians, the attacks in Istanbul and elsewhere, there could not be a more appropriate subject to bring us together than "The Dialogue of Cultures".

My own modest offering today will focus on the contributions to a more peaceful world of the institutions and activities of education and culture.

So that you will understand my perspective, please allow me some words of personal background.

A native of Midwest America, I am the son of a Greek immigrant father and an Indiana schoolteacher mother. A graduate of Harvard University, I spent three years at Oxford University where I wrote a doctoral dissertation on the anarchist movement in Spain.

First elected to the Congress of the United States in 1958, I was ten times reelected, serving, therefore, for 22 years and during the Administrations of six President: three Republicans—Eisenhower, Nixon and Ford; and three Democrats—Kennedy, Johnson and Carter.

In Congress I served on the Committee on Education and Labor, where I helped write all the laws enacted between 1959 and 1981 to assist schools, colleges and universities; libraries and museums; the arts and the humanities; and to provide services for children, the elderly, the disabled.

In my last four years on Capitol Hill, I was Majority Whip, third-ranking member of the Leadership of the House of Representatives.

A Democrat, I was defeated in Ronald Reagan's landslide victory over President Carter in 1980. Shortly thereafter I was invited to become president of New York University, now the world's largest private university, a position in which I served until 1992 when I became president emeritus.

### NEW YORK UNIVERSITY

In Congress I was author of the International Education Act of 1966, to provide grants to colleges and universities in the United States for study of other countries. On arriving at New York University or, as we call it, NYU, I continued my interest in international education.

We established during my presidency the Center for Japan-U.S. Business & Economic Studies in our School of Business; an Onassis Program of Hellenic Studies; the Skirball Department of Hebrew and Judaic Studies; a Casa Italiana Zerilli-Marimo; and the King Juan Carlos I of Spain Center for the study of the economics, history and politics of modern Spain.

Beyond such centers at NYU—and I have not named all of them—we have also, for example, the Hagop Kevorkian Center for Near Eastern Studies, a leading center in the United States for teaching and research about the Arab world; as well as centers in Florence, London, Madrid, Paris and Prague, and we hope to set up others in Africa and Latin America.

I add that 4,400 students from the countries are on our campus this year while nearly 2,000 from NYU are studying abroad.

In my judgement, the need for us in the United States to invest in knowledge of other countries and peoples takes on added urgency after the war in Iraq.

It is no secret to any of you that the actions of the United States in Iraq have met—and continue to meet—strong opposition in many countries, as President Bush personally observed during his visit to London a few days ago.

Here I could cite the report last summer issued by The Pew Research Center, Views of a Changing World. Based on a respected survey, the Pew Report found that ". . . [I]n most countries, opinions of the U.S. are markedly lower than they were a year ago."

The report continued, ". . . [T]he war has widened the rift between Americans and Western Europeans, further inflamed the Muslim world, softened support for the war on terrorism and significantly weakened global public support for the pillars of the post-World War II era—the UN and the North Atlantic alliance."

In the United States and Europe, scholars, journalists and public leaders have engaged in all manner of symposia on the tensions between the United States and Europe as well as the sharpened hostility toward America in the Islamic world.

Nor, as you are aware, is public opinion in the United States overwhelmingly supportive of President Bush's policies toward Iraq, especially in light of the killing of American and British soldiers and the failure of the Bush Administration to plan effectively for the aftermath of the war.

My own view—and I believe that I reflect the opinions of scholars, journalists and many political leaders in our own country and abroad—is that in the war on terrorism and in meeting the other challenges to civil and democratic societies, military power, even when exercised by the strongest nation in history, is not enough.

### "SOFT POWER" VS. "HARD POWER"

Not only does the United States require partners in post-war Iraq as well as in other places of danger but we must also give far more attention to investing in what my friend, Joseph Nye, Dean of the John F. Kennedy School of Government at Harvard, has called, in contrast to hard power, "soft power".

"U.S. military power is essential to global stability and is a critical part of the response to terrorism", Nye agrees. But it is not enough, he adds: "Soft power rises from the attractiveness of a country's culture, political ideas and policies".

Nye's words were echoed recently by a powerful essay published last October in Madrid's El País by Fedrico Mayor, who declared, "The force of Europe is not the Europe of force . . . [but] the force of the spirit, of creative powers . . . of democratic values . . . of education and culture . . . of conciliation . . . friendship and solidarity among peoples, of openness, of a culture of peace. . . ."

In view of what I have already said, you will understand why I was so pleased to have been invited to Rabat for this conference on the relationship between the West and the Arab world.

Let me here recall that last year, in New York City, speaking to a group of Ambassadors from Islamic countries assigned to the United Nations, I observed that most Americans had never met a Muslim and that most of us were quite ignorant of the traditions of Islam.

Accordingly, I told the Ambassadors, unless you want Americans to think that Islam is represented by Osama Bin Laden, you must give more attention to teaching the best in your religious faith while, on the other hand, those of us who are not Muslims have a similar obligation to listen and to learn.

### RISING INTEREST IN U.S. IN ISLAM

In fact, one now finds a burgeoning interest in Islam in the United States. One cannot go into a serious bookshop in New York City without seeing new volumes on Islam.

I think, by way of example, of the book Islam: A Mosaic, Not a Monolith by the distinguished president of the Carnegie Corporation of New York, Vartan Gregorian, and of After Jihad: America and the Struggle for Islamic Democracy by Noah Feldman, a brilliant young scholar on the faculty of the NYU Law School, from whom you will hear shortly.

And in my country there have appeared in recent months several significant reports dealing with the subject of relations between the West and Arab societies. For example, the Center for the Study of Presidency in Washington, DC last July published An Initiative: Strengthening U.S.-Muslim Communications, focusing on failures on the part of the United States in conducting cultural diplomacy in the Muslim world after 9/11.

Only last month, an advisory group chaired by a former U.S. Ambassador, Edward P. Djerejian, submitted to Secretary of State Colin Powell and our Congress a report entitled Changing Minds, Winning Peace: A New Strategic Direction for U.S. Public Diplomacy for the Arab and Muslim World.

I cite two other relevant reports: Arts and Minds: Cultural Diplomacy amid Global Tensions, based on a conference held last April at Columbia University and a Council on Foreign Relations statement, Finding America's Voice: A Strategy for Reinvigorating U.S. Public Diplomacy, prepared by a task force chaired by a highly respected business leader, Peter G. Peterson.

I must, however, draw your particular attention among this blizzard of reports to one, published only last October by the United Nations Development Program, the Arab Human Development Report 2003: Building a Knowledge Society.

This document was written not by Americans or Europeans but by a group of distinguished Arab scholars and opinion leaders.

The report, say its authors, is "once descriptive and prescriptive, with bold recommendations for change and detailed analyses of the current state of education, scientific research, the media, the publishing industry, culture encompassing religion, intellectual heritage and the Arabic language, and other building blocks of a 'knowledge society' in the Arab world."

### AN "ARAB KNOWLEDGE SOCIETY"

The report speaks of the "five pillars" of an "Arab knowledge society", including:

Guaranteeing the key freedoms of opinion, speech and assembly;

The full dissemination of high quality education;

Indigenizing science, investing in research and joining the Information Revolution; and

Developing an authentic, broadminded and enlightened Arab mode of knowledge.

The terrible attacks of recent weeks and months—in Jerusalem, Baghdad, Istanbul and Riyadh—dramatically demonstrate the need for radical change in the Arab world if Arab countries are to look to an era of peaceful development and progress and if we in the non-Islamic world are to live without the omnipresent threat of terrorist activities.

Allow me then to assert my conviction that it is imperative that we in the West, and especially in the United States, learn more about countries other than our own but especially, after 9/11, about the Islamic world even as we must encourage Arab societies to take steps to implement the recommendations in the Arab development report of which I have just spoken.

For further and immediate context for these several reports, let me cite the eloquent words of His Majesty, King Mohammed VI, two months ago, on October 10, at the opening of the Fall session of the Parliament of Morocco. Speaking of his determination "to set the democratic process on the right track", His Majesty declared, "[T]here can be no democracy where there are no democrats. Democracy is a long, arduous exercise, not some sort of battlefield on which to wage a war for positions. Democracy implies a keen sense of commitment to the notion of citizenship.

"Consolidation of democracy requires that the culture of responsible citizenship be fostered and enhances, a task incumbent upon political parties and civil society. . . ."

### KING MOHAMMED IV ON "THE DIGNITY OF WOMEN"

In the same address, King Mohammed drew particular attention to the need for steps to respect, in his words, "the dignity of women as human beings", and recalled his own remarks four years earlier: ". . . [H]ow can society achieve progress", His Majesty asked, "while women, who represent half the nation, see their rights violated and suffer as a result of injustice, violence and marginalization, not withstanding the dignity and justice granted them by our glorious religion?"

In his statement of December 3, following his meeting with His Majesty, Secretary Powell congratulated the King on the steps Morocco has taken to strengthen democracy such as elections at the regional and parliamentary level and "bold reforms . . . for the family code."

And as I am quoting the King of the Moroccan people, I note also his words of October 16th this year, in Malaysia, at the 10th Summit of the Organization of the Islamic Conference, when His Majesty said: ". . . [I]n Morocco . . . we have relied on our strong commitment to democracy and our people's unanimous condemnation of terrorism, a phenomenon which is clearly alien to our culture. It is also inconsistent with the tolerant aims of our religion, which forbids the shedding of innocent blood, advocates peaceful coexistence and upholds human dignity. . . ."

This statement of the King of Morocco is in harmony, I believe, with a comment, also last October, in Amman, Jordan, of His Royal Highness, Prince El Hassan bin Talal, President of the Club of Rome and President of the Arab Thought Forum, who said then: ". . . [L]et us not forget that we are in a region inhabited by the so-called 'people of the Book/ahl al-kitab'—Christians, Jews and Muslims—and whether we pick up the Bible, the Torah or the Qur'an, we will find all of us are taught to practice and promote peace. . . ."

### PRINCE HASSAN OF JORDAN OPPOSES TERRORISM

Indeed, only weeks ago, on November 18th, speaking on behalf of the World Conference of Religions for Peace, of which he is Moderator, Prince Hassan declared:

"The despicable attacks this week against two synagogues in Turkey are brutal acts condemned by all people of faith—Jews, Christians, and Muslims alike. . . .

"No religious tradition can or will tolerate these acts. We are united in rejecting terror, the intentional killing of innocent people, whether by individuals or states. . . .

"Muslims, Christians and Jews share a common history. . . .

"In the face of terrorism, all people of faith must redouble their efforts to work together for peace."

Now everyone here knows that a key question being asked in the West is this: Is it possible for a country where the dominant culture is Islamic to have a genuine democracy?

Most of you will be aware of the speech that President George Bush delivered in Washington, D.C. last month, on November 6, to mark the 20th anniversary of the founding of the National Endowment for Democracy, an organization that makes grants to private groups, including some in Morocco, that are working for democracy.

I was, I should tell you, for seven years chairman of the Endowment.

In his speech, President Bush asserted, "It should be clear to all that Islam—the faith of one-fifth of humanity—is consistent with democratic rule", and the President went on to quote the words of King Mohammed to the Parliament of Morocco calling for extending rights to women.

But President Bush also cited the recent report, of which I have told you, in which Arab scholars warned that the global wave of democracy has "barely reached the Arab states".

What then is to be done?

### STEPS THE UNITED STATES SHOULD TAKE

Even as I urge Arab leaders to act to build an "Arab Knowledge Society," there are several steps that, I believe, we in the United States should take.

Let me speak of some.

First, we must strengthen the programs of educational exchanges between the United States and the Middle East.

A year and a half ago, at a conference on the 50th anniversary of AMIDEAST in Marrakech, our Assistant Secretary of State Patricia Harrison observed how many alumni of these exchanges are heads of state or government or have held other important positions of leadership in countries of the Middle East.

Secretary Harrison said that the State Department is expanding the number of Fulbright scholarships and fellowships to people from the Middle East to study in the United States and for Americans to study in the Middle East.

As we meet in Rabat, let me note that the U.S./Morocco Fulbright program includes faculty and students from both our countries and that the budget is shared by the two sides.

Moroccan Fulbright students focus on courses in the U.S. to assist them in their country's economic development.

The U.S. scholars who come here are professors, whose experience will strengthen their university teaching back home.

Morocco's Fulbright program, by the way, is a leader in a new initiative in the Islamic world, Fulbright Foreign Language Teaching Assistants: young people training to become teachers in Morocco are teaching the Arabic language and Arab culture at colleges and universities in the United States—an exchange positive for both sides.

The Moroccan instructors not only teach in American schools but also give talks about Islam and North Africa to other audiences in the United States.

The U.S. Department of State also supports citizen exchanges of various kinds—to build leadership in sports, women's and other non-governmental organizations, in journalism and the media, legal reform, the environment, democracy and human rights.

Let me add that I think it fortunate that the newly appointed Under Secretary of State for Public Diplomacy is the distinguished former United States Ambassador to Morocco, Margaret Tutwiler.

Certainly we in the U.S. must substantially increase our investment in study of the Arab world.

### AN NYU CENTER FOR PUBLIC DIPLOMACY AND DIALOGUE

Even as I have mentioned the Hagop Kevorkian Center for Near Eastern Studies at NYU, I am very glad to say that New York University has only weeks ago responded to the call of the Advisory Group on Public Diplomacy for the Arab and Muslim World in its report, Changing Minds/Winning Peace, by proposing to create, in consultation with the U.S. State Department, a Center for Public Diplomacy and Dialogue, a center my colleagues at NYU believe will be "an unprecedented effort to launch a serious and ongoing exchange with the Arab and Muslim world".

Let me tell you what the authors of the proposal hope to do. The Center will offer three approaches.

First, there will be three kinds of conferences. An annual conference will bring together Arab and Muslim leaders from the fields of government, business and religion to discuss such topics as civil society, the rule of law, religion, media, democratic institutions and human rights.

Second, there will be conferences where U.S., Arab and Muslim professionals such as health officials, scientists, educators, and leaders of non-governmental organizations—can meet for three one-week sessions.

Then we hope to have "Leaders of Tomorrow" conferences, where young individuals, rising as the next generation of leaders in both the Arab/Muslim world and the United States can get together twice a year.

A second approach under the Center's sponsorship: fellowships to bring annually 100 college-age students from Muslim countries to study at NYU, concentrating on law, public service, education, journalism, business and science. Grants of approximately $50,000 per fellow would cover costs.

New York University hopes eventually to establish a residential presence on campus—to be called "Dialogue House"—for some of NYU's finest students and faculty from all fields, who would live with the exchange students from Muslim countries.

Because we believe cultural and arts programs are vital to this public diplomacy initiative, we plan exchange programs to bring artists and filmmakers from Arab and Muslim societies to work with their American counterparts. NYU's Tisch School of the Arts already hosts the world's only International Student Film Festival.

We want also, in addition to college-age students, to arrange brief exchange visits from high schoolers from Muslim countries to be exposed to an American university and to visit museums, see plays and tour business firms.

The third approach we hope to create under this proposal is four-fold.

We want to organize, in cooperation with other research libraries in New York City, a Comprehensive Public Diplomacy Resource Center, focusing on the Middle East and open to scholars, students and U.S. government officials, in effect, a clearing house for information on the Arab and Muslim world.

We plan, too, a program to preserve and digitize unique books and texts from the Muslim world as well as explore making U.S. texts available in translation for Muslim and Arab countries.

We also intend to coordinate teacher-training programs with faculty from other colleges and universities as well as high school teachers to inject components of Arab and Muslim understanding into their courses.

Finally, NYU will continue to offer foreign language training in Arabic, Hebrew, Persian, Turkish, Hindi and Urdu.

I hasten to say that NYU is not the only university in the United States that seeks to enhance knowledge of Arab and Muslim societies but I have obviously spoken of the institution I know best.

### TO IMPROVE RELATIONSHIP BETWEEN U.S. AND MUSLIM WORLD

Nor have I begun to exhaust the kinds of activities that can be undertaken in the educational and cultural fields to build understanding between the Arab/Muslim world and the West.

Only last summer, at a "Partners in Humanity" conference, in Amman, under the leadership of Prince Hassan, 60 leaders convened to produce an action plan to improve the relationship between the United States and the Muslim world.

Here I should like to make a point I believe it important for U.S. policymakers to understand. It is not only the words with which we describe our policy but the substance of the policy itself, that is to say, the deeds as well as the message, that will have an impact in the Arab world.

Marc Lynch, a scholar at Williams College, in an essay, "Taking Arabs Seriously", in the journal Foreign Affairs (September/October 2003), calls for "a fundamentally different approach to the United States' interaction with [this] region—one that speaks with Arabs rather than at them and tries to engage rather than manipulate".

Lynch added, "The goal should be to establish the United States, through words and deeds, as an ally of the Arab public in its own demands for liberal reform, rather than making such reform an external imposition."

Among the several recommendations from the October conference in Amman was to bring together "Christian and Muslim faith-based development and aid professionals and religious leaders to discuss issues of 'meeting human needs' ".

### WORLD CONFERENCE OF RELIGIONS FOR PEACE

I may say in respect of this proposal for inter-faith cooperation that next week I shall be in Rome for a meeting of the International Council of Trustees, of whom I am one, of the World Conference of Religions for Peace, or WCRP, at the Vatican, under the co-chairmanship of Prince Hassan.

The other co-chair is Richard Blum, husband of United States Senator Diane Feinstein of California.

I add that another trustee of the WCRP is a distinguished Moroccan diplomat, my friend, Ambassador Mokhtar Lamani, Permanent Observer of the Organization of the Islamic Conference to the United Nations.

We shall meet in Rome—Orthodox, Protestant and Roman Catholic Christians as well as Jews, Muslims and Buddhists to discuss the Geneva Accord and the search for peace in the Middle East.

There is one other recommendation form Amman that I applaud, which calls for bringing together "Presidents of American colleges and universities that are developing or strengthening Islamic studies programs with their counterparts in predominantly Muslim countries who are developing American studies programs."

Ladies and gentlemen, I have not, I realize, begun to touch on all the ways in which the forces of learning and culture, of education and the arts, can contribute to building peace in a troubled world.

But I trust that what I have had to say offers some rays of hope at a time when we are surrounded by too much darkness.

The distinguished Minister of Culture, Mohamed Achaari, in inviting us all to Morocco, posed the question: "Is a dialogue between cultures possible?"

That we meet here this week in Rabat demonstrates that the answer to the Minister's question is "Yes!"

So let the dialogue deepen . . . and continue!

## ADDITIONAL STATEMENTS

## RECOGNIZING GONZALO MARTINEZ'S DECADE OF SERVICE TO DELAWARE

• Mr. **CARPER**. Madam President, I rise today in recognition of Gonzalo Martinez for his ten years of service to Delaware. Gonzalo will be leaving us shortly to move to Florida. His leadership and dedication over the years have won him the respect and gratitude of our entire State. He has been, and remains, a trusted friend.

Gonzalo was born in Santiago, Chile. He graduated from the University of Chile's School of Law in 1964, and moved to Washington, DC, in 1966 to work as a bilingual attorney in the legal department of the Inter-American Development Bank. There, he worked toward the bank's goal of fostering the economic and social development of Latin-America and the Caribbean.

While visiting a friend in Delaware in the early 1980s, Gonzalo fell in love with a house he saw here. He bought the house, and while continuing to work in Washington, he spent much of his spare time remodeling his home in Delaware. After 23 years of hard work at the bank, Gonzalo retired and moved to his beloved home in the first State. Upon his arrival in Delaware, Gonzalo became an active member of the Sussex County community.

When Gonzalo moved to Delaware, he was approached by the Sussex Arts Council to help fill the "black hole" in Sussex County's Hispanic community. He saw a desperate need for community centers, health programs and other services. For years, Gonzalo tried to work with agencies and programs. When it became apparent that they were unwilling to change and meet the emerging needs of the growing Hispanic community, Gonzalo finally partnered with other community advocates to create new institutions.

Gonzalo Martinez is a founding Board Member and a volunteer at El Centro Cultural, La Esperanza Community Center, Primeros Pasos Child Care Center, and La Red Health Center. Gonzalo believes that through the arts we can create social justice. He founded El Centro Cultural and The Hispanic Festival, which attract thousands of people each year. La Esperanza Community Center focuses on immigration services, comprehensive pre- and post-natal care, helping domestic violence victims, English and citizenship classes, and other general translation and interpretation services. Primeros Pasos provides safe child-care and early childhood education to approximately 50 children a year.

Gonzalo is not afraid to take risks to change the status quo and to prove how State government and non-profit organizations can work together to provide more efficient, cost-effective, and culturally appropriate services in the community.

During my governorship, I had the opportunity to appoint Gonzalo to three councils. When I re-established the Governor's Council on Hispanic Affairs in February of 1995, I appointed Gonzalo to the council. The goal of the council is to advise the Governor and Secretary of Health and Social Services on means to improve the delivery of services to the Hispanic community in Delaware.

In June of 1995, I also named Gonzalo to the Delaware State Arts Council. As a member of the State Council, Gonzalo contributed to the evaluation of grant applications and actively participated in policy discussions. Finally, I appointed Gonzalo to the Neighborhood Assistance Act Advisory Council in August of 2000. The Neighborhood Assistance Act Advisory Council was established to provide guidance and recommendations to the Director of the Economic Development Office and the Tax Appeal Board. Its purpose is to establish program priorities and to determine the impoverished areas that are in need of financial assistance.

More recently, in my first term as a U.S. Senator, Gonzalo Martinez has served on my National Parks Committee, a committee established in 2003 to recommend the best possible location for a National Park Unit here in Delaware.

I respect and admire Gonzalo for his dedication, his passion, and most of all, for his humility. He never takes credit for the accomplishments of the organizations. Instead of trying to build one large organization to meet all of the needs, Gonzalo has partnered with others who have expertise in certain areas to create organizations to meet a specific need. While the partners are all different, and the organizations have different missions, the thing they have in common is Gonzalo Martinez. He sees not only what could be, but what should be.

Through Gonzalo's tireless efforts, he has made a profound difference in the lives of thousands and enhanced the quality of life for an entire State. Upon his departure, he will leave behind a legacy of commitment to public service for both our children and grandchildren and for the generations that will follow. I thank him for the friendship that we share, and I congratulate him on a remarkable second career. I wish him only the very best in all that lies ahead.•

## HAL SHROYER

• Mr. ALLARD. Madam President, I rise today to offer a few words for a friend of mine and a friend of the State of Colorado, Mr. Hal Shroyer. Mr. Shroyer has selflessly served, and continues to serve, both the Nation and Colorado. He has always fought for what is right and just, a warrior in both military and civilian life.

Prior to the United States entering World War II, barely 20 years old, Hal Shroyer joined the Royal Canadian Air Force and flew bombing missions over Europe. When the United States entered the war, Hal joined the U.S. Army Air Corps where he piloted bombing missions across the English Channel into occupied lands. While serving in the Army Air Corps Hal met and married his wife Maxine, joining her in a loving union that lasted for more than 50 years. Around 1953 Hal and Maxine moved to Colorado where, day after day, year after year, Hal has given generously of his time and energy to his fellow Coloradans.

Among Hal Shroyer's many professional and civic accomplishments stand a few I would mention today. Hal was instrumental in the addition of photographs to Colorado driver's licenses, helping to make the State the second in the Nation to include a picture. More recently Hal Shroyer led the fight for a motor voter program, allowing for voters to register to vote at their local Department of Motor Vehicles. Each of these programs represent the norm today across the United States. Hal Shroyer's tireless dedication to the betterment of Colorado cannot be simply summed up by these examples, but I am pleased to offer them as illustrations of this man's tremendous contributions.

As a young man in Indiana Hal Shroyer tried out for his local track team. The track coach told Hal he would never make the team because he walked like a duck. Needless to say Hal made the track team and he has been a dynamo ever since. As Hal Turns 83 years old in the coming days I send him my thanks for his lifetime of service and wishes for joy in the years to come.•

## RECOGNIZING THE 10TH ANNIVERSARY OF PUBLIC ALLIES DELAWARE

• Mr. CARPER. Madam President, I recognize the 10th anniversity of Public Allies Delaware. This organization is celebrating a decade of mobilizing diverse groups of young leaders by both civic participation and community outreach. Public Allies Delaware has built a reputation for providing integral community service throughout Delaware. If this organization's first decade is any indication of what it will offer in the future, we have much to look forward to.

In 1992, a diverse group of young social entrepreneurs were helped by a number of established community and national leaders to create Public Allies. They believed that there were many energetic, talented young people who wanted to address critical issues in their communities and that many organizations and communities could benefit from such contributions to society.

Through the signature AmeriCorps program, Public Allies identifies talented young adults from diverse backgrounds and advances their leadership through a 10-month program of full-time, paid apprenticeships in nonprofit organizations, weekly leadership trainings, and team service projects.

In order to effectively achieve its goals and uphold its values, the program consists of apprenticeships, leadership training, and team service projects. The apprenticeships offer Allies the opportunity to gain "real world" experience through service in nonprofit and public agencies. In these apprenticeships, Allies face important issues such as youth development, education, and public safety.

Furthermore, the leadership training aspect of the program helps Allies develop the necessary knowledge, skills, and abilities so they can work productively and effectively with people from all walks of life. Through this leadership training, Allies attain skills in communication, critical thinking, appreciation of diversity, conflict resolution, and community asset recognition from a multitude of community leaders, professional consultants, and executives from nonprofit and corporate organizations.

Recognized by the Bush and Clinton administrations as a model for national service, Public Allies has grown to 11 communities nationwide in which more than 1,350 Allies have served. Evaluations have demonstrated Public Allies' effectiveness at advancing diverse young leaders, strengthening communities, strengthening nonprofits, and strengthening civic participation.

In 1994, full-time volunteer Suzanne Sysko, founded the fourth site of the fledgling Public Allies national organization in Wilmington, DE. With her father's assistance, she obtained free office space in the PNC Building on Delaware Avenue. After putting together a strong Board of Directors, she began working with Antoine Allen in the implementation of the program. The first class graduated in 1995 with financial support from five corporations and foundations and a grant from AmeriCorps.

In the 10 years subsequent to its inception, Public Allies Delaware has made substantial progress in the areas of funding and development. In 1995, the organization was able to successfully secure a 100 percent increase in

Public Allies Delaware's Grant-in-Aid allocation from the State legislature. By 1998, the board and program staff members were able to dramatically increase program funding by obtaining a line item in the State of Delaware Department of Labor's operating budget.

More recently, in 1999, the program began an invaluable partnership with the University of Delaware's College of Human Resources, Education and Public Policy. Through this affiliation, Public Allies Delaware alumni are offered the opportunity to supplement the education and experience they gained from the Public Allies program with a full-tuition undergraduate or graduate scholarship. To date, program alumni have utilized more than a half million dollars of Federal Government scholarship funds and matching fund awards provided by the University of Delaware in pursuit of higher education.

Currently, Public Allies operates both in Wilmington, DE, and at a new satellite site in Georgetown, DE. The program continues to maintain a statewide presence through 11 Allies located in Sussex and Kent Counties and another 11 located in New Castle County. By presenting a vehicle by which young people can both get involved in their community and receive scholarship opportunities, Public Allies Delaware has provided an essential service to the State.

I thank the Public Allies for all that they do not only in Delaware but all across the country, and I wish them a very happy 10th anniversary. I today offer my full support and congratulate them on a remarkable decade of success.●

## RECOGNITION OF BRIGADIER GENERAL TYMESON

● Mr. GRASSLEY. Madam President, I rise today to honor an exceptional Iowan. On October 20, 2003, Iowa National Guard Assistant Adjutant General Jodi S. Tymeson was promoted to the rank of Brigadier General. She has the distinct honor of being the first female General Officer in the history of the Iowa National Guard. Her hard work and dedication to service are celebrated by this promotion. I want to extend my deepest congratulations to Brigadier General Tymeson.

Serving in the Iowa Army National Guard for nearly 30 years, she continues to prove herself a capable and responsible leader and one who garners respect from her colleagues. She has received numerous Army awards and decorations, including the Legion of Merit and the Meritorious Service Medal. She also completed the U.S. Army War College in 1999. Brigadier General Tymeson also serves as a member of the Iowa House of Representatives. She chairs the House Education Committee and is a member on both the Human Resources and Ways and Means Committees. She is also active in many community and civic organizations and serves on the boards of directors for the Fort Des Moines Memorial Park and Education Center and Iowa Jobs for America's Graduates.

Congratulations again to Brigadier General Tymeson. She continues to serve her country with dedication and I thank her for her continued energy and devotion to Iowa and to America.●

## IN HONOR OF MR. BILL SIMPSON, JR.

● Mr. KOHL. Madam President, I rise today to honor the memory of Mr. Bill Simpson. The following speeches, "The Celebration of the Life and Times of Bill Simpson" and "Bill's Table," were originally delivered after the occasion of Bill Simpson's burial at Arlington National Cemetery by Mr. Bill Simpson III and David Lambert, respectively. I ask consent the speeches be printed in the RECORD.

The material follows:

### THE CELEBRATION OF THE LIFE AND TIMES OF BILL SIMPSON

Thank you for being here today. Our family takes great comfort in your support and kindness through these trying times. We are eternally grateful.

Today, I would like to acknowledge the Veteran's Medical Center in Washington, DC. The staff in this great hospice and nursing home provided excellent care to my father, while preserving his dignity in the last days of his life. The patient care staff are angels on earth. They are truly engaged in a labor of love, and that means so much to families who have loved ones under their care.

I must also acknowledge the most supportive, faithful and loyal person in our father's life. Our mother, Evelyn, never wavered, not even for a single day.

In honor of my father, the Simpson family has established "The William Simpson Veteran's Assistance Account" to provide some needed purchases to enhance the lives of those old warriors in their last days on this earth. Donations are appreciated, not only by my family, but also by the veterans and their families.

We have also begun to compile some of my father's favorite stories. We have catalogued hundreds of his speeches that were written while serving with the late former Governor Paul B. Johnson of Mississippi, the late Senator James Eastland, former President Jimmy Carter and others when he returned to the private sector. My father loved the power and influence of language and words and it is reflected in his writings and stories.

If you have a story from my father's life that you would like to share—or one that we haven't heard—and there are millions, please send them to us. We want to share these stories with his friends and family.

This event is being held here at the "116 Club," which is appropriate for many reasons. A celebration of the life and times of William Simpson would be incomplete without the 116 Club. This place was his home away from home. It was where he was comfortable. Here he was surrounded by people he truly loved. The people in this room carried him throughout his life. He loved this place. Here were people he truly admired—always sharing good stories and, of course, good food! Once again, we are grateful for your presence here today. It is such a moving testament to my father and we thank you.

My father was my closest and most faithful friend. My sister Ellen and I were extremely fortunate, in these times when people thirst for a hero and role model, we didn't have to look very far. We just looked to my father. He was a great father, not only to my sister and me, but as a leader and mentor for so many people—many who are here today.

My father was one of the most genuinely modest people that I have ever known. He never stood above people. He never forgot where he came from, and he never forgot or lost sight of his mission to serve—to serve others unselfishly. From his early days in the family seafood factory in Gulfport, Mississippi, he rose to work for the President of the United States, but he never lost his touch with his common roots.

My father was a faithful and loyal husband for over 56 years to our mother, Evelyn. Faithful and loyal are words used most to describe him. It is fitting that he was laid to rest in the hallowed ground at Arlington National Cemetery, surrounded by veterans who have faithfully served this country. Our father took the oath of service to the United States of America to heart—it set the course for the rest of his life. Being "faithful and loyal" were not mere commodities to be used when it was popular, and then to be cast aside or compromised when it became a burden. These ideals were at the core of the fabric that represented the character of our father. He was "faithful and loyal" all his life—when he wore his uniform, when he served Governor Johnson, Senator Eastland, President Carter and his beloved home state of Mississippi and most importantly his family and friends.

He would tell me a story many times over in my life and he would say, "Bill, some of our friends die, and I wish we could do something about it, but we can't, that's life, but what we can control in this life is how you treat your friends. You never quit your friends, even if they lose an election, or are in trouble, or are in need. That's when you need to be there."

For many of us here, he was our Atticus Finch, our backstop, always there with support and counsel, never having to look over your shoulder, because you knew he was there. My father was a man of character and courage. A great author once said "courage is grace under pressure." If that is the case, this man was filed with grace.

In the tough times in Mississippi during the Civil Rights Era, my father provided sound, courageous leadership. I know that he prevented bloodshed across the state. He was color-blind when it wasn't popular to be so. I attribute this to his strong faith and love for humanity.

Money, fame and power meant nothing to him. He understood the proper use of power to help people, not for self-interest, but as a tool for service; especially for the under-represented. He would captivate crowds with his words and passion. He was gracious, kind, and gentle. He always kept a low profile, while maintaining unshakeable integrity. He was in every sense an American treasure.

As Senator Kennedy stated last week on the floor of the Senate, "Seeing him so often reminded me of those happy times when the Senate was full of friendships and goodwill in spite of huge disagreements on the issues. I know the beautiful memories of his long and productive life will last forever."

We also received a note form Hiram Eastland who told his story better than I can—"What a wonderful life and wealth of friends he had. He deeply touched and brought joy and inspiration to the lives of many people . . . a legendary bedrock character with spirit and good humor . . . keen on Mississippi and Washington insight and stories that will live on in our memories. No man ever loved his family or his state or country more, and no man ever understood, enjoyed, or knew better how to engage and practice the art of politics for the public good than Bill Simpson".

As we say goodbye to this fine and decent man, let us take comfort in his accomplishments and most importantly remember the impact he had on our lives.

In closing, I would like to use one of my father's favorite quotes that I think really defined his character—

The thoughts of others were light and fleeting.
Of lover's meeting or luck or fame.
Mine were of trouble and mine were steady.
So I was ready when trouble came.

My Father was ready.

Thank you.

Bill Simpson, III, January 12, 2004.

### BILL'S TABLE

When we gathered at Bill's table we knew from that twinkle and grin that we were wrapped warm in his welcome. We knew that friendship mattered most, and that our politics could be checked at the door. We knew our day was about to get better because we were going to spend an hour with someone very special. We all knew we were about to be enriched—kindred spirits listening and laughing and learning with Bill.

Yes, we listened, we laughed, and we learned. He told us of Governors and sheriffs, of gamblers and rebels, of saints and scoundrels, of Committee Chairmen and of Chairman's Representatives. We heard about politics and politicians and public servants. We learned about Bay of St. Louis and Gulfport and Pass Christian, and, oh, yes, about the wrath of the terrible Camille; he talked of the Mighty River—its mischief and its majesty. Bill shared stories of his Pacific comrades—heroes who saved the world in an Ocean half a world away; of the Chepachet and her amphibious campaigns; of battles and of brave men.

He spoke with quiet admiration of those who defined who he was—his family most of all, but also of a Governor named Johnson, of a Senator named Eastland, and of a President named Carter. We heard about the Old South and the New South—this Son of Mississippi had a big hand in both. He talked of striving to build bridges, of civil rights; of justice and of the Department of Justice; of compassion and of reconciliation; of understanding and of progress.

But those were all words, and the essence of Bill was not what he said, but who he was. Much more important than his words were what we learned from Bill—and in the spirit of his own lively metaphors the images of his life lessons for us will keep coming back.

We learned from Bill that character could be as strong and deep-rooted as his State's live oaks, and that friendships should be as durable and as sweet as an aged bourbon. We learned that trust should be as strong as the Great River levees his generation helped build, and that the embrace of a friend could be as warm as a Delta summer.

We learned that loyalty could be as fierce as a Gulf storm, and personal presence as gentle as a family prayer. My own prayer now is that my sons will always have a Bill Simpson in their lives.

We thought Bill always would be at his table. Well, take heart. He is still there, and he will be, next month—and next year. There will be no new stories—only those we know by heart—at least 116 of them. And in time they will become richer—as will we—because we had a place at Bill's table.

David Lambert, January 12, 2004●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Minority Leader appoints Willie L. Brown, Jr., of San Francisco, California, to the Election Assistance Commission Board of Advisors. Mr. Brown is appointed for a 2-year term.

The message also announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (Public Law 106–398), the Minority Leader reappoints Ms. Carolyn Bartholomew of the District of Columbia, for a 2-year term that expires December 31, 2005, to the United States-China Review Commission.

The message further announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), the order of the House of December 8, 2003, and upon the recommendation of the Minority Leader, the Speaker appoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Mr. Robert Shireman of Oakland, California.

## ENROLLED BILL SIGNED

At 3:50 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2673. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5804. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–80E142 and 80E1A4 Turbofan Engines; Doc. No. 2003–NE–26" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5805. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34–8C1 Series and CF34 8C5 Series Turbofan Engines; Doc. No. 2003–NE–58" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5806. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Anjoy Aeronautique Safety Belts and Restraint Systems; Doc. No. 2003–CE–31" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5807. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes; Doc. No. 2000–NM–422" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5808. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D–3A, 7, 7A, 7F, 7H, 7AH, and 7J Turbofan Engines; Doc. No. 2003–NE–52" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5809. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas MD 90 30 Airplanes; Doc. No. 2002–NM–103" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5810. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes; Doc. No. 2003–CE–28" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5811. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Augusta SpA Model A109E Helicopters; Doc. No. 2003–SW–36" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5812. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Titeflex Corporations; Correction; Doc. No. 2002–NE–22" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5813. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes Equipped With Certain Litton Air Data Inertial Reference Units; Doc. No. 2002–NM–92" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5814. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4–600 Series Airplanes, Model A300 B4 600R Series Airplanes, Model A300 C4 605R Variant Airplanes; Doc. No. 2002–NE–40" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5815. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW 4074, PW4074D, PW4077, PW4977, PW4977D, PW4084, PW4084D, PW4090, PW4090D, PW4090–e, and PW 4098 Turbofan Engines; Doc. No. 2003–NE–40" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5816. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes; Doc. No. 2002–NM–125" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5817. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319–113, and –114 Series Airplanes; Doc. No. 2002–N–61" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5818. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200C, 200F, 300, 400, 747SR, and 747SP Series Airplanes; Doc. No. 2001–NM–180" (RIN2120–AA64) received on January 20, 2004 ; to the Committee on Commerce, Science, and Transportation.

EC–5819. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes; Doc. No. 2003–NM–243" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5820. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 900 EX and Mystere-Falcon 900 Series Airplanes; Doc. No. 2001–N–269" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5821. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 10 10, 10 10F, 10 15, 10 30, 10 30F, 10 40, and 10 40F Airplanes; Doc. No. 2002–NM–08" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5822. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F Airplanes; Doc. No. 2001–NM–163" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5823. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90 30 Airplanes; Doc. No. 2003–NM–169" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5824. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 400, 401, and 402 Airplanes; Doc. No. 2002–NM–78" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5825. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 202, 301, 311, and 315 Airplanes; Doc. No. 2001–N–266" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5826. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 777–300 Series Airplanes; Doc. No. 2001–NM–295" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5827. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4 622R and A300 F4 622R Airplanes, and Model A310 324 and 325 Series Airplanes; Doc. No. 2000–NM–137" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5828. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319 and A320 Series Airplanes Equipped with Elevator and Aileron Computer; Doc. No. 2002–NM–57" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5829. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D 7R4 Series Turbofan Engines; Doc. No. 2003–NE–01" (RIN2120–AA64) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5830. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures: Miscellaneous Amendments (59) Amendments No. 3086" (RIN2120–AA65) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5831. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chicago, IL; Doc. No. 03–AGL–11" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5832. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Wilmington, Clinton Field, OH; Doc. No. 03–AGL–13" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5833. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Canby, MN Doc. No. 03–AGL–15" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5834. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Zanesville, OH Doc. No. 03–AGL–14" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5835. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Honesdale, PA Doc. No. 03–AEA–15" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5836. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Doc. No. 03–AEA–12" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5837. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Erie, PA Doc. No. 03–AEA–13" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5838. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Hilton Head Island, SC Doc. No. 03-ASO-18" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5839. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Johnson, KS Doc. No. 03-ACE-77" (RIN2120-AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5840. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; and Modification of Class E Airspace; Topeka, Phillip Billiard Municipal Airport, KS Doc. No. 03-ACE-75" (RIN2120-AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5841. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Doc. No. 03-ACE-76" (RIN2120-AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5842. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sidney, NE Doc. No. 03–ACE–78" (RIN2120–AA66) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5843. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Service Difficulty Report; Delay of Effective Date; Doc. No. FAA-2000-7952" (RIN2120-AI13) received on January 20, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5844. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Carrollton, Gurley, Meridianville, and Tuscumbia, AL)" (MB Doc. No. 02-114) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5845. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Silverton and Memphis, TX; Leedey, OK)" (MB Doc. Nos. 03–72, 73, 75) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5846. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alpine and Presidio, TX)" (MB Doc. No. 02-239) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5847. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hartington, NB)" (MB Doc. No. 02-121) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5848. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Centerville, TX)" (MB Doc. No. 02-128) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5849. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Salina, UT)" (MB Doc. No. 02-166) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5850. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Carrizozo, NM)" (MB Doc. No. 03–69) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5851. A communication from the Senior Legal Adviser, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Reexamination of the Comparative Standard for Noncommercial Educational Applicants" (MM Doc. No. 95–31) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5852. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Validation of Merchant Mariner's Vital Information and Issuance of Coast Guard Merchant Mariner's Documents" (RIN1625–AA81) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5853. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CDG08–03–048], Mississippi River, Dubuque Iowa" (RIN1625-AA09) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5854. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge REgulations (Including 3 Regulations): [CGD08-02-035], [CGD07–03–141], [CGD07–03–094]" (RIN1625-AA09) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5855. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [CGD09-03-289], Renaissance Center, Cobo Hall, North American International Auto Show, Detroit River, Detroit MI" (RIN1625-AA00) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5856. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Deepwater Ports [USCG-1998-3884]" (RIN1625-AA20) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5857. A communication from the Senior Attorney, Research and Special Programs Administration, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Compatibility with the Regulations of the International Atomic Energy Agency" (RIN2137–AD40) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5858. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Mandatory Electronic Filing of Exports (Re-Exports) of Rough Diamonds Through the Automated Export System" (RIN0607–AA39) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-5859. A communication from the Trial Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Computer Reservations System Regulations Comprehensive Review" (RIN2105–AC65) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5860. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Hazardous Liquid Pipeline Operator Annual Reports" (RIN2137–AD59) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5861. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, the Board's appeal letter to the Office of Management and Banking regarding the initial determination of our Fiscal Year 2005 Budget Request; to the Committee on Commerce, Science, and Transportation.

EC-5862. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's new Strategic Plan; to the Committee on Commerce, Science, and Transportation.

EC–5863. A communication from the Chairman, Office of Proceedings, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Public Participation in Railroad Abandonment Proceedings" (STB Ex Parte No. 537) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5864. A communication from the Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Ensuring Compatibility of Enhanced 911 Emergency Calling Systems; Non-Initialized Phones" (CC Doc. No. 94–102) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5865. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41-5 GHz and 48.2-

50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5–42.5 GHz Frequency Band; Allocation of Spectrum in the 46.9–47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0–38.0 GHz and 40.0–40.5 GHz for Government" (FCC03–296) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5866. A communication from the Deputy Division Chief, Competition Policy Division, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions of the Commission's Rules to Ensure Compatibility With Enhanced 911 Calling Systems" (FCC03–290) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5867. A communication from the Deputy Division Chief, Wireline Telecommunications Branch, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Service Rules for Advanced Wireless Service in the 1.7 GHz and 2.1 GHz Bands" (FCC03–251) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5868. A communication from the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Household Products Containing Hydrocarbons; Final Rules" (RIN3401–AB57) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5869. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Recision and Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area" received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5870. A communication from the Deputy Assistant Administrator, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "International Fisheries; Pacific Tuna Fisheries; Final Rule; 2003 Management Measures for Tuna Purse Seine Fisheries in the Eastern Pacific Ocean" (RIN0648–AQ93) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5871. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area" received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5872. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibition of Directed Fishing by Vessels Using Trawl Gear in the Gulf of Alaska" received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5873. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment" (FCC03–329) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5874. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Schools and Libraries Universal Service Support Mechanism" (FCC03–323) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5875. A communication from the Deputy Director, Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the Bureau's Transportation Statistics Report; to the Committee on Commerce, Science, and Transportation.

EC–5876. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of General Counsel, Department of Transportation, received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5877. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Aviation and International Affairs, Department of Transportation, received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5878. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a designation of acting officer and nomination confirmed for the position of Deputy Secretary, Department of Transportation, received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–5879. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Regulated Areas" (Doc#03–047–1) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5880. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Golden Nermatode; Regulated Areas" (Doc#03–082–1) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5881. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Additions to Quarantined Areas" (Doc#03–102–1) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5882. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Artificially Dwarfed Plants in Growing Media from the People's Republic of China" (Doc#03–103–5) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5883. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Eucalyptus Logs, Lumber, and Wood Chips from South America" (Doc#03–097–2) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5884. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Designation of Quarantined Area" (Doc#03–096–2) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5885. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tomatoes Grown in Florida: Increased Assessment Rate" (FV03–966–1) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5886. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Soybean Promotion and Research Rules and Regulations" (Doc#LS–02–14) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5887. A communication from the Administrator, Agricultural Marketing Service., Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Revision of Fees for the Fresh Fruit and Vegetable Terminal Market Inspection Service" (RIN0581–AB63) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5888. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Removal of Cottonseed Chemist Licensing Program, Updating of Commodity Laboratory and Office Addresses, and Adoption of Information Symbols" (7 CFR Parts 91 and 96) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5889. A communication from the Acting Staff Director, Office of Regulatory and Management Services, Forest Service, transmitting, pursuant to law, the report of a rule entitled "Sale of Disposal of National Forest System Timber; Extension of Timber Sale Contracts to Facilitate Urgent Timber Removal From Other Lands" (RIN0596–AB48) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5890. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extensions of Tolerances for Emergency Exemptions Multiple" (FRL#7339–8) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5891. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, transmitting, pursuant to law, the report of a rule entitled "Fees for Processed Commodity Analytical Services" (RIN0580–AA84) received on January 13, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5892. A communication from the Administrator, Rural Business Cooperative Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Debt Collection Improvement Act—Treasury Offset and Cross Servicing" (RIN0570–AA52) received on January 20, 2004;

to the Committee on Agriculture, Nutrition, and Forestry.

EC–5893. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Unique Identification and Valuation" (DFARS Case 2003–D081) received on January 13, 2004; to the Committee on Armed Services.

EC–5894. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to expenditure of funds for planning, design, and construction of a chemical weapons destruction facility in the Russian Federation; to the Committee on Armed Services.

EC–5895. A communication from the Deputy Secretary of Defense, Department of Defense, transmitting, the Department's Fiscal Year 2003 Performance and Accountability Report; to the Committee on Armed Services.

EC–5896. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 57825" (44 CFR Part 67) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5897. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–5898. A communication from the Assistant to the Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, transmitting, pursuant to law, the report of a rule entitled "Home Mortgage Disclosure Act" (Doc. No. 1178) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5899. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility; 68 FR 67051" (FEMA Doc. 7821) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5900. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 68 FR 67052" (FEMA Doc. D–7547) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5901. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 68 FR 67056" (44 CFR Part 67) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5902. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report relative to the benefits of fee reductions effected as a result of the Investor and Capital Fee Relief Act of 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–5903. A communication from the President of the United States, transmitting, pursuant to law, a report relative to an Executive Order issued on January 15, 2004 that terminates the national emergency with respect to Sierra Leone that was declared in Executive Order 13213 of May 22, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–5904. A communication from the Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Government-wide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)" (RIN2501–AC81) received on January 13, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5905. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Administration's "Short-Term Energy Outlook" for October 2003; to the Committee on Energy and Natural Resources.

EC–5906. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft bill to adjust the boundary of John Muir National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

EC–5907. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "North Dakota Regulatory Program" (ND–047–FOR) received on January 13, 2004; to the Committee on Energy and Natural Resources.

EC–5908. A communication from the Administrator, Energy Information Administration, transmitting, pursuant to law, the Energy Information Administration's Annual Energy Review 2002; to the Committee on Energy and Natural Resources.

EC–5909. A communication from the Secretary of the Interior, transmitting, pursuant to law, a copy of the Final Engineering Report and Water Conservation Plan for the Lewis and Clark Rural Water System; to the Committee on Energy and Natural Resources.

EC–5910. A communication from the Secretary of Energy, transmitting, pursuant to law, two reports relative to clean coal technology programs; to the Committee on Energy and Natural Resources.

## DISCHARGED NOMINATION

The Senate Committee on Governmental Affairs was discharged from further consideration of the following nomination and the nomination was returned to the President:

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for a term expiring December 8, 2010.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself and Mr. Fitzgerald):

S. 2016. A bill to provide for infant crib safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM:

S. 2017. A bill to designate the United States courthouse and post office building located at 93 Atocha Street in Ponce, Puerto Rico, and the "Luis A. Ferre United States Courthouse and Post Office Building"; to the Committee on Governmental Affairs.

By Mr. BUNNING:

S. 2018. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself and Mr. Lott):

S. 2019. A bill to amend the Internal Revenue Code of 1986 to restore equity and complete the transfer of motor fuel excise taxes attributable to motorboat and small engine fuels into the Aquatic Resources Trust Fund, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. Corzine, Mrs. Murray, Mr. Lautenberg, Mrs. Clinton, Ms. Cantwell, Mr. Jeffords, Mr. Lieberman, Mrs. Feinstein, Mr. Sarbanes, and Ms. Mikulski):

S. 2020. A bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Ms. Mikulski, Mrs. Boxer, Ms. Stabenow, Mr. Schumer, Mr. Sarbanes, Mr. Lautenberg, and Mr. Durbin):

Mrs. CLINTON. Mr. president, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2021. A bill to provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURBIN (for himself and Mr. Fitzgerald) (by request):

S. 2022. A bill to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building"; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mr. Lautenberg):

S. 2023. A bill to limit Department of Defense contracting with firms under investigation by the Inspector General of the Department of Defense; to the Committee on Armed Services.

## ADDITIONAL COSPONSORS

### S. 517

At the request of Mr. Schumer, his name was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

### S. 846

At the request of Mrs. Lincoln, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1304

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1304, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 1508

At the request of Mr. HAGEL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1508, a bill to address regulation of secondary mortage market enterprises, and for other purposes.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1588

At the request of Ms. LANDRIEU, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1588, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1595

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1647

At the request of Mr. CAMPBELL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1647, a bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for medicare beneficiaries, and for other purposes.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1807

At the request of Mr. MCCAIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1807, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes.

S. 1930

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1930, a bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes.

S. 1948

At the request of Mr. REID, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 1968

At the request of Mr. ENZI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1968, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

S. 2007

At the request of Mr. DURBIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2007, a bill to provide better protection against bovine spongiform encephalopathy and other prion diseases.

S. CON. RES. 80

At the request of Mr. COLEMAN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Con. Res. 80, a concurrent resolution urging Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, and for other purposes.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada (Mr. REID) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. FITZGERALD):

S. 2016. A bill to provide for infant crib safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise along with Senator FITZGERALD to reintroduce the Infant Crib Safety Act. This legislation is designed to reduce injuries and deaths that come from infant crib accidents.

Earch year, about 11,500 children ages 2 and under are injured in cribs seriously enough to require hospital treatment. Approximately, 26 children die a year from such injuries, the highest number of deaths caused by nursery-related products.

In fact, according to the Consumer Product Safety Commission, cribs cause more deaths than all other nursery items combined.

While strict guidelines exist on the manufacture of and sale of new cribs, there are millions of cribs sold throughout the U.S. in "secondary markets" such as thrift stores and resale furniture stores.

As many as half of the 4 million infants born in this country each year are placed in second hand cribs. Many of these used cribs are unsafe and should be taken off the market and either repaired or destroyed.

These used cribs can have dangerous features such as protruding corner post extensions, missing or broken parts, excessive slat width, poor fitting crib sheets, inadequate mattress supports, latches that do not prevent unintentional collapse of the crib. Cribs built before 1978 have a higher lead content than current regulations allow.

Let me give you some of the real life examples of the tragedies caused by unsafe cribs.

At the age of 23 months, Danny Lineweaver was injured during an attempt to climb out of his crib. Danny caught his shirt on a decorative knob on the cornerpost of his crib and hanged himself. Though his mother was able to perform CPR the moment she found him, Danny lived in a semicomatose state for 9 years and died in 1993.

In another case, Luke Torgerson, a 13-month-old infant, died due to an unsafe crib at this daycare facility in Minnesota.

Parents should have confidence that a crib is a safe place to leave an infant. The design and construction of a baby crib must ensure that it is safe to leave an infant while sleeping.

Since cribs are the only juvenile product manufactured expressly for leaving a child unattended, every necessary measure should be taken to ensure that the crib is the safest possible environment.

The Infant Crib Safety Act keeps unsafe secondhand or hand-me-down cribs out of the stream of commerce by prohibiting their sale, resale, lease, and use in lodging facilities or day care centers.

This bill does not apply to individuals who provide cribs to their friends, or to any type of individual sale of a crib such as at a garage sale. The bill focuses on commercial users. And currently, controls over cribs provided by transient public lodging establishments or sold at thrift stores are nonexistent.

Studies have shown that hotels and motels continue to use unsafe cribs and thrift stores continue to sell them. In the year 2000, the National Safe Kids Campaign did an investigation of cribs used by hotels and motels. Spot checks by the Campaign identified unsafe cribs in 80 percent of the cribs visited.

A year earlier, the Consumer Product Safety Commission found that 12 percent of the cribs sold in a survey of thrift stores did not meet existing voluntary industry or Federal safety standards for new cribs.

Comparable legislation has already been adopted by a number of States. Eleven States including Arizona, Arkansas, California, Colorado, Illinois, Louisiana, Michigan, Oregon, Pennsylvania, Vermont, and Washington have already passed legislation prohibiting the sale of cribs that do not meet current safety standards.

There is no good reason why cribs in all 50 States should not meet these reasonable safety standards.

The legislation is supported by the Consumer Federation of America and the Danny Foundation.

I look forward to working with my Senate colleagues to turn this common-sense legislation into law.

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By Mr. SANTORUM:

S. 2017. A bill to designate the United States courthouse and post office building located at 93 Atocha Street in Ponce, Puerto Rico, and the "Luis A. Ferré United States Courthouse and Post Office Building"; to the Committee on Governmental Affairs.

Mr. SANTORUM. Mr. President, I rise today to introduce a bill to designate the United States courthouse and post office building at 93 Atocha Street in Ponce, Puerto Rico as the "Luis A. Ferré Courthouse and Post Office Building." This legislation is meant to honor the distinguished life and career of Mr. Luis A. Ferré, a dedicated statesman and humanitarian of Puerto Rico.

Luis A. Ferré was born in 1904 in Ponce, Puerto Rico. During his remarkable career, Mr. Ferré was a member of the Constitutional Convention of Puerto Rico in 1951, a member of the House of Representatives of Puerto Rico from 1953–1956, Governor of Puerto Rico from 1969–1972, as well as the President of the Senate of Puerto Rico from 1977–1980. Perhaps most remarkable, however, was his commitment to humanitarian and philanthropic activities, which included the founding of the Ponce Public Library and the Ponce Museum of Art.

In addition to serving the people of Puerto Rico, this building will stand as a reminder of the dedicated service Luis A. Ferré provided to all Puerto Ricans.

I am hopeful that my colleagues will join me in supporting this bill and that it will be enacted in the near future.

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By Mr. BUNNING:

S. 2018. A bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2018

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lewis and Clark National Historic Trail Extension Act of 2004".

**SEC. 2. EXTENSION OF LEWIS AND CLARK NATIONAL HISTORIC TRAIL.**

Section 5(a)(6) of the National Trails System Act (16 U.S.C. 1244(a)(6)) is amended—

(1) in the first sentence, by striking "The" and inserting "(A) The"; and

(2) by adding the following new subparagraph:

"(B) In addition to the route designated in subparagraph (A), the trail shall be extended to include the route followed by Meriwether Lewis and William Clark, whether independently or together, in the preparation phase of the expedition starting at Monticello, located near Charlottesville, Virginia, and traveling to Wood River, Illinois, and in the return phase of the expedition from Saint Louis, Missouri, to Washington, DC. The extended route shall include designated Lewis and Clark sites in Virginia, the District of Columbia, Maryland, Delaware, Pennsylvania, West Virginia, Ohio, Kentucky, Tennessee, Indiana, and Illinois. The Secretary shall complete a suitability and feasibility study to include the extended route within three years from the date funds are first made available for that purpose.".

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By Mrs. BOXER (for herself, Mr. CORZINE, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. CLINTON, Ms. CANTWELL, Mr. JEFFORDS, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. SARBANES, and Ms. MIKULSKI):

S. 2020. A bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, today, I am proud to introduce the Freedom of Choice Act.

Thirty-one years ago, the Supreme Court handed down its decision in Roe v. Wade. It was a monumental day for women because for the first time, a woman's right to choose whether or not to continue a pregnancy was protected under the constitutional right to privacy. Roe v. Wade has kept women from being forced to continue pregnancies that could endanger their health or render them infertile. And for the past 31 years, countless lives have been saved by getting women out of back alleys and into safe, clean and legally protected facilities. That is why I have been fighting throughout my adult life to protect the right to choose.

However, women's reproductive rights are rapidly eroding. And anti-choice advocates make no secret that their ultimate goal is to overturn Roe v. Wade. With just a one-vote margin protecting Roe in the Supreme Court, we cannot afford to take these fundamental rights for granted. The threats we face to our right to choose are real and dangerous.

That is why I am introducing new Federal legislation that will protect a woman's right to choose. The Freedom of Choice Act of 2004 would establish a statutory right to choose within the same parameters articulated by the Supreme Court in Roe v. Wade. Under the bill, women would have the absolute right to choose whether to continue or terminate their pregnancies before fetal viability. The bill also supersedes any law, regulation or local ordinance that impinges on a woman's right to choose and prohibits federal and state governments from discriminating against women, who exercise their right to choose.

That means a poor woman cannot be denied the use of Medicaid if she chooses to have an abortion. That means that abortions cannot be prohibited at public hospitals, thus giving women more options. That means that we respect a woman's ability to make her own decision and don't force women to attend anti-choice propaganda lectures, which submit women to misleading information, the purpose of which is to discourage abortion. That means that women serving our country in the military overseas would be able to afford safe abortions that can be performed in a military hospital.

We need to take steps to secure our right to choose. Anti-choice is anti-woman and anti-equality, and it demonstrates a lack of respect for the intelligence and compassion that women possess.

I thank the 10 cosponsors of this legislation—Senators LAUTENBERG, CORZINE, MURRAY, CLINTON, JEFFORDS, LIEBERMAN, CANTWELL, FEINSTEIN, SARBANES AND MIKULSKI—and I encourage all my colleagues to join this effort to write Roe v. Wade into Federal law.

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By Mrs. CLINTON (for herself, Ms. MIKULSKI, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. SARBANES, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2021. A bill to provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes; to the Committee on Governmental Affairs.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2021

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Domestic Defense Fund Act of 2004".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Grants to States, units of general local government, and Indian tribes; authorizations.
Sec. 5. Statement of activities and review.
Sec. 6. Activities eligible for assistance.
Sec. 7. Allocation and distribution of funds.
Sec. 8. State and regional planning and communication systems.
Sec. 9. High-threat, high-density urban areas.
Sec. 10. Flexible emergency assistance fund.
Sec. 11. Federal preparedness, equipment, and training standards.
Sec. 12. Nondiscrimination in programs and activities.
Sec. 13. Remedies for noncompliance with requirements.
Sec. 14. Reporting requirements.
Sec. 15. Consultation by Attorney General.
Sec. 16. Interstate agreements or compacts; purposes.
Sec. 17. Matching requirements; suspension of requirements for economically distressed areas.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Since the September 11, 2001, terrorist attacks on our country, communities all across America have been on the front lines in the war against terrorism on United States soil.

(2) Since September 11, 2001, communities have been forced to bear a significant portion of the burden that goes along with the war against terrorism, a burden that local governments should not have to bear alone.

(3) Our homeland defense will only be as strong as the weakest link at the State and local level. By providing our communities with the resources and tools they need to bolster emergency response efforts and provide for other emergency response initiatives, we will have a better-prepared home front and a stronger America.

**SEC. 3. DEFINITIONS.**

(a) DEFINITIONS.—As used in this Act, the following definitions shall apply:

(1) CITY.—The term "city" means—

(A) any unit of general local government that is classified as a municipality by the United States Bureau of the Census; or

(B) any other unit of general local government that is a town or township and which, in the determination of the Secretary—

(i) possesses powers and performs functions comparable to those associated with municipalities;

(ii) is closely settled; and

(iii) does not contain within its boundaries any incorporated place, as defined by the United States Bureau of the Census, that has not entered into cooperation agreements with such town or township to undertake or to assist in the performance of homeland security objectives.

(2) FEDERAL GRANT-IN-AID PROGRAM.—The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this Act.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) METROPOLITAN AREA.—The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(5) METROPOLITAN CITY.—

(A) IN GENERAL.—The term "metropolitan city" means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of not less than 50,000.

(B) PERIOD OF CLASSIFICATION.—Any city that was classified as a metropolitan city for at least 2 years pursuant to subparagraph (A) shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this Act, if it elects to have its population included in an urban county under subsection (d).

(C) ELECTION BY A CITY.—Notwithstanding subparagraph (B), a city may elect not to retain its classification as a metropolitan city. Any unit of general local government that was classified as a metropolitan city in any year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this Act if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 5(e) as an urban county.

(6) NONQUALIFYING COMMUNITY.—The term "nonqualifying community" means an area that is not a metropolitan city or part of an urban county and does not include Indian tribes.

(7) POPULATION.—The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period of time.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Department of Homeland Security.

(9) STATE.—The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(10) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; a combination of such political subdivisions is recognized by the Secretary; and the District of Columbia.

(11) URBAN COUNTY.—The term "urban county" means any county within a metropolitan area.

(b) BASIS AND MODIFICATION OF DEFINITIONS.—

(1) BASIS.—Where appropriate, the definitions listed in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available 90 days before the beginning of such fiscal year.

(2) MODIFICATION.—The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) DESIGNATION OF PUBLIC AGENCIES.—The chief executive officer of a State or a unit of general local government may designate 1 or more public agencies, including existing local public agencies, to undertake activities assisted under this Act.

(d) INCLUSION OF LOCAL GOVERNMENTS IN URBAN COUNTY POPULATION.—With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 2004 under section 4, the population of any unit of general local government which is included in that of an urban county shall be included in the population of such urban county for 3 program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant as a separate entity, unless the urban county does not receive a grant for any year during such 3-year period.

(e) EXCLUSION OF LOCAL GOVERNMENTS FROM URBAN COUNTY POPULATION.—

(1) NOTIFICATION BY URBAN COUNTY.—Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify each unit of general local government, located within its geographical boundaries and eligible to elect to have its population excluded from that of the urban county, of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought.

(2) FAILURE OF LOCAL GOVERNMENT TO ELECT TO BE EXCLUDED.—The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided under subsection (d).

### SEC. 4. GRANTS TO STATES, UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES; AUTHORIZATIONS.

(a) AUTHORIZATION.—The Secretary may award grants to States, units of general local government, and Indian tribes to carry out activities in accordance with this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out section 7—

(A) $4,000,000,000 for each of the fiscal years 2005 through 2008; and

(B) such sums as may be necessary for fiscal year 2009 and each fiscal year thereafter.

(2) STATE, REGIONAL, AND LOCAL PLANNING, TRAINING, AND COMMUNICATION SYSTEMS.—There are authorized to be appropriated to carry out section 8—

(A) $1,000,000,000 for each of the fiscal years 2005 through 2008; and

(B) such sums as may be necessary for fiscal year 2009 and each fiscal year thereafter.

(3) HIGH-THREAT, HIGH-DENSITY URBAN AREAS.—There are authorized to be appropriated to carry out section 9—

(A) $1,500,000,000 for each of the fiscal years 2005 through 2008; and

(B) such sums as may be necessary for fiscal year 2009 and each fiscal year thereafter.

(4) HOMELAND SECURITY FLEXIBLE EMERGENCY ASSISTANCE.—There are authorized to be appropriated to carry out section 10—

(A) $500,000,000 for each of the fiscal years 2005 through 2008; and

(B) such sums as may be necessary for fiscal year 2009 and each fiscal year thereafter.

(c) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of this section shall be used to supplement and not supplant full Federal funding for other first responder programs, including—

(1) the Community Oriented Policing Services Program, as authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.);

(2) the Local Law Enforcement Block Grant Program, as authorized under the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) and described in H.R. 728, as passed by the House of Representatives on February 14, 1995;

(3) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, as authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.); and

(4) the Assistance to Firefighters Grant Program, as authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

### SEC. 5. STATEMENT OF ACTIVITIES AND REVIEW.

(a) APPLICATION.—

(1) IN GENERAL.—A State, metropolitan city, urban county, or unit of general local government desiring a grant under subsection (b) or (i) of section 7 shall submit an application to the Secretary that contains—

(A) a statement of homeland security objectives and projected use of grant funds; and

(B) the certifications required under paragraph (2) and, if appropriate, subsection (b).

(2) GRANTEE STATEMENT.—

(A) CONTENTS.—

(i) LOCAL GOVERNMENT.—In the case of metropolitan cities or urban counties receiving grants under section 7(b) and units of general local government receiving grants under section 7(i)(3), the statement of projected use of funds shall consist of proposed homeland security activities.

(ii) STATES.—In the case of States receiving grants under section 7, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(B) CONSULTATION.—In preparing the statement required under this subsection, the grantee shall consult with appropriate law enforcement agencies and emergency response authorities.

(C) FINAL STATEMENT.—A copy of the final statement and the certifications required under paragraph (3) and, where appropriate, subsection (b), shall be furnished to the Secretary and the Attorney General.

(D) MODIFICATIONS.—Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required under this paragraph for the preparation and submission of such statement.

(3) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—A grant under section 7 shall not be awarded unless the grantee certifies to the satisfaction of the Secretary that the grantee—

(A) has developed a homeland security plan that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objective and requirements of this Act; and

(B) will comply with the other provisions of this Act and with other applicable laws.

(b) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS, AND ADJUSTMENTS.—

(1) IN GENERAL.—Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of funds made available under section 7, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a)(2).

(2) UNIFORM REPORTING REQUIREMENTS.—

(A) RECOMMENDATIONS BY NATIONAL ASSOCIATIONS.—The Secretary shall encourage and assist national associations of grantees eligible under section 7, national associations of States, and national associations of units of general local government in nonqualifying areas to develop and recommend to the Secretary, not later than 1 year after the date of enactment of this Act, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively.

(B) ESTABLISHMENT OF UNIFORM REPORTING REQUIREMENTS.—Based on the Secretary's approval of the recommendations submitted pursuant to subparagraph (A), the Secretary shall establish uniform reporting requirements for grantees, States, and units of general local government.

(3) REVIEWS AND AUDITS.—Not less than annually, the Secretary shall make such reviews and audits as may be necessary or appropriate to determine—

(A) in the case of grants awarded under section 7(b), whether the grantee—

(i) has carried out its activities;

(ii) where applicable, has carried out its activities and its certifications in accordance with the requirements and the primary objectives of this Act and with other applicable laws; and

(iii) has a continuing capacity to carry out those activities in a timely manner; and

(B) in the case of grants to States made under section 7(i), whether the State—

(i) has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement;

(ii) has carried out its certifications in compliance with the requirements of this Act and other applicable laws; and

(iii) has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

(4) ADJUSTMENTS.—The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 7(i)(3), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in

accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this Act shall not be recaptured or deducted from future assistance to such units of general local government.

(c) AUDITS.—Insofar as they relate to funds provided under this Act, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(d) METROPOLITAN CITY AS PART OF URBAN COUNTY.—In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under subsection (a) and carrying out activities under this Act.

**SEC. 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

Activities assisted under this Act may include—

(1) funding additional law enforcement, fire, and emergency resources, including covering overtime expenses;

(2) purchasing and refurbishing personal protective equipment for fire, police, and emergency personnel and acquire state-of-the-art technology to improve communication and streamline efforts;

(3) improving cyber and infrastructure security by improving—

(A) security for water treatment plants, distribution systems, other water infrastructure, nuclear power plants, electrical grids, and other energy infrastructure;

(B) security for tunnels, bridges, locks, canals, railway systems, airports, land and water ports, and other transportation infrastructure;

(C) security for oil and gas pipelines and storage facilities;

(D) security for chemical plants and transportation of hazardous substances;

(E) security for agriculture infrastructure; and

(F) security for national icons and Federal facilities that may be terrorist targets;

(4) assisting local emergency planning committees so that local public agencies can design, review, and improve disaster response systems;

(5) assisting communities in coordinating their efforts and sharing information with all relevant agencies involved in responding to terrorist attacks;

(6) establishing timely notification systems that enable communities to communicate with each other when a threat emerges;

(7) improving communication systems to provide information to the public in a timely manner about the facts of any threat and the precautions the public should take; and

(8) devising a homeland security plan, including determining long-term goals and short-term objectives, evaluating the progress of the plan, and carrying out the management, coordination, and monitoring of activities necessary for effective planning implementation.

**SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.**

(a) SET-ASIDE FOR INDIAN TRIBES.—

(1) IN GENERAL.—The Secretary shall reserve 1 percent of the amount appropriated for each fiscal year for grants pursuant to section 4(b)(1) (excluding the amounts for activities described in section 6) for grants to Indian tribes.

(2) SELECTION OF INDIAN TRIBES.—

(A) IN GENERAL.—The Secretary shall distribute amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts.

(B) RULEMAKING.—The Secretary, after notice and public comment, shall promulgate regulations, which establish the criteria described in subparagraph (A).

(b) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) ALLOCATION PERCENTAGE.—Of the amount remaining after allocations have been made to Indian tribes under subsection (a), the Secretary shall, not later than 60 days after the date on which such funds are appropriated, allocate and directly transfer 70 percent to metropolitan cities and urban counties.

(2) ENTITLEMENT.—Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant, to the extent authorized beyond fiscal year 2008, from such allocation in an amount not to exceed its basic amount computed pursuant to subsections (c) and (d).

(c) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES.—

(1) VULNERABILITY AND THREAT FACTORS.—The Secretary shall calculate the amount to be allocated to each metropolitan city, which shall bear the same ratio to the allocation for all metropolitan cities as the weighted average of—

(A) the population (including tourist, military, and commuting populations) of the metropolitan city divided by the population of all metropolitan cities;

(B) the population density of the metropolitan city;

(C) the proximity of the metropolitan city to international borders;

(D) the vulnerability of the metropolitan city as it pertains to chemical security;

(E) the vulnerability of the metropolitan city as it pertains to nuclear security;

(F) the vulnerability of the metropolitan city as it pertains land and water port security;

(G) the vulnerability of the metropolitan city as it pertains to the security of energy infrastructure;

(H) the vulnerability of the metropolitan city as it pertains to the security of inland waterway infrastructure;

(I) the vulnerability of the metropolitan city as it pertains to the security of freight and passenger rail transportation infrastructure;

(J) the vulnerability of the metropolitan city as it pertains to the security of aviation infrastructure;

(K) the vulnerability of the metropolitan city as it pertains to the security of agriculture infrastructure;

(L) the proximity of the metropolitan city to the nearest national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security, and the proximity of all metropolitan cities to the nearest national icons and Federal buildings that may be a terrorist target, as determined by the Department of Homeland Security; and

(M) the threat to the metropolitan city based upon intelligence information from the Department of Homeland Security;

(2) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the weighted average of the ratios under paragraph (i)—

(i) the factor involving population shall constitute 38 percent;

(ii) the factor involving population density shall constitute 12 percent; and

(iii) the remaining factors shall be equally weighted.

(B) POPULATION DENSITY.—The metropolitan cities shall be ranked according to the density of their populations in calculating the weighted average of this factor. The population density ratio shall be 1 divided by the total number of metropolitan cities, not to exceed 100.

(C) PROXIMITY TO INTERNATIONAL BORDERS.—If a metropolitan city is located within 50 miles of an international border, the ratio under paragraph (1)(C) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of an international border.

(D) VULNERABILITY AS IT PERTAINS TO CHEMICAL SECURITY.—If a metropolitan city is within the vulnerable zone of a worst-case chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument development by the Environmental Protection Agency or the Department of Homeland Security that captures the same information for the same facilities), the ratio under paragraph (1)(D) shall be 1 divided by the total number of metropolitan cities that are within such a zone, not to exceed 100.

(E) VULNERABILITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a metropolitan city is located within 50 miles of an operating nuclear powerplant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(E) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of an operating nuclear powerplant.

(F) VULNERABILITY AS IT PERTAINS TO PORT SECURITY.—If a metropolitan city is located within 50 miles of—

(i) one of the 75 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Ports Report by All Land Modes; or

(ii) one of the 25 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics,

the ratio under paragraph (1)(F) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of a United States land or water port, not to exceed 100.

(G) VULNERABILITY AS IT PERTAINS TO ENERGY INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, non-nuclear power generating plants, compressors, and other significant components of critical energy infrastructure as identified by the Department of Energy or the Department of Homeland Security, the ratio under paragraph (1)(G) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical energy infrastructure, not to exceed 100.

(H) VULNERABILITY AS IT PERTAINS TO INLAND WATERWAY INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within

50 miles of, the most significant locks, canals, and other components of critical inland waterway system infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(H) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(I) VULNERABILITY AS IT PERTAINS TO RAIL TRANSPORTATION INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, the largest railroad hubs and other significant components of critical freight and passenger rail infrastructure, as identified by the Department of Transportation, the ratio under paragraph (1)(I) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(J) VULNERABILITY AS IT PERTAINS TO AVIATION INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, major passenger or cargo airports that are significant components of the Nation's air transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(J) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical aviation transportation infrastructure, not to exceed 100.

(K) VULNERABILITY AS IT PERTAINS TO AGRICULTURE INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, major feed yards, food processing facilities, and other significant components of the nation's agriculture infrastructure, as defined and determined by the Department of Agriculture and the Department of Homeland Security, the ratio under paragraph (1)(K) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical agriculture infrastructure, not to exceed 100.

(L) PROXIMITY TO NATIONAL ICONS AND FEDERAL BUILDINGS.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, national icons and Federal buildings that the Department of Homeland Security determines are most vulnerable with respect to a terrorist attack, the ratio under paragraph (1)(L) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of such icons or Federal buildings, not to exceed 100.

(M) INTELLIGENCE.—If a metropolitan city is among the 100 metropolitan cities that have been identified by the Department of Homeland Security as being special alert or heightened alert status for the longest periods of time, the ratio under paragraph (1)(M) shall be 1 divided by the total number of metropolitan cities that have been identified by the Department of Homeland Security, not to exceed 100.

(d) COMPUTATION OF AMOUNT ALLOCATED TO URBAN COUNTIES.—

(1) VULNERABILITY AND THREAT FACTORS.—The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(A) the population (including tourist, military, and commuting populations) of the urban county divided by the population of all urban counties;

(B) the population density of the urban county;

(C) the proximity of the urban county to international borders;

(D) the vulnerability of the urban county as it pertains to chemical security;

(E) the vulnerability of the urban county as it pertains to nuclear security;

(F) the vulnerability of the urban county as it pertains land and water port security;

(G) the vulnerability of the urban county as it pertains to the security of energy infrastructure;

(H) the vulnerability of the urban county as it pertains to the security of inland waterway infrastructure;

(I) the vulnerability of the urban county as it pertains to the security of freight and passenger rail transportation infrastructure;

(J) the vulnerability of the urban county as it pertains to the security of aviation infrastructure;

(K) the vulnerability of the urban county as it pertains to the security of agriculture infrastructure;

(L) the proximity of the urban county to the nearest national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security, and the proximity of all urban counties to the nearest national icons and Federal buildings that may be a terrorist target, as determined by the Department of Homeland Security; and

(M) the threat to the urban county based upon intelligence information from the Department of Homeland Security;

(2) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the weighted average of the ratios under paragraph (1)—

(i) the factor involving population shall constitute 38 percent;

(ii) the factor involving population density shall constitute 12 percent; and

(iii) the remaining factors shall be equally weighted.

(B) POPULATION DENSITY.—The population density ratio shall be 1 divided by the total number of urban counties, not to exceed 100. The urban counties shall be ranked according to the density of their populations in calculating the weighted average of this factor.

(C) PROXIMITY TO INTERNATIONAL BORDERS.—If an urban county is located within 50 miles of an international border, the ratio under paragraph (1)(C) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an international border.

(D) VULNERABILITY AS IT PERTAINS TO CHEMICAL SECURITY.—If an urban county is within the vulnerable zone of a worst-case chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument development by the Environmental Protection Agency or the Department of Homeland Security that captures the same information for the same facilities), the ratio under paragraph (1)(D) shall be 1 divided by the total number of urban counties that are within such a zone, not to exceed 100.

(E) VULNERABILITY AS IT PERTAINS TO NUCLEAR SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(E) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(F) VULNERABILITY AS IT PERTAINS TO PORT SECURITY.—If an urban county is located within 50 miles of—

(i) one of the 75 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Ports Report by All Land Modes; or

(ii) one of the 25 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics,

the ratio under paragraph (1)(F) shall be 1 divided by the total number of urban counties that are located within 50 miles of a United States land or water port, not to exceed 100.

(G) VULNERABILITY AS IT PERTAINS TO ENERGY INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, non-nuclear power generating plants, compressors, and other significant components of critical energy infrastructure as identified by the Department of Energy or the Department of Homeland Security, the ratio under paragraph (1)(G) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical energy infrastructure, not to exceed 100.

(H) VULNERABILITY AS IT PERTAINS TO INLAND WATERWAY INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, the most significant locks, canals, and other components of critical inland waterway system infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(H) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(I) VULNERABILITY AS IT PERTAINS TO RAIL TRANSPORTATION INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, the largest railroad hubs and other significant components of critical freight and passenger rail infrastructure, as identified by the Department of Transportation, the ratio under paragraph (1)(I) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(J) VULNERABILITY AS IT PERTAINS TO AVIATION INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, major passenger or cargo airports that are significant components of the Nation's air transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(J) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical aviation transportation infrastructure, not to exceed 100.

(K) VULNERABILITY AS IT PERTAINS TO AGRICULTURE INFRASTRUCTURE SECURITY.—If urban county is among the 100 urban counties that are closest to, or within 50 miles of, major feed yards, food processing facilities, and other significant components of the Nation's agriculture infrastructure, as defined and determined by the Department of Agriculture and the Department of Homeland Security, the ratio under paragraph (1)(K) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical agriculture infrastructure, not to exceed 100.

(L) PROXIMITY TO NATIONAL ICONS AND FEDERAL BUILDINGS.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, national icons and Federal buildings that the Department of Homeland Security determines are most vulnerable with respect to a terrorist attack, the ratio under paragraph (1)(L) shall be 1 divided by the total number of urban counties that are located within 50 miles of such icons or Federal buildings, not to exceed 100.

(M) INTELLIGENCE.—If an urban county is among the 100 urban counties that have been identified by the Department of Homeland Security as being special alert or heightened alert status for the longest periods of time, the ratio under paragraph (1)(M) shall be 1 divided by the total number of urban counties that have been identified by the Department of Homeland Security, not to exceed 100.

(e) EXCLUSIONS.—

(1) IN GENERAL.—In computing amounts or exclusions under subsection (d) with respect to any urban county, units of general local government located in the county that are not included in the population of the county in determining the eligibility of the county to receive a grant under this subsection shall be excluded, except that any independent city (as defined by the Bureau of the Census) shall be included if it—

(A) is not part of any county;

(B) is not eligible for a grant;

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

(2) INDEPENDENT CITIES.—Any independent city that is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (i) for that fiscal year.

(f) INCLUSIONS.—

(1) LOCAL GOVERNMENT STRADDLING COUNTY LINE.—In computing amounts under subsection (d) with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if—

(A) the part of such unit of local government that is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section; and

(B) the part of such unit of local government that is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section.

(2) USE OF GRANT FUNDS OUTSIDE URBAN COUNTY.—Any amount received under this section by an urban county described under paragraph (1) may be used with respect to the part of such unit of local government that is outside the boundaries of such urban county.

(g) POPULATION.—

(1) EFFECT OF CONSOLIDATION.—Where data are available, the amount to be allocated to a metropolitan city that has been formed by the consolidation of 1 or more metropolitan cities within an urban county shall be equal to the sum of the amounts that would have been allocated to the urban county or cities and the balance of the consolidated government, if such consolidation had not occurred.

(2) LIMITATION.—Paragraph (1) shall apply only to a consolidation that—

(A) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(B) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(C) took place on or after January 1, 2004.

(3) GROWTH RATE.—The population growth rate of all metropolitan cities defined in section 3(a)(6) shall be based on the population of—

(A) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and

(B) cities that were metropolitan cities before their incorporation into consolidated governments.

(4) ENTITLEMENT SHARE.—For purposes of calculating the entitlement share for the balance of the consolidated government under this subsection, the entire balance shall be considered to have been an urban county.

(h) REALLOCATION.—

(1) IN GENERAL.—Except as provided under paragraph (2), any amounts allocated to a metropolitan city or an urban county under this section that are not received by the city or county for a fiscal year because of failure to meet the requirements of subsection (a) or (b) of section 5, or that otherwise became available, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area that certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area.

(2) RATIO.—The amount of the share of funds reallocated under this subsection for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year.

(3) TRANSFER.—Notwithstanding paragraphs (1) and (2), the Secretary may, upon request, transfer to any metropolitan city the responsibility for the administration of any amounts received, but not obligated, by the urban county in which such city is located if—

(A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city;

(B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and

(C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(i) ALLOCATION TO STATES ON BEHALF OF NON-QUALIFYING COMMUNITIES.—

(1) IN GENERAL.—Of the amount appropriated pursuant to section 4 that remains after allocations under subsections (a) and (b), the Secretary shall allocate 30 percent among the States for use in nonqualifying communities.

(2) ALLOCATION RATIO.—

(A) POPULATION-BASED.—The allocation for each State shall be based on the population of that State, relative to the populations of all States, excluding the population of qualifying communities.

(B) PRO-RATA REDUCTION.—The Secretary shall make a pro rata reduction of each amount allocated to the nonqualifying communities in each State under subparagraph (A) so that the nonqualifying communities in each State will receive the same percentage of the total amount available under this subsection as the percentage that such communities would have received if the total amount available had equaled the total amount allocated under subparagraph (A).

(3) DISTRIBUTION.—

(A) STATES.—A State shall distribute amounts it receives under this subsection to units of general local government located in nonqualifying areas of the State in such manner and at such time as the Secretary shall prescribe, consistent with the statement submitted under section 5(a), and not later than 45 days after the date on which the State receives such amounts from the Federal Government.

(B) CERTIFICATION.—Before a State may receive or distribute amounts allocated under this subsection, the State must certify that—

(i) with respect to units of general local government in nonqualifying areas, the State—

(I) provides, or will provide, technical assistance to units of general local government in connection with homeland security initiatives;

(II) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its homeland security objectives, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(III) has consulted with local elected officials from among units of general local government located in nonqualifying areas of that State in determining the method of distribution of funds required by subparagraph (A); and

(ii) each unit of general local government to be distributed funds will be required to identify its homeland security objectives, and the activities to be undertaken to meet such objectives.

(4) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided under subparagraph (B), each State shall be allocated, for each fiscal year authorized under this Act and under this section, the greater of—

(i) 0.75 percent of the total amount appropriated in the fiscal year for grants to States under this section; or

(ii) the amount the State would otherwise be allocated under the formula set forth in this section.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent of the total amount appropriated in each fiscal year for grants to States under this section.

(5) ADMINISTRATION.—

(A) IN GENERAL.—Each State shall be responsible for the administration of all funds received and distributed under paragraph (1). Except as provided under subparagraph (B), the State shall pay for all administrative expenses incurred by the State in carrying out its responsibilities under this Act.

(B) FEDERAL SHARE.—From the amounts received by each State for distribution in nonqualifying areas, the State may deduct an amount to pay—

(i) the first $150,000 of its administrative expenses under this subsection; and

(ii) 50 percent of any State administrative expenses under this subsection in excess of $150,000, which amount shall not exceed 2 percent of the amount received by the State under paragraph (1).

(C) DISTRIBUTION.—Any distribution by the Secretary under paragraph (1) shall be made in accordance with—

(i) determinations of the Secretary;

(ii) statements submitted and the other requirements under section 5 (except for subsection (c));

(iii) regulations and procedures prescribed by the Secretary.

(D) REALLOCATION.—

(i) FAILURE TO COMPLY.—Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a) or (b) of section 5 shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(ii) CLOSEOUT.—Any amounts allocated for use in a State under paragraph (1) that become available as a result of the closeout of a grant made by the Secretary under this section in nonqualifying areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which such amounts become available.

(6) SINGLE UNIT.—Any combination of units of general local governments may not be required to obtain recognition by the Secretary to be treated as a single unit of general local government for purposes of this subsection.

(7) DEDUCTION.—From the amounts received under paragraph (1) for distribution in nonqualifying areas, the State may use not more than 1 percent to provide technical assistance to local governments.

(8) APPLICABILITY.—Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this Act and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(j) QUALIFICATIONS AND DETERMINATIONS.—The Secretary may prescribe such qualification or submission dates as the Secretary determines to be necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(k) PRO RATA REDUCTION AND INCREASE.—

(1) REDUCTION.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under this section, and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under this section.

(2) INCREASE.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under this section, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under this section.

### SEC. 8. STATE AND REGIONAL PLANNING AND COMMUNICATION SYSTEMS.

(a) ALLOCATIONS.—From the amounts appropriated pursuant to section 4(b)(2), the Secretary shall allocate $1,000,000,000 to States, regional cooperations, and units of general local government for—

(1) homeland defense planning within the States;

(2) providing increased security through additional first responder personnel;

(3) purchasing and refurbishing personal protective equipment for first responder personnel;

(4) homeland defense planning within the regions;

(5) the development and maintenance of Statewide training facilities and homeland security best-practices clearinghouses; and

(6) the development and maintenance of communications systems that can be used between and among first responders, including law enforcement, fire, and emergency medical personnel.

(b) USE OF FUNDS.—Of the amount allocated under subsection (a)—

(1) $500,000,000 shall be used by the States for homeland defense planning and coordination within each State;

(2) $50,000,000 shall be used by regional cooperations and regional, multistate, or intrastate authorities for homeland defense planning and coordination within each region;

(3) $50,000,000 shall be used by the States to develop and maintain statewide training facilities and best-practices clearinghouses; and

(4) $400,000,000 shall be used by the States and units of general local government to develop and maintain communications systems that can be used between and among first responders at the State and local level, including law enforcement, fire, and emergency personnel.

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—Amounts allocated to States under this section shall be allocated among the States based upon the population for each State relative to the populations of all States.

(2) MINIMUM AMOUNT PROVISION.—The provision under section 7(i)(4) relating to a minimum amount shall apply to amounts allocated to States under this section.

(3) LOCAL COMMUNICATIONS SYSTEMS.—

(A) IN GENERAL.—Not less than 50 percent of the amounts allocated under subsection (b)(4) shall be used for the development and maintenance of local communications systems.

(B) DISTRIBUTION OF FUNDS.—Each State shall distribute amounts reserved for local communications systems in that State under subparagraph (A) to units of general local government not later than 45 days after the State receives such amounts from the Federal Government.

(d) ALLOCATIONS TO REGIONAL COOPERATIONS.—Funds allocated under subsection (b)(2) shall be allocated to regional cooperations and regional, multistate, or intrastate authorities, based upon the population of the areas covered by each regional cooperative.

### SEC. 9. HIGH-THREAT, HIGH-DENSITY URBAN AREAS.

(a) ALLOCATIONS.—

(1) IN GENERAL.—From the amounts appropriated pursuant to section 4(b)(3), the Secretary shall allocate $1,500,000,000 for discretionary grants to high-threat, high-density urban areas, as determined by the Secretary, and for the protection of critical infrastructure.

(2) DISTRIBUTION.—Grant funds awarded under this section shall be transferred directly to high-threat, high-density urban areas not later than 60 days after the date on which funds are appropriated pursuant to section 4(b)(3).

(b) SELECTION CRITERIA.—In selecting grantees under this section, the Secretary shall consider—

(1) credible threat;

(2) vulnerability;

(3) the presence of critical infrastructure, including infrastructure described in section 7;

(4) population;

(5) population density; and

(6) identified needs of public agencies.

(c) HOMELAND SECURITY PLAN.—Each high-threat, high-density urban area awarded a grant under this section shall submit a homeland security plan to the State in which it is located and to the Secretary that describes the intended use of grant funds received under this section.

(d) MINIMUM AMOUNT.—Section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section 7(i)(4) of this Act shall not apply to funds awarded under this section.

### SEC. 10. FLEXIBLE EMERGENCY ASSISTANCE FUND.

(a) IN GENERAL.—From the amounts appropriated pursuant to section 4(b)(4), $500,000,000 shall be used to create a flexible emergency assistance fund, from which the Secretary shall provide funds directly to State and units of local government that incur extraordinary homeland security costs.

(b) RELEASE OF FUNDS.—The Secretary may release emergency assistance funds to a State or local community as the Secretary determines to be appropriate, including—

(1) when the Secretary determines that a State or local community may be the specific target of a terrorist threat;

(2) when a local community is the venue of a high profile trial related to homeland security or terrorism;

(3) when the State or local community has been asked to assist in a Federal investigation concerning homeland security or terrorism; and

(4) when an agency of the Federal Government has requested the State or local community to assist that agency in performing homeland security functions.

(c) REIMBURSEMENTS.—The Secretary may disburse flexible emergency assistance funds to reimburse States and units of general local government for increased personnel costs associated with the activation of first responders who serve in the Reserves or National Guard.

(d) MINIMUM AMOUNT.—Section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section 7(i)(4) of this Act shall not apply to funds awarded under this section.

### SEC. 11. FEDERAL PREPAREDNESS, EQUIPMENT, AND TRAINING STANDARDS.

(a) IN GENERAL.—The Department of Homeland Security shall develop national homeland security preparedness, first responder training, and equipment standards, and best practices to facilitate the most effective and efficient use of funds authorized under this Act.

(b) CONSULTATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop the standards described in subsection (a) in consultation with first responders, States, local communities, nongovernmental homeland security experts, and such other persons and organizations as the Secretary determines to be appropriate.

(c) REPORTS.—The Secretary shall submit a report to Congress on the progress made in developing the standards and best practices described in subsection (a)—

(1) not later than 90 days after the date of enactment of this Act; and

(2) not later than 180 days after the date of enactment of this Act.

### SEC. 12. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

(b) AGE OR HANDICAP.—Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any such program or activity.

### SEC. 13. REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS.

If the Secretary finds, after reasonable notice and opportunity for a hearing, that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall—

(1) terminate payments to the recipient under this Act;

(2) reduce payments to the recipient under this Act by an amount equal to the amount of such payments which were not expended in accordance with this Act; or

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply.

### SEC. 14. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the end of each fiscal year in which assistance is awarded under this Act, the Secretary shall submit to Congress a report containing—

(1) a description of the progress made in accomplishing the objectives under this Act;

(2) a summary of the use of such funds during the preceding fiscal year; and

(3) a description of the activities carried out under section 7.

(b) REPORTS TO SECRETARY.—The Secretary may require recipients of assistance under this Act to submit such reports and other information as may be necessary in order for the Secretary to comply with subsection (a).

### SEC. 15. CONSULTATION BY ATTORNEY GENERAL.

In carrying out the provisions of this Act including the issuance of regulations, the Secretary shall consult with the Attorney General and other Federal departments and agencies administering Federal grant-in-aid programs.

### SEC. 16. INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States—

(1) for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this Act as they pertain to interstate areas and to localities within such States; and

(2) to establish such agencies, joint or otherwise, that the States consider desirable for making such agreements and compacts effective.

### SEC. 17. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) MATCHING REQUIREMENT.—Grant recipients shall contribute, from funds other than those received under this Act, an amount equal to 10 percent of the total funds received under this Act, which shall be used in accordance with the grantee's statement of homeland security objectives.

(b) WAIVER FOR ECONOMIC DISTRESS.—The Secretary shall waive the matching requirement under subsection (a) for grant recipients that the Secretary determines to be economically distressed.

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By Mr. DURBIN (for himself and Mr. FITZGERALD) (by request):

S. 2022. A bill to designate the Federal building located at 250 West Cherry Street in Carbondale, IL the "Senator Paul Simon Federal Building"; to the Committee on Environment and Public Works.

Mr. DURBIN. Mr. President, recently we lost our colleague Paul Simon, a great public servant and a great friend.

At the age of 19, Paul Simon became the Nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribune in Troy, IL. From that start, he built a chain of 13 newspapers in southern and central Illinois. He also used his post in the newspaper world to expose criminal activities and in 1951, at age 22, he was called as a key witness to testify before the U.S. Senate's Crime Investigating Committee.

Paul Simon served the state of Illinois and the United States for years. He is the only individual to have served in both the Illinois House of Representatives and the Illinois Senate, and the U.S. House of Representatives and U.S. Senate. He also served as Lieutenant Governor for Illinois. In addition, he served in the U.S. Army.

Paul Simon highly valued education and the youth of our Nation. In addition to his work in Congress to strengthen public education in America, he started the public affairs reporting program at Sangamon State University, now the University of Illinois at Springfield. He later became the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, IL, and taught there for more than 6 years. In addition, Paul Simon wrote over 20 books and earned over 50 honorary degrees.

From journalism to government to education, Paul Simon set the standard for honesty and caring in public life. He was an unapologetic champion of the less fortunate. He was genuine in his politics, life and values.

Now those of us who loved and respected him will do our best to carry on his tradition. We will find many ways, great and small, to honor him.

Today, I am introducing companion legislation to a bill Congressman JERRY COSTELLO has introduced in the House. This bill would designate the federal building at 250 West Cherry Street in Carbondale, IL, as the "Senator Paul Simon Federal Building." I am happy to have Senator FITZGERALD as a cosponsor of this legislation.

Paul Simon moved to Carbondale in 1974, where he was elected to serve in the U.S. House of Representatives. He continued to call the Carbondale area his home until his death. Naming this building in Carbondale after him will help present and future generations remember and honor Paul Simon, a great man who lived in and worked for the people of Carbondale and served our federal government with the greatest integrity. I urge my colleagues to work with Congressman COSTELLO and me to quickly pass this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2022

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. DESIGNATION OF FEDERAL BUILDING.

The Federal building located at 250 West Cherry Street in Carbondale, Illinois shall be known and designated as the "Senator Paul Simon Federal Building".

### SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, paper or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the Senator Paul Simon Federal Building.

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By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 2023. A bill to limit Department of Defense contracting with firms under investigation by the inspector General of the Department of Defense; to the Committee on Armed Services.

Mrs. BOXER. Mr. President. I am introducing legislation, along with my good friend from New Jersey, Senator LAUTENBERG, to ensure that American taxpayers are given greater protection when the Defense Department seeks to procure property or services. The United States is spending billions of dollars in its military and reconstruction efforts in Iraq and Afghanistan, and much of this money is going to private companies.

The purpose of this legislation is simple. It would ban companies under investigation for procurement abuse and possible criminal conduct from receiving no-bid defense contracts. By closing a loophole in current law, the Department of Defense would no longer be permitted to enter into contracts, through a process that does not ensure full and open competition, with contractors simultaneously being investigated by the Pentagon's Office of Inspector General. The legislation also provides that if the President chooses to waive the prohibition in the interest of national security, he must notify Congress with a full and public explanation.

While our men and women in the Armed Services are making extraordinary sacrifices for this country, companies under investigation by the Pentagon's Inspector General should be barred from lining their pockets with money from no-bid contracts.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2233. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) proposed an amendment to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

SA 2234. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra.

## TEXT OF AMENDMENTS

**SA 2233.** Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) proposed an amendment to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisons, and for other purposes; as follows:

Strike all after the first word, and insert:

### 1. SHORT TITLE.

This Act may be cited as the "Pension Stability Act".

### SEC. 2. TEMPORARY REPLACEMENT OF INTEREST RATE ON 30-YEAR TREASURY SECURITIES WITH INTEREST RATE ON CONSERVATIVELY INVESTED LONG-TERM CORPORATE BONDS.

(a) INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(i) in subclause (I), by inserting "or (III)" after "subclause (II)";

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

"(II) SPECIAL RULE FOR 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for purposes of this paragraph. Such rates shall reflect the rates of interest on amounts invested conservatively in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more."; and

(iv) in subclause (III), as so redesignated—

(I) by inserting "or (II)" after "subclause (I)" the first place it appears; and

(II) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(2) DETERMINATION OF CURRENT LIABILITY.—Section 412(l)(7)(C)(i) of such Code is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".

(3) CONFORMING AMENDMENT.—Section 412(m)(7) of such Code is amended to read as follows:

"(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).".

(4) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by inserting ", except that in the case of plan years beginning in 2004 or 2005, '5.5 percent' shall be substituted for '5 percent' in clause (i)" before the period at the end.

(5) ELECTION TO DISREGARD MODIFICATION FOR DEDUCTION PURPOSES.—Section 404(a)(1) of such Code is amended by adding at the end the following new subparagraph:

"(F) ELECTION TO DISREGARD MODIFIED INTEREST RATE.—An employer may elect to disregard subsections (b)(5)(B)(ii)(II) and (l)(7)(C)(i) of section 412 solely for purposes of determining the interest rate used in calculating the maximum amount of the deduction allowable under this section for contributions to a plan to which such subsections apply."

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)) is amended—

(i) in subclause (I), by inserting "or (III)" after "subclause (II)";

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

"(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) during the 4-year period ending on the last day before the beginning of the plan year."; and

(iv) in subclause (III), as so redesignated—

(I) by inserting "or (II)" after "subclause (I)" the first place it appears; and

(II) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(2) DETERMINATION OF CURRENT LIABILITY.—Section 302(d)(7)(C)(i) of such Act (29 U.S.C. 1082(d)(7)(C)(i)) is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".

(3) CONFORMING AMENDMENT.—Section 302(e)(7) of such Act (29 U.S.C. 1082(e)(7)) is amended to read as follows:

"(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 as the specified percentage determined under subsection (d)(7)(C)(i)(II).".

(4) PBGC.—Section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended by adding at the end the following new subclause:

"(V) In the case of plan years beginning in 2004 or 2005, the annual yield taken into account under subclause (II) shall be the annual yield computed by using the conservative long-term corporate bond rate (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) for the month preceding the month in which the plan year begins."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the Internal Revenue Code of 1986, and subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such date.

(3) TRANSITION RULE FOR SECTION 415 LIMITATION.—In the case of any participant or beneficiary receiving a distribution after December 31, 2003 and before January 1, 2005, the amount payable under any form of benefit subject to section 417(b)(3) of the Internal Revenue Code of 1986 and subject to adjustment under section 415(b)(2)(B) of such Code shall not, solely by reason of the amendment made by subsection (a)(4), be less than the amount that would have been so payable had the amount payable been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 1, 2004.

### SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

"(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

"(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

"(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may prescribe."

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

"(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

"(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary of the Treasury may prescribe) to be treated as an applicable employer for purposes of this paragraph.

"(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary of the Treasury determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

"(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

"(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

"(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

"(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

"(I) the information described in clause (ii)(I),

"(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

"(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

"(F) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe."

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting "or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary" after "101(e)(2)".

**SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.**

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B)) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

"(ii) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

"(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

"(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

"(B) shall be written in a manner so as to be understood by the average plan participant, and

"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided."

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 104(d)".

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act, issue regulations (including a model notice) necessary to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

### SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

"(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (d)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

"(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(vii) An election under this subparagraph shall be made at such time and in such manner as the Secretary, after consultation with the Secretary of the Treasury, may prescribe."

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

"(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi)."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

"(F) AMORTIZATION HIATUS.—

"(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (I)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

"(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

"(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) ELECTION.—An election under this subparagraph shall be made at such time and in such manner as the Secretary of Labor, after consultation with the Secretary, may prescribe."

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

"(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).".

**SEC. 6. 2-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.**

(a) IN GENERAL.—Section 769(c) of the Retirement Protection Act of 1994, as added by section 1508 of the Taxpayer Relief Act of 1997, is amended—

(1) by inserting "except as provided in paragraph (3)," before "the transition rules", and

(2) by adding at the end the following:

"(3) SPECIAL RULES.—In the case of plan years beginning in 2004 and 2005, the following transition rules shall apply in lieu of the transition rules described in paragraph (2):

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

"(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

"(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

**SEC. 7. PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.**

(a) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following new subsection:

"(f) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

"(1) IN GENERAL.—If—

"(A) a plan sponsor of a plan determines that—

"(i) a complete or partial withdrawal of an employer has occurred, or

"(ii) an employer is liable for withdrawal liability payments with respect to the complete or partial withdrawal of an employer from the plan,

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of a transaction that occurred before January 1, 1999, was to evade or avoid withdrawal liability under this subtitle, and

"(C) such transaction occurred at least 5 years before the date of the complete or partial withdrawal,

then the special rules under paragraph (2) shall be used in applying subsections (a) and (d) of this section and section 4219(c) to the employer.

"(2) SPECIAL RULES.—

"(A) DETERMINATION.—Notwithstanding subsection (a)(3)—

"(i) a determination by the plan sponsor under paragraph (1)(B) shall not be presumed to be correct, and

"(ii) the plan sponsor shall have the burden to establish, by a preponderance of the evidence, the elements of the claim under section 4212(c) that a principal purpose of the transaction was to evade or avoid withdrawal liability under this subtitle.

Nothing in this subparagraph shall affect the burden of establishing any other element of a claim for withdrawal liability under this subtitle.

"(B) PROCEDURE.—Notwithstanding subsection (d) and section 4219(c), if an employer contests the plan sponsor's determination under paragraph (1) through an arbitration proceeding pursuant to subsection (a), or through a claim brought in a court of competent jurisdiction, the employer shall not be obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1971 (29 U.S.C. 1399(b)(1)) after October 31, 2003.

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**SA 2234.** Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; as follows:

At the end of section 3, insert:

( ) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term "applicable period" means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the second plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term "applicable plan year" has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 22, 2004, at 9:30 a.m., in closed session to receive a classified operations/intelligence briefing regarding ongoing military activities in Iraq and Afghanistan, as well as other areas of interest.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, January 22, 2004, at 10 a.m., on "Judicial Nominations," in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Raymond W. Gruender to be United States Circuit Judge for the Eighth Circuit.

Panel III: Ricardo S. Martinez to be United States District Judge for the Western District of Washington. Gene E.K. Pratter to be United States District Judge for the Eastern District of Pennsylvania. Neil Vincent Wake to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 22, 2004 at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Kathleen West, a fellow on the Finance Committee staff, be permitted access to the floor during debate on the Pension Funding Equity Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that people on Senator BAUCUS's staff, Jane Bergeson, Simon Chabel, and Trace Thaxton, interns with the Finance Committee, be granted the privilege of the floor for the remainder of the debate on H.R. 3108, the 30-year Treasury bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE SENATE WEEK

Mr. FRIST. Madam President, I take a minute and again welcome everyone back for this second session, this being close to completion of the first week. We have had a very good and productive week in the Senate.

The President delivered his State of the Union Address Tuesday night, which is always an uplifting experience for all who have the opportunity to participate directly. And very much I express my appreciation for his very positive, constructive message as we all work together to move this country forward. Indeed, as the President said, the state of the Union is strong, and it is confident.

Today we were able to finish our appropriations work for this fiscal year, really the unfinished business for last year. It took a strong, bipartisan vote of 65 to 28. And with that, we adopted the Omnibus appropriations conference report, which will allow us to proceed to a regular order for this upcoming fiscal year.

In a few moments we will be considering and confirming several executive nominations. We have been working on that over the course of this afternoon. We will continue to discuss further nominations tomorrow, and I am very hopeful we will have a number of other nominations to be approved tomorrow. I am personally appreciative and glad we have been able to continue this process. It is important for us to continue that work and bring these nominations forward as soon as they are available.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Madam President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 511, 512, 513. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

### DEPARTMENT OF VETERANS AFFAIRS

Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

Gordon H. Mansfield, of Virginia, to be Deputy Secretary of Veterans Affairs.

### NOMINATION DISCHARGED

Mr. FRIST. Madam President, I ask unanimous consent that the nomination of James C. Miller III, PN99, be discharged from the Governmental Affairs Committee, returned to the President, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## ORDERS FOR FRIDAY, JANUARY 23, 2004

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, January 23. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. The Senator from Nevada.

### THANKING THE PAGES

Mr. REID. Reserving the right to object, Madam President, we have had a very difficult year that has just been completed. The majority leader and those of us who have the honor of serving in the Senate have our names appear in print, we are on television, and people see and know what we do. But the one reason for our success is these wonderful pages. I have served now going on 22 years in the Congress, and they are just part of our lives. We take them for granted. They do the most menial things but which are so meaningful to us.

For example, a lot of times I have meetings in Senator DASCHLE's office. My office is up on the third floor. These pages have taken my briefcase upstairs 50 times. They bring us water. They make sure the people at the desk have the right amendment. They do so many things that make us look good, and they get no honor or glory for doing this.

These pages are juniors in high school. They are going to graduate. The reason I mention this is that they are graduating in the morning and we likely, Mr. Leader, will never see these young people again. Some of them we will, maybe.

But over the years, as I have indicated, I have developed such a great affection for these wonderful young men and women. They sit on different sides of the rostrum: Democrats here, Republicans here. But to us they are just wonderful young people, and they are representative of what our country is all about.

We are here doing the Nation's business and these young people represent the future. I want each of these young people to know, even though they get none of the glory, how essential they are to the running of this institution.

I know the leader joins me, and I know he will be a speaker in the morning at their graduation.

There are just a few people there. Here there are people watching. I want them to know all over the country that this is a long tradition of the Congress to have these young people helping us. We could not make it without them.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I would like to reinforce what the assistant Democratic leader just said in that the operation of this body is dependent on the boys and girls who are here with us. We don't have that opportunity very often to publicly say thank you. It is important to do that. I will have the opportunity tomorrow to briefly thank them and their parents and family members who will be here.

I will simply add to what the assistant leader has said: It is a lot of hard work being a page. We are here a lot of hours in the day. Tonight is a reasonable time to get out, 6:20. We start early in the morning at 9:30. That is hard work. On top of that, they are going to school. So they are putting in hours every day and at the same time carrying a heavy workload in high school. At the same time they are here and working, they realize later tonight they will be doing homework, class work. It is pretty remarkable that they are here all day allowing us to carry on the Nation's business and facilitating that and helping in ways that, if they were not here, this would not be possible, or it would take longer and be a lot less efficient, and at the same time they are committing the time and the energy and hard work to education, which is a big subject on the floor all the time as we work.

It leads me to say thank you. We all have tremendous respect for you. It has been a hard 5 months. We know that. We thank you for that. The curriculum itself is fascinating here because at the same time they are learning from great teachers through the Senate in terms of formal education, they are picking up what makes this great democracy the shining light that it is for the world.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Tomorrow morning the Senate will be in a period of morning business. We will not have rollcall votes during tomorrow's session. Members who wish to speak to the pending bill, the pension bill, are encouraged to do so. We want to continue to make progress on that important bill, and we do ask that they come to the floor to continue that debate tomorrow.

We will resume consideration of that legislation on Monday to allow Members to offer their amendments. However, it is my intent to stack votes on those amendments on Tuesday. Therefore, to clarify statements made earlier today, we will have no rollcall votes on Monday. Again, I encourage Senators to be available for the consideration of their amendments on that day, continuing the progress on this bill.

It is our intention to finish the legislation Tuesday or Wednesday of next week.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if the assistant Democratic leader has no further comment and if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:20 p.m., adjourned until Friday, January 23, 2004, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 22, 2004:

### EXECUTIVE OFFICE OF THE PRESIDENT

DAVID SAFAVIAN, OF MICHIGAN, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, VICE ANGELA STYLES.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203(A):

*To be captain*

LARRY L. JONES, 6533

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

VINCENT T. JONES, 9595

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

RICHARD H. VILLA, 7500

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

ROBERT J. BERNARD, 7628
WILLIAM A. BLANCHETTE, 2115
DEBORA K. ESQUE, 9909
ALLEN F. GILBAR, 4745
JAMES T. PATTERSON, 7831
ROBERT A. SOUSA, 9358
OBA L. VINCENT, 1780

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

HARRIS H. BROOKS, 4966

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

PAULA C. GOULD, 0931
RICHARD W. KLEPERIS, 4320
CALVIN R. LOTT JR., 1170
MARK A. SCHULER, 1244
ROBERT R. SINGLETON, 5304
GERT J. P. VISSER, 9674
JOHN J. WINKOPP III, 3607

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

JEFFREY S. ALDERFER, 0620
KEITH AMBURGEY, 6285
NORMAN C. ANDERSON, 0815
JERRY W. ANGUS, 5453
JEFFREY C. ARMSTRONG, 7167
ROBERT S. ARTHUR, 9507
LYNN A. ASPEGREN, 6151
AUDREY A. BAHLER, 5743
WILLIAM E. BAIRD JR., 6025
JEFFREY K. BARNSON, 8021
HAL K. BIRD, 3127
CHARLES F. BOIVIN II, 9569
ALAN J. BOYKIN, 1012
MARGARET A. BRADLEY, 8710
MICHAEL T. BRANHAM, 4137
MICHAEL J. BRILL, 5041
ROBERT F. II BRITTON, 8374
HERBERT L. BROWN JR., 6396
HERBERT T. BROWN, 6364
MICHAEL A. BUNCH, 7241
DEBORAH D. BUONASSISI, 7085
DOUGLAS H. CASANOVA, 2989
ELIO J. CASTELLANO, 1588
MICHAEL D. CHAMPNESS, 7872
CLAYTON W. CHILDS, 3555
KLESA J. CHRISTIAN, 4033
CHARLES R. COGHLIN JR., 3699
KATHLEEN A. COSAND, 5385
MICHAEL J. COUGHLAN, 2134
VIRL E. CROUSE, 1323
HENRY R. DARIENZO, 5435
STEPHEN J. DEWERFF, 0230
GORDON R. DEXTER, 9124
PEGGY A. DIONNE, 6488
FRANKLIN J. DOLCATER, 5839
ROBERT K. DOWNEY, 6869
MICHAEL B. DUNN, 7820
ALEXANDER M. EARLE JR., 8468
MICHAEL J. EDWARDS, 6798
ANNA EIKELBARNER, 3344
KARL L. ELDERS, 1574
GORDON H. ELWELL JR., 6571
CAROLINE B. EVERNHAM, 0741
SCOTT L. FAHSHOLTZ, 6786
CATHERINE A. FAIRLIE, 0581
KIRK L. FANSHER, 3645
RONALD L. FARRIS, 6300
GUY C. FOWL, 6082
GERALYN G. FOX, 7193
DAVID A. GARCIA, 0537
PAUL D. GEIGER, 5031
KING W. GILLESPIE, 3312
MARK S. GLIBBERY, 7606
STEPHEN D. GOEMAN, 0107
CHRIS E. C. GOGGINS, 2147
DANIEL J. GRASSICK, 5916
MICHAEL L. GRUMELLI, 3133
STEPHEN J. HAGEL, 6832
NORMAN R. HAM JR., 4036
EVELYN E. HARRINGTON, 9852
ALFRED D. HAWLEY III, 2714
MARY S. HENDERHAN, 1418
LONNIE D. HENDRIX, 0520
ALICE E. HENK, 7411
KATHLEEN A. HIGHTAIAN, 2009
TERRANCE C. HOLLIDAY, 7403
JAMES R. HOSEY JR., 2495
MICHAEL W. HURST, 6985
ANGELO A. IGLESIAS, 4258
CATHY L. ILER, 4604
JOSEPH L. ITZ, 2150
ANTHONY D. JOHNSON, 5769
ROBERT D. JOHNSON, 6117
JOHN A. JONES, 1425
LYNDA G. KENYON, 6010
STEVEN L. KETT, 2231
DONNA M. KETTERLE, 8747
VIRGIL R. KICKER, 3966
MICHAEL D. KIM, 9506
PAUL W. KIRBY, 9791
STEVEN W. KIRKPATRICK, 6841
MARK D. KOCH, 3297
WILLIAM M. KOHNKE, 7260
MICHAEL B. KOHUT, 4655
DANIEL KORNACKI, 5737
JOHN KOTCH, 8730
RAYMOND A. KOZAK, 4519
CAROLINE H. KREWSON, 2469
VICTOR D. KUCHAR, 1247
KEVIN V. LACY, 2289
CARROLL L. LAMB JR., 2510
GERARD C. LAUTH JR., 9625
CAM J. LEBLANC, 5086
DAVID A. LENGYEL, 2608
RICHARD D. LEPMAN, 6368
STEPHEN J. LINSENMEYER JR., 4997
DAVID L. LINT, 7008
JOHN D. LUNSFORD, 6525
MICHAEL L. MALONE, 2775
EFRAIN MARRERO, 8024
RICHARD A. MAUGHMER, 5374
GERALD C. MAXWELL, 9969
PETER C. MAYNARD, 7425
MARK B. MCCLELLAND, 9514
JOSEPH J. MCCOURT, 9891
LINDA M. MCCOURT, 0175
MAYNARD M. MENDOZA, 2713
CHRISTOPHER T. C. MILLER, 5955
DREW MILLER, 6666
JEFFREY T. MINEO, 5286
DAVID L. MITCHELL, 3136
JOHN J. MOONEY III, 0625
PATRICK M. MOORE, 0328
STEPHEN D. MOORE, 6855
PETER J. MORELLO, 8923
JOSEPH A. MORGANTI JR., 5959
KEITH M. MORLOCK, 9836
MARILYN R. MORRIS, 5717
RAYMOND A. MOTES, 3422
KEVIN L. MUIR, 1086
PHILLIP J. NEELY, 3637
WILLIAM K. NICHOLS, 3450
PEGGY A. NORELIUS, 3222
THOMAS A. OBRA, 8339
STEVEN L. OSTER, 3528
EVELIO OTERO JR., 7813
ANDREW C. PATE, 9352
DANIEL J. PENDERGAST, 4275
MURRY G. PETERMAN, 6595
KURT I. PETERSON, 7590
JOHN W. PHARR, 8326
MICHAEL N. PIERCE, 4324
JACK H. PITTMAN JR., 5971
KEVIN E. POTTINGER, 7846
CHARLES A. PUGH, 6780
WILLIAM V. RANDALL II, 4864
ROBERT R. REDWINE, 8413
CARL D. REHBERG, 1927
JOHN A. RICE JR., 8452
PEDRO RIVAS, 0953
KAREN ANN RIZZUTI, 7062
ANDREW C. ROBERTS, 7607
RUTH E. ROBINS, 7714
NANCY C. ROBINSON, 3805
MARK A. RODRIGUEZ, 9062
JEFFREY A. RODSETH, 8570
JANE C. ROHR, 5400
MARK A. RONCO, 5345
PATRICIA A. ROSE, 1425
JOSEPH H. ROY, 2043
DONALD E. RYAN JR., 7768
JAMES G. SALE, 2312
STEVEN SCAGLIONE, 3649
WILLIAM F. SCHAUFFERT, 3083
REINHARD L. SCHMIDT, 2799
ANNA M. SCHULTE, 0035
KENNETH E. SEGUIN, 6953
JOCELYN M. SENG, 1955
KIRK V. SHARP, 6376
LINDA G. SHEPARD, 6002
JOHN H. SHIVEL II, 8616
JAMES H. SHOENHARD, 1300
ERIC D. SILLERY, 4041
MICHAEL J. SLONE, 4976
LONNIE W. SMITH, 1561
PAUL D. SMITH, 3493
THOMAS R. SMITH, 1269
MARTHA V. SMYTH, 7092
WARREN D. SNELL, 1814
GEORGE A. SPENCER, 1578
THERON H. STANCIL JR., 4725
COLLEEN G. STEEL, 9774
MARK D. STILLWAGON, 9372
PAUL J. SYKES, 2643
WESTON R. TAYLOR, 0486
JOHN D. THOMAS, 2952
ROXANE TOWNER, 2350
MICHAEL J. UNDERKOFLER, 6916
ROGER L. VANCLEAVE, 3387
LARRY W. VANNOY, 7495
LOUIS A. VILLAFANE, 1053
MONA R. M. VOLLMER, 3313
CHARLES W. F. WADDLE JR., 0027
LESA M. WAGNER, 4588
FAY E. WALDEN, 3395
PETER T. WANGLER, 1689
DAVID C. WARD, 7497
RONALD W. WARD, 0913
PAUL WATERS, 0100
STEPHEN B. WEST, 3645
MELISSA M. WEYDERT, 2640
HARLEY D. WHITE, 7069
EDWARD T. WHITELEY, 1690
DOUGLAS A. WHITLOW, 8044

MICHAEL WILK, 7801
JIMMY L. WILSON, 5578
MICHAEL L. WILSON, 2101
SUSAN J. WISNOM, 5264
HARRY S. WOODSON III, 0113
THEODORE R. WRIGHT, 0631
DENNIS W. YAMROSE JR., 7969
EDWARD P. YARISH, 3125
SANDRA L. YOPE, 8732

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIGADIER GENERAL RICHARD W. ASH, 2052
BRIGADIER GENERAL RUSSELL C. AXTELL, 1784
BRIGADIER GENERAL JOHN W. CLARK, 9977
BRIGADIER GENERAL ROGER E. COMBS, 7932
BRIGADIER GENERAL THOMAS G. CUTLER, 0206
BRIGADIER GENERAL GERALD E. HARMON, 6527
BRIGADIER GENERAL DAVID K. HARRIS, 6248
BRIGADIER GENERAL GEORGE B. PATRICK III, 8518
BRIGADIER GENERAL FRED R. SLOAN, 5168

### *To be brigadier general*

COLONEL CRAIG E. CAMPBELL, 3178
COLONEL GEORGE N. CLARK JR., 9284
COLONEL ROBERT M. COCKEY, 5781
COLONEL WILLIAM R. COTNEY, 5188
COLONEL NORMAN L. ELLIOTT, 0048
COLONEL MICHAEL L. HARDEN, 2360
COLONEL ROBERT D. IRETON, 8365
COLONEL EMIL LASSEN III, 1505
COLONEL THADDEUS J. MARTIN, 2441
COLONEL ROBERT B. NEWMAN, 1651
COLONEL WILLIAM P. ROBINSON JR., 2364
COLONEL RAYMOND L. WEBSTER, 8145

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIGADIER GENERAL ROBERT E. DUIGNAN, 8409
BRIGADIER GENERAL MICHAEL K. LYNCH, 7075
BRIGADIER GENERAL KEITH W. MEURLIN, 1682
BRIGADIER GENERAL MARK A. PILLAR, 9547
BRIGADIER GENERAL RICHARD D. ROTH, 8023
BRIGADIER GENERAL PETER K. SULLIVAN, 2189
BRIGADIER GENERAL FLOYD C. WILLIAMS, 8603

### *To be brigadier general*

COLONEL ROBERT B. BARTLETT, 5618
COLONEL EDWARD F. CROWELL, 1279
COLONEL ANITA R. GALLENTINE, 3368
COLONEL STEPHEN P. GROSS, 9611
COLONEL ELAINE L. KNIGHT, 8340
COLONEL CHARLES L. O'TOOLE JR., 9688
COLONEL FRANK J. PADILLA, 8474
COLONEL LOREN S. PERLSTEIN, 3269
COLONEL CHARLES E. REED JR., 2522
COLONEL NEIL A. ROHAN, 9158
COLONEL JAMES T. RUBEOR, 3527
COLONEL RICHARD R. SEVERSON, 9313
COLONEL MICHAEL N. WILSON, 5392

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

### *To be colonel*

THOMAS M. BESCH, 2627
ROBERT B. BILLINGTON, 5206
ARIE D. BOGAARD, 1163
JAMES S. BRISTOW, 4068
JOSEPH D. BROWN, 2865
PAUL T. CALBOS, 9948
MARK B. CHAKWIN, 7415
GREGORY T. CHASTEEN, 7736
JOHN E. CHERE JR., 8899
JOHN V. CHRISTIAN, 9186
THOMAS D. COFFMAN, 1675
DAVID A. COOK, 8328
MICHAEL A. CURCI, 6623
DOUGLAS A. DEVER, 7353
NORBERT S. DOYLE JR., 1327
MARK C. EASTON, 9139
KENNETH FLOWERS, 7953
DANIEL J. GALLAGHER, 4607
MICHAEL E. GARRISON, 6844
JACOB B. HANSEN, 9969
GALE A. HARRINGTON, 8934
DONALD A. HAZELWOOD, 6675
RAYMOND C. HODGKINS, 3237
JEFFREY S. HOLACHEK, 9316
LARRY D. HOLLINGSWORTH, 8756
WILLIAM C. HOPPE, 2788
DANIEL P. HUGHES, 4234
DAVID E. HUNTERCHESTER, 8647
LUWANDA F. JONES, 4618
RAYMOND D. JONES, 0220
RUSSELL J. KERN, 0677
SCOTT R. KIDD, 7718
OLE A. KNUDSON, 6419
JOHN L. KOSTER, 2187
GEORGE D. KUNKEL, 4557
CRAIG G. LANGHAUSER, 0796
CARL A. LIPSIT, 6322
KEVIN W. MADDEN, 8757
CATHERINE A. MCNERNEY, 4771
CHRISTOPHER M. MILLER, 6850
SCOT C. MILLER, 7268
THOMAS J. MILTON, 9513
EDWARD L. MULLIN, 3426
PEDRO J. OLIVER, 8501
RICHARD K. ORTH, 6293
DEREK J. PAQUETTE, 5872
EDWIN W. PASSMORE, 2207
RICHARD B. PENNYCUICK, 1375
CHRISTOPHER M. ROSS, 6647
RICHARD C. RUNNER JR., 0366
ULISES J. SOTO, 1063
DANIEL N. TARTER, 2968
MICHAEL J. VOGL, 8950
KENNETH A. WHEELER, 8102
ALBERT S. WILLNER, 3885
ALBERT M. ZACCOR, 0182

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

### *To be colonel*

KENNETH L. ALFORD, 8875
NATHAN A. BUCHHEIT, 5017
BILLY J. BUCKNER, 6225
FRANKLIN F. CHILDRESS, 9689
TIMOTHY J. CREAMER, 6141
MARYANN B. CUMMINGS, 5135
ARCHIE L. DAVIS III, 2159
ERIC W. FATZINGER, 7423
MICHAEL O. GRAY, 1365
THOMAS R. GREGORY, 9062
GARY M. GRIGGS, 4105
MARK W. HINTON, 5899
JAMES P. HOGLE, 1029
RICHARD A. HOWARD, 6549
GARY L. KECK, 2462
LEE D. LEBLANC, 4819
JOHN A. LUCYNSKI II, 6672
DENNIS A. OBRIEN, 3448
TIMOTHY F. OHARA, 6503
JOSEPH F. PUETT III, 3482
JOHN B. SNYDER, 0448
MICHAEL A. SPENCER, 3129
TIMOTHY R. TRITCH, 5560
GREGORY N. TUBBS, 2666
DOUGLAS H. WHEELOCK, 9841
JAMES R. YONTS, 1613

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

### *To be colonel*

THOMAS E. BAILEY, 3836
MICHAEL P. BARBERO, 4451
WALTER S. BARGE II, 7770
CRAIG L. BOLLENBERG SR., 7585
LESLIE M. BREHM, 8328
THOMAS E. BRYANT, 7213
CHARLES C. BUSH, 5428
JILL W. CHAMBERS, 1870
THOMAS J. CLEARY III, 6436
DAVID C. COBURN, 8005
DAVID K. COX, 2576
THOMAS R. FAUPEL, 5021
DAVID P. FIELY, 8309
RALPH H. GAY III, 2425
DAVID M. GILL, 5367
JERRY A. GLASOW, 1336
BRYAN S. GODA, 9416
SCOTT E. HAMPTON, 0125
JOHN K. HENDRICK, 2507
THOMAS A. HORLANDER, 4675
STEVEN B. HORTON, 9492
JANET E. JONES, 3409
THOMAS M. KASTNER, 7249
CHRIS A. KING, 0147
DANIEL M. KLIPPSTEIN, 2199
WINSTON E. LEWIS, 3333
VIDA D. LONGMIRE, 3178
ROBERT M. MCCALEB, 6712
RONALD F. MITCHELL, 7201
JOEL A. MITTELSTAEDT, 5730
BRUCE MOORE, 6847
BRIAN E. MORETTI, 6410
MATTHEW MOTEN, 4319
CONRAD H. MUNSTER JR., 7865
JOHN D. NELSON, 0269
THURMAN M. PITTMAN JR., 6639
TIMOTHY A. RAINEY, 2097
MARITZA S. RYAN, 1356
EARL M. SILVER, 6375
MICHAEL J. TERIBURY, 7497
NORMA P. TOVAR, 6145
STEPHEN M. TOWNSEND, 3691
ROBERT M. VISBAL, 4192
STEPHEN K. WALKER, 6052
KENNETH L. WILSON, 7540
DANIEL S. ZUPAN, 3645

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

### *To be colonel*

EILEEN M. AHEARN, 0629
ROBIN B. AKIN, 6226
JOHN S. ALEXANDER, 7751
CAMPBELL D. ALLISON, 2990
STEVEN P. APLAND, 2984
MARK H. ARMSTRONG, 0082
ERIC L. ASHWORTH, 7456
MARY A. BAKER, 6269
PETER R. BAKER, 4378
THOMAS A. BALISH, 7967
ARTHUR T. BALL JR., 7191
DANIEL L. BALL, 7423
MARK J. BARBOSA, 4049
GERALD G. BARRETT, 9327
JOHN F. BECK, 0272
MICHAEL F. BEECH, 3705
HUGH M. BELL III, 2204
ROBERT T. BELL JR., 4612
MARK A. BIEHLER, 6502
MICHAEL A. BILLS, 6031
GLORIA D. BLAKE, 6263
KENT R. BOLSTER, 9238
DAVID V. BOSLEGO, 0756
STEPHEN T. BOSTON, 7681
MICHAEL W. BOWERS, 9265
BRIAN T. BOYLE, 9507
WILLIAM H. BRADY III, 1856
KELVIN L. BRIGHT, 4429
GREGORY A. BROCKMAN, 9879
TYRONE J. BRUMFIELD, 2610
DREW A. BRYNER, 1566
JOHN C. BUCKLEY II, 1063
MARGARET W. BURCHAM, 3634
RICHARD B. BURNS, 8003
ROBERT T. BURNS, 7314
JOHN C. BUSS, 6390
CAROL L. BUTTS, 4517
JAMES A. CAMPBELL, 7845
CAMPBELL P. CANTELOU, 1084
ROGER E. CAREY, 9466
DAMIAN P. CARR, 8720
MICHAEL J. CARROLL, 1102
VICTOR J. CASTRILLO, 4741
CHELSEA Y. CHAE, 0894
JOHN G. CHAMBLISS, 5656
MICHAEL S. CHESNEY, 6848
CLEMENT B. CHOLEK, 5219
SCOTT G. CILUFFO, 7627
DAVID J. CLARK, 9771
DAVID L. CLARK, 1194
KENNETH H. CLARK JR., 9068
DONALD I. CLARKE, 5050
JAMES C. CLOSE, 4783
RUSSELL C. CLOY, 2985
JEFFREY A. COBB, 7050
JOSEPH B. COLEMAN, 8551
JEFFREY N. COLT, 5103
MARK E. CONDRY, 6593
CINDY L. CONNALLY, 7025
JAMES P. CONNOLLY, 4209
MICHAEL A. COSS, 9676
RODERICK M. COX, 7981
THOMAS R. CRABTREE, 2283
CYNTHIA A. CROWELL, 5844
JAMES G. CURRIE JR., 2137
MICHAEL J. CURRY, 6090
PETER J. CURRY, 3297
CATHERINE M. CUTLER, 8259
GERALD B. DANIELS, 7132
ANNE L. DAVIS, 4424
MARK S. DAVIS, 4361
WINSTON L. DAVIS JR., 2290
JOSEPH P. DEANTONA, 8306
ROBERTO L. DELGADO, 5400
RODERICK G. DEMPS, 9665
BRANDON F. DENECKE, 5615
WAYNE S. DENEFF, 2412
PATRICK DEVINE, 4140
JOYCE P. DIMARCO, 6733
MICHAEL J. DIXON, 5594
DAVID E. DODD, 1188
JOHN J. DONOGHUE, 0496
EDWARD F. DORMAN III, 8660
KAREN A. DOYLE, 3888
VINCENT M. DREYER, 0720
FLOYD J. DRIVER, 2075
DAVID E. DUNCAN, 6944
CARL E. DURHAM, 2624
JOANN Y. EBERLE, 4781
JOSE R. ENRIQUEZ, 9172
DOUGLAS J. EVANS, 3504
JASON T. EVANS, 1565
MICHAEL L. EVERETT, 0445
KEVIN G. FAGEDES, 8493
BONNIE B. FAUTUA, 9282
TERRY R. FERRELL, 2515
MARK F. FIELDS, 1229
RANDALL L. FOFI, 6010
STEPHEN G. FOGARTY, 7415
ROBERT W. FORRESTER, 0897
PAUL N. FORTUNE, 7514
DAVID G. FOX, 6861
RICHARD M. FRANCEY JR., 5388
TIMOTHY H. FRANK, 2857
STEPHEN D. FRAUNFELTER, 7866
TIMOTHY A. FREELON, 9488
LEAH R. FULLERFRIEL, 6176
PAUL E. FUNK II, 2729
WILLIE E. GADDIS, 1373
THOMAS K. GAINEY, 4228
MICHAEL X. GARRETT, 3427
CHRISTINE M. GAYAGAS, 4471
BRUCE A. GEORGIA, 8104
EDWARD G. GIBBONS JR., 5132
RICKY D. GIBBS, 3170
WILLIAM C. GIBSON, 9093

GARY D. GIEBEL, 8492
DAVID F. GILBERT, 4896
STEVEN M. GRAHAM, 0602
STEVEN A. GREENE, 1725
WAYNE W. GRIGSBY JR., 7479
ROBERT S. GUARINO, 1495
EDWARD C. GULLY, 8172
CYRUS E. GWYN JR., 4827
BRICE A. GYURISKO SR., 0347
JOHN A. HADJIS, 1119
BENJAMIN T. HAGAR, 5603
GLENN W. HARP, 5908
KENNETH R. HARRISON, 5518
STUART G. HARRISON, 4432
CASEY P. HASKINS, 4153
DEBBRA A. HEAD, 4057
JAMES P. HERSON JR., 5500
RAYMOND S. HILLIARD, 6213
THOMAS G. HOPKINS, 0433
RUSSELL W. HORTON, 2192
DWAYNE A. HOUSTON, 7016
BART HOWARD, 2724
LAWRENCE M. HUDNALL, 8258
NATHANIEL IDLET, 9231
HEATHER J. IERARDI, 4477
MARK S. INCH, 5841
FERDINAND IRIZARRY II, 6269
DONALD E. JACKSON, 6320
THOMAS S. JAMES JR., 7305
DENNIS J. JAROSZ, 9229
DANA D. JENNINGS III, 4577
RICHARD A. JODOIN JR., 6992
MICHAEL A. JOINER, 5133
ANN J. JOSEPH, 6906
JAMES H. KAISER, 6570
DONNA M. KAPINUS, 0567
GREGORY G. KAPRAL, 3354
GEORGE G. KELLY, 3686
MICHAEL H. KEOGH, 3220
TIMOTHY J. KEPPLER, 5523
JAMES S. KESTNER, 5366
EDRIC A. KIRKMAN, 9234
JAMES J. KLINGAMAN, 2894
MICHAEL J. KLINGELE, 0775
MARK D. KLINGELHOEFER, 4755
JOHN A. KLOTSKO JR., 1383
PERRY L. KNIGHT, 4077
DAVID J. KOLLEDA, 6102
GREGORY C. KRAAK, 4543
KATHI L. KREKLOW, 7294
PAUL J. LACAMERA, 2419
CHRISTOPHER L. LADRA, 4368
WILLIAM S. LARESE, 6743
BRIAN W. LAURITZEN, 7092
CALVIN D. LAWYER, 2664
KIM G. LINDAHL, 0361
MARK S. LOWE, 7821
STEPHEN R. LYONS, 6633
VICTOR MACCAGNAN JR., 8786
MICHAEL H. MACNEIL, 5806
MICHAEL B. MAHONEY, 8480
ROBERT L. MANNING, 5864
RICHARD A. MARCINOWSKI, 4078
DAVID A. MCBRIDE, 8215
JEFFREY D. MCCLAIN, 5514
MARK S. MCCONKEY, 3568
KENNETH O. MCCREEDY, 4019
KEVIN M. MCDONNELL, 8731
THOMAS J. MCGRATH, 7731
STEPHEN J. MCHUGH, 1535
SIDNEY H. MCMANUS III, 6528
JOHN T. MCNAMARA JR., 6446
LARRY D. MCNEAL, 0856
JOSEPH M. MCNEILL, 7008
TOD D. MELLMAN, 7701
MATT R. MERRICK, 5934
JOHN M. METZ, 1618
JAMES D. MEYER, 2396
RAYMOND G. MIDKIFF, 8569
KATHERINE N. MILLER, 1248
WILLIAM P. MILLER, 5607
ZECHARA J. MILLER, 5367
ROBERT J. MONTGOMERY JR., 2746
KEVIN R. MOORE, 7071
WILLIAM H. MORRIS, 9229
MARK R. MUELLER, 7489
JAMES A. MUSKOPF, 2687
ROBERT R. NAETHING, 4832
VANCE J. NANNINI, 4948
ERIC M. NELSON, 5820
KEVIN G. OCONNELL, 2012
MICHAEL P. OKEEFE, 9472
ROBERT B. OLIVERAS, 5817
MORTON ORLOV II, 4425
TERRENCE L. OSULLIVAN, 6197
BRYAN R. OWENS, 2172
PHILLIP R. PARKER, 1485
JAMES F. PASQUARETTE, 6256
ANTHONY R. PAUROSO, 2063
GUSTAVE F. PERNA, 7950
VICTOR PETRENKO, 6525
ROBERT W. PETRILLO, 2010
CHRISTOPHER R. PHILBRICK, 8249
GARY M. POTTS, 9516
CHARLES A. PREYSLER, 9277
JOHN E. PULLIAM JR., 6918
CHRISTOPHER J. PUTKO, 9299
MARK R. QUANTOCK, 0942
CHRISTOPHER E. QUEEN, 5272
CHARLES D. RAINEY, 2504
RICARDO E. RAMIREZ, 7032
WILLIAM E. RAPP, 4511
WILLIAM M. RAYMOND JR., 3696
MICHAEL J. REAGOR, 6960
DANIEL K. REED, 5506
STEVENSON L. REED, 0842
EDWARD M. REEDER JR., 7811
LYNDRA REID, 7393
KARL E. REINHARD, 8756
DARRYL J. REYES, 3527
JAMES M. RICHARDSON, 3482
STEPHEN J. RIVIERE, 5108
CASSANDRA V. ROBERTS, 8338
RUSSELL G. ROBERTSON, 6632
CHARLES R. ROCKHOLD, 3134
DANIEL S. ROPER, 5624
THOMAS ROTONDI JR., 9624
THOMAS G. ROXBERRY, 6949
MARVIN N. RUSSELL, 0737
RICHARD H. SADDLER, 6574
FERDINAND D. SAMONTE, 0276
JOSEPH F. SARTIANO JR., 4290
JOSEPH E. SCHULZ, 6944
JOSEPH P. SCHWEITZER, 2066
WILLIAM J. SCOTT, 3249
JAMES D. SCUDIERI, 0044
GEORGE F. SEIFERTH, 7579
LEWIS F. SETLIFF III, 4926
PATRICK J. SHARON, 8253
DONNA L. SHAW, 9420
ROBERT C. SHAW, 6924
LUTHER F. SHEALY III, 7744
KENNETH W. SHREVES, 2871
JAMES G. SINGLETON, 3307
THOMAS F. SMALL, 5961
JOHN L. SMITH, 3805
LESLIE C. SMITH, 7862
THOMAS T. SMITH, 4444
RANDALL K. STAGNER, 0775
RONALD C. STEPHENS, 0684
RICHARD L. STEVENS, 5674
DANIEL S. STEWART, 0553
RONALD R. STIMEARE, 2436
RICHARD C. STOCKHAUSEN, 1871
DEAN C. STODTER, 7798
JAMES M. STUTEVILLE, 4282
EDWARD A. SWANDA JR., 9060
PATRICK J. SWEENEY, 3752
ROBERT A. SWENSON, 3800
MICHAEL C. TALBOTT, 4388
JOHN A. TANZI, 2332
CHARLES A. TENNISON, 1679
JEFFREY W. TERHUNE, 5879
CURTIS L. THALKEN, 1434
JERRY W. THOMAS, 5171
HALIMA M. TIFFANY, 7407
TRACEY E. TINSLEYNICHOLSON, 1957
ROBERT A. TIPTON, 4475
SAMUEL D. TORREY, 9208
KENNETH E. TOVO, 9327
KENNETH A. TURNER, 8658
WILLIAM D. TURNER, 2986
STEPHEN M. TWITTY, 1222
RONDA G. UREY, 9672
JOHN A. VIAENE, 7578
ROBERT E. VITTETOE, 2095
MICHAEL P. WADSWORTH, 1089
HENRICUS F. WAGENAAR, 3830
RICHARD P. WAGENAAR, 2730
MICHAEL S. WARBURTON, 0167
KENNETH M. WARD, 4834
PATRICK T. WARREN, 1413
BRYAN G. WATSON, 2863
FORREST C. WENTWORTH, 9190
JOHN C. WILHELM, 5621
STEPHEN P. WILKINS, 8413
DARRELL K. WILLIAMS, 1930
DENISE F. WILLIAMS, 3058
GEORGETTE P. WILSON, 6687
STEPHEN N. WOOD, 2311
MELINDA S. WOODHURST, 8478
LAMONT WOODY, 7571
DONALD H. WOOLVERTON, 1131
RAYMOND T. YOCUM, 5145
CHARLES M. YOMANT, 7109
MARK A. ZAMBERLAN, 1190
JAMES J. ZANOLI, 2999

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS, UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

CHRISTIAN F. ACHLEITHNER, 6156
GEORGE R. BARBER, 6297
MARK R. BAUS, 2560
TIMOTHY A. BECKER, 7727
GEORGE L. BRUCE, 7452
DEBORAH L. DALVIT, 1339
PHILIP DENICOLO, 5696
CHRISTOPHER G. FIELDING, 2556
LARRY B. FISHER, 9195
MICHAEL E. GARVIN, 5248
JEFFREY A. GRASSER, 0799
PETER M. GRONET, 4009
GEORGE J. HUCAL, 1139
ANTHONY P. JOYCE, 2622
KENNETH R. KLIER, 8458
CASEY P. LESER, 4062
MICHAEL P. MAHONEY, 9742
ROBERT J. MILLER, 0750
PHILIP J. PANDOLFI, 5083
DAVID G. SMITH, 6880
STEVEN A. TAYLOR, 9967
THOMAS R. TEMPEL JR., 8113
THOMAS G. WICHGERS, 6645
RICHARD J. WINDHORN, 5223

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

KEVIN C. ABBOTT, 6462
GREGORY J. ARGYROS, 4661
JOHN H. ARMSTRONG, 4881
KENNETH S. AZAROW, 5203
CONRAD S. BELNAP, 7949
CHRISTOPHER P. BLACK, 2782
KERRY M. BRADY, 8674
MICHAEL R. BRUMAGE, 4224
THOMAS R. BURKLOW, 0691
NORMAN E. BUSSELL, 2514
WILLIAM W. CAMPBELL, 6716
LEOPOLDO C. CANCIO, 8679
KEVIN R. CANNARD, 9786
THOMAS J. CASEY, 3816
JOHN M. CHO, 1179
JAMES E. COOK, 1440
LISE A. COTE, 5197
BRIAN J. CRISP, 3233
BARBARA A. CROTHERS, 5194
PAUL J. CUTTING, 7070
CARROLL J. DIEBOLD, 5876
RICHARD T. DOMBROSKI, 3045
PAUL J. DOUGHERTY, 2257
PATRICK E. DUFFY, 6598
RANDALL A. ESPINOSA, 2051
JOEL T. FISHBAIN, 2474
DIANE M. FLYNN, 3687
JEFFREY M. GAMBEL, 1416
THOMAS P. GARIGAN JR., 3872
DAVID L. GILLESPIE, 1152
WILLIAM R. GILLILAND, 7503
KATHY L. HARRINGTON, 0057
KENNETH C. HARRIS, 9687
DAVID W. HAUSE, 8469
ROMAN A. HAYDA, 5043
DALLAS W. HOMAS, 8527
DAVID G. HOOKER, 0040
RICHARD A. JORDAN, 9434
THASAN N. KANESA, 1388
ROBERT J. KAZRAGIS JR., 3401
CHRISTOPHER K. KIM, 3443
RICHARD W. KNIGHT, 6026
STEVEN J. KNORR, 3418
JOHN F. KRAGH JR., 0340
STEPHEN J. KRIVDA, 4737
TIMOTHY R. KUKLO, 5383
WILLIAM L. LANG, 7916
MARTHA K. LENHART, 8343
GEOFFREY S. LING, 7877
ERNEST G. LOCKROW, 4836
MICHAEL H. LUSZCZAK, 9523
JULIA A. LYNCH, 0216
RANDALL J. MALCHOW, 4316
TIMOTHY M. MALLON, 2386
GONZALEZ R. MARIN, 3566
JOSEPH F. MCKEON, 6736
MARK D. MENICH, 9028
PAUL D. MONGAN, 6995
LEON E. MOORES, 4925
ALLEN F. MOREY, 9613
MICHAEL J. MORRIS, 5340
KEVIN P. MURPHY, 2935
ROBERTO N. NANG, 2484
PETER E. NIELSEN, 1770
FELICIA F. PEHRSON, 4752
STEPHEN C. PHILLIPS, 6976
JOSEPH C. PIERSON, 4857
JOSEPH S. PINA, 2405
SIMON H. PINCUS, 6516
RONALD J. PLACE, 9721
DOUGLAS A. PRAGER, 5587
JOSEPH P. PULCINI, 8336
WILLIAM B. REECE, 6273
JOHN R. ROWE, 9907
ERIC J. RUBEL, 5736
GUY P. RUNKLE, 5603
DAVID T. SCHACHTER, 1449
FRANK W. SCRIBBICK III, 0714
BRADEN A. SHOUPE, 3910
MICHAEL J. SIGMON, 4459
MARK T. SISSON, 9056
RONALD E. SMITH JR., 2079
CAROLYN A. SULLIVAN, 3153
ALLEN J. TAYLOR JR., 7566
JOACHIM J. TENUTA, 0665
RICHARD F. TROTTA, 4580
BRAD E. WADDELL, 3412
DAVID M. WATTS, 2240
PETER V. WEBER, 5150
MARK R. WITHERS, 1102
MARK G. ZIEMBA, 4548

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

MARK A ADAMS, 5522
JEFFREY S ALLEN, 5008
VICTOR E AMBROSE, 2541

GINO P AMOROSO, 2094
WALTER T ANDERSON, 5156
MATTHEW J ANS, 1615
JOHN R ARMOUR, 7502
SOREN P ASHMALL, 7606
EUGENE M AUGUSTINE JR., 8289
MARY A AUGUSTITUS, 3425
JAY M BARGERON, 2814
BRUCE W BARNHILL, 0163
BRETT M BARTHOLOMAUS, 6977
ROBERT E BENSON, 6516
STEVEN W BERGER, 2071
RICHARD T BEW, 6989
DAVID J BLIGH, 2182
ROY M BLIZZARD III, 6548
HAROLD W BLOT JR., 5819
MICHAEL S BODKIN, 9686
RICHARD T BOYER, 5474
RANDOLPH J BRESNIK, 1672
ALLEN D BROUGHTON, 9163
KEVIN W BROWN, 1258
LEX A BROWN, 7866
DAVE W BURTON, 9373
AARONPAUL CAMELE, 7333
JOHN W CAPDEPON, 2983
PATRICK J CARROLL, 0950
TIMOTHY M CASSIDY, 3223
MICHAEL S CEDERHOLM, 1282
PAIGE L CHANDLER, 6119
JEFFREY R CHESSANI, 0792
MARY K CHURCH, 1751
BRADLEY C CLOSE, 8863
CHRISTOPHER P COKE, 2176
STEVEN J COLCOMBE, 8420
NATHAN S COOK, 2201
ROGER L CORDELL, 9581
MICHAEL E CORDERO, 3704
JOSEPH A CRAFT, 5875
FRANCISCO B CRISAFULLI, 2559
MICHAEL T CUCCIO, 8451
STEVEN M CUNNINGHAM, 4652
ROBERT E CURRAN, 9273
TRACY A DALY, 9905
JOHN M DANTIC, 4859
RICHARD G DEGUZMAN, 8265
STEVE A DELACRUZ, 5998
JAMES F DESY, 7148
TIMOTHY J DEVLIN, 6316
THOMAS D DICKEN III, 2803
CHRISTOPHER S DOWLING, 1251
DAVID J DOWLING, 9553
FRANCIS A DOWSE, 5388
EMILY J ELDER, 1423
KENNETH E ENNEY JR., 5145
JOHN K FAIRCLOTH JR., 7767
MICHAEL FARRELL, 6753
CHRISTOPHER L FATHEREE, 2687
SCOTT J FAZEKAS, 7454
WILLIAM H FERRELL III, 4852
DONALD R FINN, 2507
PATRICK S FLANERY, 5669
JAMES G FLYNN, 5531
LYLE E FORCUM, 9132
SCOTT G FOSDAL, 6040
JAMES W FUHS, 1223
ROBIN A GALLANT, 7106
JAMES M GARRETT III, 8958
RUBEN J GARZA, 1215
BRADFORD J GERING, 1141
CHRIS A GIBSON, 5341
JOHN R GILTZ, 9412
JAMES F GLYNN, 6732
JONATHAN C GOFF, 8859
MICHAEL W GRADY, 3157
JOSEPH M GRANT, 9481
STEVEN J GRASS, 5721
PHILIP E GRATHWOL, 5478
CHARLES S GRAY, 1139
JIMMIE G GRUNY, 9856
JEFFREY A HAGAN, 7600
ROBERT M HAGAN, 1313
BRADLEY R HALL, 2147
STEPHEN W HALL, 7395
JAMES B HANLON, 3144
ERNEST A HARPER, 0303
LYLE M HARRISON, 5532
ERIC C HASTINGS, 1157
SETH A HATHAWAY, 4660
DIMITRI HENRY, 1423
JOHN M HENRY, 3533
PATRICK L HERNANDEZ, 6718
JOHN P HESFORD JR., 6231
JAMES L HOGAN, 8784
JOHN R HOLLANDER, 8884
ADAM P HOLMES, 3349
EDWARD A HOWELL, 9277
MICHAEL W HUFF, 5803
CRAIG W HUNGERFORD, 2531
VINCENT M HUTCHERSON, 1182
DANIEL C IRCINK, 1526
JAMES E IZEN, 4058
MARK K JAMISON, 5530
OLIVER G JENKINS, 0008
SCOTT S JENSEN, 3610
KARLA M JESSUP, 9162
DIETER G JOBE, 4782
CLAXTON R JOHNSON JR., 3997
MARK D JOHNSON, 3887
DAVID M JONES, 3590
MATTHEW L JONES, 8269
ROBERT W JONES, 7579
CHRISTOPHER A KEANE, 9687
JANET L KEECH, 1279
KURT A KEMPSTER, 8048
GREGG R KENDRICK, 3251
THOMAS M KEOGH, 1636
SEAN A KERR, 4916
PATRICK E KLINE, 1696
GARY A KLING, 8974
ROBERT J KOCHANSKI, 0149
JEFFREY G KOFFEL, 8695
CRAIG S KOZENIESKY, 9248
ROBERT A KREKEL, 5126
ROBERT W KRIEG, 5076
BRIAN L KU, 6223
JOSEPH P KUGEL, 8663
BRIAN E KUHN, 5360
BRYANT E LANDEAN, 1084
LANCE K LANDECHE, 3522
KENNETH M LASURE, 5298
GREGORY L LEMONS, 9533
STEPHEN B LEWALLEN JR., 5695
RICHARD E LOUCKS, 1432
WILLIAM S LUCAS, 0472
SAMUEL A MAGLIANO, 0482
ANDREW G MANCHIGIAH, 9435
KENNETH P MANEY, 9618
ROBERT L MANION, 2363
MICHAEL W MANZER JR., 4880
DEBORAH M MCCONNELL, 1533
MICHAEL G MCCOY, 0736
RALPH V MCCREARY II, 3155
ROGER J MCFADDEN, 2410
MATTHEW P MCLUCKIE, 5669
REID K MERRILL, 3671
CHRISTOPHER J MICHELSEN, 0349
JAMES L MILLER, 4600
MICHAEL S MILLER, 7515
PAUL D MONTANUS, 1115
JAY B MONTGOMERY, 8732
RICHARD E MYRICK, 2775
RANDY A NASH, 6111
NATHAN I NASTASE, 7855
DWIGHT C NEELEY, 2527
RONALD D NEFF, 1520
MARK W NELSON, 6635
THOMAS J NEMETH III, 6265
TIMOTHY W NICHOLS, 1725
KYLE J NICKEL, 4567
TIMOTHY J OLIVER, 8906
JOHN A OSTROWSKI, 5745
CHRISTOPHER L PAGE, 8991
RANDEL W PARKER, 6278
WILLIAM J PARKER III, 1104
CHRISTOPHER J PARKHURST, 0113
JOSEPH F PASCHALL, 4988
MATTHEW J PAUL, 1072
BRIAN J PAYNE, 2371
JOSEPH R PERLAK, 9428
MICHAEL W PERRY, 5595
ALEX G PETERSON, 9780
WILLIAM B PITMAN, 7315
CHRISTOPHER R POLLARD, 6224
DUNCAN C PORTER, 2250
ERIC V PORTER, 2507
AARON F POTTER, 3888
PAUL G POWER, 8035
WILLIS E PRICE III, 0961
STEPHEN W PRIMM, 9223
FRANKLIN L PUGH JR., 9652
EDWARD F RAMSEY, 8151
WILLIAM C RANDALL, 8720
ROBERT L RAUENHORST, 0936
LINDSEY B READING, 8347
JAMES E RECTOR, 2138
WILLIAM M REDMAN, 1320
JOHN C REEVE, 1057
JAMES P RETHWISCH, 5864
GEORGE W RIGGS, 6642
DOMINIC E ROBERTS, 2758
MARK L ROBERTS, 0650
JUSTIN C RODRIGUEZ, 0638
MICHAEL J RODRIGUEZ, 2097
THEODORE RUBSAMEN III, 3554
JAIME M RUVALCABA, 2655
PAUL P RYAN, 5559
WILLIAM J RYSANEK IV, 3425
MARK S SANCHEZ, 9408
MICHAEL L SCALISE, 3867
CRAIG W SCHEIDEGGER, 6132
BRADLEY R SCHIEFERDECKER, 8156
KEVIN M SCHMIEGEL, 4070
PATRICK H SCHOLES, 1858
NEIL C SCHUEHLE, 3270
HARVEY T SCHWARTZ, 0178
TIMOTHY B SEAMON, 5507
HALLIBURTO J SELLERS, 2836
JOHN R SHAFER, 8177
KEVIN M SHEA, 3379
JON E SHEARER, 6465
ROBERT C SHERRILL, 0691
MICHAEL D SHOUP, 2965
PHILIP E SIMMONS, 2456
KENT D SIMON, 2476
WAYNE A SINCLAIR, 5943
BRUCE K SIZEMORE, 6334
ROBERT B SKANKEY, 5926
HORACE W SMITH, 6499
THOMAS J SOBEY, 4317
MATTHEW G STCLAIR, 7856
CRAIG E STEPHENS, 6119
DONALD G STERLING, 8966
KRIS J STILLINGS, 0638
JAMES B STOPA, 9281
CHARLES D STOUT, 3248
CURTIS A STRADER, 3871
ROBERT L TANZOLA III, 8319
TODD S TAYLOR, 9701
JOHN J THOMAS, 4855
BRUCE J THOMSEN, 9760
DAVID S THORN, 3743
WILLIAM R TIBBS, 7230
CHRISTOPHER E TIERNAN, 5243
ROBERT T TOBIN III, 7420
MATTHEW E TRAVIS, 9346
KEITH H TREADWAY, 6059
TERENCE D TRENCHARD, 7106
JOEL B TURK, 2878
ROGER B TURNER JR., 5601
GREGORY P UTLEY, 7811
HAROLD R VANOPDORP JR., 3120
JOHN C VARA, 3075
WILLIAM L WADE, 4615
PATRICK L WALL, 0293
JOHN M WALLS, 5809
MARC A WEBSTER, 6451
ANNE M WEINBERG, 4860
ROBERT E WHITE JR., 4969
BRIAN K WILHOITE, 9686
ROBERT A WILKERSON, 5392
CHRISTOPHER W WILLIAMS, 5902
BLAKE M WILSON, 2197
DANIEL H WILSON, 2568
STEPHEN M WILSON, 2206
STEVEN L WILSON, 5040
ANTHONY A WINICKI, 9914
DANIEL S WISNIEWSKI, 4207
KENNETH M WOODARD, 4131
PHILLIP W WOODY, 2285
ERIN L ZELLERS, 0525

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

### *To be major*

AMY E. PREEN, 6366

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

### *To be major*

CHRISTOPHER J AABY, 5901
LEONARDO R ABERCROMBIE, 8588
STEPHEN J ACOSTA, 5479
AARON W ADAMS, 1824
DAVID A ADAMS, 9438
MARC A ALEXANDER, 8541
DAVID C ANDERSON, 8621
ROBERT L ANDERSON III, 8953
SCOTT R ANDERSON, 9395
DAVID M ANGERSBACH, 2208
LANCE T ARP, 2226
ANDREW A AUSTIN, 3141
MIGUEL A AVILA, 7219
RAMZY C AYACHI, 9706
RAYMOND P AYRES III, 8975
BRANDEN G BAILEY, 3636
LARRY A BAILEY JR., 8489
ROBERT O BAILEY, 7718
TIMOTHY M BAIRSTOW, 6117
DANIEL J BAKER, 8455
WILLIAM T BAKER, 5223
AISHA M BAKKARPOE, 4288
HERNAN BARRERO, 0343
JOEL N BARTIS, 8284
WILLIAM J BARTOLOMEA, 6818
DANIEL L BATES, 7552
ARTHUR R BEHNKE JR., 5013
MATTHEW T BELISLE, 8750
ROBERT H BELKNAP II, 0715
JASON A BELL, 9938
ROMAN V BENITEZ, 3669
CLAY A BERARDI, 0009
DAVID C BERGUM, 5116
GUY G BERRY, 7716
WAYNE R BEYER JR., 5597
STEVEN D BICKFORD, 9740
NED M BIEHL, 1059
BENJAMIN T BIERLY, 2810
ETHAN C BISHOP, 7263
MICHAEL J BLACK, 8787
PETER D BLADES JR., 5096
LORIN D BODILY, 7552
JEFFREY M BOLDUC, 2572
JEFFREY M BONNER, 9544
CHRISTA M BOWDISH, 5499
DANIEL J BRADLEY, 0454
PHILLIP M BRAGG, 6034
ROBERT G BREITBEIL, 9384
HENRY J BREZILLAC, 2962
ROBERT B BRODIE, 5070
JOHN M BROOKS, 5655
ERIC C BROWN, 9166
LARRY G BROWN, 5855
NGAIO I BROWN, 0464
BRIAN T BRUGGEMAN, 5717
ROBERT R BRUNKALLA, 9072
ALVIN BRYANT JR., 8676
DUNCAN J BUCHANAN, 5308
MICHAEL S. BURKS, 9807

TITUS R. BURNS, 2150
ERIC T. BURTON, 3478
ADAM L. BUSH, 0444
CHRISTOPHER W. BUSHEK, 6848
JOHN F. BUXTON, 2690
ALBERT S. CALAMUG, 6549
DAYTON CALHOUN IV, 0446
CHARLES D. CAMPBELL, 5639
THOMAS H. CAMPBELL III, 5095
OLIN M. CANNON, 3191
RONALD G. CAPES JR., 9353
TOMAS CARLOS, 4254
JANO R. CARLSON, 8997
CHRISTOPHER L. CARTER, 7552
WILLIAM J. CASLER JR., 5925
CHARLES R. CASSIDY, 2718
ROBERT T. CASTRO, 8205
HENRY CENTENO JR., 4798
GREGORY L. CHANEY, 1639
FRANCIS K. CHAWK III, 5801
VINCENT J. CIUCCOLI, 7928
DAVID W. CLAPP, 3490
JULIET B. CLAPP, 5762
KEVIN E. CLARK, 0743
TREVOR B. CLARK, 5452
MILTON J. CLAUSEN JR., 8662
JOSEPH E. CLEARY, 0087
BRIAN CLEMENS, 7431
ANDREW H. CLEVENGER, 7410
CRISTIN M. COADY, 4689
BRIAN C. COLLINS, 9106
KEVIN G. COLLINS, 2120
SEAN C. COLLINS, 4507
NORBERTO COLON, 6663
CHAD J. COMUNALE, 0390
DEAN G. CONATSER, 4736
CARROLL J. CONNELLEY, 9784
WILLIAM J. CONNER, 8522
HUGH K. CONNOLLY, 9989
BRIAN H. CONRAD, 2171
JESSE C. CONSTANTE, 6890
RIAN E. COOK, 5124
JAMES B. COOKSEY, 3503
SCOTT C. CORNELIUS, 7448
CHRISTIAAN P. CORRY, 1280
KEVIN S. CORTES, 4187
LEE A. CRACKNELL, 9819
MITCHELL A. CRIGER, 0770
ROBERT C. CRUM II, 2171
WARREN J. CURRY, 2585
GEORGE J. DAVID JR., 8409
SCOTT R. DAVIDSON, 6707
JEFFREY L. DAVIS, 6138
SHAWN B. DAVIS, 1418
EDWARD J. DEBISH, 1657
JOSEPH C. DEIGAN, 6674
MICHAEL DELGROSSO, 9608
DOUGLAS S. DEWOLFE, 5981
MARK D. DISS, 2636
KEVIN J. DOBZYNIAK, 0877
JOSE P. DOMINGUEZ, 5461
BRYAN E. DONOVAN, 8612
PETER J. DORAN, 9362
SCOTT E. DORNISCH, 6990
BARRY A. DOWDY, 0505
JASON C. DRAKE, 4862
ERIC R. DROWN, 6195
ALFREDO DUBOIS, 3429
MICHAEL S. DUCAR, 3988
MATTHEW A. DUMENIGO, 1905
WADE J. DUNFORD, 3609
JUSTIN S. DUNNE, 9587
PETER C. DUNNING, 5902
BRIAN P. DUPLESSIS, 3611
JOHN R. DUPREE, 6504
TOBY G. DYER, 0663
GORDON R. DYKES, 2842
ANDREW C. EANNIELLO, 4857
NATHANIEL T. EARLES, 4329
EDWARD J. EIBERT JR., 0614
GEOFFREY S. EICH, 8407
PETER J. EPTON, 0786
THOMAS G. ESPOSITO, 4827
AMADOR R. ESTRADA JR., 3108
BRIAN W. EVANS, 9934
RYAN M. EYER, 4960
ROBERT B. FANNING, 2791
HAYTHAM FARAJ, 6884
GUY J. FARMER, 6635
LINDA N. FERRELL, 8122
SEAN B. FILSON, 2858
MICHAEL D. FISK, 7435
PATRICK L. FITZGERALD, 4453
SHAUN T. FITZPATRICK, 3829
GREGORY P. FLAHERTY, 6592
CRAIG A. FORRESTER, 3505
CARLETON D. FORSLING, 9833
BRYAN C. FORTE, 6798
BRIAN W. FOSTER, 8411
ANTHONY N. FRASCO, 5968
CHRISTOPHER M. FREY, 8027
PAUL A. FUNK, 5210
KELVIN W. GALLMAN, 0564
ANTHONY E. GALVIN, 8833
RAYMUNDO R. GAMBOL, 9051
RICHARD J. GANNON, 8013
WENDY S. GARRITY, 4127
MICHAEL A. GAVRE, 9261
DAVID S. GIBBS, 1424
HIETH D. GIBLER, 5640
MARK W. GILDAY, 2750
MATTHEW M. GIOIA, 0043
BRETT A. GIORDANO, 2273
DOUGLAS W. GLOVER, 2718
THOMAS R. GLUECK JR., 9028
PAUL M. GOMEZ, 8012
RUFINO H. GOMEZ, 7742
BRUCE D. GORDON, 2885
RONALD S. GOUKER, 7564
GARY W. GRAHAM, 3650
JASON T. GREENE, 1308
CHRISTEON C. GRIFFIN, 6686
STANLEY P. GRIFFIN, 2108
ALLEN D. GRINALDS, 7967
DARRY W. GROSSNICKLE, 9585
GREGORY L. GRUNWALD, 0837
JASON S. GUELLO, 2093
PETER J. GUERRANT, 3340
ANDREW J. GWYNN, 1732
DENNIS W. HACKER, 8789
MICHAEL P. HADLEY, 7764
MATTHEW J. HAEFNER, 5839
NIKOLAS D. HALATSIS, 6268
HOWARD F. HALL, 1139
ANDREW D. HAMILTON, 6716
MYLE E. HAMMOND, 5762
ERIC J. HAMSTRA, 7792
JEFFREY C. HANIFORD, 0623
JARED J. HANSBROUGH, 3879
ANTHONY A. HARDINA, 7701
DOUGLAS HARDY, 3223
JOHN W. HARMAN, 8195
CASEY S. HARMON, 5348
JACKIE D. HARRIS, 6938
JAMES A. HARRIS IV, 6227
DAVID E. HART, 1635
GREGORY R. HAUCK, 6939
BRIAN C. HAWKINS, 2415
EMILY H. HAYDON, 7857
EDWARD J. HEALEY JR., 8444
MONROE H. HENDERSON, 4869
RICHARD F. HENDRICK, 0132
MAURA M. HENNIGAN, 5719
MARK A. HERMES, 7852
SHAWN R. HERMLEY, 6836
GEORGE A. HERRERA, 4555
MANLEE J. HERRINGTON, 0965
JOHN R. HESS, 5366
RUSSELL L. HICKS, 9517
SHANNON V. HOLLOWAY, 1933
JAY M. HOLTERMANN, 1076
SCOTT K. HORNBUCKLE, 2713
SAMUEL N. HOTZ, 4704
DANNY L. HOWARD JR., 3043
NICOLE K. HUDSPETH, 8591
CHARLES A. HULME, 7632
DARYL S. HURST, 7023
KEVIN H. HUTCHISON, 9267
DAVID G. IRVING, 6654
JAMES M. ISAACS, 2379
LANCE A. JACKOLA, 7892
ERIC S. JAKUBOWSKI, 9331
BRENT M. JAMES, 2062
PETER J. JANOW, 6871
DARRYL L. JELINEK, 8927
BETHANY D. JENKINS, 2051
MICHAEL H. JOHNSON, 6302
SHANNON L. JOHNSON, 2191
WILLIAM W. JOHNSON, 7328
JOSEPH W. JONES, 0847
KIRK W. JORGENSEN, 2492
GILBERT D. JUAREZ, 3862
JASON W. JULIAN, 6566
HENRY JUNE JR., 9211
IVAN J. KANAPATHY, 7239
JOHN D. KAUFFMAN, 2292
STEPHEN F. KEANE, 1925
MATTHEW M. KEENEY, 4676
JOSHUA A. KEISLER, 9839
MATTHEW J. KENT, 3823
LINDA G. KERRICK, 7772
GRANT C. KILLMER, 7024
KEITH P. KINCANNON, 8702
CATHERINE A. KING, 0121
THOMAS T. KING, 3585
DARREN J. KISSELBURGH, 5743
BRIAN E. KISTNER, 6693
PETER W. KOENEMAN, 6968
DAVID L. KOWALSKI, 8127
MICHAEL R. KROHMER, 2542
ROBERT M. KUDELKO JR., 5389
DAVID A. KULIK, 9275
RAYMOND C. LABBE, 6080
THOMAS G. LACROIX, 4205
DWAINE D. LAMIGO, 8692
JONATHAN E. LANGLOIS, 3596
JOSEPH G. LAPAN JR., 1761
JON M. LAUDER, 2026
STEPHEN J. LAVELLE, 8517
RICHARD B. LAWSON, 0578
ELRIDGE C. LEBLANC, 3891
JEFFREY D. LEE, 4685
KENNETH G. LEE, 1029
ERIC J. LEHMAN, 2936
DOUGLAS LEMOTT JR., 1986
THOMAS A. LENHARDT, 2115
JOSEPH P. LENTIVECH III, 4255
JOHN C. LEWIS, 5799
STEPHEN J. LIGHTFOOT, 8196
FRANCIS X. LILLY JR., 5780
KEVIN M. LILLY, 6242
MATTHEW E. LIMBERT, 3860
THOMAS S. LITTLE II, 3298
FERDINAND F. LLANTERO, 1633
DAVID W. LOCKNER, 1999
BART W. LOGUE, 6831
CHARLES M. LONG JR., 4657
MICHAEL J. LONG, 9900
WILLIAM A. LOVEWELL, 5540
BENJAMIN J. LUCIANO, 7192
GARRETT C. LUNDE, 1704
CHRISTOPHER C. LYNCH, 0791
JOHN W. LYNCH III, 6425
WILLIAM P. MACNAUGHTON, 4950
GIAN F. MACONE, 6530
CHRISTOPHER G. MADELINE, 6248
VICTOR I. MADUKA, 2918
ROBERT K. MALDONADO, 0058
BENJAMIN W. MALMANGER, 7019
EUGENE A. MAMAJEK JR., 3469
JAMES E. MANEL, 5088
LESLIE B. MANSFIELD, 3044
ANDREW J. MARCELIS, 1213
MICHAEL R. MARKO, 4171
WENDY L. MAROTTA, 0422
MARIA A. MARTE, 9029
JON G. MARTIN, 4815
AARON C. MARX, 1964
ROBERT F. MASON JR., 5134
RICHARD P. MATYSKIELA, 6886
GREGORY K. MAVOR, 7928
PETER MCALEER, 1253
MICHAEL T. MCCOMAS, 1205
ALEXANDER K. MCCRAIGHT JR., 5261
PATRICK W. MCCUEN, 2128
SCOTT D. MCDONALD, 8099
JEREMY S. MCELROY, 4447
MATTHEW R. MCGATH, 8760
WILLIAM H. MCHENRY II, 9503
JAMES A. MCLAUGHLIN, 5685
RONALD H. MCLAUGHLIN, 8818
ARTHUR C. MCLEAN, 8494
CARL L. MCLEOD, 1089
ROBERT V. MCMILLEN JR., 2790
JAMES E. MEEK, 9152
PAUL M. MELCHIOR, 8197
MARK A. MERRILL, 8206
CRAIG G. MERRIMAN, 1925
RICARDO MIAGANY, 2002
MICHAEL W. MIDDLETON, 4625
JOHN J. MILES, 4391
DUNCAN W. MILLER, 9632
NATHAN M. MILLER, 3936
TIMOTHY P. MILLER, 6361
TODD M. MILLER, 4841
JOHN E. MING, 1229
KEITH B. MISHOE, 9951
MATTHEW B. MIXA, 1611
DARON M. MIZELL, 1279
ROSS A. MONTA, 5192
KEVIN L. MOODY, 4226
ALONZO B. MOORE, 9478
BILLY R. MOORE JR., 7730
DAVID A. MOORE, 3502
DAVID E. MOORE, 9952
KYLE J. MOORE, 0084
JAY E. MOORMAN, 8444
COBY M. MORAN, 4340
PATRICK C. MORAN, 4526
MARC H. MORGAN, 8549
NICHOLAS A. MORRIS, 9317
MATTHEW T. MORRISSEY, 3587
TYREL W. MOXEY, 9802
EDWARD P. MULLIN, 3605
MICHAEL B. MULLINS, 0038
JEFFREY V. MUNOZ, 3427
NEIL F. MURPHY JR., 4290
KEVIN F. MURRAY, 8792
LEONARD E. NEAL, 8538
MELISSA J. NELSON, 1471
JOSEPH L. NEWCOMB, 4654
JONATHAN R. NEWELL, 7141
THOMAS F. NICHOLS, 0522
SCOTT A. NICHOLSEN, 3748
NICHOLAS M. NICHOLSON, 8824
CHRISTOPHER M. NIEMANN, 3278
PAUL D. NOYES, 5151
TILEY R. NUNNINK, 1498
CHADWIC G. OAKLEY, 8193
DOUGLAS B. OGDEN, 7440
JOSEPH R. ONIZUK, 8636
TRAVIS F. OSELMO, 3209
RAMON A. OZAMBELA, 7603
MARK T. PALIOTTA, 7170
MARIA J. PALLOTTA, 7741
MATTHEW J. PALMA, 0900
ROBERT G. PALMER, 8408
GEORGE E. PAPPAS, 6550
THOMAS F. PAQUIN, 4965
LARRY D. PARKER JR., 0787
MATTHEW D. PARKER, 2087
KEITH A. PARRELLA, 5695
SEAN W. PASCOLI, 2148
JOHN G. PAYNE JR., 1040
TODD R. PEERY, 8365
TROY M. PEHRSON, 1042
MICHAEL J. PEITZ, 8077
MICHAEL J. PELAK, 7352
BRADLEY S. PENNELLA, 4468
ANTHONY R. PERRETTA JR., 8075
JASON S. PERRY, 2636
ERIC J. PETERSON, 7490
KRISTIAN D. PFEIFFER, 2222
DAVID M. PHILLIPPI, 8128
BRYAN S. PITCHFORD, 1535
TIM B. POCHOP, 0298

JEFFREY R. POE, 1649
GREGORY T. POLAND, 2614
KATHERINE I. POLEVITZKY, 5714
JOHN S. POSTORINO, 1549
KENNETH C. POTTER, 8232
CHRISTOPHER A. POWERS, 1123
ROBERT C. POWERS, 8356
WESLEY T. PRATER, 9616
ANDREW T. PRIDDY, 6988
STEPHEN PRITCHARD, 8535
SCOTT T. PROFFITT, 6139
JAMES M. QUIRK, 8873
RONALDO RACINEZ, 3689
CHRISTOPHER K. RAIBLE, 6805
CHRISTIAN M. RANKIN, 1916
WILLIAM A. RASGORSHEK, 3059
WALTER D. REECE, 4937
JACKSON L. REESE, 3202
GARY R. REIDENBACH, 6364
MATTHEW A. REILEY, 0995
MICHAEL D. REILLY, 1768
RYAN W. REILLY, 6007
CHRISTIAN D. RICHARDSON, 5479
DEAN R. RIDGWAY, 3903
JAMES A. RIGHTER, 3522
MELINDA L. RIZER, 6271
RALPH J. RIZZO JR., 3085
MATTHEW B. ROBBINS, 1545
SCOTT A. ROBINSON, 9117
GARY T. ROESTI, 3079
DANIEL D. ROSE, 0013
WILLIAM H. ROTHERMEL, 9116
ALAN B. ROWE, 7278
DANIEL N. RUBEL JR., 3363
ROBERT V. RUBIO, 0783
EDWARD T. RUSH JR., 2772
NATHAN M. RUSH, 5634
JAMES A. RYANS II, 3396
WILLIAM A. SABLAN, 1896
SEAN M. SADLIER, 6920
MATTHEW R. SALE, 0185
JOHN B. SALMON, 5335
CHRISTOPHER J. SAMPLE, 6945
SHENANDOAH SANCHEZ, 3605
KENNETH M. SANDLER, 3422
REX W. SAPPENFIELD, 1711
MATTHEW R. SASSE, 0955
WILLIAM R. SAUERLAND JR., 3782
DENNIS L. SAUGSTAD JR., 0995
MORGAN N. SAVAGE, 3119
PIETRO P. SCARSELLI, 4846
TODD R. SCHIRO, 5207
TIMOTHY L. SCHNEIDER, 1014
SCOTT D. SCHOEMAN, 5845
WILLIAM A. SCHUTZ II, 6941
ROBERT T. SCHWEIGER, 8855
MARIO F. SCHWEIZER, 8647
CRAIG R. SCHWETJE, 8360
JEFFREY B. SCOTT, 2791
MATTHEW R. SEAY, 5988
MATTHEW K. SEIPT, 8479
MATTHEW A. SENN, 8824
JOEL V. SEWELL, 6510
CHRISTOPHER B. SHAW, 7642
MATTHEW R. SHENBERGER, 8546
DONALD L. SHOVE, 0114
JOHN R. SIARY, 3833
CORY G. SIMMONS, 8592
BRIAN D. SIMON, 8944
PATRICK E. SIMON, 6841
RICHARD F. SIMS JR., 3916
SCOTT A. SITTERLE, 4703
JAMIESON J. SLOUGH, 2263
DUANE F. SMILE, 9419
ANDREW Q. SMITH, 6579
BRIAN C. SMITH JR., 1757
CHARLES E. SMITH, 0971
DAVID J. SMITH JR., 6278
GREGORY I. SMITH, 4866
JASON E. SMITH, 5568
JOHN E. SMITH, 5155
RAHMAN K. SMITH, 2392
SINCLAIR D. SMITH, 2612
STEPHEN M. SMITH, 1052
BRYAN M. SMYLIE, 1656
BLAIR J. SOKOL, 2780
PAUL F. SPANGENBERGER, 8550
WILLIAM R. SPEIGLE II, 8775
DEMETRY P. SPIROPOULOS, 6530
JOHN M. STAFFORD, 0300
PHILIP K. STAUFFACHER, 3858
DAVID M. STEELE, 5424
TIMOTHY STEFANICK, 5046
SEAN E. STEPHENS, 5343
MATTHEW W. STERNI, 4028
KYLE M. STODDARD, 2993
KARL J. STOETZER, 9563
MATTHEW W. STOVER, 3056
MICHAEL A. STROUD, 3535
EDWARD R. SULLIVAN, 3281
DAVID C. SUMMERS, 3024
CHAD M. SUND, 2628
SHAWN M. SWANSON, 0951
JONATHAN S. SWOPE, 6647
DANIEL B. TAYLOR, 6751
CHRISTOPHER J. THIELEMANN, 0627
GERALD A. THOMAS, 5895
MATTHEW L. THOMAS, 3234
TERRANCE L. THOMAS, 7972
ALISON J. THOMPSON, 5233
MICHAEL G. TIRONE, 7453
ADAM J. TKACH, 3255
CHRISTOPHER G. TOLAR, 9511
JONATHON A. TONEY, 0065
TRUETT A. TOOKE, 1915
BRADLEY S. TRAGER, 3109
SCOTT B. TRAIL, 0177
JAMES R. TRAVER, 2941
PHILIP J. TREGLIA, 0921
KAREN F. TRIBBETT, 5592
KEVIN C. TRIMBLE, 2808
TERRY L. TROGDON, 5491
CLIFTON L. TURNER, 6403
MICHAEL S. TYSON, 7390
JOON H. UM, 7650
STEWART T. UPTON, 3575
JOHN P. VALENCIA, 6896
MATTHEW J. VALIQUETTE, 5772
CARLOS A. VALLEJO, 9357
ROBERT J. VANDERWOUDE, 8415
DAVID W. VANHOOF, 6129
JOEL D. VANPROYEN, 7551
MARK E. VANSKIKE, 0669
VERNON T. VEGGEBERG, 3802
TIMOTHY B. VENABLE, 4437
ROBERT S. VOLKERT, 9781
EVAN R. WAHL, 0229
JORDAN D. WALZER, 6438
GILBERT A. WARNER, 9883
LAWRENCE A. WASHINGTON, 6977
DEREK J. WASTILA, 4171
CARL A. WATT, 8222
MATTHEW O. WATT, 2440
PATRICK D. WAUGH, 5298
BRENT A. WEATHERS, 3541
DAVID A. WEINSTEIN, 3126
GARRETT R. WELCH, 7451
MARK C. WELCH, 8964
TIMOTHY E. WERNIMONT, 3634
BRIAN D. WHITE, 5756
STEPHAN F. WHITEHEAD, 9833
JAMES S. WHITEKER, 9123
ERIC S. WHITTINGTON, 0296
JEFFREY S. WIDEMAN, 5890
KEVIN A. WILLIAMS, 3095
MICHAEL F. WILONSKY, 9323
CRAIG A. WINGARD, 6789
ANDREW R. WINTHROP, 3809
ROBERT L. WISER, 6680
DANIEL J. WITTNAM, 4884
THOMAS D. WOOD, 8137
ARTHUR J. WOODS, 6760
HAROLD C. YOUNG, 4799
RICHARD B. YOUNG II, 3712
MARK W. ZIPSIE, 7030

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

DAVID B. WEIDING, 0321

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

*To be lieutenant commander*

JONATHAN Q. ADAMS, 6754
STEVEN P. BRABEC, 0738
STANFORD P. COLEMAN, 2013
JOHN D. CRADDOCK, 2479
NORRIS L. ELLIS, 4000
WILLIAM J. FRANCIS, 6829
JEFFREY J. JUERGENS, 0046
MATTHEW M. KAWAS, 9612
JAMES T. KEENE, 3785
RICHARD R. MCCARTY, 4543
LEONARD L. MILLIKEN, 4047
CHRISTOPHER M. NICHOLS, 1843
MATTHEW M. PEDERSON, 4909
MACK F. SCHMIDT, 1252
JOHN F. SHEEHAN, 9714
BRIAN B. SKIMKAVEG, 5256
ALLEN R. STAMBAUGH, 0608
MICHAEL S. TAYLOR, 8671
COREY C. WOFFORD, 3157
STACEY W. YOPP, 9093

## CONFIRMATIONS

### Executive nominations confirmed by the Senate January 22, 2004:

DEPARTMENT OF VETERANS AFFAIRS

CYNTHIA R. CHURCH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (PUBLIC AND INTERGOVERNMENTAL AFFAIRS).

ROBERT N. MCFARLAND, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (INFORMATION AND TECHNOLOGY).

GORDON H. MANSFIELD, OF VIRGINIA, TO BE DEPUTY SECRETARY OF VETERANS AFFAIRS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# HOUSE OF REPRESENTATIVES—*Friday, January 23, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 23, 2004.*

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

### PRAYER

Dr. Lloyd J. Ogilvie, 61st Chaplain, U.S. Senate, Los Angeles, California, offered the following prayer:

God our Father, we pause in the midst of the changes and challenges of life to receive a fresh experience of Your goodness. You are always consistent, never changing, constantly fulfilling Your plans and purposes, and totally reliable. There is no shadow of turning with You; as You have been, You will be forever. All Your attributes are summed up in Your goodness. It is the password for Your presence, the metonym for Your majesty and the synonym for Your strength. Your goodness is generosity that You define. It is Your out-rushing, unqualified love poured out in graciousness and compassion. You are good when circumstances seem bad. And when we ask for Your help, Your goodness can bring what is best out of the most complicated problems.

Thank You for Your goodness given so lavishly to our Nation throughout our history. Today we turn to You for Your guidance for what is good for our country. Keep us grounded in Your sovereignty, rooted in Your commandments, and nurtured by the absolutes of Your truth and righteousness. May Your goodness always be the source of our Nation's greatness. In the name of our Lord and Savior. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 22, 2004.*
Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 22, 2004 at 10:55 a.m.

That the Senate passed without amendment H. Con. Res. 273.

Appontments: Veterans' Disability Benefits Commission.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 22, 2004.*
Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 22, 2004 at 2:50 p.m.

That the Senate agreed to conference report H.R. 2673.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule 1, the Speaker pro tempore signed the following enrolled bill on Thursday, January 22, 2004:

H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

### REAPPOINTMENT AS MEMBER TO UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

The SPEAKER pro tempore. Pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001, (22 U.S.C. 7002), amended by division P of the Consolidated Appropriations Resolution, 2003, and the order of the House of December 8, 2003, the Chair announces the Speaker's reappointment of the following member on the part of the House to the United States-China Economic and Security Review Commission:

Ms. June Teufel Dreyer, Coral Gables, Florida, for a term to expire December 31, 2005.

### ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found a truly enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2673. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

### BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on January 23, 2004, he presented to the President of the United States, for his approval, the following bill.

H.R. 2673. Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. on Tuesday, January 27, 2004, for morning hour debates.

There was no objection.

Accordingly (at 10 o'clock and 5 minutes a.m.), under its previous order the

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House adjourned until Tuesday, January 27, 2004, at 12:30 p.m., for morning hour debates.

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## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2002, and the second, third and fourth quarters of 2003, pursuant to Public Law 95–384 are as follows:

### AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2002

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrive | Depart | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Blaine Aaron | 6/25 | 7/2 | Italy | | 3,545.00 | | (3) | | | | 3,545.00 |
| David Abramowitz | 7/28 | 8/2 | Afghanistan | | 472.00 | | 6,981.40 | | | | 7,453.40 |
| Douglas Anderson | 8/15 | 8/18 | Hong Kong | | 1,083.00 | | | | [4]100.62 | | 1,183.62 |
| | 8/18 | 8/24 | Philippines | | 970.00 | | | | | | 970.00 |
| Round trip airfare | 8/15 | 8/24 | | | | | 5,473.10 | | | | 5,473.10 |
| Renee Austell | 8/4 | 8/6 | Rwanda | | 302.00 | | | | | | 302.00 |
| | 8/6 | 8/10 | Congo | | 955.00 | | | | | | 955.00 |
| Round trip airfare | 8/4 | 8/10 | | | | | 7,806.08 | | | | 7,806.08 |
| Hon. Cass Ballenger | 8/4 | 8/6 | Guatemala | | 454.00 | | | | | | 454.00 |
| | 8/6 | 8/7 | El Salvador | | 213.00 | | | | | | 213.00 |
| | 8/7 | 8/8 | Nicaragua | | 111.00 | | (3) | | | | 111.00 |
| Hon. Howard Berman | 7/2 | 7/6 | Poland | | 1,182.00 | | 76.05 | | | | 1,258.05 |
| Hon. Earl Blumenauer | 9/26 | 9/27 | Costa Rica | | 175.00 | | | | | | 175.00 |
| | 9/27 | 9/27 | Honduras | | 163.00 | | | | | | 163.00 |
| | 9/27 | 9/29 | Guatemala | | 177.00 | | (3) | | | | 177.00 |
| Ted Brennan | 8/3 | 8/6 | Guatemala | | 540.00 | | | | | | 540.00 |
| | 8/6 | 8/7 | El Salvador | | 86.00 | | | | | | 86.00 |
| | 8/7 | 8/8 | Nicaragua | | 115.00 | | | | | | 115.00 |
| Round trip airfare | 8/3 | 8/8 | | | | | 884.40 | | | | 884.40 |
| | 8/27 | 9/1 | Colombia | | 741.00 | | 1,812.49 | | | | 2,553.49 |
| Malik Chaka | 8/19 | 8/26 | Zimbabwe | | 950.00 | | 8,132.02 | | | | 9,082.02 |
| Joan Condon | 6/30 | 7/4 | Sierra Leone | | 260.00 | | | | | | 260.00 |
| | 7/4 | 7/5 | Ghana | | 200.00 | | | | | | 200.00 |
| Round trip airfare | 6/30 | 7/5 | | | | | 10,355.92 | | | | 10,355.92 |
| | 8/4 | 8/6 | Rwanda | | 302.00 | | | | | | 302.00 |
| | 8/6 | 8/10 | Congo | | 955.00 | | | | [4]310.00 | | 955.00 |
| Round trip airfare | 8/4 | 8/10 | | | | | 7,806.08 | | | | 7,806.08 |
| Ted Dagne | 7/25 | 7/31 | Kenya | | 1,770.00 | | | | | | 1,770.00 |
| | 7/31 | 8/2 | Congo | | 894.00 | | | | | | 894.00 |
| | 8/2 | 8/5 | Rwanda | | 412.00 | | | | | | 412.00 |
| Round trip airfare | 7/25 | 8/5 | | | | | 9,424.78 | | | | 9,424.78 |
| Hon. Jo Ann Davis | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hon. William Delahunt | 8/8 | 8/10 | Germany | | 676.00 | | 5,094.44 | | | | 5,770.44 |
| Hon. Eliot Engel | 8/14 | 8/17 | England | | 1,899.00 | | 2,656.40 | | | | 4,555.40 |
| David Fite | 6/30 | 7/1 | Switzerland | | 348.00 | | | | | | 348.00 |
| | 7/1 | 7/3 | France | | 590.00 | | | | | | 590.00 |
| Round trip airfare | 6/30 | 7/3 | | | | | 6,040.00 | | | | 6,040.00 |
| Kirsti Garlock | 6/30 | 7/1 | Switzerland | | 348.00 | | | | | | 348.00 |
| | 7/1 | 7/3 | France | | 590.00 | | | | [4]116 | | 706.00 |
| Round trip airfare | 6/30 | 7/3 | | | | | 6,296.41 | | | | 6,296.41 |
| Kristen Gilley | 6/30 | 7/1 | Switzerland | | 348.00 | | | | | | 348.00 |
| | 7/1 | 7/3 | France | | 590.00 | | | | | | 590.00 |
| Round trip airfare | 6/30 | 7/3 | | | | | 6,296.41 | | | | 6,296.41 |
| Dennis Halpin | 7/25 | 7/31 | South Korea | | 844.00 | | | | | | 844.00 |
| | 7/31 | 8/3 | Mongolia | | 447.00 | | | | | | 447.00 |
| | 7/26 | 8/6 | Russia | | 1,707.00 | | | | | | 1,707.00 |
| Round trip airfare | 7/25 | 8/6 | | | | | 7,964.90 | | | | 7,964.90 |
| Hon. Katherine Harris | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hon. Henry Hyde | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | [4]90,548.34 | | 93,080.34 |
| Trish Katyoka | 8/21 | 8/26 | Zambia | | 480.00 | | | | | | 480.00 |
| | 8/26 | 8/28 | Angola | | 652.00 | | | | | | 652.00 |
| | 8/28 | 8/29 | South Africa | | 65.00 | | | | | | 65.00 |
| Round trip airfare | 8/21 | 8/29 | | | | | 9,479.56 | | | | 9,479.56 |
| Jonathan Katz | 6/27 | 6/29 | Italy | | 1,013.00 | | | | | | 1,013.00 |
| | 6/30 | 7/3 | Cyprus | | 585.48 | | | | | | 585.48 |
| Round trip airfare | 6/27 | 7/3 | | | | | 5,717.75 | | | | 5,717.75 |
| | 9/15 | 9/16 | Belgium | | 682.00 | | 5,685.17 | | | | 6,367.17 |
| David Killion | 7/25 | 7/31 | South Korea | | 844.00 | | | | | | 844.00 |
| | 7/31 | 8/3 | Mongolia | | 549.00 | | | | | | 549.00 |
| | 7/26 | 8/6 | Russia | | 1,707.00 | | | | | | 1,707.00 |
| Round trip airfare | 7/25 | 8/6 | | | | | 7,175.77 | | | | 7,175.77 |
| | 9/26 | 9/30 | France | | 2,388.00 | | 5,957.06 | | | | 8,345.06 |
| Young Kim | 7/25 | 7/31 | South Korea | | 844.00 | | | | | | 844.00 |
| | 7/31 | 8/3 | Mongolia | | 549.00 | | | | | | 549.00 |
| | 7/26 | 8/6 | Russia | | 1,707.00 | | | | | | 1,707.00 |
| Round trip airfare | 7/25 | 8/6 | | | 6,564.00 | | | | | | 6,564.00 |
| Bob King | 6/28 | 7/2 | Italy | | 976.00 | | | | | | 976.00 |
| | 7/2 | 7/5 | Malta | | 759.00 | | | | | | 759.00 |
| Round trip airfare | 6/28 | 7/5 | | | | | 7,463.28 | | | | 7,463.28 |
| Kay King | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| | 7/2 | 7/5 | Malta | | 425.00 | | 4,124.04 | | | | 4,549.04 |
| Sheila Klein | 6/25 | 7/1 | Italy | | 3,344.00 | | 5,411.20 | | | | 8,755.20 |
| Hon. Thomas Lantos | 9/25 | 9/30 | France | | 2,388.00 | | 5,957.06 | | [4]3,550.00 | | 8,345.06 |
| Hon. James Leach | 8/26 | 8/27 | Japan | | 339.00 | | | | | | 339.00 |
| | 8/27 | 8/28 | South Korea | | 318.00 | | | | | | 318.00 |
| | 8/28 | 8/30 | China | | 554.00 | | | | | | 554.00 |
| | 8/30 | 8/31 | Hong Kong | | 410.00 | | | | [4]886.48 | | 1,296.48 |
| | 8/31 | 9/2 | Taiwan | | 556.00 | | | | [4]1,550.00 | | 2,106.00 |
| Round trip airfare | 8/26 | 9/2 | | | | | 5,350.98 | | | | 5,350.98 |
| Hon. Barbara Lee | 8/24 | 8/27 | Zambia | | 588.00 | | | | | | 588.00 |
| | 8/28 | 8/29 | Ethiopia | | 167.00 | | | | [4]1,443.93 | | 1,610.93 |
| Round trip airfare | 8/24 | 8/29 | | | | | 11,920.45 | | | | 11,920.45 |
| Jessica Lewis | 8/3 | 8/6 | Guatemala | | 381.00 | | | | | | 381.00 |
| | 8/6 | 8/8 | El Salvador | | 213.00 | | | | | | 213.00 |
| Round trip airfare | 8/3 | 8/8 | | | | | 1,505.00 | | | | 1,505.00 |
| Noelle Lusane | 8/21 | 8/26 | Zambia | | 730.00 | | | | | | 730.00 |

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2002—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrive | Depart | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 8/26 | 8/28 | Angola | | 526.00 | | | | | | 526.00 |
| | 8/28 | 8/29 | South Africa | | 105.00 | | | | | | 526.00 |
| Round trip airfare | 8/21 | 8/29 | | | | | 9,479.56 | | | | 9,479.56 |
| Don MacDonald | 8/24 | 8/27 | Mexico | | 623.00 | | | | | | 623.00 |
| | 8/27 | 9/1 | Colombia | | 655.00 | | | | | | 655.00 |
| Round trip airfare | 8/24 | 9/1 | | | | | 1,946.43 | | | | 1,946.43 |
| Caleb McCarry | 8/3 | 8/6 | Guatemala | | 681.00 | | 1,319.40 | | | | 2,000.40 |
| Jamie McCormick | 8/26 | 8/27 | Japan | | 339.00 | | | | | | 339.00 |
| | 8/27 | 8/28 | South Korea | | 318.00 | | | | | | 318.00 |
| | 8/28 | 8/30 | China | | 554.00 | | | | | | 554.00 |
| | 8/30 | 8/31 | Hong Kong | | 410.00 | | | | | | 410.00 |
| | 8/31 | 9/2 | Taiwan | | 556.00 | | | | | | 556.00 |
| Round trip airfare | 8/26 | 9/2 | | | | | 5,439.48 | | | | 5,439.48 |
| Hon. Thaddeus McCotter | 6/27 | 7/2 | Italy | | 2,532.00 | (3) | | | | | 2,532.00 |
| John Mackey | 8/25 | 8/27 | Mexico | | 522.00 | | | | | | 522.00 |
| | 8/27 | 9/1 | Colombia | | 875.00 | | | | | | 875.00 |
| Round trip airfare | 8/25 | 9/1 | | | | | 1,901.99 | | | | 1,901.99 |
| Alan Makovsky | 6/29 | 7/3 | Cyprus | | 287.00 | | | | | | 287.00 |
| | 7/3 | 7/6 | Greece | | 808.46 | | | | | | 808.46 |
| Round trip airfare | 6/29 | 7/6 | | | | | 5,322.74 | | | | 5,322.74 |
| Pearl-Alice Marsh | 8/24 | 8/27 | Zambia | | 538.00 | | | | | | 538.00 |
| | 8/28 | 8/29 | Ethiopia | | 126.25 | | | | | | 126.25 |
| Round trip airfare | 8/24 | 8/29 | | | | | 10,645.45 | | | | 10,645.45 |
| Richard Mereu | 8/24 | 8/27 | Mexico | | 753.71 | | | | | | 753.71 |
| | 8/27 | 8/30 | Colombia | | 460.01 | | | | | | 460.01 |
| Round trip airfare | 8/24 | 8/30 | | | | | 2,172.86 | | | | 2,172.86 |
| Thomas Mooney | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Vince Morelli | 6/29 | 7/3 | Cyprus | | 287.00 | | 5,086.20 | | | | 5,373.20 |
| Hon. Grace Napolitano | 7/26 | 7/29 | Senegal | | 730.75 | | | | | | 730.75 |
| | 7/29 | 7/31 | Tunisia | | 412.00 | | | | | | 412.00 |
| | 7/31 | 8/2 | Malta | | 103.30 | | (3) | | | | 103.30 |
| Paul Oostbur Sanz | 8/25 | 8/27 | Mexico | | 517.00 | | | | | | 517.00 |
| | 8/27 | 9/1 | Columbia | | 853.00 | | | | | | 853.00 |
| Round trip airfare | 8/25 | 9/1 | | | | | 1,946.43 | | | | 1,946.43 |
| Joe Painter | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Jennifer Palmer | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hon. Donald Payne | 7/27 | 7/31 | Kenya | | 1,180.00 | | | | [4] 1,328.12 | | 1,180.00 |
| | 7/31 | 8/2 | Congo | | 894.00 | | | | | | 894.00 |
| | 8/2 | 8/5 | Rwanda | | 412.00 | | | | [4] 200.00 | | 412.00 |
| Round trip airfare | 7/27 | 8/5 | | | | | 11,260.50 | | | | 11,260.50 |
| Frank Record | 6/27 | 7/2 | Italy | | 2,282.00 | | (3) | | | | 2,282.00 |
| Walker Roberts | 8/18 | 8/24 | Philippines | | 970.00 | | 4,739.99 | | | | 5,709.99 |
| Laura Rush | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Sue Scheisser | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hon. Adam Schiff | 8/25 | 8/28 | Kuwait | | 1,167.00 | | | | | | 1,167.00 |
| | 8/28 | 8/30 | Turkey | | 452.00 | | (3) | | | | 452.00 |
| Sam Stratman | 7/25 | 7/31 | South Korea | | 844.00 | | | | | | 844.00 |
| | 7/31 | 8/3 | Mongolia | | 434.00 | | | | | | 434.00 |
| | 7/26 | 8/6 | Russia | | 1,707.00 | | | | | | 1,707.00 |
| Round trip airfare | 7/25 | 8/6 | | | 8,073.00 | | | | | | 8,073.00 |
| Hon. Thomas Tancredo | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hon. Diane Watson | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Hillel Weinberg | 6/27 | 7/2 | Italy | | 2,232.00 | | (3) | | | | 2,232.00 |
| | 7/2 | 7/5 | Malta | | 709.00 | | 4,124.04 | | | | 4,833.04 |
| | 9/14 | 9/16 | Belgium | | 682.00 | | 5,685.17 | | | | 6,367.17 |
| Hon. Gerald Weller | 8/4 | 8/6 | Guatemala | | 454.00 | | | | | | 454.00 |
| | 8/6 | 8/7 | El Salvador | | 213.00 | | | | | | 213.00 |
| | 8/7 | 8/8 | Nicaragua | | 226.00 | | (3) | | | | 226.00 |
| Hon. Robert Wexler | 6/30 | 7/3 | Cyprus | | 439.11 | | | | | | 439.11 |
| | 7/3 | 7/6 | Greece | | 704.30 | | | | | | 704.30 |
| Round trip airfare | 6/30 | 7/6 | | | | | 5,118.94 | | | | 5,118.94 |
| | 9/15 | 9/16 | Belgium | | 682.00 | | 5,685.17 | | | | 6,367.17 |
| Judy Wolverton | 6/27 | 7/2 | Italy | | 2,532.00 | | (3) | | | | 2,532.00 |
| Committee total | | | | | 126,204.37 | | 250,722.55 | | 100,033.49 | | 571,605.78 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Indicates delegation costs.

HENRY J. HYDE, Chairman.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Depart | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Blaine Aaron | 12/5 | 12/8 | Japan | | 1,017.00 | | | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| David Abramowitz | 12/5 | 12/8 | Japan | | 907.00 | | | | | | 907.00 |
| | 12/8 | 12/12 | China | | 1,060.00 | | | | | | 1,060.00 |
| Commercial/Military air transportation | | | | | | | 1,906.30 | | | | 1,906.30 |
| David Adams | 11/18 | 11/19 | Turkey | | 273.00 | | | | | | 273.00 |
| | 11/19 | 11/21 | Qatar | | 468.00 | | | | | | 468.00 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 778.00 | | | | | | 778.00 |
| | 11/25 | 11/27 | United Kingdom | | 772.00 | | | | | | 772.00 |
| Commercial/Military air transportation | | | | | | | 5,034.95 | | | | 5,034.95 |
| Douglas Anderson | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Deborah Bodlander | 11/16 | 11/19 | Turkey | | 819.00 | | | | | | 819.00 |
| | 11/19 | 11/21 | Qatar | | 468.00 | | | | | | 468.00 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 780.00 | | | | | | 780.00 |

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Depart | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 11/25 | 11/27 | United Kingdom | | 772.00 | | | | | | 772.00 |
| Commercial/Military air transportation | | | | | | | 3,883.69 | | | | 3,883.69 |
| Malik Chaka | 10/28 | 11/1 | South Africa | | 332.00 | | | | | | 332.00 |
| | 11/1 | 11/5 | Mozambique | | 744.00 | | | | | | 744.00 |
| | 11/5 | 11/7 | Swaziland | | 206.00 | | | | | | 206.00 |
| R/T Commercial airfare | | | | | | | 6,426.94 | | | | 6,426.94 |
| | 12/9 | 12/12 | Zimbabwe | | 414.00 | | | | | | 414.00 |
| | 12/12 | 12/14 | Zambia | | 302.00 | | | | | | 302.00 |
| | 12/14 | 12/18 | Ethiopia | | 762.00 | | | | | | 762.00 |
| | 12/18 | 12/19 | Djibouti | | 199.00 | | | | | | 199.00 |
| | 12/19 | 12/21 | Eritrea | | 368.00 | | | | | | 368.00 |
| R/T Commercial airfare | | | | | | | 7,648.17 | | | | 7,648.17 |
| Joan Condon | 12/14 | 12/18 | Ethiopia | | 683.00 | | | | | | 683.00 |
| | 12/18 | 12/19 | Djibouti | | 229.00 | | | | | | 229.00 |
| | 12/19 | 12/21 | Eritrea | | 368.00 | | | | | | 368.00 |
| R/T commercial airfare | | | | | | | 7,108.52 | | | | 7,108.52 |
| Hon. William Delahunt | 11/19 | 11/21 | Qatar | | 468.48 | | | | | | 468.48 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 780.06 | | | | | | 780.06 |
| | 11/25 | 11/26 | United Kingdom | | 386.00 | | | | | | 386.00 |
| Commercial/Military air transportation | | | | | | | 6,364.48 | | | | 6,364.48 |
| Hon. Eni Faleomavaega | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| James Farr | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| David Fite | 11/18 | 11/19 | Turkey | | 218.00 | | | | | | 218.00 |
| | 11/19 | 11/21 | Qatar | | 358.00 | | | | | | 358.00 |
| | 11/21 | 11/23 | Bahrain | | 407.00 | | | | | | 407.00 |
| | 11/23 | 11/25 | Kuwait | | 630.63 | | | | | | 630.63 |
| | 11/25 | 11/27 | United Kingdom | | 772.00 | | | | | | 772.00 |
| Commercial/Military air transportation | | | | | | | 5,034.95 | | | | 5,034.95 |
| Daniel Freeman | 11/18 | 11/21 | Chile | | 1,316.00 | | | | | | 1,316.00 |
| R/T commercial airfare | | | | | | | 4,479.19 | | | | 4,479.19 |
| Paul Gallis | 11/16 | 11/20 | Turkey | | 1,357.00 | | (3) | | | | 1,357.00 |
| | 11/20 | 11/23 | Italy | | 1,260.00 | | | | | | 1,260.00 |
| Kirsti Garlock | 11/18 | 11/21 | Chile | | 1,316.00 | | | | | | 1,316.00 |
| R/T commercial airfare | | | | | | | 5,664.50 | | | | 5,664.50 |
| Kristen Gilley | 12/3 | 12/8 | Turkey | | 1,100.00 | | | | | | 1,100.00 |
| | 12/8 | 12/10 | Germany | | 510.00 | | | | | | 510.00 |
| R/T commercial airfare | | | | | | | 4,595.45 | | | | 4,595.45 |
| Dennis Halpin | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Hon. Henry Hyde | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017,00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | [4]9,997.18 | | 1,180.00 |
| Hon. Darrell Issa | 11/18 | 11/19 | Turkey | | 273.00 | | | | | | 273.00 |
| | 11/19 | 11/21 | Qatar | | 1,703.50 | | | | | | 1,703.50 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 783.18 | | | | | | 783.18 |
| | 11/25 | 11/27 | United Kingdom | | 772.00 | | | | | | 772.00 |
| Commercial/Military air transportion | | | | | | | 7,431.88 | | | | 7,431.88 |
| | 12/5 | 12/8 | Japan | | 1,017.00 | | | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | (3) | | | | 1,180.00 |
| Robert Jones | 12/5 | 12/8 | Japan | | 1,017.00 | | | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | (3) | | | | 1,180.00 |
| Hon. Brian Kerns | 10/11 | 10/15 | Colombia | | 1,018.00 | | (3) | | | | 1,018.00 |
| David Killion | 11/8 | 11/12 | Korea | | 1,376.00 | | | | | | 1,376.00 |
| R/T Commercial airfare | | | | | | | 4,107.71 | | | | 4,107.71 |
| Kay King | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 571.18 | | | | | | 571.18 |
| Robert King | 12/5 | 12/08 | Japan | | 566.44 | | (3) | | | | 566.44 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Sheila Klein | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Hon. Tom Lantos | 11/22 | 12/4 | Hungary | | 1,296.00 | | | | | | 1,296.00 |
| R/T Commercial airfare | | | | | | 2,173.95 | | | | | 2,173.95 |
| Noelle Lusane | 12/9 | 12/12 | Zimbabwe | | 414.00 | | | | | | 414.00 |
| | 12/12 | 12/14 | Zambia | | 302.00 | | | | | | 302.00 |
| | 12/14 | 12/18 | Ethiopia | | 816.00 | | | | | | 816.00 |
| | 12/18 | 12/19 | Djibouti | | 229.00 | | | | | | 229.00 |
| | 12/19 | 12/21 | Eritrea | | 368.00 | | | | | | 368.00 |
| R/T Commercial airfare | | | | | | | 7,648.17 | | | | 7,648.17 |
| John Mackey | 10/11 | 10/15 | Colombia | | 1,018.00 | | (3) | | | | 1,018.00 |
| | 12/2 | 12/3 | Ireland | | 312.00 | | | | | | 312.00 |
| | 12/3 | 12/4 | United Kingdom | | 268.00 | | | | | | 268.00 |
| | 12/4 | 12/5 | Ireland | | 312.00 | | | | | | 312.00 |
| | 12/5 | 12/8 | Turkey | | 654.00 | | | | | | 654.00 |
| | 12/8 | 12/10 | Germany | | 510.00 | | | | | | 510.00 |
| R/T Commercial airfare | | | | | | | 5,622.33 | | | | 5,622.33 |
| Alan Makovsky | 11/16 | 11/19 | Turkey | | 739.00 | | | | | | 739.00 |
| | 11/19 | 11/21 | Qatar | | 440.00 | | | | | | 440.00 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 660.00 | | | | | | 660.00 |
| | 11/25 | 11/27 | United Kingdom | | 729.00 | | | | | | 729.00 |
| R/T commercial airfare | | | | | | | 3,883.69 | | | | 3,883.69 |
| Pearl Alice Marsh | 10/28 | 11/1 | South Africa | | 281.58 | | | | | | 281.58 |
| | 11/1 | 11/5 | Mozambique | | 744.00 | | | | | | 744.00 |
| | 11/5 | 11/7 | Swaziland | | 204.00 | | | | | | 204.00 |
| R/T commercial airfare | | | | | | | 6,426.94 | | | | 6,426.94 |
| | 12/9 | 12/12 | Zimbabwe | | 414.00 | | | | | | 414.00 |
| | 12/12 | 12/14 | Zambia | | 302.00 | | | | | | 302.00 |
| | 12/14 | 12/18 | Ethiopia | | 812.00 | | | | | | 812.00 |
| R/T commercial airfare | | | | | | | 8,316.60 | | | | 8,316.60 |
| Caleb McCarry | 11/18 | 11/20 | Chile | | 234.00 | | | | | | 234.00 |
| | 11/21 | 11/23 | Nicaragua | | 382.50 | | | | | | 382.50 |
| R/T commercial airfare | | | | | | | 5,274.60 | | | | 5,274.60 |
| Hon. Cynthia McKinney | 10/18 | 10/19 | Amsterdam | | 230.00 | | | | | | 230.00 |
| | 10/19 | 10/20 | Burundi | | 197.00 | | | | | | 197.00 |
| R/T commercial airfare | | | | | | | 9,342.68 | | | | 9,342.68 |
| | 10/28 | 10/31 | Kenya | | 606.00 | | | | | | 606.00 |
| | 10/31 | 11/3 | Ethiopia | | 263.00 | | | | | | 263.00 |
| R/T commercial airfare | | | | | | | 7,458.57 | | | | 7,458.57 |

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Depart | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Thomas Money | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| R/T commercial airfare | | | | | | | 7,458.57 | | | | 7,458.57 |
| Dana Mott | 10/18 | 10/19 | Amsterdam | | 230.00 | | | | | | 230.00 |
| | 10/19 | 10/20 | Burundi | | 197.00 | | | | | | 197.00 |
| R/T commercial airfare | | | | | | | 9,342.68 | | | | 9,342.68 |
| | 10/28 | 10/31 | Kenya | | 606.00 | | | | | | 606.00 |
| | 10/31 | 11/3 | Ethiopia | | 263.00 | | | | | | 263.00 |
| R/T commercial airfare | | | | | | | 7,458.57 | | | | 7,458.57 |
| Paul Oostburg Sanz. | 11/18 | 11/21 | Chile | | 390.00 | | | | | | 390.00 |
| R/T commercial airfare | | | | | | | 5,664.50 | | | | 5,664.50 |
| Marilyn Owen | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Yleem Poblete | 11/8 | 11/12 | Korea | | 1,376.00 | | | | | | 1,376.00 |
| R/T commercial airfare | | | | | | | 4,107.71 | | | | 4,107.71 |
| Frank Record | 11/18 | 11/20 | Chile | | 1,266.00 | | | | | | 1,266.00 |
| R/T Commercial airfare | | | | | | | 5,664.50 | | | | 5,664.50 |
| Hon. Dana Rohrabacher | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| J. Walker Roberts | 12/5 | 12/08 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Douglas Seay | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Sam Stratman | 11/18 | 11/19 | Turkey | | 123.00 | | (3) | | | | 123.00 |
| | 11/19 | 11/21 | Qatar | | 468.00 | | | | | | 468.00 |
| | 11/21 | 11/23 | Bahrain | | 542.00 | | | | | | 542.00 |
| | 11/23 | 11/25 | Kuwait | | 778.00 | | | | | | 778.00 |
| | 11/25 | 11/27 | United Kingdom | | 772.00 | | | | | | 772.00 |
| Commercial/Military | | | | | | | 7,653.81 | | | | 7,653.81 |
| | 12/5 | 12/8 | Japan | | 1,017.00 | | (3) | | | | 1,017.00 |
| | 12/8 | 12/12 | China | | 1,180.00 | | | | | | 1,180.00 |
| Valerie Van Buren | 10/28 | 11/1 | South Africa | | 332.00 | | | | | | 332.00 |
| | 11/1 | 11/5 | Mozambique | | 744.00 | | | | | | 744.00 |
| | 11/5 | 11/7 | Swaziland | | 266.00 | | | | | | 266.00 |
| R/T Commercial airfare | | | | | | | 6,426.94 | | | | 6,426.94 |
| | 12/9 | 12/12 | Zimbabwe | | 414.00 | | | | | | 414.00 |
| | 12/12 | 12/14 | Zambia | | 302.00 | | | | | | 302.00 |
| | 12/14 | 12/18 | Ethiopia | | 812.00 | | | | | | 812.00 |
| | 12/18 | 12/19 | Djibouti | | 229.00 | | | | | | 229.00 |
| | 12/19 | 12/21 | Eritrea | | 368.00 | | | | | | 368.00 |
| R/T Commercial airfare | | | | | | | 7,648.17 | | | | 7,648.17 |
| Hillel Weinberg | 11/18 | 11/19 | Turkey | | 223.00 | | | | | | 223.00 |
| | 11/19 | 11/21 | Qatar | | 418.00 | | | | | | 418.00 |
| | 11/21 | 11/23 | Bahrain | | 492.00 | | | | | | 492.00 |
| | 11/23 | 11/25 | Kuwait | | 678.00 | | | | | | 678.00 |
| | 11/25 | 11/27 | United Kingdom | | 672.00 | | | | | | 672.00 |
| Commercial/Military | | | | | | | 7,666.38 | | | | 7,666.38 |
| Committee total | | | | | 94,206.55 | | 194,926.09 | | 9,997.18 | | 299,129.82 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Indicates delegation costs.

HENRY J. HYDE, Chairman.

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REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. PHIL ESKELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 9 AND SEPT. 14, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Phil Eskeland | 9/9 | 9/14 | Mexico | | 1,062.00 | | 2,505.19 | | 1,143.56 | | 4,710.75 |
| Committee total | | | | | 1,062.00 | | 2,505.19 | | 1,143.56 | | 4,710.75 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD A. MANZULLO, Chairman, Dec. 11, 2003.

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REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. MICHAEL P. JOYCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 25 AND NOV. 29, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Michael P. Joyce | 11/24 | 11/25 | Jordan | 674 | 952.00 | | | | | 674 | 952.00 |
| | 11/26 | 11/26 | Iraq | | | | | | | | |
| | 11/27 | 11/27 | Iraq | | | | | | | | |
| | 11/28 | 11/28 | Jordan | | | | | | | | |
| | 11/29 | 11/29 | U.S.A. | | | | | | | | |
| Committee total | | | | | 952.00 | | | | | | 952.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PORTER J. GOSS, Chairman, Dec. 29, 2003.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. DANIEL SCANDLING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 2 AND DEC. 7, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Daniel F. Scandling | | 12/2 | U.S.A. | | | | 6,609.52 | | | | 6,609.52 |
| | 12/3 | 12/4 | Jordan | | 916.00 | | | | | | 916.00 |
| | 12/4 | 12/6 | Iraq | | | | 168.00 | | | | 168.00 |
| | 12/6 | 12/7 | Jordan | | | | 168.00 | | | | 168.00 |
| | 12/7 | 12/7 | U.S.A. | | | | | | | | |
| Committee total | | | | | 916.00 | | 6,945.52 | | | | 7,861.52 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANIEL F. SCANDLING, Dec. 18, 2003.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. FRANK WOLF, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 2 AND DEC. 7, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Frank Wolf | | 12/2 | U.S.A. | | | | 6,609.52 | | | | 6,609.52 |
| | 12/3 | 12/4 | Jordan | | 916.00 | | | | | | 916.00 |
| | 12/4 | 12/6 | Iraq | | | | 168.00 | | | | 168.00 |
| | 12/6 | 12/7 | Jordan | | | | 168.00 | | | | 168.00 |
| | 12/7 | 12/7 | U.S.A. | | | | | | | | |
| Committee total | | | | | 916.00 | | 6,945.52 | | | | 7,261.52 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—$600.00 unused per diem returned to U.S. Treasury/State Dept.

FRANK WOLF, Chairman.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LAJES FIELD, AZORES AND PORTUGAL, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 7 AND NOV. 11, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Devin Nunes | 11/7 | 11/11 | Portugal | | 664.00 | | | | | | 664.00 |
| Hon. Mario Diaz-Balart | 11/7 | 11/11 | Portugal | | 664.00 | | | | | | 664.00 |
| Hon. Dennis Cardoza | 11/7 | 11/11 | Portugal | | 664.00 | | | | | | 664.00 |
| Hon. Johnny Amaral | 11/7 | 11/11 | Portugal | | 664.00 | | | | | | 664.00 |
| Hon. Jennifer Buckley | 11/7 | 11/11 | Portugal | | 664.00 | | | | | | 664.00 |
| Committee total | | | | | 3,320.00 | | | | | | 3,320.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DEVIN NUNES, Chairman, Dec. 11, 2003.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JORDAN, KUWAIT AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 14 AND NOV. 18, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. David L. Hobson | 11/15 | 11/15 | Jordan | | | | | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Steny Hoyer | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Michael Oxley | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. John Tanner | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Sheila Jackson Lee | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Robert Aderholt | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Bob Beauprez | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Hon. Ginny Brown-Waite | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JORDAN, KUWAIT AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 14 AND NOV. 18, 2003—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Wilson (Bill) Livingood | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Brian Potts | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Kenny Kraft | 11/15 | 11/15 | Jordan | | | | (3) | | | | |
| | 11/15 | 11/15 | Iraq | | | | (3) | | | | |
| | 11/15 | 11/17 | Kuwait | | 804.00 | | (3) | | | | 804.00 |
| | 11/16 | 11/16 | Iraq | | | | (3) | | | | |
| Committee total | | | | | 8,844.00 | | | | | | 8,844.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currently is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DAVID L. HOBSON, Chairman, Dec. 15, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE HOUSE NATO PARLIAMENTARY ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 30 AND DEC. 5, 2003

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Doug Bereuter | 11/30 | 12/1 | Germany | | | | 6,384.69 | | | | 6,384.69 |
| | 12/1 | 12/2 | Slovenia | | 248.00 | | (3) | | | | 248.00 |
| | 12/2 | 12/4 | Romania | | 540.00 | | (3) | | | | 540.00 |
| | 12/4 | 12/5 | Bulgaria | | 265.00 | | (3) | | | | 265.00 |
| Mr. Vince Morellis | 11/30 | 12/1 | Germany | | | | 6,384.69 | | | | 6,384.69 |
| | 12/1 | 12/2 | Slovenia | | 248.00 | | (3) | | | | 248.00 |
| | 12/2 | 12/4 | Romania | | 540.00 | | (3) | | | | 540.00 |
| | 12/4 | 12/5 | Bulgaria | | 265.00 | | (3) | | | | 265.00 |
| Mr. Mike Ennis [4] | 11/30 | 12/1 | Germany | | | | 3,511.40 | | | | 3,511.40 |
| | 12/1 | 12/2 | Slovenia | | 248.00 | | (3) | | | | 248.00 |
| | 12/2 | 12/4 | Romania | | 540.00 | | (3) | | | | 540.00 |
| | 12/4 | 12/5 | Bulgaria | | 265.00 | | (3) | | | | 265.00 |
| Committee total | | | | | 3,159.00 | | 16,280.78 | | | | 19,439.78 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Mr. Mike Ennis departed from the Bereuter CODEL on December 5, 2003, and traveled further under the authorization of the House Select Committee on Intelligence.

DOUG BEREUTER, Chairman, Jan. 6, 2004.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6286. A letter from the Regulatory Officer, Forest Service, Department of Agriculture, transmitting the Department's final rule — Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized Under the Healthy Forests Restoration Act of 2003 (RIN: 0596-AC15) received January 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6287. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Oriental Fruit Fly; Designation of Quarantined Area [Docket No. 02-096-2] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6288. A letter from the Program Manager, OPPM, Department of Agriculture, transmitting the Department's final rule — Office of Procurement and Property Management (OPPM); Uniform Procedures for the Acquisition and Transfer of Excess Personal Property (RIN: 0599-AA10) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6289. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Copper (II) Hydroxide; Exemption from the Requirement of a Tolerance [OPP-2003-0356; FRL-7341-1] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6290. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Formaldehyde, polymer with a-[bis(1-phenylethyl)phenyl]-w-hydroxypoly (oxy-1,2-ethanedil); Tolerance Exemption [OPP-2003-0392; FRL-7340-9] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6291. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Annual Adjustment of Ceiling on Allowable Charge for Certain Disclosures under the Fair Credit Reporting Act, Section 612(f), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6292. A letter from the Chairman, Securities and Exchange Commission, transmitting in accordance with Section 9(c) of the Investor and Capital Markets Fee Relief Act of 2002 (Pub. L. 107-123), a report on the "Extent to Which the Benefits of Fee Reductions Effected as a Result of the Act are Passed on to Investors" as prepared by the Office of Economic Analysis; to the Committee on Financial Services.

6293. A letter from the Director, Office of Exemption Determinations, Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Class Exemption for the Release of Claims and Extensions of Credit in Connection With Litigation [Prohibited Transaction Exemption 2003-39; Application No. D-11100] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6294. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Neurological Devices; Classification of Human Dura Matter [Docket No. 2002N-0370] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6295. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" final rule -HIPAA Administrative Simplification: Standard Unique Health Identifier for Helath Care Providers [CMS-0045-F] (RIN: 0938-AH99) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6296. A letter from the Administrator, Environmental Protection Agency, transmitting the Superfund Five-Year Review Report to Congress-FY 2002, in accordance with the requirements in Section 121(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Energy and Commerce.

6297. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Sate of South Dakota; Regulations for State Facilities in Rapid City [SIP NO. SD-001-0016a; FRL-7606-6] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6298. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: Tennessee: Nitrogen Oxides Budget and Allowance Trading Program [TN-238, 255-200406; FRL-7612-2] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6299. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities; New York [Region 2 Docket No. NY66-271a, FRL-7610-5] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6300. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Full Approval of the Title V Operating Permit Program for Antelope Valley Air Pollution Control District in California [CA 111-OPPa; FRL-7611-2] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6301. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7609-6] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6302. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District [CA 289-0417a; FRL-7600-7] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6303. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to Clarify the Scope of Certain Monitoring Requirements for Federal and State Operating Permits Programs [FRL-7612-5, E-Docket ID. No. OAR-2003-0179 (Legacy Docket ID No. A-90-50)] (RIN: 2060-AK29) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6304. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District, Yolo-Solano Air Quality Management District [CA264-0430; FRL-7607-5] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6305. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA275-0423a; FRL-7609-2] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6306. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revocation of Significant New Uses of Certain Chemical Substances [OPPT-2003-0031; FRL-7320-1] (RIN: 2070-AB27) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6307. A communication from the President of the United States, transmitting a report including matters relating to post-liberation Iraq as consistent with the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243); (H. Doc. No. 108—155); to the Committee on International Relations and ordered to be printed.

6308. A communication from the President of the United States, transmitting a supplemental report, consistent with the War Powers Resolution (Pub. L. 93-148), to help ensure that the Congress is kept fully informed on continued U.S. contributions in support of peacekeeping efforts in the former Yugoslavia; (H. Doc. No. 108—156); to the Committee on International Relations and ordered to be printed.

6309. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986; to the Committee on International Relations.

6310. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-17 on Waiving Prohibition on United States Military Assistance to Parties to the Rome Statute Establishing the International Criminal Court, pursuant to 22 U.S.C. 7421 et. seq; to the Committee on International Relations.

6311. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-291, "Technical Amendments Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6312. A letter from the Acting Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2003 Report on Performance and Accountability; to the Committee on Government Reform.

6313. A letter from the Secretary, Department of Labor, transmitting the FY 2003 Annual Report on Performance and Accountability; to the Committee on Government Reform.

6314. A letter from the Inspector General, General Services Administration, transmitting the Office's Audit Report Register for the six-month periods ending March 31, 2003 and September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6315. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the FY 2003 Performance and Accountability Report, prepared in accordance with the Reports Consolidation Act of 2000 and the Government Performance and Results Act of 1993; to the Committee on Government Reform.

6316. A letter from the Acting Director, Selective Service System, transmitting the FY 2003 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6317. A letter from the Chief Adminstrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 2003 through December 31, 2003 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 108—154); to the Committee on House Administration and ordered to be printed.

6318. A letter from the Secretary, Department of Interior, transmitting Final Engineering Report and Water Conservation Plan (Report and Plan) for the Lewis and Clark Rural Water System, pursuant to Public Law 106—246, section 4103(d)(2) (114 Stat. 580); to the Committee on Resources.

6319. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — North Dakota Regulatory Program [ND-047-FOR, Amendment No. XXXIV] received January 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6320. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Fishery Management Measures [Docket No. 0312126315-3315-01; I.D. 112803A] (RIN: 0648-AR68) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6321. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan [Docket No. 030908223-3289-02; I.D. 081403B] (RIN: 0648-AP57) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6322. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT9D-7R4 Series Turbofan Engines [Docket No. 2003-NE-01-AD; Amendment 39-13422; AD 2004-01-08] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6323. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes Equipped With Elevator and Aileron Computer (ELAC) L80 Standard [Docket No. 2002-NM-57-AD; Amendment 39-13390; AD 2003-25-07] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6324. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-

622R and A300 F4-622R Airplanes, and Model A310-324 and -325 Series Airplanes [Docket No. 2002-NM-137-AD; Amendment 39-13389; AD 2003-25-06] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6325. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 and 777-300 Series Airplanes [Docket No. 2001-NM-295-AD; Amendment 39-13385; AD 2003-25-02] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6326. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2001-NM-266-ad; Amendment 39-13388; AD 2003-25-05] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6327. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-400, -401, and -402 Airplanes [Docket No. 2002-NM-78-AD; Amendment 39-13386; AD 2003-25-03] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6328. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2003-NM-169-AD; Amendment 39-13400; AD 2003-11-15 R1] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6329. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2001-NM-163-AD; Amendment 39-13393; AD 2003-25-10] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6330. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes [Docket No. 2003-CE-28-AD; Amendment 39-13382; AD 2003-24-13] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6331. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-30F (KC-10A and KDC-10), DC-10-40, and DC-10-40F Airplanes [Docket No. 2002-NM-08-AD; Amendment 39-13396; AD 2006-25-13] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6332. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 900 EX and Mystere-Falcon 900 Series Airplanes [Docket No. 2001-NM-269-AD; Amendment 39-13395; AD 2003-25-12] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6333. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2003-NM-243-AD; Amendment 39-13397; AD 2003-26-01] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6334. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747SR, and 747SP Series Airplanes [Docket No. 2001-NM-180-AD; Amendment 39-13394; AD 2003-25-11] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6335. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-113 and -114 Series Airplanes; and Model A320-111, -211, and -212 Series Airplanes [Docket No. 2002-NM-61-AD; Amendment 39-13398; AD 2003-26-02] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6336. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2002-NM-125-AD; Amendment 39-13387; AD 2003-25-04] (RIN:2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6337. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Zanesville, OH [Docket No. FAA-2003-15876; Airspace Docket No. 03-AGL-14] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6338. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090-3, and PW4098 Turbofan Engines [Docket No. 2003-NE-40-AD; Amendment 39-13407; AD 2003-26-09] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6339. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600 Series Airplanes; Model A300 B4-600R Series Airplanes, Model A300 C4-605R Variant F Airplanes, and Model A300 F4-605R Airplanes [Docket No. 2002-NM-119-AD; Amendment 39-13392; AD 2003-25-09] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6340. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes Equipped With Certain Litton Air Data Inertial Reference Units [Docket No. 2002-NM-92-AD; Amendment 39-13399; AD 2003-26-03] (RIN: 2120-AA63) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6341. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Titeflex Corporation; Correction [Docket No. 2002-NE-22-AD; Amendment 39-13369; AD 2003-23-05] (RIN: 2120-AA63) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6342. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A Model A109E Helicopters [Docket No. 2003-SW-36-AD; Amendment 39-13401; AD 2003-26-04] (RIN: 1220-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6343. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes [Docket No. 2003-CE-28-AD; Amendment 39-13382; AD 2003-21-13] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6344. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas MD-90-30 Airplanes [Docket No. 2002-NM-103-AD; Amendment 39-13404; AD 2003-26-07] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6345. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT9D-3A, -7, -7A, -7F, -7H, -7AH, and -7J Turbofan Engines [Docket No. 2003-NE-52-AD; Amendment 39-13410; AD 2003-24-12R1] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6346. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Anjou Aeronautique Safety Belts and Restraint Systems [Docket No. 2003-CE-31-AD; Amendment 39-13403; AD 2003-26-06] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6347. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-8C1 Series and CF34-8C5 Series Turbofan Engines [Docket No. 2003-NE-58-AD; Amendment 39-13402; AD 2003-26-05] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6348. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80E1A2 and -80E1A4 Turbofan Engines [Docket No. 2003-NE-26-AD; Amendment 39-13409; AD 2003-26-11] (RIN: 2120-AA64) received January 15, 2004, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6349. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Credit for Increasing Research Activities [TD 9104] (RIN: 1545-AY82) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6350. A letter from the Director, Office of Personnel Management, transmitting the Office's Fiscal Year 2002 annual report on Veteran's Employment in the Federal Government, pursuant to 38 U.S.C. 4214(e)(1); to the Committee on Veterans' Affairs.

6351. A letter from the Regulations Coordinator, CMMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Notice of One-Time Appeal Process for Hospital Wage Index Classification [CMS-1373-N] (RIN: 0938-AN00) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6352. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Charitable Contributions of Patents and Other Intellectual Property [Notice 2004-7] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6353. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Guidance Regarding Deduction and Capitalization of Expeditures [TD 9107] (RIN: 1545-BA00) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6354. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Section 42 Carryover and Stacking Rule Amendments [TD 9110] (RIN: 1545-BA85) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6355. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-4) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6356. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-5) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6357. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting (Rev. Proc. 2004-11) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6358. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Information Reporting With Respect to Foreign Disregarded Entities — received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6359. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Abusive Roth IRA Transactions [Notice 2004-8] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6360. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-6) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6361. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-8) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6362. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Changes in Computing Depreciation [TD 9105] (RIN: 1545-BC17) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6363. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Ruling and determination letters (Rev. Proc. 2004-7) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6364. A letter from the General Counsel, Department of Energy, transmitting a report to Congress implementing a requirement of section 121(c) of the Comprehensive Environment Response, Compensation and Liability Act (CERCLA), providing the status of CERCLA five year reviews, including the facilities for which such reviews are required, results of all such reviews, and any actions taken as a result of such reviews, pursuant to 42 U.S.C. 9621(c); jointly to the Committees on Energy and Commerce and Transportation and Infrastructure.

6365. A letter from the Administrator, FAA and Director, Nat'l Park Service, Department of Transportation, Department of the Interior, transmitting A report on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology, pursuant to 49 U.S.C. 40128 Public Law 106—181, section 807 (b); jointly to the Committees on Transportation and Infrastructure and Resources.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PITTS (for himself, Mr. Burgess, and Mr. Taylor of Mississippi):

H.R. 3728. A bill to amend title 49, United States Code, to allow additional transit systems greater flexibility with certain mass transportation projects; to the Committee on Transportation and Infrastructure.

By Mr. TANCREDO:

H. Res. 501. A resolution recognizing and supporting Iranians in their daily struggle for democracy and reform, encouraging the Islamic Republic of Iran to conduct open and fair elections, and urging the President of the United States to engage with and support Iranians in their struggle for freedom and democracy; to the Committee on International Relations.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

255. The SPEAKER presented a memorial of the Legislature of the State of New Jersey, relative to Senate Joint Resolution No. 16 revoking Joint Resolution No. IV of 1868 which attempted to withdraw New Jersey's ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

256. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 161 memorializing the President of the United States and Congress to not reduce veterans' benefits in the national budget; to the Committee on Veterans' Affairs.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 218: Mr. Kind.

H.R. 717: Mr. Wexler.

H.R. 857: Mr. Oxley and Mr. Regula.

H.R. 1043: Mr. Cardin.

H.R. 1532: Mr. Regula.

H.R. 1582: Mr. Shadegg.

H.R. 2823: Mr. Pastor.

H.R. 3190: Mr. Culberson.

H.R. 3266: Mr. Camp, Mr. Lincoln Diaz-Balart of Florida, and Mr. Thornberry.

H.R. 3338: Mr. Bereuter.

H.R. 3509: Mr. Kildee.

H.R. 3550: Mr. Allen, Mr. Abercrombie, Ms. Loretta Sanchez of California, Mr. Lucas of Kentucky, Mr. Inslee, Mr. Sandlin, Mr. Tauzin, Mr. McGovern, and Mr. Upton.

H.J. Res. 56: Mr. Blunt.

H. Con. Res. 311: Mr. Wexler, Mr. Owens, Mr. Andrews, and Mr. Beauprez.

H. Res. 500: Mr. Miller of Florida, Mr. Bishop of Utah, Mr. Souder, and Mr. Barton of Texas.

# SENATE—*Friday, January 23, 2004*

The Senate met at 9:31 a.m. and was called to order by the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Dr. Alan Keiran, chief of staff, Senate Chaplain's Office.

### PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

God of grace and glory, we pray this day for our distinguished Senators and the Nation they so ably serve. Equip them with all the wisdom, strength, and perseverance needed to bring the important issues to closure. Bless those they love in their times of separation from family and friends. Bless their staffs as they labor to support the honorable men and women they so willingly serve.

For those military men and women deployed in harm's way, in far places, and their families, we pray Your providential protection. O Lord, our precious Saviour and eternal King, equip our Nation's noble leaders with the wisdom and endurance to meet the challenges ahead.

In Your holy Name we pray. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable MICHAEL B. ENZI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, January 23, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. ENZI thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period for morning business to allow Senators to make statements and to introduce legislation. Yesterday, we began consideration of the pension rate reform bill but did not complete action on that measure. If Senators desire to speak on behalf of that legislation, I do encourage them to come to the floor today during morning business.

As I announced yesterday, there will be no rollcall votes today. When we finish our business today, the Senate will reconvene on Monday to resume debate on this important pension rate bill. I expect amendments to be offered on Monday. However, any votes on Monday will be held over until Tuesday's session. Again, no rollcall votes will occur on Monday.

We will finish the pension bill Tuesday or Wednesday. I very much would like to complete that bill Tuesday, if at all possible, but we will finish it either Tuesday or Wednesday of next week and, as always, Senators will be notified of rollcall votes as they are scheduled.

I thank everybody for their participation and cooperation during the omnibus debate. It was the unfinished business from the last session and took a lot of cooperation on both sides of the aisle. That was demonstrated over the last several days, which we all very much appreciate.

The funding measure passed yesterday. As people saw from the ultimate vote, it was a bipartisan measure. It passed by a large bipartisan margin, and I appreciate the Members' assistance as we worked through the unanimous consent agreement in order to bring that bill to conclusion.

Lastly, before we finish our business for the day, we expect to be able to consider additional executive nominations that are on the calendar. I will continue to work with the Democratic leadership to move forward on those nominations that are available. I am pleased the Senate will be able to act on these important positions.

## SENATE PAGES

Mr. FRIST. Mr. President, in just a few minutes the Democratic leader and I will be participating in the graduation ceremonies for our pages. Although they are not here now because they are with their parents and family members at the beginning of that graduation exercise, I do, as I did last night, pay tribute to them. They are with us every day, every night, morning, noon, night—whatever hours in order to work with us and make our lives much easier as we work very hard to carry on the Nation's business.

Mr. President, I thank everybody for their attention.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

## GUEST CHAPLAIN

Mr. DASCHLE. Mr. President, I welcome our guest Chaplain today. I know he is no longer in the Senate Chamber. I appreciate very much Chaplain Keiran's prayer this morning. I am grateful to him and to those who arrange for our guest Chaplains to join us on occasion. It is a wonderful way to begin our session, and I appreciate very much his words of wisdom today.

## SENATE PAGES

Mr. DASCHLE. Mr. President, I also join the majority leader in expressing our heartfelt gratitude to this page class for their contribution over these past many months. This has been a challenging time for the Senate, for a lot of reasons. They have served us very well.

As the majority leader noted, it is always difficult for a young person to combine the roles of student and page each and every week, getting up early, working, as they do, as students first and then as pages in carrying out their many responsibilities on the Senate floor.

I know I speak for all Senators in expressing our gratitude to them. They have heard the noise of democracy firsthand at full volume. They have been spectators, as well as participants. I hope that what they have witnessed and experienced will lead them to come back in other roles in public service in the future, whether it is at a staff level, an elected level, or an appointed level. Their involvement and their opportunities for future roles in government and public service could not be greater or more appreciated.

We welcome them back as we bid them farewell. We hope their ambitious

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

character and the lives they have already experienced will encourage them to look for more opportunities to serve their country.

## LEGISLATIVE AGENDA

Mr. DASCHLE. Mr. President, the majority leader talked briefly about the schedule. I spoke yesterday on the pension bill, and I am very hopeful we can complete our work on the pension bill at an early date. I think it is a bill that merits broad bipartisan support and, judging from the cosponsors, prominent Members on both sides of the aisle who have worked to get us to this point, I have every expectation that we will see completion of our work on the pension bill sometime early next week.

We have—it is an overused word but certainly a word applicable here—a crisis with regard to pensions and retirement security, both in multiemployer plans as well as single-employer plans.

That crisis will not be satisfactorily or successfully confronted until we take several steps. This is only meant to be an interim step, but it is an important step. It is a temporary step that will allow us some stability and confidence that we can address this issue more effectively in the months and years ahead.

Secondly, with regard to schedule, it is important for us to recognize the narrow window of opportunity we have to deal with the highway bill. We have already lost valuable time. We should have done this bill last year. Not only have we lost 90,000 jobs as a result of our failure to pass the bill last fall, we have also threatened the contract season this year by our inability to move this legislation more expeditiously. For all intents and purposes, the contract cycle has already started in the South. It is important that we send the message that we intend to finish this bill as early as possible. It is a jobs bill, an infrastructure bill. I cannot think of a greater economic stimulus. We are told by experts that we could create 800,000 new, good-paying jobs if we can move this legislation forward.

So it is my hope we will take this legislation up well before the President's Day recess in order to complete our work before that recess and send a signal to the country that we understand the importance of this legislation.

Finally, I call attention to a front-page story in the Wall Street Journal this morning. The headline of the story reads, "Halliburton Tells the Pentagon Workers Took Iraq-Deal Kickbacks." The first couple of paragraphs begin:

> Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to $6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq. The disclosure is the first firm indication of corruption involving U.S.-funded projects in Iraq and raises new questions about Halliburton's dealings there. The company's work already is being scrutinized because of accusations that the U.S. government was overcharged for gasoline under another controversial contract.

It says a little later down, referring to that second charge now under investigation:

> . . . the top Defense Department auditor asked the office to investigate whether Halliburton subsidy Kellogg Brown & Root overcharged for fuel deliveries by more than $61 million.

These charges in this new report are terribly disturbing. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 23, 2004]

### HALLIBURTON TELLS THE PENTAGON WORKERS TOOK IRAQ-DEAL KICKBACKS

(By Neil King, Jr.)

WASHINGTON.—Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to $6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq.

The disclosure is the first firm indication of corruption involving U.S.-funded projects in Iraq and raises new questions about Halliburton's dealings there. The company's work already is being scrutinized because of accusations that the U.S. government was overcharged for gasoline under another controversial contract.

Halliburton has strenuously defended its Iraq work as fairly priced and free of taint. A discovery of kickbacks could expose the company to hefty fines and other punishments such as potential fraud charges. At the least, contacting experts say, Halliburton will be required to reimburse the money.

Any blow could be softened by the fact that Halliburton itself disclosed the misconduct to the Pentagon inspector general's office this week. That disclosure came just days after the top Defense Department auditor asked the office to investigate whether Halliburton subsidiary Kellogg Brown & Root overcharged for fuel deliveries by more than $61 million.

The latest revelation, though, is sure to increased the already intense scrutiny Halliburton has received from congressional Democrats, some of whom charge that the Houston-based company benefited from political favoritism in securing lucrative work in Iraq. The news also is likely to further raise suspicions abroad that Iraq reconstruction work is largely benefiting U.S. companies and their employees.

Vice President Dick Cheney, who was chairman of Halliburton until he left in 2000, defended the company Wednesday in a Fox Radio Network interview. "They get unfairly maligned simply because of their past association with me," he said.

Halliburton stressed that it promptly told the Pentagon of the problem. "The key issue here is self-disclosure and self-reporting," a Halliburton spokeswoman said. "Halliburton international auditors found the irregularity, which is a violation of our company's philosophy, policy and our code of ethics. We found it quickly, and we immediately reported it to the inspector general. We do not tolerate this kind of behavior by anyone at any level in any Halliburton company." A company statement said the payments were "detected through the company's internal control procedures."

The company has fired the two employees, who were based in Kuwait and whose names were not disclosed. Halliburton said it could not discuss specifics of the matters because of a Pentagon review.

KBR is now repairing Iraqi oil fields and supplying everything from food and laundry services to housing for U.S. troops and coalition officials in Iraq under two huge contracts valued at up to $16 billion. That work has so far cost nearly $6 billion, well over twice what has gone into all of the other 40 other U.S. contractors in Iraq, according to government records.

In all, the U.S. has sc far funded a total of about $9 billion in Iraqi reconstruction costs, and expects to award contracts valued at another $18.6 billion. Both the congressional general accounting office and the Pentagon are now completing large-scale investigations of all U.S.-funded reconstruction work in Iraq.

The alleged kickbacks involve the same KBR contracting office in Kuwait that handled the controversial gasoline contact. The Pentagon inspector general's office received the disclosure while conducting its own review to decide whether to open a criminal investigation into the gasoline contract. Pentagon officials decline to comment on the status of that investigation.

The current accusations do not involve the gasoline contract. Instead, the Kuwaiti company is said to have paid kickbacks to the KBR officials after winning lucrative subcontracts to help support U.S. troops in Iraq under what's known as KBR's LogCap contract. U.S. officials declined to provide specifics on the subcontracts involved or the name of the company implicated in the payoffs.

Halliburton said in a statement that the disclosure of what it called a "potential overcharge" was a sign of its "diligence" in managing its Iraq contracts. "KBR will ensure that questionable charges will be credited to the government and will seek recovery from the offending subcontractors."

Halliburton negotiated its current LogCap contract with a very thin profit margin of 1% over costs. It has a maximum bonus of an added 2% available if it delivers the needed services in an expeditious way. But under these so-called cost-plus arrangements, companies have little incentive to rein in costs or to assure that they pick the most competitive subcontractors, since the higher the costs, the higher the profit.

The disclosure comes as Pentagon documents continue to raise broader questions about KBR's financial controls in Iraq. A previously undisclosed Jan. 13 memorandum from a branch office of the Defense Control Audit Agency levels as "inadequate" KBR's system for accurately estimating the cost of ongoing work in order to justify payments. The memo was sent to various Army contracting officials.

The Pentagon has had to reject two huge proposed bills from KBR, including one for $2.7 billion, because of myriad "deficiencies," the memo says. "We consider [the company's] estimates in the area of subcontracts to be inadequate," the memo says. The agency is now auditing proposed KBR bills totaling $2.1 billion, the memo says.

Pentagon auditors last month said that KBR's Kuwaiti supplier, Altanmia Commercial Marketing Co., was charging the U.S. almost double the market price for gasoline.

> Auditors said the overcharging amounted to $61 million through September, and as much as $20 million a month since then.
>
> The Army Corps defended the company's hiring of Altanmia in a lengthy Jan. 6 report. The report said KBR had "urgent and compelling needs" to use the Kuwaiti supplier, even at significantly higher prices than other potential suppliers.
>
> Still, Pentagon officials are likely to home in on the circumstances under which KBR hired Altanmia. The Army Corps reports says KBR picked Altanmia on May 5 after making phone calls to just two other bidders. Officials say there is no indication of kickbacks involving Altanmia.
>
> A number of anonymous whistleblowers have come forward in recent weeks with often-detailed allegations of KBR wrongdoing in Kuwait, including accusations of paybacks from companies that received lucrative subcontracting work from KBR, according to U.S. officials and congressional sources. These reports in turn have been taken up by the Pentagon's IG office.
>
> The Pentagon's fuel unit, the Defense Energy Support Center, solicited bids yesterday for three fuel-delivery contracts meant to replace the work that KBR is now performing. KBR officials have said for months that they wanted out of the work, which they described as dangerous and not very profitable.

Mr. DASCHLE. As I said, it is very disturbing because there have already been serious concerns raised about the lack of scrutiny, auditing, and transparency with regard to the billions of dollars that are now being committed in Iraq. The Defense Contract Audit Agency has now been charged not only with taking responsibility for an audit, but they have also begun consideration of a criminal investigation. Clearly, if there is a possibility of a kickback, a criminal investigation is certainly warranted.

I am troubled by the lack of any expressed concern in the Congress. There has been virtually no oversight in either the House or the Senate. When matters of this magnitude and concerns of this level are addressed on the front pages of some of the most prominent newspapers in the country, I cannot think of a more important wakeup call for us. One of our primary roles as Members of Congress, of course, is oversight, to make sure that the money we authorize and appropriate is not only spent well but is spent as the American people would expect it.

I do not think we have any choice but to investigate this matter ourselves, to ask the appropriate committees, perhaps Government Affairs, Armed Services, Foreign Relations, to look into these issues, to ask the tough questions, and to have a somber appreciation ourselves of what is going on, why is it that we are reading for the first time reports of kickbacks when we have taken so little effort to understand the magnitude of the problem, the depth and scope of the issues that these allegations represent.

I think it is also important for us to call for a halt in all further contracts with Halliburton until these issues are clarified. For the life of me, I cannot understand why we would reward corporations or organizations of any kind that face such serious allegations of fraud and corruption, that are under investigation for perhaps overpricing the American taxpayer by $61 million, at least with regard to the gasoline sold. Why we would award one more contract until these matters have been resolved? So I hope that on a bipartisan basis the Congress will live up to its responsibility, first, through oversight and, second, with a recognition that awarding contracts under circumstances such as these makes no sense whatsoever.

We will have more to say as we learn more, of course. These are very disturbing revelations. They merit more careful consideration. We need to learn more and understand what circumstances allowed the kickbacks in the first place. Lack of transparency above and beyond anything else will generate stories and situations like this over and over again.

Many of us have called for a complete public accounting of these funds, but here we are—no transparency, no public accounting, no oversight on the part of Congress, and the possibility of perhaps more contracts with Halliburton in the future. This is not the way to run a government, especially if we are hopeful of improving the confidence on the part of the American people that we understand the gravity of these issues and want very much to build their confidence that we are doing all we can in our efforts in Iraq to rebuild democracy, to provide for the assistance required. We have said on many occasions how troubling it is that we are the only real financial source for the economic, military, and public assistance provided to Iraq.

When the American people hear that much of that money may now be under a cloud, it is all the more imperative that we act to remove that cloud, to provide the confidence, the transparency, the oversight, and certainly the corrective actions required.

I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the remainder of the leadership time is reserved.

## MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent that I be allowed to speak in morning business for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DORGAN pertaining to the submission of S. Res. 289 are printed in today's RECORD under "Submitted Resolutions.")

## IRAQI CONTRACTS

Mr. DORGAN. Mr. President, on just one more issue, quickly, the Democratic leader was in the Chamber moments ago speaking of something I am very concerned about as well. This is the front page of the Wall Street Journal today and it says: "Halliburton Tells the Pentagon Workers Took Iraq-Deal Kickbacks."

Let me read from the report.

> Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to $6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq.

That disclosure came just days after the top Defense Department auditor asked the office to investigate whether Halliburton subsidiary Kellogg Brown & Root overcharged for fuel deliveries by more than $61 million.

This isn't the first whisper of this kind of issue. Week after week after week, for months we have been hearing these charges. Do you think anybody in the executive branch seems very concerned about them? Apparently the auditors in the Defense Department are. But do you see anybody scrambling to hold a hearing about it and do some investigation and some inquiry to bring somebody to account for this? It is as quiet as church mice around here.

In the last 6 or 8 years, every time there was a hiccup there would be a Senate investigation or a congressional investigation and we would hire special counsel and lawyers and have people under oath. Here is an example of what we ought to be investigating as well.

How about getting to the bottom of this issue. The U.S. taxpayers are being overcharged $200 million, perhaps, for hauling gasoline into Iraq by a company that is charging $1 more than anybody else is charging for hauling the same gasoline into Iraq. How about some accountability for the American taxpayer. After all, this money comes from the American taxpayer. Overcharging, kickbacks, cronyism, preferential contracts, nonbid contracts—this demands, this begs for an investigation. This Congress has a responsibility to do it.

I suppose the administration, this Congress, and the majority party can ignore this for another week or another month. This is not going to go away. Kickbacks, overcharges—this isn't going to go away. The fact is this company just got a new contract. This is a slap on the wrist, a pat on the back. That is what this is all about. Let us have an investigation to find out who is doing this. Let us suspend those contracts right now. If we have work to do, if we have fuel to haul, if we have supplies to buy, if we have projects to finish, let us get contractors to do that. Let us have contracts to haul that fuel and to provide those supplies so that we are not going to have to wonder whether there are kickbacks or overcharges or fraud.

I am sick and tired of reading this in the papers and seeing inaction in this Congress—none. Week after week after week we have read about Halliburton and its subsidiary. It is not just us. The auditors in the Department of Defense think the taxpayers have been bilked—not by a thousand dollars or a couple hundred thousand dollars, but by tens and tens and tens of millions of dollars. Auditors in the Department of Defense believe that and are asking these questions. Yet this place looks as if it is at parade rest; won't move a muscle.

There needs to be an investigation by the committees and the leadership of this Senate. My colleague, Senator DASCHLE, described that obligation this morning. There needs to be an investigation. I hope this will happen soon.

It was my great concern, as I expressed when the Congress passed nearly $20 billion for reconstruction in Iraq, that this was throwing money up in the air in a way that called for a carnival of greed. It looks like hogs in the cornfield. You have all of this money—billions and billions of dollars for the reconstruction of Iraq—and you have contractors running around trying to grab some of it. This contractor was one of the first with no-bid contracts, now we see these allegations—and they have been going on for months—about overcharges. Now we see allegations of kickbacks.

The taxpayers deserve better than that. The taxpayers deserve accountability. This money is not some money that vanishes somewhere. This is money that comes from the pockets of the American taxpayers. We tax the taxpayers to get their money, and then this money is spent for the reconstruction of Iraq—a country, incidentally, which we did not destroy. We are reconstructing facilities that we did not damage, such as roads, bridges, the electric grid, and dams. We didn't target them. We didn't destroy them. Now we are told that we must reconstruct them with American taxpayers' money—a position that I voted against, a position that I think is absurd—in a country with the second largest reserves in the world, Iraq, next only to Saudi Arabia, which ought to be able, in my judgment, to sell the oil that it produces to reconstruct itself.

For that country to rely, as the President insists it must, on American taxpayers' funds for reconstruction is absurd. But, nonetheless, that is what happened. The majority of this Congress decided they wanted to spend nearly $20 billion of American taxpayers' money to do that. Now we see at least part of the result of it, and there will be more. But the signal this Congress ought to send is one of accountability and demanding through public hearings and a thorough investigation. Can we not be as aggressive as the auditors in the Defense Department? Can we not at least express the same concern that auditors in the Defense Department express about the potential of our being bilked out of hundreds of millions of dollars? That is the least the American taxpayer should expect from this Congress.

I think this Congress has not heard the last of this. I and others will be on this floor attempting to demand investigative hearings. The taxpayers, in my judgment, deserve hearings on these subjects.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PENSIONS

Mr. KENNEDY. Mr. President, it is Friday. We had a good discussion yesterday about this very important pension funding amendment which is presented to the Senate by the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member, Senator BAUCUS; they have shared jurisdiction on a number of pension matters with our committee, the Health, Education, Labor, and Pensions Committee, chaired by Senator GREGG and I as the ranking minority member.

The two committees have worked very closely in recommending this legislation. I am very grateful to all and to Leader FRIST for giving this a priority standing. By the early part of next week, the first part of the week, we will have final action. This will move very rapidly through the House of Representatives because it is of such importance to employers and employees. It is a temporary measure to meet the certain challenges of our time.

To review again very briefly, the defined benefit pension plans are a key part of the retirement security of Americans. Americans have sort of a three-legged stool for retirement. They have Social Security, they have their savings, and they have their pension.

While Social Security is certainly secure, there has been certainly a drawdown on the Social Security assets as a result of the excessive tax reductions of this administration. It is certainly secure at the present time.

We have also seen that many who put savings in 401(k)s, with the slide of the market in a number of instances, have had their savings significantly reduced. Because of a combination of different events that have taken place in the economy, there is a real question about whether the pensions are going to be there for many of America's industries, the pension programs which have been supported both by their employer and the employee, paid into by workers with the guarantee that their pension would be there, would be available for them in the future. In many instances, they are threatened.

This legislation is to provide breathing room into the current system to permit the system to get back on its feet and to be working again. We will take action and do it quickly.

The defined benefit pension plans are a key part of retirement security for millions of Americans; they are promised a monthly benefit starting at retirement and continuing through their life. The combined plans are different from other pension plans. Only a defined benefit plan provides benefits backed by the Pension Benefit Guaranty Corporation. Workers rely on the guarantees to help in old age to pay for health benefits, needed medical care, college, education, and for their homes.

This chart is an indication of how this whole program is established. There are nearly 35 million Americans covered by single employer defined benefit pension plans. And 9.7 million Americans are covered by multiemployer benefit plans. For example, in the construction industry—where workers move from one site to the other site—the process has been worked out through the employers, which is supported both by the employers and the workers, which gives a multiemployer benefit. But these are obviously workers who work hard, play by the rules, and have a similar kind of interest as the other 35 million. It is only the defined benefit plan that provides a secure monthly benefit backed by the Pension Benefit Guaranty Corporation.

Why this legislation is necessary is because of what has been referred to earlier in the discussion and debate about a series of different economic conditions that are threatening the defined benefit pension plan. We call it a "perfect storm" of factors that is hurting the defined benefit pension plan funding levels.

We have had a prolonged downturn of the stock market during the last 3 years, the longest decline since the Great Depression. Then we have had extremely low 30-year Treasury bond interest rates. That may be good for those who are buying a new car or attempting to buy a new house, but if we are looking at how the pension plans were established and tie into the 30-year bond interest rates, we would see this factor, the decline of the stock market, the low interest rates and the general weak economic conditions, which mean that companies cannot afford to make additional payments and pay excise taxes imposed by our pension laws. These three elements combined have put the pension system generally, for some almost 45 million Americans, in serious jeopardy.

We have come up with a bipartisan program. It is temporary, over a 2-year period, which we believe can offer the relief to permit the programs to come back and survive.

Late yesterday afternoon, my friend from Arizona, Senator KYL, offered amendment No. 2234. Senator KYL called this a "hold harmless" amendment for the Pension Benefit Guaranty Corporation. That description is misleading because this amendment is anything but harmless. In fact, it harms the workers who can lose pension benefits as a result of this amendment.

The PBGC's mission is to preserve and protect the defined benefit of American workers. By paying premiums into the PBGC, companies and their workers are buying security. They are buying a secure guarantee, that if for some reason a company can no longer provide the promised benefit, workers receive a pension from the PBGC. This amendment undermines that security and strikes at the heart of the mission by taking away pensions that workers have earned. It would replace guarantees with broken promises.

My colleague expressed concern that if the pension plans fail, it would hurt workers. The irony is his amendment would make those workers in failed plans even worse off than they are under current law. It would make workers pay the price for financial relief that companies are receiving. The companies receive the relief; the workers would pay the penalty.

Our amendment explicitly applies to airline and steel companies. Employees in those industries have already made many sacrifices to keep their companies and pension plans afloat. We should not penalize them by taking away pension benefits they have earned.

Finally, I am well aware of the need to preserve the PBGC's financial integrity. I know my colleagues on both sides of the aisle share my concern. None of us wants to put the Nation's pension system at risk. That is why our substitute amendment targets the DRC relief to where we think it is both needed and justified. Only companies that had well-funded—well-funded—pension plans in 2000 would be provided with that relief. We exclude poorly funded plans where relief would simply expose the PBGC to increased deficits.

So PBGC deficits will not be solved by taking benefits away from workers. Rather, we must seek to stabilize and expand our defined benefit pension system.

As I say, this proposal and compromise has been carefully structured and carefully drafted to try to meet very special needs, and it is intended to do so. I believe the Kyl amendment would undermine that fundamental concept.

The results of this "perfect storm" have not only had an enormously adverse impact and effect on the pension system but they are having a real adverse impact on the lives of many of our fellow Americans. I think it is important that we in this Chamber begin to understand this. The stock market may be going up with the profits, but what is happening out on Main Street should be the concern of every one of us in this body.

## SUPPORTING AMERICAN WORKERS

Mr. KENNEDY. Mr. President, I am going to mention a series of events, many of which have just taken place in the last day or two, which either were published reports, news reports, or television reports that indicate another side of America than is the America being described with rose-tinted glasses.

First of all, today there are some 13 million children who are going hungry. Eight million Americans are unemployed. Eight million workers lose overtime under the Bush proposal. We have had debates and discussions on this issue. We are going to come back to it very soon, at the first opportunity, hopefully even as soon as next week. Seven million low-wage workers have been waiting 7 years for an increase in the minimum wage. I will come back to this issue. And 3 million more Americans are living in poverty since President Bush took office.

The final point I make is that 90,000 workers a week are losing their unemployment benefits—90,000 workers a week. We have the unemployment compensation fund which is funded at close to $20 billion. We have tried to get a temporary extension for some 13 weeks. It has been objected to now more than a dozen times by those on the other side of the aisle. It costs about $7 billion. Nearly twenty billion dollars are there.

These workers are paying into the fund. We are talking about workers who have worked hard, paid into the fund, and the fund is out there and meant to assist the workers during an economic downturn. These workers should not be blamed for the economic downturn, and they are being blamed by denying them the extension on the unemployment insurance. As I say, 90,000 workers a week are losing their unemployment benefits.

I will mention one other chart that helps illustrate what I mean when I talk about 13 million children who are going hungry every night. Hunger is increasing for the minimum-wage families. The Agriculture Department reported 300,000 more families are hungry today than when President Bush first took office—300,000 more. Twelve million American households are worried they will not have enough to eat. And nearly 4 million American households have someone going hungry.

This is in a country that can produce more agricultural products than any other country in the world, by far. We spend billions of dollars on land to ensure it is not going to be productive. We know how to do two things, if nothing else, in this Nation: We know how to grow food, and we know how to deliver it. We have the greatest agricultural lands in the world. We have effectively a Federal express. They can deliver products overnight. We know how to deliver it. We do not have to feed everyone by Federal express, but we sure know how to get food or get any product to people's homes or to the needy people. I believe hunger in America is a national disgrace. So this is a matter of very considerable concern.

Last evening, when I returned home at a little after 6 o'clock, I turned on CNN and I was caught by a piece they did reporting on "Overwhelmed America." The broadcaster said: "Tonight, the overwhelmed American worker." This is the report on the study called "Overwhelmed America."

> Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Then it went on to Kate Bronfenbrenner, professor at Cornell University:

> The workers there are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out, or eliminated.

Outsourced, downsized, contracted out, or eliminated.

> They are overwhelmed because they feel like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder, longer, and faster just to stand still. Americans are scared of losing their jobs. They are working longer, harder, and they still don't have job security.

I will include the whole piece. It is a short piece, but I will read another sector:

> In growing numbers workers are feeling overworked, underappreciated, and burned out. That is according to a recent study of 1,100 workers that concluded "Emotion

about the current work experience is extremely negative."

And the report goes on. I listened to that last night. It was very interesting. It is something that, again, restates basically what we have been saying on the floor of the Senate.

I ask unanimous consent that that CNN piece be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### Transcripted Excerpt From CNN on "Overwhelmed America," January 22, 2004

PILGRIM: Tonight the overwhelmed American worker.

Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Peter Viles has the report.

PETER VILES (CNN Correspondent). This is the California grocery strike, but it might as well be from a time capsule, because the strike, the ultimate workers' weapon, is almost extinct in America.

In the 1950s, there were 352 major strikes per year, so far this decade, 25 per year. Unions have lost membership and lost clout. Real wages have been stagnant for three decades. One labor scholar describes workers right now as frightened, overwhelmed and exhausted.

KATE BRONFENBRENNER (Professor, Cornell University). They are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out or eliminated. They are overwhelmed because they fell like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder and longer and faster just to stand still.

VILES. So why are workers not pushing back, demanding wage increases or better benefits? Experts say workers just don't have the leverage and are also growing discouraged about the future.

LARRY MISHEL (Economic Policy Institute). Individual workers are scared for their jobs. They think that any job they have is going to be better than the job they are going to get next. That keeps them from pushing back on employers.

VILES. In growing numbers, workers are feeling overworked, underappreciated and burned out. That's according to a recent study of 1,100 workers that concluded—quote—"Emotion about the current work experience is extremely negative."

DONALD LOWMAN (Managing director, Towers Perrin). I don't think workers are apathetic. I think they are very negative right now. There is a big group that's quite negative right now. They fear intensely, though, about their job. They would really like to see things change. They have not withdrawn. They are not indifferent.

VILES. There are signs that workplace anxiety is shaping up as a major campaign issue. In Iowa, the two most important issues to caucus-goers, not terrorism or Iraq, but the economy and health care. The workplace anxieties fueled by what some economists are now calling the worst hiring slump since the Great Depression in America, a jobless recovery that continues to surprise and disappoint economists, but also continues to give employers the upper hand in the labor market—Kitty.

PILGRIM. Pete, what would it take to give the employees some leverage? It seems like an impossible situation.

VILES. It would take a lot more hiring. Until the millions of people who are unemployed and the millions working part-time who want full-time work get into the job market, employers have the leverage. Employers don't give raises because they think they should. They give raises because they have to. And right now, they don't have to.

PILGRIM. Yes. Thanks very much, Pete Viles.

VILES. Sure.

Mr. KENNEDY. And then, lo and behold, this morning, on the front page—on Friday, January 23—what is the leading story in the Wall Street Journal? "The Gap in Wages Is Growing Again for U.S. Workers. Inequality Is Seen as Result of the Jobless Recovery. . . ."

Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.

The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers.

The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular, are bearing the brunt.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton—

That is the Wall Street Journal report.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

The article goes on. I ask unanimous consent that the article in its entirety be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 23, 2004]

### The Gap in Wages Is Growing Again for U.S. Workers

#### INEQUALITY IS SEEN AS RESULT OF THE JOBLESS RECOVERY; POTENTIAL ELECTION THEME

(By Greg Ip)

WASHINGTON.—Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.

The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers. The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular are bearing the brunt.

New data from the Labor Department show that after adjustment for inflation, salaries of the country's lowest-paid workers—those who fall just inside the bottom 10 percent of the pay range-fell 0.3 percent last year from 2002. Meanwhile, the salaries of the highest paid workers—those who are just inside the top 10 percent—were unchanged. The divergence appeared to grow in the fourth quarter as higher-paid workers gained ground and lower-paid workers slipped further, based on comparisons with original year-earlier data that are subject to revision.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

This wage picture is likely to figure in this year's unfolding election campaign. Democratic presidential candidates have made the economic hardship of typical working families a centerpiece of their platforms. They also say President Bush's tax cuts aggravate growing inequality by giving larger benefits to those in higher income brackets.

President Bush has pushed tax cuts for all families as well as improvements in public schools as the keys to increasing employment and individual prosperity. In his State of the Union address this week, he proposed spending $250 million on a program for community colleges to train workers for jobs in growing sectors and boosting Pell Grants, which help poor students pay for college. These moves will "help more and more Americans to join in the growing prosperity of our country," Mr. Bush said.

Increased inequality "is the totally predictable result of relatively strong growth in tandem with relatively high unemployment," said Jared Bernstein, an economist at the liberal Economic Policy Institute in Washington. "right now we have far more job seekers than jobs [and] workers just lack the bargaining power to push for a larger slice of the growing pie. It's a recipe for higher inequality."

The new turn may merely represent a return to a longer-term trend that was only temporarily stalled. Sheldon Danziger, an economist at the University of Michigan, said inequality began to increase in the 1970s, and now appears to have resumed after an interruption in the late 1990s. Prof. Danziger, who has studied inequality extensively, attributes the trend to technological change and increased trade, which have placed a premium on higher-paid workers' skills while displacing many lesser-skilled workers from well-paying jobs. Other factors at play are the decline in unionization and the stagnant minimum wage.

In a report released last week, the Labor Department's Bureau of Labor Statistics said that, overall, the median full-time worker over 16 years of age earned $625 a week in the fourth quarter of last year, up 2 percent from a year earlier. But adjusting for increased consumer prices that represented just a 0.1 percent increase in purchasing power.

The median represents the midpoint: half of all workers earn more, and half earn less. It is considered more representative of the typical family than is the average paycheck, which can be heavily influenced by movements of the highest wages.

The widening gap seen last year between the top—typically managers and other professionals—and the bottom—which includes restaurant workers, security guards and other service positions—were part of a movement that now appears to have begun with the recession in 2001. The weekly wage of the worker at the "10th percentile" of wages rose from $284 in the fourth quarter of 2000 to $303 in the fourth quarter of last year, a total increase of just 0.6 percent, after inflation. (Tenth percentile means that worker's wage represented the cutoff point between the 10 percent lowest paid workers and the 90 percent better-paid workers.) In the same period, the weekly wage of the 90th percentile worker rose from $1,299 to $1,440, an increase of 4.5 percent after inflation.

It was a different story in the late 1990s. Between late 1996 and late 2000, real wages for the lowest paid workers rose 8 percent, not much less than the 8.8 percent gain for the highest paid.

The latest data cover full-time salaried workers, representing about 100 million workers, or about two-thirds of the labor force. They don't include part-time workers, the self-employed, the unemployed, those not in the work force such as retirees, taxes, government payments, or investment income. As such, the figures don't fully capture trends in total family disposable income. The data aren't distorted by pay packages to executives and others through such methods as stock options which ballooned in the 1990s but have shrunken some recently. That is because even at the 90th percentile, the annual salary, about $75,000, is still modest compared with what most senior corporate executives earn.

The data are broadly consistent with trends in the Census Bureau's much larger annual report on household-income trends, which are available through 2002.

Many scholars attribute widening income disparities to technological change, which displaces workers whose jobs can be easily done by a machine or computer program, while boosting the productivity of workers who get to use the more sophisticated technology.

Mr. Danziger notes he doesn't wait in line as much at the airport because "I can buy my ticket and print my boarding pass online." As a result, he bypasses several traditional middle-class workers, such as travel agents and the people at the ticket counter. Increased trade is also a factor. Routine, lower-skilled jobs are more easily shifted to lower-wage workers overseas, even as trade with such countries gives most Americans access to cheaper products.

Other scholars emphasize other factors, including a federal minimum wage that hasn't risen since 1997, and the declining power of unions, which traditionally bargained to raise the wages of all workers, regardless of their skill or experience.

Indeed, according to a separate Labor Department report this week, the average weekly paycheck of union members grew 3 percent last year from 2002, before adjustment for inflation, to $760, while the weekly paycheck of nonunion members grew 2 percent, to $599. But the share of U.S. workers who are union members continued its long-term decline, falling to 12.9 percent from 13.3 percent in 2002. A related trend has been manufacturing's declining share of employment; factories traditionally were a source of well-paying, less-skilled, often unionized jobs.

The latest Labor Department wage data suggest that young workers and men have been hardest hit. The median paycheck of workers age 16 to 24 shrank slightly, after inflation, from 2000 to 2003 while that of workers age 25 and over grew 0.6 percent a year. In the late 1990s, young workers' wages grew faster.

Also, the median paycheck of men grew just 0.3 percent a year, much less than that of women, at 1.8 percent a year, although at $704 a week, men still earn about 25 percent more. There was little difference in trends for white and black workers. While in recent decades the wages of better-educated workers have grown faster, that wasn't the case recently: College-educated workers actually did a bit worse than those with just a high-school diploma in the past three years.

On the campaign trail, Democratic Sen. John Edwards of North Carolina has hammered most on the theme of income disparity. Under President Bush, "there are two Americas, not one," he said last month. "One America does the work, while another America reaps the reward."

Gen. Wesley Clark has also pushed that theme. "We may have had a good [economic-growth] number, but where it really matters—whether people are getting jobs and what they're earning on those jobs—people in America are still struggling," said Jason Furman, policy director for the Clark campaign.

But Kevin Hassett, a scholar at the American Enterprise Institute, said the lesson of the late 1990s is that the best way to lift lower-paid workers' wages is through strong economic growth, which is what Mr. Bush's tax cuts are delivering.

Mr. KENNEDY. Mr. President, an Economic Policy Institute report came out January 21. Here we are, on January 21, the Economic Policy Institute's study of job shifting. It says:

> In 48 of the 50 States, jobs in higher-paying industries have given way to jobs in lower-paying industries—

The jobs that are being created in these States, as an average, are going down.

> since the recession ended in November 2001. Nationwide, industries that are gaining jobs relative to industries that are losing jobs pay 21 percent less annually. For the 30 States that have lost jobs since the recession purportedly ended, this is the other shoe dropping—not only have jobs been lost, but in 29 of them the losses have been concentrated in higher-paying sectors. And for 19 of the 20 States, they have seen some small gain in jobs since the end of the recession. The jobs gained have been disproportionately in lower-paying sectors.

Two States have grown 21 percent less. Nebraska and Nevada are the two States that are the exception. Here is the State of New Hampshire, which still has fewer jobs than when the recession ended, and where the wages in industries gaining jobs are 35 percent lower than wages in industries losing jobs. For new jobs, they are getting paid 35 percent less in the State of New Hampshire.

The State of Delaware likewise has lost jobs since the recession ended and where job-gaining industries have wages 43 percent below those in the job-losing industries.

Colorado has lost 2 percent of its jobs since the end of the recession and job-gaining industry wages are 35 percent below the wages in job-losing industries.

West Virginia has lost 1.7 percent of its jobs since the end of the recession, and wages in job-gaining industries are 33 percent below wages in job-losing industries.

These are the facts. We have the Wall Street Journal, the Economic Policy Institute, and the study that was quoted in Overwhelmed America that is just in the last 24 hours—about what is happening in America.

That is a good deal different than what I heard in the State of the Union Address by the President. The President said on page 4:

> This economy is strong and growing stronger . . .
>
> Americans took those dollars [from the tax cut] and put them to work, driving this economy forward. The pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years. New home construction: the highest in almost 20 years. Home ownership rates: the highest ever. Manufacturing activity is increasing. Inflation is low. Interest rates are low. Exports are growing. Productivity is high, and jobs are on the rise.

These are two different Americas, Mr. President, two entirely different Americas. It is the second America that many of us are fighting for here in the Senate.

What has been the answer by the administration? Let's take the minimum wage, for example. Minimum wage, unemployment compensation, overtime—we have made the presentation that American workers are working longer and harder. Not only are individuals working longer and harder, but families are working harder and longer. Women are working longer and harder. Look at what happened. And we wonder why we are seeing the increasing incidence of hungry children and hunger in America—look at what happened to the minimum wage. Now it is, without the increase, down to $4.95. That is about the lowest it has been in years. Seven long years without an increase. A majority of the membership would vote for an increase in the minimum wage. The Republican leadership and the Bush administration will not give us an opportunity to do so. In 7 years, we have increased our own salary six times, but we have not had an increase in the minimum wage.

We will talk about an increase in the minimum wage. Americans, I believe, think someone who works 40 hours a week, 52 weeks a year, should not have to live in poverty in the strongest Nation in the world, with the strongest economy and the strongest military. I think that is a family value—being able to provide for your children, parents having a sense of dignity and pride in their work and work product, families being able to stay together. That is a family value. We hear a lot of speeches on this floor and elsewhere about family values. That is a family value—making sure that hard-working men and women are going to be able to provide for their families. We are denied that opportunity.

We are not taking no for an answer. That minimum wage is coming at this institution and it is coming once, twice, as many times as necessary. So there will be no doubt among the American people who will be standing for those workers and who is against them.

Unemployment compensation. Ninety thousand workers who worked hard now have seen their benefits expire—90,000 a week. We have heard on the other side of the aisle in the last 2 days—the leaders in the Republican Party—saying: Don't worry about it, Senator, we are creating new jobs.

Well, let's have a reality check. The administration promised 300,000 jobs and the reality is 1,000 jobs. Who are we kidding? The American people are getting used to the fact that there is a lot of rhetoric on the one hand and no followup on the other. That was true in the No Child Left Behind Act, and it is apparently true about our trip to Mars.

Did you see the rollout of the President talking about going to Mars, and there was no mention of it in the State of the Union Address. The best estimates are it will cost a trillion dollars and they are allocating $5 billion. Get the political hit and then forget about it. That is also what happened with No Child Left Behind. That we cannot get an extension on unemployment compensation, when the economy is creating only 1,000 jobs, and they estimated over 300,000, makes the point. Those hard-working Americans who paid into the unemployment compensation fund, which is in surplus at the present time, should be able to get the extension of 13 weeks.

Third is the overtime issue. We have seen who that affects. It affects basically the policemen and firefighters and nurses—some 8 million Americans. And included in the recommendations, as I pointed out, for the first time, it will say if a veteran had certain kinds of training in the military, which may very well have been the reason he went into the service—obviously, the underlying reason is because he or she wanted to serve their country. But the idea that you are going to get a skill is attractive, too. You can get education benefits, which is attractive, too. That makes a difference in recruitment. We have seen it. I know about it. I am on the Armed Services Committee. We know we are falling further behind and not meeting our recruiting goals in the National Guard by 10,000 this year. We know we are offering any of the soldiers over in Iraq a bonus of $10,000 if they reenlist over there. So we know we have these challenges.

Now for the first time they are prohibiting overtime, not only for those I just mentioned, but the rule, as I read into the RECORD, includes—these are the exact words, Mr. President:

> Under the Bush plan, veterans who have received training in the military that is equivalent to a specialized 4-year degree could be classified as exempt "professional employees" and lose their overtime protection.

There is a whole list of training programs. Obviously, we have new technology. Our military is the best in the world. We have new technology, new training programs. People go into the military and get the training. They serve our country and risk their lives to protect our Nation. They come back from Iraq and get a job, but no, no, you don't get overtime.

Why did they put in that provision? It is interesting. In looking over the comments of different groups about overtime, there is one particular company, a major defense company, which commented on the Bush proposal saying that their company observes that many of its most skilled technical workers received a significant portion of their knowledge and training outside the university classroom, typically in a branch of the military service.

There you go. So they add, we will include the American military veterans in banning them from receiving overtime. People wonder why workers are discouraged, overworked, they can't get decent pay, they can't get benefits. They have seen their jobs outsourced. They are seeing their jobs sent overseas. Their pension programs are in jeopardy. Their security in the job place is very much threatened.

We ought to be thinking about what we can do for families. There are a series of steps we can take. Certainly increasing the minimum wage, extending unemployment compensation, and making sure these workers receive overtime is just a bare minimum.

I look forward to the debate on those issues. This is really a part of a whole concept, and that is the condition of workers in this country. We didn't even begin to get into the workers' payment of prescription drugs, which has been escalating out of sight. The bill that passed some weeks ago, and the prohibition written into that bill, again behind closed doors, prohibits Medicare from bargaining for bulk-rate purchasing of prescription drugs that would give some advantage and protection for our seniors. That has affected the quality of life for working family members who retire and are on Social Security and pay much higher prescription drug prices.

I didn't mention that impact and what is happening to working families. I haven't mentioned the extraordinary escalation of the cost of health care. I was rolling over in my mind the answer by the administration to the escalation of health care costs. The one answer that was given in the State of the Union Address was malpractice insurance is going to solve this problem. Come on.

We are at the present time spending close to 15 percent of our gross national product on health care, more than $5,000 for every man, woman, and child. Thirty cents out of every dollar is a nonclinical dollar. Most industries are down 17, 18 percent. If we reduce the 30 cents to 27 cents, we save $50 billion a year. If we reduce it to 20 cents, we save $100 billion a year. We can do a lot with $100 billion. There are ways of doing that. Do you think we can do that?

We will have an opportunity to debate those issues. I welcome the fact the majority leader says health care and health insurance will be on the floor because we will have an opportunity to get a meaningful result. It may not be the kind of program the pharmaceutical industry supports, and it may not be the program the insurance industry supports, but, by God, it will be a program the average family and the working families of this country will support, and it will make a difference in their lives and in their families' lives.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVISTS AND NATIONAL GUARD

Mr. KENNEDY. Mr. President, in a CNN program last night they asked the question: "Do you believe reservists and members of the National Guard are treated fairly by the Army?" This was just about the time I turned on the CNN program. You could indicate before the end of the program what your vote would be.

It is extraordinary. This is a CNN quick vote. It is not guaranteed science, but it is a reaction, certainly by those who watch CNN: "Do you believe reservists and members of the National Guard are being treated fairly by the Army?"

Yes, 15 percent; no, 85 percent. No, 85 percent. It seems to me we have a lot with which to be concerned. We talk about our state of the Union. We talk about our National Guard. We talk about working families. The National Guard are the working families, and the reservists are the working families. They are patriotic men and women.

I am so proud of those from my own State. I have met with them frequently. We have lost 18 servicemen from Massachusetts. We value every one in their service to our country, their bravery, heroism, and devotion. The Guard ought to be treated fairly by this country and the military.

We have a lot of work to do in this session.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PENSION FUNDING EQUITY ACT

Mr. ENZI. Mr. President, I do want to talk a little bit this morning about the pension bill, which is the current bill we are considering. I am sure all of us can remember our first jobs when we came home with our first paycheck, anxious to spend it, and if our parents happened to be around they gave some advice and suggestions for us. First, they probably suggested we figure out where we were going and, secondly, that we put something away. If it was before college, it was probably for college. If it was after college, it was probably a suggestion that we start thinking about when we retire.

The pension funding laws that we are considering today have that same objective. We have reached a major crossroads in the private pension system that affects the retirement security of millions of American workers. The funding requirements for defined benefit plans contained in the Employer Retirement Income Security Act—ERISA is what it is usually referred to—and the Internal Revenue Code are very complex. Yet their goal is clear, and that is to make sure a plan has sufficient assets to pay the future benefits when workers retire.

I am not sure there has been much explanation on the difference between defined benefits and defined contributions. The ones we are talking about are defined benefits. There is a transition happening in this country. As fast as companies can, they are going to define contributions. That is where they say how much they will put away for future retirement, as opposed to this crisis area which is defined benefits. Defined benefits means you are guaranteed something when you retire; based on the length of time you have worked and maybe how much money you have made, it is a defined benefit. It is what you are going to receive.

So there can be a lot of complexities to calculating how to have enough money so that at the time you retire there is money in the bank to pay the annuity that you deserve at that point in time.

So we can see why there would be kind of a rush to the defined contribution, which is where the company at that point in time knows exactly what they have to pay in each year and they are willing to do that, but they are not telling you that you are going to have a specific amount when you do happen to retire. There will be money there, but it will not be a specific plan of receipt at that point in time.

All we are talking about in this particular pension bill are the defined benefit plans. That was set up under law so that when a company says you will have these benefits, you know that the Federal Government is providing some oversight to make sure those benefits will be available when the time for you to retire happens.

So companies are forced to show they have the resources on hand to make these future benefit payments when they come due. Pension law must be finely tuned to accurately reflect the plan's ability so that the appropriate funding levels can be determined.

Unfortunately, the current system is off key. We have had some different things happen than we have had to worry about in this system for a long time. The outdated 30-year Treasury rate, which is what is used to calculate a plan's current liability, has distorted the funding levels. Simply put, a lower interest rate means employers have to put more cash into their plans to satisfy the pension funding requirements, and continued use of this artificially low interest rate places the worker's retirement, the pension plan, and the employer's business at risk. If all of the money for the retirement plans was actually being held in 30-year Treasurys, then that would be an accurate calculation, but it is not. It has not been for quite awhile.

We have not changed the way that it is calculated. So continued use of this artificially low interest rate does place the retirement plan, the worker's retirement, and the business itself at risk, particularly if we expect them to make up differences that occur for a number of reasons in a very short period of time.

Pension plans are built over a long period of time, and it has always been the intent that they be built over a long period of time, so that when the person retires the money is there, and what we are trying to do in this bill is to make sure all of those things happen. A business that goes out of business no longer provides the security for the employee, and too steep of a curve for putting money in there keeps them from doing the business they are designed to do, which over even a short period of time can eliminate that business. A bankrupt business does not provide the kind of security that is needed for the retirement system. Under the current system, with the 30-year Treasury rate, businesses will have to divert billions of dollars from development and job creation to satisfy the misguided funding rules of the 30-year Treasury. Again, if that is where all the money was—it is where very little of the money is—then that would be an accurate way to do it.

The number of defined benefit pension plans in this country is steadily declining. I have given you a little bit of the reason why that is, but it is due in large part to the complex and restrictive pension laws. In 1983, there were 175,000 defined benefit pension plans. Today there are fewer than 35,000. Many more companies may choose to freeze or discontinue their plans when faced with artificially inflated funding payments. We must act now to prevent further deterioration of the pension system and to protect our economic recovery. But we must not act in haste to pass long-term sweeping changes that might undermine the retirement security of American workers.

A use of the obsolete 30-year Treasury rate has combined with recent stock market losses and economic conditions to create what we are all referring to as "the perfect storm" for the pension fund environment. Last year the Pension Benefit Guarantee Corporation had a record $11.2 billion deficit. The amendment offered today will provide temporary relief to recover from this perfect storm, while Congress considers comprehensive pension funding reform—comprehensive reform, but not just done in a hurry so it is just an overreaction.

The amendment provides the following temporary relief. I am very pleased this is supported in a very bipartisan way. There were agreements to limit the number of amendments, to make sure the second-degree amendments were germane to the main amendment, so that we can get this wrapped up in a hurry and get some temporary relief in place.

What the bill does, it replaces the 30-year Treasury bond rate with a conservative long-term corporate composite rate. This is done for a period of 2 years. It also defers a portion of accelerated deficit reduction contributions by airlines and steel companies for 2 years. That is the accelerated deficit reduction, accelerated because of this perfect storm. That is just for a period of 2 years. It also defers the amortization of recent investment losses by multiemployer plans for 2 years, which allows these collectively bargained plans time to return to the bargaining table.

I stress this relief is temporary. It does not forgive a pension plan's debt. It contains the important safeguards to prevent further decline in the financial health of a plan. It gives the plans time to recover their footing—and this may be just as important—and gives Congress time to carefully consider the best way to improve the troubled pension funding system.

It is often the case here that if something is worth reacting to, it is worth overreacting to. We have to be careful not to overreact to the pension system's current funding troubles. Replacing the 30-year Treasury rate along with improving economic and market conditions should improve the temporary funding deficiencies created by this perfect storm. But we have to look beneath the clouds of recent unique circumstances to see the true health of the pension funding system and identify where reform is needed. We must learn from the lessons of the perfect storm to reduce the volatility, to bring pension accounting closer to reality, to increase the transparency and disclosure of pension information to participants. They deserve to, and have to, know where their fund is at all times.

With this legislation, we give ourselves time to ensure that we make the right decisions to strengthen the pension system and improve retirement security. These decisions will be very difficult but we have to make them. Anything less is unacceptable. We cannot pass the burden of a broken pension system on to future generations.

Of course, while we are doing that we need to make sure we are also taking a look at Social Security, because Social Security is a defined benefit plan and it is underfunded. We have a chance to fix that. The earlier we work on it, the better it can be fixed with the least pain. Of course, part of that process has to be to ensure that those who are entering the job market continue to pay into Social Security.

In another 25 or 30 years there will not be anybody here who is here now. It will be the generation coming into the job market right now, the ones who are going to discover that 15 percent of their paycheck is going into a defined benefit plan, Social Security, and that the money isn't going to be there when they get out, when they are ready to take advantage of it because what goes in today gets paid out today, essentially. They could end that defined benefit system because they will say we don't owe anything to those people, just ourselves.

I am hoping that is not the attitude in this country. But it is something we have to worry about as well. But the more immediate need, the one that is having difficulties right now with the funding process, and unlike the Social Security system, is funded—it is funded and we are having a crisis with it—that is the one we want to take care of. But we need the time to do it right and this bill will give us time to do it right.

I ask people to pay careful attention to the amendments, work in a very bipartisan way to get this 2-year solution, so we can come up with the overall solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

## TRAFFIC SAFETY

Mr. DEWINE. Mr. President, the No. 1 killer of those between the age of 4 and 34 in this country today is auto fatalities. If you look at those between the age of, say, 16 and 25, the figures are even more exaggerated. We all know that in this country over 42,000 Americans lose their lives every year. That figure stays fairly constant. The last year we have figures for is 2002, and 42,815 of our fellow citizens lost their lives.

In fact, in the next 12 minutes, to be precise, at least one person will be killed in an automobile accident in this country, while nearly six people will be injured in just the next 60 seconds.

This is a tragedy that we as a society are much too willing to tolerate. If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone said it is the equivalent of a 747 going down every 2 days in this country. If that were happening, of course, it would be on CNN; we would be demanding an explanation. Yet these auto fatalities that occur, hour by hour, day by day, just go on and for some reason we have become immune to it, hardened to it. They just continue.

I come to the floor this morning to discuss five bills, five bills that my staff and I have been working on for about the last year, five bills that I will be introducing but that I hope will be incorporated in the highway safety bill we will be considering in the next several weeks. These bills are commonsense, practical ways to save lives. Each bill is built on solid evidence of what will, in fact, make a difference.

They don't cost a lot. It is a commonsense, good way to make a difference. I guarantee you one thing. If we pass them, they will save a lot of lives.

The first bill we call "Stars on Cars." It is kind of a cute name. It is kind of basic stuff.

When you go buy a new car, we all know what the sticker looks like. But what we may not know is most of the sticker is mandated by the Federal Government. The mileage per gallon has been on there for a number of years. The Federal Government says that your city mileage has to be on there and what you are going to get on the highway when you take it out on the highway. It has to tell you whether it has air-conditioning. It has to tell you whether it has a stereo. It has to tell you a whole bunch of other stuff.

One piece of information is not on there—highway safety.

The funny thing is you have already paid to have the Federal Government spend millions of dollars to test that very car. The Federal Government knows information about that car. In fact, the Federal Government has put that information up on the Internet. When you go in to buy that car, that information is not available to you. It is not available to the American consumer in the one place where it would make a difference—where you buy the car.

This is a mockup. We simply show how it would work under our bill. It wouldn't cost the taxpayers a dime. The car companies are already printing the stickers. Where are they doing the tests? All we do is put the information here. Under this mockup, this is a Silverado pickup. We would add what is below my hand: "Government Safety Information." For this particular pickup, on frontal impact crash data, this is what it would show. This is true information.

For the driver side, here is what the Government says. Out of five stars, this particular vehicle got three out of five. For the passenger side, it got four stars out of five.

Over here on the side impact crash test, it was not tested. Over here on the rear seat, it was not tested either.

On the rollover resistance test that particular vehicle was not tested. If it was tested, it would be there. If it was not tested, it wouldn't be there.

In the year 2000, that particular vehicle was not tested. But most of the common cars you and I and the average American would buy have, in fact, been tested. All of that data on the frontal impact crash test, the side impact crash test, and the rollover resistance test would be there. We would have it based on the star. It is really easy to understand. That data would be there. It is already on the Internet. Now it would be available if you go look and compare. What impact would this have?

I happen to believe the consumer is better off with more information than less information on whatever we are talking about. The consumer ought to know what the Government does. The consumer ought to know that type of information. I think the consumer would make better choices. Most consumers care about safety. They will make better choices, and in all likelihood, they are going to choose more safe vehicles and more lives will, in fact, be saved. It just makes good common sense to do this.

The second bill we call "Safe Kids, Safe Cars." Cars kill kids at unbelievable rates. This is the top 10 leading cause of death in the United States for the year 2001 by age group, ranked 1 through 10 for the leading cause of death.

In the orange is traffic crashes as a cause of death. Starting over here, you see ages 1 through 3, 4 through 7, and 8 through 15. When you start over here and pick up at age 4 through 7, and moving on clear over here to age 34, the leading cause of death is traffic crashes, traffic crashes, traffic crashes, traffic crashes—all of these age groups all the way from 4 through 34.

That is what is killing the young people—more than cancer, more than homicide, more than fire, more than drowning, more than anything else. So we have a problem. Anything we can do to make a car safer for our kids, we should be doing it.

We know a lot of kids and a lot of adults are killed when cars roll over. The Government is doing tests to see how likely a vehicle is to roll over. But it might come as a surprise to my colleagues and to the public to know that the Government is not doing any testing today to determine what happens inside the vehicle once the car begins to roll over. We test to see if it is going to roll over. What we don't test to see is what happens when it starts to roll over and when it does roll over. Our bill provides for the use of child-size dummies and the use of adult dummies to see what impact that rollover has on them.

What are you going to do if you get that information? It is going to tell us, I assume, how well those airbags in that particular vehicle deploy, how well they protect the adult, and how well they protect the child. It may be different. How well is the structure of that vehicle put together for a rollover? Does it crush on the side of the child or the adult? How well was the structure built? We don't know. We don't know it because we are not testing for it today. Our bill provides that we do that.

Child-size dummies—NHTSA needs to look at its testing and ask where we need to use them. My bill says they need to incorporate these child dummies. We are doing so to improve safety for children.

Another area where kids are dying in cars is power windows.

NHTSA started a rulemaking to require child-safe window switches in 1996. That is when this Federal agency started making the rulemaking procedure. That rulemaking procedure is not done yet. They have not finalized the rule.

My bill tells NHTSA to finish the rulemaking process, and it requires car makers to install switches to protect kids from getting caught in power windows by making switches harder to switch inadvertently. Some car makers are already doing this. This can be done very cheaply. Companies are doing this already. Every company needs to do it. This is not an expensive proposition. There are good switches and there are bad switches. Every company needs to have the good switches.

Twenty-five children have died that we know of in the last 10 years because they have been choked to death in cars. At least 25 we know about. At least 500 people go to emergency rooms each year as a result of power window accidents. NHTSA tells us the power switches cost virtually nothing, very little.

A third bill has to do with another problem; that is, dangerous road intersections. Every State has them. Most States, fortunately, rank these roads. They keep a list of the bad ones. But, amazingly, there are many States that keep this information secret and don't tell the public.

Again, consumers have a right to know this information. What would you do with the information? As a parent, I might tell my 16-year-old not to go that way to the movie. At least I have the right to have that information and saying go another way. It might take another 10 minutes, but go that way. Don't go by that intersection. Don't go on that curvy road. States already have that information. The State should provide that information. They already know it, they should provide it. Policymakers need to know that to make decisions about how to spend money in that State, what roads to fix.

Further, States need to spend their safety money. They need to spend their safety money on safety. Our bill says they should do that and it requires them to do it. Current law allows States to shortchange safety programs or to do other things—highway construction. I understand that, but that should not occur. Safety programs pay for new left turn lanes, lane markings, other improvements, lifesaving improvements, straightening roads, straightening highways, doing some relatively small things that will, in fact, save lives.

The percentage of money earmarked, set aside for safety as it comes through the highway construction bill should be spent for those safety items. We are not talking about soft safety programs; we are talking about hard construction dollars. They are still construction dollars. They will still be used for construction. They will still be used to make things happen. They should be used for safety.

The fourth bill I am introducing has to do with driver education. This is a neglected area. Again, look at our chart. These are the kids who are dying, the new drivers. It is natural; they are the inexperienced drivers. We need to try to attack this in many different ways. One way we can do it is through driver education. It is a problem. I have looked at it in my home State. I have looked at it in other States. Driver education, at best, is mediocre in this country. The Federal Government cannot run it. It is a State responsibility. But the Federal Government can play a small role. My bill follows the Natural Transportation Safety Board's lead and recommendation and establishes the National Office of Driver Training within the Department of Transportation, NHTSA. This office would work to establish and maintain a set of best practices—not mandates, not national standards but just best practices—for driver education and licensing and also would provide assistance to States that implement these best practices.

My bill authorizes a modest amount of money, $20 to $30 million annually to assist States with making their driver education and licensing programs better.

Our bill also deals with a graduated driver's license and raises the bar for a Federal program to give money to States for having graduated driver's licenses and laws. One of the good things we have seen in the last few years is the graduated driver's licensing laws that come into place in the States. Each State has done it differently. That is the improvement. What we and most experts have seen is there are some laws that are working and some laws that are not working. Again, the Federal Government cannot tell the States what to do in this area, but maybe the Federal Government can reward those States that are at the higher point, the higher bar, maybe give some encouragement in that area.

Our fifth bill has to do with tires. Tires do not get better with age. The fact is, there are tires being sold in the market today that were manufactured a while ago. Tires are not like wine. They do not get better with age. We do not know for sure what the implications are of the aging of a tire, a tire that was sitting on the shelf. We do know that the tire that gets old does not get better.

My bill calls for the National Academy of Sciences to conduct a scientific study into tire aging to establish exactly when and under what conditions tire age becomes a major safety problem. We know at some point it becomes a safety problem. We just do not know when and under what conditions. Currently, the date code on tire sidewalls is extremely difficult to read or decipher. There is a date there but you and I could not figure it out. The average consumer could not figure it out.

What we provide is that the Department will figure out how to do this. We will not tell them how to do it. But we want the consumer to know when he or she buys a tire—at the point of sale—when that tire was manufactured. That, coupled with the information from the scientific study, will give consumers some information. Again, we will move forward in giving the consumer information about the age of the tire, knowing when it was manufactured, plus, once the study is done the consumer will know the relevance of that information.

We have talked with the tire industry and worked with them. They want to know, frankly, what all the implications are for aging tires. They have worked hard to make their tires as safe as possible. They have done a lot in this area and improved the safety of their tires and have been cooperative in this, as well.

These five bills will go a long way. They are common sense. They will make a difference. These bills continue my work in this area. This is something I have been interested in for many years, going back to my time in the Ohio Legislature 20 years ago when I introduced the drunk driving bill, and we were able to pass a tough drunk driving bill I wrote in the Ohio Legislature. I worked for .08. It was very controversial in the Senate, but we were able to pass .08. Senator LAUTENBURG and I worked on that.

I support Senator WARNER's bill and was a cosponsor of a bill he introduced last year that was pending in Congress with regard to including a primary seatbelt law. I support that. These bills represent a continuation of the great concern I have about highway safety. This issue is not a partisan issue; this is a bipartisan issue.

Anytime you lose 42,815 Americans every year, highway safety is something we all have to be concerned about.

I know the bill is not on the floor yet, but I have seen it. I have seen a draft of the safety bill that will be here, the highway bill. As currently written, the bill goes farther than any highway bill that has been before the Senate in regard to highway safety. All those who worked on the bill have put an emphasis on highway safety, and the bill as currently written makes a great effort to deal with highway safety. I congratulate the authors.

Our amendments which we will have when the bill comes to the floor will improve on a good bill. I make that point very clear. My amendments are not in any way critical of that bill. In fact, I hope they will be complimentary and simply add to a good product that is already a good product and will help to improve it.

I will have more to say about this as we proceed on the highway construction bill and it comes to the floor in the next few weeks.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

By Mr. DEWINE:

S. 2024. A bill to reduce the incidence of motor vehicle-related child injuries and deaths occurring inside or outside of motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2024

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safe Kids, Safe Cars Act of 2004".

**SEC. 2. INCORPORATION OF CHILD DUMMIES IN MOTOR VEHICLE SAFETY TESTS.**

(a) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to require increased utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(b) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(1) increased understanding of crash dynamics with respect to children; and

(2) measurably improved child safety.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

**SEC. 3. CHILD SAFETY IN ROLLOVER CRASHES.**

(a) CONSUMER INFORMATION PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—The Secretary of Transportation shall carry out a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public.

(2) TIME FOR IMPLEMENTATION.—The program shall commence not later than 2 years after the date of the enactment of this Act.

(b) CHILD DUMMY DEVELOPMENT.—

(1) IN GENERAL.—Not later than 6 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall develop for use in motor vehicle safety crash testing a biofidelic child dummy that is capable of measuring injury forces in a simulated rollover crash.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on progress made in the development of a dummy required under paragraph (1).

**SEC. 4. REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.**

Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) devices and technologies that are designed to reduce the incidence of injuries and deaths to children involved outside of motor vehicles in nontraffic, noncrash motor vehicle accidents, including accidents in which motor vehicles are backed over children;

(2) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(3) currently available and emerging technologies that are designed to improve the performance of motor vehicle safety belts for effectively protecting the safety of motor vehicle occupants aged between 4 and 8 years old.

**SEC. 5. COMPLETION OF RULEMAKING REGARDING MOTOR VEHICLE POWER WINDOWS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue regulations to take effect not later than January 1, 2006, requiring that window switches or related technologies incorporated into motor vehicles be designed to prevent the accidental closing by children of power windows.

**SEC. 6. DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.**

(a) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(1) the number, types, and proximate causes of injuries and deaths resulting from such events;

(2) the characteristics of motor vehicles involved in such events;

(3) the characteristics of the motor vehicle operators and victims involved in such events; and

(4) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(b) AVAILABILITY.—The Secretary shall make the database available to the public.

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By Mr. DEWINE:

S. 2025. A bill to amend title 23, United States Code, to improve highway safety; to the Committee on Environment and Public Works.

S. 2025

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safe Streets and Highways Act of 2004".

**SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM**

(a) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

**"§ 148. Highway safety improvement program**

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

“(II) construction of a railway-highway crossing safety feature; or

“(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

“(vii) construction of a traffic calming feature;

“(viii) elimination of a roadside obstacle;

“(ix) improvement of highway signage and pavement markings;

“(x) installation of a priority control system for emergency vehicles at signalized intersections;

“(xi) installation of a traffic control or other warning device at a location with high accident potential;

“(xii) safety-conscious planning;

“(xiii) improvement in the collection and analysis of crash data;

“(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

“(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

“(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

“(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs, and signs designed to identify, or reduce the number and severity of accidents occurring at, a hazardous location) at pedestrian-bicycle crossings and in school zones.

“(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes a project to—

“(i) promote the awareness of the public and educate the public concerning highway safety matters; or

“(ii) enforce highway safety laws.

“(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

“(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) local traffic enforcement and engineering officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Lifesaver;

“(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes in existence as of the date of enactment of this section;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(f).

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To receive funds under this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems; and

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, and pedestrians; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, and deaths;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under this section to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), for other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(3) LOW-TECH, LOW-COST SAFETY IMPROVEMENTS.—

“(A) PROGRAM.—Each State shall carry out a program for the reduction of accidents, injuries, and deaths at hazardous locations through means described in clauses (i), (ii), (v), (ix), (xi), and (xvii) of subsection (a)(2)(B).

“(B) FUNDS.—Of the funds apportioned to a State under this section for a fiscal year, 10 percent shall be available only for safety programs described in subparagraph (A).

“(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

“(f) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements;

“(C) describes the extent to which the improvements funded under this section contribute to the goals of—

“(i) reducing the number of fatalities on roadways;

“(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related accidents;

"(iv) mitigating the consequences of roadway-related accidents; and

"(v) reducing the occurrences of roadway-railroad grade crossing accidents;

"(D) describes the most severe hazardous locations in the State identified under subsection (c)(2), including not less than 5 percent of locations determined by the State to be most hazardous or potentially hazardous in terms of accidents, injuries, and deaths; and

"(E) contains an assessment of—

"(i) potential remedies to hazardous locations identified;

"(ii) estimated costs associated with those remedies; and

"(iii) impediments to implementation other than cost associated with those remedies.

"(2) Contents; schedule.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) Transparency.—The Secretary shall make reports under paragraph (1) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) Waiver of liability.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly or indirectly relating to paragraph (1), or published by the Secretary in accordance with paragraph (3), shall be—

"(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

"(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

"(g) Federal Share of Highway Safety Improvement Projects.—The Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.".

(2) Allocations of apportioned funds.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) by striking subparagraph (C);

(iii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(iv) in subparagraph (C) (as redesignated by clause (iii)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) Conforming amendments.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) Apportionment of Highway Safety Improvement Program Funds.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) Highway safety improvement program.—

"(A) In general.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) Minimum apportionment.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) Elimination of Hazards Relating to Highway Facilities.—

(1) Funds for protective devices.—Section 130(e) of title 23, United States Code, is amended—

(A) in the heading, by striking "Protective Devices" and inserting "Railway-Highway Crossings";

(B) by striking the first sentence and inserting the following:

"(1) In general.—For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings."; and

(C) by striking "Sums authorized" and inserting the following:

"(2) Obligation.—Sums authorized".

(2) Biennial reports to congress.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) Expenditure of funds; apportionment.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) Expenditure of Funds; Apportionment.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) Transition.—

(1) Implementation.—Except as provided in paragraph (2), to qualify for funding under section 148 of title 23, United States Code (as amended by subsection (a)), a State shall develop and implement a State strategic highway safety plan as required by subsection (c) of that section not later than October 1 of the second fiscal year after the date of enactment of this Act.

(2) Interim period.—

(A) In general.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) No strategic highway safety plan.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) Penalty.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be redistributed to other States in accordance with section 104(b) of title 23, United States Code.

(D) Additional penalties.—If, for any of fiscal years 2005 through 2009, a State fails to comply with section 148(f)(3) of title 23, United States Code, not less than 5 percent of funds made available to a State under paragraphs (1) and (2) of section 1101 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the fiscal year shall be obligated for projects described in section 1101(6) of that Act.

### SEC. 3. STATE AND COMMUNITY GRANT PROGRAM REVISIONS.

Section 402(a) of title 23, United States Code, is amended—

(1) in the fifth sentence, by inserting before the period at the end the following: "to reduce the number of accidents, injuries, and deaths attributable to hazardous locations on public roads"; and

(2) by striking the eleventh sentence and inserting the following: "The criteria shall include, at a minimum, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, traffic-related deaths and injuries at highway construction sites, and the configuration of commercial motor vehicles involved in motor vehicle accidents (including as a result of hazardous or antiquated roadway design).".

### SEC. 4. OBLIGATION OF FUNDS.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PROPORTIONAL OBLIGATION.—

"(1) IN GENERAL.—During each of the periods of fiscal years 2005 through 2006 and fiscal years 2007 through 2009, a State shall make available for the highway safety improvement program under section 148 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds apportioned to the State for the highway safety improvement program during the period; and

"(B) the proportion that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State and the Secretary shall jointly ensure compliance with paragraph (1).".

### SEC. 5. STUDY ON INCREASED SPEEDS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation (referred to in this section as the "Secretary") shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall identify empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

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By Mr. DEWINE:

S. 2026. A bill to improve consumer awareness of motor vehicle safety; to the Committee on Commerce, Science, and Transportation.

S. 2026

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Vehicle Safety Awareness Act of 2004".

### SEC. 2. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

"(g) if a safety rating for such automobile has been assigned and formally published by the National Highway Safety Administration under the New Car Assessment Program for at least 60 days prior to the delivery or introduction date of the automobile, the safety rating assigned to such automobile, displayed in text or graphics that—

"(1) include, as applicable—

"(A) a graphic depiction of the number of stars that corresponds to such safety rating displayed in a bright color clearly differentiated from stars indicating the unattained safety rating;

"(B) a statement that the automobile has been assigned a safety rating of zero stars in text of similar size and in the same location as the stars would otherwise have been depicted; or

"(C) a statement explaining that multiple safety ratings have been assigned and listing such ratings;

"(2) cover at least 8 percent of the total area of the label; and

"(3) contain a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings can be compared between vehicles of similar size and weight. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if no safety rating has been assigned to such automobile by the National Highway Safety Administration under the New Car Assessment Program, a statement to that effect."

(b) REGULATIONS.—Not later than January 1, 2006, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements added pursuant to subsection (a).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and subsection (c) shall take effect on January 1, 2006.

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By Mr. DEWINE:

S. 2027. A bill to amend title 23 and 49, United States Code, to improve national highway traffic safety through improved motor vehicle driver education and licensing programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2027

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Driver Education and Licensing Improvement Act of 2004".

### SEC. 2. GRANTS FOR SUPPORT OF ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) REVISED ELIGIBILITY REQUIREMENTS.—Subparagraph (D) of section 410(b)(1) of title 23, United States Code, is amended to read as follows:

"(D) GRADUATED LICENSING SYSTEM.—A multiple-stage graduated licensing system for young drivers that, at a minimum, authorizes the issuance of an initial license or learner's permit to a driver no earlier than the driver's 16th birthday, makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater, provides for a learning stage of at least six months and an intermediate stage of at least 6 months, and applies the following restrictions and features to such stages and to such other stage or stages as may be provided under State law:

"(i) A restriction that no more than 2 passengers may occupy a vehicle while it is being operated by a young driver.

"(ii) Nighttime driving restrictions applicable, at a minimum, during the hours between 10:00 o'clock post meridiem and 5:00 o'clock ante meridiem.

"(iii) Special penalties (including delays in progression through the stages of the graduated licensing system) for violations of restrictions under the system and violations of other State laws relating to operation of motor vehicles."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect one year after the date of the enactment of this Act.

### SEC. 3. NATIONAL OFFICE OF DRIVER TRAINING.

Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Training in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Training is the Director.

"(3) The functions of the National Office of Driver Training are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended motor vehicle driver education and licensing curriculum that incorporates the best practices in driver education and licensing, and to carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended curriculum.

"(C) To provide States with technical assistance for the implementation of the motor vehicle driver education and licensing curriculum recommended under subparagraph (B).

"(D) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23.

"(E) To provide States with financial assistance under section 30201 of this title for—

"(i) the implementation of the motor vehicle driver education and licensing curriculum recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs.

"(F) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require."

### SEC. 4. GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.

(a) AUTHORITY.—Part A of subtitle VI of title 49, United States Code, is amended by inserting after chapter 301 the following new chapter:

## "CHAPTER 302—OTHER DRIVER PROGRAMS

"Sec.
"30201. Driver education and licensing: grant assistance.

### "§30201. Driver education and licensing: grant assistance

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23.

"(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Training.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

"(A) Quality assurance testing.

"(B) Improvement of motor vehicle driver education curricula.

"(C) Training of instructors for motor vehicle driver education programs.

"(D) Monitoring and evaluation of the motor vehicle driver performance of graduates of motor vehicle driver education programs.

"(E) Testing and evaluation of motor vehicle driver performance.

"(F) Public education and outreach regarding motor vehicle driver education and licensing.

"(G) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise.

"(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity."

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 30201(b) of title 49, United States Code (as added by subsection (a)), not later than October 1, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for carrying out section 30201(b) of title 49, United States Code (as added by subsection (a)), for fiscal years and in amounts as follows:

(1) For fiscal year 2005, $20,000,000.
(2) For fiscal year 2006, $22,000,000.
(3) For fiscal year 2007, $24,000,000.
(4) For fiscal year 2008, $26,000,000.
(5) For fiscal year 2009, $28,000,000.
(6) For fiscal year 2010, $30,000,000.

### SEC. 5. GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 302 of title 49, United States Code (as added by section 4), is amended by adding at the end the following new section:

### "SEC. 30202. ORGAN DONATION THROUGH DRIVER LICENSING: GRANT ASSISTANCE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

"(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Training.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"30202. Organ donation through driver licensing: grant assistance.".

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 30202(b) of title 49, United States Code (as added by subsection (a)), not later than October 1, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for carrying out section 30201(b) of title 49, United States Code (as added by subsection (a)), for fiscal years and in amounts as follows:

(1) For fiscal year 2005, $4,000,000.
(2) For fiscal year 2006, $4,000,000.
(3) For fiscal year 2007, $4,000,000.
(4) For fiscal year 2008, $4,000,000
(5) For fiscal year 2009, $4,000,000.
(6) For fiscal year 2010, $4,000,000.

### SEC. 6. STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety.

(b) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than two years after the date of the enactment of this Act.

(c) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

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By Mr. DEWINE:

S. 2028. A bill to improve tire safety and labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2028

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Tire Safety Awareness Act of 2004".

### SEC. 2. DATE OF MANUFACTURE INFORMATION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall, in consultation with the Administrator of the National Highway Traffic Safety Administration, undertake to modify the regulations relating to tire safety that are administered by the Administration through the promulgation of regulations that require that such date of manufacture information is disclosed clearly and understandably, in writing, to consumers at the point of sale on an invoice, sales receipt, or equivalent record.

(b) EXCEPTION.—The date of manufacture information required to be disclosed pursuant to the regulations promulgated under subsection (a) shall not apply to tires that are—

(1) sold with new motor vehicles;

(2) exempt from testing under Federal Motor Vehicle Safety Standard (FMVSS) 139; or

(3) sold for use on vehicles with a gross vehicle weight of 10,001 pounds or more.

### SEC. 3. REPORT ON TIRE SAFETY.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall enter into a cooperative agreement with the National Academy of Sciences to commission a report to Congress on the effects of age on light vehicle tires (within the meaning of Federal Motor Vehicle Safety Standard (FMVSS) 139), including—

(1) a study of the effect on tire safety resulting from tire aging characteristics, including but not limited to the chemical breakdown and oxidation that occur over time with respect to tires, irrespective of use;

(2) recommendations on how to best communicate information, including tire aging characteristics, to consumers, and an assessment of the utility and benefits of this information with respect to motor vehicle safety;

(3) an examination of whether the imposition of limits on the age of tires available for sale in interstate commerce would enhance motor vehicle safety;

(4) an examination of—

(A) currently available, scientifically proven technologies that may assist consumers in assessing tire age; and

(B) the feasibility of developing technologies in the future that may assist consumers in assessing tire age; and

(5) any other information the Secretary determines appropriate.

(b) CONSIDERATION OF EXISTING RESOURCES.—The report shall take into consideration relevant scientific studies performed by the National Highway Traffic Safety Administration and the American Society for Testing and Materials Committee F09 on Tires.

(c) REPORT REQUIRED.—The Secretary shall submit the report to Congress not later than 3 years after the date of the enactment of this Act.

## SELLING CRIME: HIGH CRIME GUN STORES FUEL CRIMINALS

Mr. LEVIN. Mr. President, last week, Americans for Gun Safety, AGS, published a report entitled "Selling Crime: High Crime Gun Stores Fuel Criminals." This report identifies gun stores around the country that sell the most guns used in crimes.

Federal law requires gun stores to be licensed to sell firearms by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, ATF. However, according to Americans for Gun Safety, until recently, the ATF had never released information on the number of crime guns traced back to gun stores. AGS acquired all of its data via Freedom of Information Act requests. The data reveals some troubling facts. According to the report, 96 of the 120 dealers named in the report remain open, and only 24 have been inspected by federal agents during the past 3½ years. When inspected, 18 of these 24 dealers were cited for at least one violation of federal gun laws and seven high crime dealers were cited more than five times.

The AGS study focuses attention on negligent and irresponsible gun dealers. However, language included in the Fiscal Year 2004 Omnibus Appropriations bill will make it impossible for this data on such dealers to be made available to the public in the future. Language included in the omnibus specifically prohibits the release of information related to tracing requests on guns used in crimes.

And that is not the only problem. Even more importantly, language in the bill mandates that the Justice Department destroy background check records for the purchase of guns within 24 hours of the gun purchase. Under current regulations, the ATF can retain the records from gun purchases for up to 90 days. This 90-day period gives law enforcement the opportunity to review and audit gun purchase records for illegal activity and problems with the background check system. The provision requiring the destruction of records within 24 hours was inserted into the bill without a debate or discussion of its potential impact. It is incomprehensible that, at a time when we are in a heightened state of alert to guard against terrorism, we are not providing law enforcement with more than 24 hours to examine information on weapons purchases.

The gun provisions in the omnibus were never the subject of Senate hearings and are not supported by major law enforcement organizations. They undermine the efforts of the ATF to meet its responsibilities, weaken the public's right to know, and make it more difficult for other law enforcement agencies to do their job.

## ADDITIONAL STATEMENTS

### LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Leonard "Lynn" Vines, a cross-dresser and native of East Baltimore, was attacked in front of his cousin's home and shot six times by a group of people asserting "we don't allow no drag queen faggots in this neighborhood." Fortunately, Vines survived the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

### DIABETES

• Mr. JOHNSON. Mr. President, as we commence the second session of the 108th Congress, I want to take this opportunity to bring attention to a serious health problem that our Nation faces everyday. This health care dilemma encompasses all ages, genders, and races in our Nation. I am referring to diabetes, which impacts 18.2 million people in the United States, or 6.3 percent of the population. As we embark on this session, we need to reconfirm our commitment to addressing a key objective of many in Congress to fight this chronic health problem which threatens the lives of millions.

The American Diabetes Association, as well as the Center for Disease Control and Prevention or CDC, has stated that of the 18.2 million Americans living with this disease, only an estimated 13 million have been diagnosed, therefore leaving 5.2 million people, or nearly one-third, completely unaware that they have the disease. There are three major types of diabetes; Type 1, Type 2, and gestational diabetes. Type 1 diabetes results in the body's failure to produce insulin. The ADA believes that 5–10 percent of Americans who are diagnosed with diabetes have Type 1. Type 2 diabetes results from insulin resistance, combined with relative insulin deficiency. Approximately 90–95 percent, 17 million, of Americans who are diagnosed with diabetes have this type of diabetes. Gestational diabetes affects about 4 percent of all pregnant women—about 135,000 cases in the United States each year. About 110,814 Native Americans and Alaska Natives, or 14.9 percent of the population, receiving care from Indian Health Services, IHS, have diabetes.

Diabetes is associated with many other serious chronic health conditions. About 65 percent of deaths among people with this illness are due to heart disease and stroke. Heart disease is the leading cause of diabetes-related deaths, while the risk for stroke is 2 to 4 times higher among people with this illness. About 73 percent of adults with diabetes have high blood pressure or use prescription medications for hypertension. Diabetes is the leading cause of new cases of blindness among adults aged 20–74 years, with diabetic retinopathy causing 12,000 to 24,000 new cases of blindness each year. Diabetes is the leading cause of end-stage renal disease, accounting for 44 percent of new cases. Sixty to 70 percent of people with diabetes have mild to severe forms of nervous system damage. The results of such damage include impaired sensation or pain in the feet or hands, slowed digestion of food in the stomach, carpal tunnel syndrome, and other nerve problems. In addition, this contributes to more than 60 percent of lower-limb amputations each year. Gum disease is more common among people with diabetes, thus placing young diabetics at twice the risk of those without this condition. Poorly controlled diabetes before conception and during the first trimester of pregnancy can cause major birth defects in 5 percent to 10 percent of pregnancies. Poorly controlled diabetes during the second and third trimesters of pregnancy can result in excessively large babies, posing a risk to the mother and the child. Uncontrolled diabetes often leads to biochemical imbalances that can cause acute life-threatening events, such as diabetic ketoacidosis and hyperosmolar coma. People with diabetes are more susceptible to many other illnesses, and once they acquire these illnesses, often have worse prognoses, such as being more likely to die with pneumonia or influenza than people who do not have diabetes.

In 2002, 47,555 or 6.3 percent of South Dakotans, were diagnosed with diabetes. And when applying the national estimate that nearly one-third of all diabetes cases go undiagnosed, this would add an additional estimated 15,693 cases. This means that the most recent number of South Dakotans with diabetes could be an estimated 71,000 people. Also, important to South Dakota are estimates by the American Diabetes Association that Native Americans have a higher rate of diabetes, which makes this group 2.2 times more likely to have diagnosed diabetes as non-Hispanic whites of similar age.

A report showed that the indirect costs associated with diabetes were $40 billion in the United States in 2002, while direct medical costs were approximately $92 billion, therefore bringing the overall costs in our country to $132 billion. It is estimated that each year there are 1.3 million new cases of diabetes diagnosed in people aged 20 and older. Increased emphasis on prevention will help reduce the incidence of new cases and be a step in the right direction to reduce the social, economic and human costs associated with diabetes.

Congress has the ability to enhance Federal programs and increase funding to combat this debilitating illness. I was pleased to see the bipartisan dedication to doubling the funding of the National Institutes of Health, NIH, over a 5-year period, which was completed in 2003. This initiative alone has helped to expand current research, which therefore improves the path toward finding treatment and cures of all diseases, including that of diabetes. As a member of the Senate Appropriations Committee, I was pleased to work with my colleagues on both sides of the aisle to request $1.6 billion for the National Institute of Diabetes and Kidney Diseases for fiscal year 2004. In addition to NIH, we must continue to fight to secure increased funding for the Centers for Disease Control and Prevention, CDC. The CDC provides invaluable research on chronic diseases such as diabetes, and helps fund important state program such as the South Dakota Diabetes Prevention and Control Program, DPCP.

I encourage both Congress and the President to continue to build on existing efforts to address diabetes through increased funding for NIH, for the Institute of Diabetes and Kidney Diseases, and for the CDC in the upcoming year. I believe that we can achieve this goal in bipartisan fashion and provide greater assistance to the many Americans in all parts of our Nation that live with this chronic illness.●

## OMNIBUS APPROPRIATIONS

● Mr. FEINGOLD. Mr. President, I opposed the omnibus appropriations bill that the Senate voted on yesterday. It is the latest example of the annual breakdown in the congressional appropriations process. Once again, instead of considering appropriations bills individually, the Senate voted on a massive spending bill that includes many—in this case, seven—of the annual appropriations bills.

This process just invites the kind of problems—unauthorized spending, special interest provisions and legislative riders that go against the will of a majority in Congress—that we see in this omnibus bill. Take, for example, the Bush administration's proposed sweeping changes to regulations governing overtime pay for white-collar workers. These proposed changes would weaken overtime protections for these workers by changing the way that eligibility for overtime is determined. Both the House and the Senate are on record in favor of a provision that would block these changes from going into effect. Nonetheless, that provision was dropped in conference after the administration exerted tremendous pressure on those negotiating the final bill.

Similarly, language that would have prevented the Federal Communications Commission from moving forward with its plan to loosen the national cap on television ownership was badly weakened. And, of course, there are numerous bad provisions in the bill, including one that would create a voucher program in Washington, DC, public schools and another that would prevent country of origin labeling on many agricultural products.

I wish I could have supported this bill as there are a few worthy things in it, such as funding for global AIDS programs and for the rural AED Act, a program I created with Senator SUSAN COLLINS to increase access to defibrillators in rural areas. I am pleased that the bill contains language I fought for that would required Federal agencies to report on their purchases of foreign-made goods. As manufacturing jobs continue to disappear across the country, particularly in my home State of Wisconsin, the Federal Government should be doing everything it can to support American manufacturers. I am also pleased that the bill includes a provision I fought for to prohibit the Department of Veterans Affairs from enforcing its policy of prohibiting VA employees from taking proactive steps to let veterans know about the health care benefits for which they may be eligible.

Those provisions do not outweigh the many bad ones in this bill, however. Mr. President, this is simply no way to fund the Federal Government. I regret that this "must-pass" bill is being used as a platform for bad funding decisions and for bad policy decisions, many of which override the will of a bipartisan majority of Congress. We need to go back to taking up and passing appropriations bills one by one, rather than throwing everything but the kitchen sink into a single, bloated piece of legislation.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, and Mr. ENZI):

S. Res. 289. A resolution expressing the sense of the Senate with respect to free trade negotiations that could adversely impact the sugar industry of the United States; to the Committee on Finance.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 290. A resolution to authorize testimony, document production and legal representation in State of Idaho v. Joseph Daniel Hooper; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 736

At the request of Mr. ENSIGN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

### S. 1394

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the medicaid program to encourage the provision of community-based services to individuals with disabilities.

### S. 1693

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1693, a bill to amend section 35 of the Internal Revenue Code of 1986 to allow individuals receiving unemployment compensation to be eligible for a refundable, advanceable credit for health insurance costs.

### S. 2008

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2008, a bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to establish an electronic nationwide livestock identification system, and for other purposes.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO FREE TRADE NEGOTIATIONS THAT COULD ADVERSELY IMPACT THE SUGAR INDUSTRY OF THE UNITED STATES

Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, and Mr. ENZI) submitted the following resolution; which was referred to the Committee on Finance:

### S. RES. 289

Whereas the President has concluded negotiations with El Salvador, Guatemala, Honduras, and Nicaragua to form a Central American Free Trade Agreement (referred to in this resolution as "CAFTA"), and is seeking to incorporate Costa Rica and the Dominican Republic into that agreement;

Whereas CAFTA seeks to provide those countries with increased access to the United States sugar market;

Whereas, simultaneously, the Administration has embarked on a multitude of free trade agreements with major sugar producing nations such as Australia, members of the South Africa Customs Union, Thailand, nations of the Western Hemisphere, and others, and has made it clear that access to the United States sugar market is on the negotiating table;

Whereas, the United States sugar market is already oversupplied, with declining consumption forcing domestic sugar producers to store extremely high quantities of sugar;

Whereas significant increases in sugar imports under CAFTA and other trade agreements currently under negotiation could render inoperable basic elements of the United States sugar program enacted under the Farm Security and Rural Investment Act of 2002 (Public Law 107-171);

Whereas effects on the United States sugar program would wreak havoc in the United States sugar industry, and result in the loss of thousands of jobs and farms involved in sugar production in 19 States across the country; and

Whereas any constructive effort to address distortion in the world sugar market should be handled multilaterally through the World Trade Organization, in a manner that addresses comprehensively and simultaneously the sugar subsidy programs of all major world producers, and should not be handled through bilateral or regional agreements: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the President should renegotiate provisions of CAFTA relating to access to the United States sugar market, so as to grant no greater access to the United States sugar market than is currently enjoyed by the signatories to the agreement; and

(2) the President should not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

Mr. DORGAN. Mr. President, I am going to, at the conclusion of my remarks, offer a resolution on behalf of myself, Senators DAYTON, COLEMAN, and CONRAD. This resolution deals with the issue of trade negotiations that have been conducted with the Central American Free Trade Agreement countries. It also relates to my concern about the trade negotiations that are underway today, this morning, in Washington, DC, with Australia to try to create a free trade agreement with Australia.

I will explain the resolution. After the whereases, it says:

> It is resolved that the sense of the Senate is that the President should renegotiate provisions of the Central American Free Trade Agreement relating to access to the United States sugar markets so as to grant no greater access to the U.S. sugar market than is currently enjoyed by the signatories to this CAFTA agreement; 2, the President should not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

I want to explain why we feel this way. I will also observe that this is bipartisan in its offering. It is very important to our region of the country. First, let me explain sugar. Sugar comes from sugar beets and sugarcane produced by our growers. With sugar beets, it is in the Red River Valley between North Dakota and Minnesota. We have the opportunity to plant beets and process the resulting crop into sugar, and in this country we have a robust sugar industry with many growers living out on the land and producing a crop and contributing to our economy.

Most of the sugar internationally around the world is traded between countries on a contract basis—country-to-country contracts. That is the way most sugar is traded. But there is surplus sugar outside of those contracts that represents dumped sugar; it is surplus dumped sugar, priced at a nickel a pound, or 5, 6, 7 cents a pound, and then thrown all over the world wherever it may rest, and it devastates local markets.

Let me describe with this chart what we have in this country. Our U.S. consumption of sugar is about 7.8 million metric tons, and we import a little over a million metric tons. We are now engaged in trade agreements with countries that produce a massive quantity of sugar, much of it for export. This is the potential exports from countries with whom we are engaged now in negotiations for free trade agreements. You can see the CAFTA countries—Central American Free Trade Agreement countries—which are Honduras, Guatemala, Costa Rica which has not yet signed on, El Salvador, and so on. This is Australia, Thailand, the Free Trade Agreement of the Americas, which includes Brazil. You can see this is a giant amount of sugar.

The proposition is this. Our trade negotiator has put sugar on the table in grade negotiations on these bilateral agreements. The result of it is death by a thousand cuts to our domestic sugar producers. If we end where I think we will end with the Central American Free Trade Agreement, the Free Trade Agreement of the Americas, and others, we will end up as a country without a domestic sugar industry.

The sugar beet growers who live on the land and produce sugar beets will not be there in the future because they cannot compete and should not be expected to compete against dumped sugar. Yet that is where we are heading.

This ought not be a part of the trade agreements the trade ambassador is now negotiating. The larger question with respect to sugar trade ought to be dealt with in the World Trade Organization, not individual trade agreements, with the Central American Free Trade Agreement—the free trade agreement with the Americas. That is the position we take, Senator CONRAD, Senator DAYTON, Senator COLEMAN, myself, and others here in the Senate.

Let me tell you what has happened. In the Central American Free Trade Agreement, the U.S. Ambassador put sugar on the table and negotiated an agreement that was going to allow incremental sugar to come into our country. Will that quantity of sugar by itself destroy our industry? No, it will not. But the precedent will. That is because that precedent means sugar will be in the Australia agreement and the FTAA agreement and the quantity of sugar that is going to come into this country at dumped prices will inevitably destroy our sugar industry. That is why we must stop it.

Let me tell you what happened yesterday. Yesterday, in Inside U.S. Trade—that is the publication—and also in North Dakota newspapers was a story: "U.S. Withholds Sugar Offer in Australia Trade FTA Negotiations."

> U.S. Trade Representative Robert Zoellick has said the U.S. position is not to provide Australia with any increased market access for sugar, said a U.S. trade official.

Good for them. That is exactly the right position and one I support, one I aspire to achieve, to stop having sugar as part of these negotiations.

Let me read to you today's news.

> A U.S. trade official is being quoted as saying Bush administration trade negotiators have asked Australian negotiators to settle for a free trade agreement which does not open the U.S. market to any more Australian sugar.
>
> But the official denied U.S. trade representative Robert Zoellick had told a North Dakota radio station that sugar had been taken off the table.

So they are saying a representative of the trade ambassador is quoted as saying sugar will not be in the Australia agreement—yesterday. But today, the official, a trade official from this administration, denied that Ambassador Zoellick had told a North Dakota radio station sugar had been taken off the table.

Mixed messages, I would say. But at least today's news from the USTR is sugar is a part of this. It will be a part of it.

That is the concern we have with the Central American Free Trade Agreement. When you put it in that agreement, they will want to put it in Australia's and Brazil's agreement, and there you go, one step at a time toward disaster for our growers, our farmers out there who are trying to make a living. They can make a living by competing. I don't mind asking them to compete and they don't mind competing. But they can't compete against dumped sugar that represents a world price of a nickel or 6 cents a pound, that has no relationship to the cost of production. All that has is a relationship to dumped price. It will destroy our industry.

We are offering a resolution today—my two colleagues from the State of Minnesota, my colleague from North Dakota—a resolution that says to the President: Renegotiate the provision of the Central American Free Trade Agreement relating to access to the sugar market, No. 1. No. 2, do not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

I hope the Senate will pass this sense-of-the-Senate resolution. I hope we can get a vote on it. I hope the Senate will express itself to the trade ambassador and the President: Don't do this. It is unfair to our growers, unfair to our farmers, unfair to an industry that produces substantial numbers of jobs and economic opportunity.

The sugar beet industry in the Red River Valley of North Dakota has $1 to $2 billion of impact in our economy, and once again I say they can compete and they will compete when asked to compete anywhere around the world, but they cannot compete against unfair trade, and dumped sugar is unfair trade, yet that is exactly what we are connecting to in these trade agreements and that is why we want to stop it right now before it goes further.

Australian representatives are in Washington, DC, now. The ambassador for the United States who negotiates trade agreements says he wants to finish this agreement by the end of January. If they finish this agreement with Australia, my hope is the Senate will have expressed itself by that time in a way that says: Do not do this with respect to sugar. Do not take steps that potentially destroy the sugar industry in this country, that potentially destroy the opportunity of beet growers in the Red River Valley to make a living. That is not a step forward; that is a step backward for this country.

I hope the trade ambassador hears this. I don't understand for the life of me why we got a message yesterday saying, I am going to do the right thing, I won't have sugar in the negotiations with Australia, and then today—and this is on ABC, incidentally, Online, you can go to the Internet and see it—today the United States trade official denied that the trade ambassador said that. I don't understand this at all.

My hope is the Senate will do what it has done before on this issue of sugar. The Senate has taken a position on this before. The sugar program of ours works. It provides good prices, advantageous prices for the American consumer, it provides assured quality of supply, and it provides an opportunity, with fair trade, for our growers to make a living in this country in the sugar industry, an industry that is important to our country.

I am going to have this resolution introduced at the conclusion of my remarks. My hope is my colleagues in Congress will support it. I know there are many who are strong supporters of the position that it is fine to negotiate trade agreements but it is not fine to undercut our country's interests with trade agreements.

It is almost impossible for me to begin talking about trade without describing the circumstances in which we find ourselves. We have the largest trade deficit in human history right now, the largest deficit ever after our trade negotiations and agreements have been put in place—the largest deficits ever. We have an agreement with Canada and take a modest trade deficit and turn it into a big one. We have an agreement with Mexico and take a trade surplus and turn it into a big deficit. The trade deficit with Japan just keeps growing. The deficit with China is out of sight, well over $100 billion and will probably reach $130 billion this year; almost a third of a billion dollars a day in trade deficit with just China alone. With Europe? I can't even begin to describe the problems we have with Europe in beef and other areas. The fact is, we need to fix this.

Will Rogers said many years ago, the United States of America has never lost a war and never won a conference. He must surely have been thinking of our trade negotiators. It takes them no more than a week or two to come back with a trade agreement that undercuts especially the interests of American agriculture, but if you look at the trade deficit, I would say undercuts this country's economic interests. It is not in this country's economic interests to continue to see this trade deficit grow and grow and grow.

That trade deficit, incidentally, is connected to the process by which jobs stream out of this country, by companies that decide they want to produce elsewhere and ship into this country, by companies that decide they want to move jobs offshore. "We want to create a new mailbox someplace in the Bermudas or Bahamas or some other tax haven country in order not to have to pay taxes to the U.S., and at the same time close our factories and ship jobs overseas."

That is what this measure is, that is the consequence of this, and that is why this has to change, in my judgment.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming would like to be added as an original cosponsor of the resolution.

Mr. DORGAN. Mr. President, I thank the Senator from Wyoming. He has been an assertive and strong voice on a number of these trade issues, including specifically the sugar issue. I am proud to have him as a cosponsor on this resolution.

## SENATE RESOLUTION 290—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN STATE OF IDAHO v. JOSEPH DANIEL HOOPER

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas, in the case of State of Idaho v. Joseph Daniel Hooper, C. No. CRM-03-019550, pending in the District Court of the first Judicial District of the Senate of Idaho, in and for the County of Kootenai, testimony has been requested from Michelle A. Panos, an employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Michelle A. Panos, or any other current or former employee of Senator Craig's, is authorized to testify and produce documents in the case of State of Idaho v. Joseph Daniel Hooper, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michelle A. Panos and any other current or former employee of Senator Craig's in connection with the testimony and document production authorized in section one of this resolution.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2235. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2235.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert:

**SEC. . RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.**

(a) IN GENERAL.—Notwithstanding any provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a) to the plan's pre-termination status and the control of the plan's assets and liabilities shall be transferred to the employer, unless the collective bargaining agreement provides that the plan should not be restored.

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) 2004 UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1, 2004,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period of 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) 2004 UNFUNDED CURRENT LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1, 2004,

(B) in applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), the unfunded old liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation.

(C) in applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A) of such Act with respect to a plan restored under subsection (b), the unfunded old liability amount shall be equal to the unfunded old liability amortized in level annual installments over a period of 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of January 1, 2004, under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003 and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before December 31, 2008, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(h) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

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## AUTHORIZATION TO SENATE LEGAL COUNSEL

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 290, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 290) to authorize testimony, document production and legal representation in State of Idaho v. Joseph Daniel Hooper.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony and documents in a criminal action in Idaho District Court for the County of Kootenai. In the case of State of Idaho v. Joseph Daniel Hooper, the Coeur d'Alene city attorney's office has charged the defendant with misdemeanor telephone harassment arising out of calls he made to Senator CRAIG's Coeur d'Alene office. The defendant is also facing a second, separate misdemeanor action for harassing telephone calls made to his Congressman's office.

Pursuant to subpoena issued on behalf of the city prosecutor, this resolution authorizes an employee in Senator CRAIG's Coeur d'Alene office who witnessed the events giving rise to this action, and any other employee in the Senator's office from whom testimony may be required, to testify and produce documents at trial, with representation by the Senate legal counsel.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 290

Whereas, in the case of State of Idaho v. Joseph Daniel Hooper, C. No. CRM-03-019550, pending in the District Court of the first Judicial District of the Senate of Idaho, in and for the County of Kootenai, testimony has been requested from Michelle A. Panos, an employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Michelle A. Panos, or any other current or former employee of Senator Craig's, is authorized to testify and produce documents in the case of State of Idaho v. Joseph Daniel Hooper, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michelle A. Panos and any other current or former employee of Senator

Craig's in connection with the testimony and document production authorized in section one of this resolution.

## ORDERS FOR MONDAY, JANUARY 26, 2004

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, January 26. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECORD TO REMAIN OPEN

Mr. DEWINE. Mr. President, I further ask unanimous consent that the RECORD remain open today until 1 p.m. to allow Senators to submit statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. DEWINE. Mr. President, on Monday the Senate will resume debate on H.R. 3108, the pension bill. While there will be no rollcall votes on Monday, Senators will have the opportunity to offer and debate their amendments. It is the leader's intention to complete action on this legislation early next week. Therefore, Members are encouraged to make themselves available during Monday's session to offer their amendments. Any votes ordered with respect to the pension bill will be stacked to occur on Tuesday.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, if my friend will yield. I am confident the distinguished acting majority leader does not have the answer to this question, but I hope we can get it soon. We would like to know, as soon as possible, whether those votes the leader contemplates on Tuesday could come after the caucuses rather than before, or at least if they are not, we should know right away because some of the people who live on the east coast have the luxury of being able to come down here later in the day; those of us from the West have to come, anyway, the night before. But we would appreciate it if the leader would let us know as quickly as possible if he contemplates that vote in the morning on Tuesday or the afternoon.

Mr. DEWINE. We certainly hope to make that information available to the leaders as soon as possible.

## ADJOURNMENT UNTIL MONDAY, JANUARY 26, 2004, AT 1 P.M.

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:43 a.m., adjourned until Monday, January 26, 2004, at 1 p.m.

## NOMINATIONS

Executive nominations received by the Senate January 23, 2004:

### DEPARTMENT OF DEFENSE

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY, VICE MICHAEL W. WYNNE.

### DEPARTMENT OF STATE

SCOTT H. DELISI, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

AUBREY HOOKS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

JOSEPH D. STAFFORD III, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

# EXTENSIONS OF REMARKS

## CENTRAL NEW JERSEY RECOGNIZES AND CELEBRATES HENRIETTA BACKER FOR HER SERVICE TO THE PRINCETON COMMUNITY

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. HOLT. Mr. Speaker, I rise today to thank Henrietta Backer, known as Heny to friends and neighbors, for her service to the Princeton community.

More than 20 years ago, Heny Backer came to Princeton to visit her daughter at the university. The town was fortunate that day: she was so impressed that she and her husband, Bernie, decided to relocate there. Heny has since made an indelible mark on the Princeton community. Highly principled, she is an inspiration to those around her and has earned our heartfelt appreciation.

Heny Backer has served in many capacities on a number of community organizations, and in each case she has done so with fairness and a civic-minded spirit.

Her unending energy marked her tenure as a commissioner of the Housing Authority for the Borough of Princeton, where she sought to make affordable housing available to all who seek it.

Heny's commitment to finding fair, decent, peaceful solutions to the world's problems has made her one of the indispensable volunteers for the Coalition of Peace Action. Her leadership resulted in the borough's formal expression of disappointment in our country's decision to take preemptive action against Iraq.

Through her efforts, the Princeton Community Democratic Organization (PCDO) was reinvigorated. Under her leadership, the political dialogue of the community was elevated in substance and integrity. Due to her tireless dedication to addressing the many challenges our community faces in a fair and respectful manner, she was elected to serve as both the president of the PCDO and chair of the Princeton Municipal Democratic Committee. She continues to serve on both organizations today.

Heny Backer has contributed significantly to the life of her community and to the positive nature of its political dialogue. For me, Heny has been a source of good advice and good ideas for which I am ever grateful. She has earned our heartfelt appreciation for her efforts. I ask my colleagues to join me in giving her this recognition.

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## CONGRATULATING THE MARYLAND-NATIONAL CAPITAL BUILDING INDUSTRY ASSOCIATION ON ITS 50TH ANNIVERSARY

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. HOYER. Mr. Speaker, this year marks the 50th anniversary of the establishment of the Maryland-National Capital Building Industry Association. Throughout its existence, the Association has worked to make the dream of independent homeownership for residents of Maryland and Washington, DC a reality.

Under the leadership of building industry pioneer Carl M. Freeman, the MNCBIA received its charter from the National Association of Homebuilders in 1954. And since its inception, the organization has remained true to its mission statement, which reads: "The Maryland-National Capital Building Industry Association (MNCBIA) is dedicated to organizing, influencing and improving economic growth and legislative, regulatory, social and educational opportunities for all segments of the building industry and the community it serves."

The MNCBIA is truly demonstrative of the diversity of its trade: The Association is comprised of more than 730 companies representing the interests of more than 18,000 employees of the residential development and building industries. Throughout its existence, the MNCBIA has worked to create an entrepreneurial environment in our area that encourages innovation and competition.

The Association should be strongly commended for its role in the regional economy. In addition to representing the homebuilding industry in local communities, Members are engaged in single and multifamily building, land development, remodeling, rehab and renovation and general light construction. Associate members are companies and individuals who provide materials, products, financing and many other services, including subcontracting, to builders and developers.

Mr. Speaker, because of the hard work of its members, the MNCBIA has contributed to a vibrant building sector in our metropolitan area, and boosted demand for goods and services from the building products industries and other sectors such as construction; consulting engineering, architecture and real estate law.

Successful relationships between the homebuilding industry and residents of Maryland and Washington, DC, are essential for smart growth and mutual satisfaction with the development process. The MNCBIA strives to foster open communication and understanding between these two groups.

The Association has also taken great care to protect the integrity and craftsmanship of the region's home and building designs by establishing the Annual Custom Builder Awards of Excellence, which recognizes local custom builders and remodelers for excellence in construction, architecture, and design.

Mr. Speaker, I wish to thank the Maryland-National Capital Building Industry Association for its numerous contributions to communities in Maryland and Washington, DC during the past 50 years. Housing means more than just a roof over your head: It signifies that you can provide for your family independently. I look forward to working with the Association in the future in its efforts to build safe, affordable homes for the citizens of Maryland and Washington, DC—so that those families can claim their part of the American dream.

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## HONORING RUBEN BURKS

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of my hometown of Flint, MI, to honor a great man, Mr. Ruben Burks for his indefatigable service as past UAW Region 1C Secretary-Treasurer. On Thursday, February 19, 2004 the community will honor Mr. Ruben Burks during a special dinner to be held at the Mott Community College Prahl Center ballroom, also located in my hometown of Flint, MI.

Ruben Burks was born August 23, 1933 in Louisiana. He relocated to Flint, MI in 1955, and gained employment with General Motors Corporation (GM) Fisher Body Plant 2 as an assembler. He also became a member of the UAW Local 598, during that same year. As a member of Local 598, Ruben held several leadership positions, such as shop committeeperson, alternate committeeperson, and executive board member. In 1970, former UAW President Walter Reuther appointed Ruben to the International Union staff in Region 1C. Region 1C serves UAW members of GM, independents, parts and supplier plants in 11 counties in south-central Michigan. In 1983 Ruben became the Assistance Director of Region 1C and remained in that position until 1989 when he was elected to the office of Regional Director, where he served a total of three terms. On June 24, 1998, Ruben was elected to the Union's second-highest office, Secretary-Treasurer of the UAW. Ruben maintained this position until retirement in 2002. During his tenure, Ruben was a strong leader in promoting economic development, he worked diligently to attract and keep good jobs in the Flint community. He was instrumental in the UAW–GM community health care initiative in Flint, which helped to improve the quality and accessibility of health care while at the same time making the health delivery system

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

more cost efficient. Ruben has advocated over the years for the working family to ensure that their voices were heard among politicians and business leaders.

Ruben Burks is currently actively involved in a host of civic, charitable, and youth organizations within his community. In 1997 Mott Community College awarded Ruben with an honorary degree in Community Development in recognition and appreciation for his contributions to the Flint Community. Aside from being an outstanding leader and role model, Ruben Burks is also the devoted father of 7 children and grandfather of 10 grandchildren.

Mr. Speaker, this community, indeed this world, is better because of Ruben Burks. Ruben Burks has been a positive influence on me. I am a better Congressman, a better person because of the example and influence of Ruben Burks.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in honoring my constituent and dear friend Ruben Burks for his outstanding contributions to the Flint community and the State of Michigan.

## HONORING TERESA FONTENETTE

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. MATSUI. Mr. Speaker, today I rise to honor a woman with a long and fruitful career in California state government. Teresa Fontenette is set to retire from a remarkable career that has spanned five decades. As her friends, family, and colleagues gather to celebrate Teresa's, affectionately known as Terri to those who know and love her, illustrious career, I ask all of my colleagues to join me in saluting this outstanding citizen of Sacramento.

After completing high school with the inaugural graduating class of St. Francis School for Girls in Sacramento, Terri made her first foray into California state government by serving as a Junior Clerk Typist with the California State Personnel Board. Shortly thereafter, Terri became the Junior Stenographer with the Department of Motor Vehicles and General Services. In 1967, Terri was promoted to Stenographer II at the Department of Health Services.

In 1971, Terri joined the Department of Finance. Through hard work and dedication, Terri became the Secretary to the Personnel Office. During her tenure with the Department of Finance, Terri enjoyed great access to some of the most influential policy makers in California. Terri still fondly recalls sharing her peanuts and candy with several Governors of California during her time in the State Capitol.

Terri's desire to maximize her considerable talents led her to quit state service and enroll at Sacramento City College. Terri's leadership qualities were evident to those as Sacramento City College as she became the President Of the Black Student Union. Terri would eventually receive the prestigious President's Scholarship to attend California State University, Sacramento.

Terri would rejoin the Department of Finance part-time Student Assistant. After graduating with a degree in Social Work/Psychology in 1979, Terri was promoted Administrative Assistant II in 1981.

In the next four years, Terri's outstanding work continued to earn her a number of promotions; as Terri went from being an Associate Governmental Program Analyst to the Assistant Public Information Officer for the Governor's Exempt Program.

In 1985, Terri was asked to be part of the start-up team for the California Lottery. Terri would begin her service to California State Lottery as the Staff Services Manager I and Minority Affairs/Contract Compliance Manager. In the next eighteen years, Terri would serve with great distinction as a valued member of the Senior Staff. Terri offered her considerable knowledge to the Marketing Division as she was the primary liaison to the advertising agency developing African-American consumer marketing strategies.

Terri's outstanding professional accomplishments have rightfully earned her a number of awards in recognition of her excellence. Terri was named the Corporate Individual of the Year by Black Business Listings & Black Expo in 1996. The year after, Terri was appointed to the Corporate Advisory Council by the Asian Business Association. In 2000, Terri was acknowledged by the California Department of General Services for her contributions in furthering small business and disabled veteran business participation in state contracting.

Mr. Speaker, as Terri's friends, family, and colleagues gather to celebrate her great career; I am honored to pay tribute to a dedicated and successful public servant. Terri's career is a true testament to the value of public service. Although her career with the California state government may be over, her commitment to make a positive impact in the community, fortunate for us, is far from over. I ask all of my colleagues to join with me in wishing Terri Fontenette continued success in all her future endeavors.

## RECOGNIZING CRYSTAL DOMENECH

### HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Ms. VELÁZQUEZ. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to recognize the achievements of Crystal Domenech, who was raised in Sunset Park, Brooklyn, in my Congressional District.

At 19, Crystal has done what many people only dream to achieve in a lifetime. Since the age of 13, she has been an active member of the United Puerto Rican Organization of Sunset Park (UPROSE)—the oldest Puerto Rican community-based organization in Brooklyn.

Since Sunset Park is a working class, immigrant waterfront neighborhood and the site of many industrial uses, UPROSE's mission of youth and community empowerment seeks to make Sunset Park a better, safer place to live for local residents.

It is young people like Crystal who are truly changing the direction of our communities. She is one of the founding members of UPROSE's Environmental Enforcers, a youth group that has taken on many issues relating to environmental justice.

Crystal's list of accomplishments is long. She has worked tirelessly with me and other elected officials in educating-the public on the unfair siting of power plants and other polluting facilities in low-income communities. Currently, she is working with UPROSE on its Urban Forestry Project and on a community design plan for a public open space greenway along the Sunset Park waterfront. She has caught the attention of politicians, community leaders and the media alike.

Given her energy and commitment, it was easy for me to nominate Crystal as one of just five New York City students to travel to Antarctica for a 14-day expedition with Students on Ice. By embarking on this life-altering journey with her peers from countries all over the world, Crystal traveled from one end of the earth to the other in an effort to gain a new and deeper respect for the environment in which we live.

Therefore, Mr. Speaker, I rise today to honor Crystal Domenech, and join with my colleagues in the House of Representatives to recognize her extraordinary work.

## ON THE LIFE OF RADIO PERSONALITY EDDIE GALLAHER

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. HOYER. Mr. Speaker, last November Washington, DC lost one of its trademark voices. Eddie Gallaher, who entertained an entire generation of Washingtonians, passed away on November 26, 2003.

Mr. Gallaher was a radio performer who made his mark on the city during some of our century's most turbulent times. His decades-long career began in 1946 and didn't end until 3 years ago, when Mr. Gallaher was a spry 85. And though he was modest about his popularity, Mr. Gallaher was the man the biggest stars of the day always sat down to chat with when they came to visit the Nation's Capital.

Mr. Gallaher began his radio career at WTOP in Washington in 1946 as the host of the "Magical Moondial" show. In 1947, Mr. Gallaher began his "Sundial" morning program. As radio changed with the times and WTOP switched to an all-news format, Mr. Gallaher moved to WASH–FM and later on, WWDC–AM.

Mr. Speaker, in between spinning popular American standards and providing news updates and color commentary, Mr. Gallaher attracted listeners with his wit and homespun stories of life in Washington. His smooth voice was legendary as was his generous and affable nature. His reputation earned the attention of advertisers, who recruited his name for their on-air promotions.

Mr. Gallaher had a skillful knack for weaving in amusing anecdotes about the entertainment and political worlds that gave his audience a unique insider's perspective. Yet he enjoyed and valued the community feeling of the

Washington area, and encouraged civic participation from his listeners. Mr. Gallaher's devotion to his fans was mirrored in his devotion to Fran Sisk, his partner for close to 50 years.

Mr. Speaker, it was a pleasure for many of us—public officials and private citizens alike—to know Mr. Gallaher. Our Nation's Capital and the radio industry has truly lost a grand, old star.

## RECOGNIZING THE LANDMARK SUPREME COURT DECISION OF ROE v. WADE

### HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Friday, January 23, 2004*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the 31st anniversary of the Supreme Court's decision in Roe v. Wade, a decision that recognized the fundamental right to privacy extends to a woman's decision whether or not to have an abortion with freedom from government intrusion. Roe transformed women's experiences in many ways: saved their lives, protected their health, fostered equality and paved the way for greater partnership with men in all aspects of our nation's life.

This anniversary is an occasion for celebration, but also one for grave concern. At a time when the majority of state legislatures, the White House, and both houses of Congress are under anti-choice control, not to mention, the U.S. Supreme Court hanging in the balance, America is at risk of losing Roe v. Wade and the core values of privacy and freedom embodied in it.

I believe Congress should continue the historic principles handed down in Roe by using our influence to plan for healthy families, prevent unintended pregnancies and protect a woman's right to choose.

Anti-choice politicians, however, are attacking the right to choose from every angle. In the past year alone, they have pushed through a significant increase in state restrictions on the right to choose, as well as the first ever criminalization of safe abortion procedures, better known as the so-called "partial birth" abortion. President Bush went even further by placing extreme anti-choice ideologues on the federal courts, took away access to contraception, stripped foreign family planning clinics of desperately needed U.S. funds, and shifted priorities away from family planning services to unproven abstinence only programs.

If these drastic measures weren't enough, I have only more bad news to share; it's very likely we'll find this year in Congress to be much of the same. just yesterday, the House Judiciary Committee began markup of the Unborn Victims of Violence Act. Proponents of this bill claim this legislation will protect unborn children from assault and murder, a mere smokescreen for the real intent of it's passage, another sneak attack on a woman's right to choose. Instead, Congress could enact serious and meaningful laws that prevent and punish violence and provide services to women and their families—which I would strongly support.

So, on this anniversary of Roe v. Wade, I ask my colleagues to stand up for the pro-choice majority in this country, especially those in the 13th District of California, and act immediately and powerfully to safeguard our liberty or it will be lost. The time to act is now.

## AGREEING WITH THE SENTIMENT OF THE SENATE REGARDING THE DEATH OF THE HONORABLE PAUL SIMON

SPEECH OF
### HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, January 21, 2004*

Mr. LIPINSKI. Mr. Speaker, I rise today to remember and pay tribute to the legacy of my dear friend and outstanding colleague, Senator Paul Simon. A man of great character, deep integrity, and relentless fortitude, Paul Simon graced the stage of Illinois politics for 43 years leaving an indelible mark on the face of American government and the hearts of the people of Illinois.

Beginning as a small-town newspaper editor in Troy, Illinois, Paul Simon quickly left his mark on the minds of Illinoisans with his corruption-busting headlines and head turning liberalism. In 1954, Paul Simon embarked on his legendary political journey. First as a member of the Illinois State Legislature to lieutenant governor to Member of Congress to eventual Presidential aspirant, Paul Simon became a steadfast figure in the tomes of political history.

Quietly and honestly he garnered the respect and appreciation of millions of voters and his many colleagues across the political spectrum. He efficiently championed literacy, hunger, immigration, budget reforms, missing children's programs, and higher education. Senator Simon embraced change, pioneered for reform, and challenged a system that he sought to make better.

As a Member of the House and Senate, he advocated for a balanced budget, endeavored to overhaul the federal student loan program so all young people could have a chance at college, and was instrumental in leading efforts to curb television violence and protect America's exploited children.

Genuinely concerned for the future of America and our culture, Senator Simon served as a role model for public service and the conscience of the Senate. Paul Simon challenged America to reach out to people within our nation and make sure opportunity existed here for everyone.

With his retirement from the Senate in 1996, Senator Simon founded the Public Policy Institute of Southern Illinois University to impart his knowledge and political wisdom on future generations. He believed honesty and integrity were the cornerstones of character and the makings of a great politician were based on these virtues. It is by these virtues he is remembered and honored as one of America's greatest political icons.

Mr. Speaker, Senator Simon was a man of great dignity, honor, and passion. Respected and loved by all, he is remembered fondly across all parties in all circles of government and in the hearts of millions. Senator Simon will be greatly missed and it is our duty and our honor to remember his 43 years of public service to Illinois and the integrity he brought to this nation. He will never be forgotten.

## PRAISING GEORGIA BERNER

### HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Friday, January 23, 2004*

Ms. HART. Mr. Speaker, I would like to take this opportunity to praise a leader in the business community in my congressional district. Recently the Pittsburgh Business Times named Berner International Corporation, a leading manufacturer of air curtains and air doors, "Manufactuer of the Year" in the small manufacturing facility division.

Berner has grown from 35 to 52 employees over the past three years and has purchased new equipment which will fuel its success. Its expansion to a new 61,000 square foot facility will assist in increasing capacity.

I ask my colleagues in the House of Representatives to join me in praising Berner's president, Georgia Berner, and its employees for taking this Western Pennsylvania manufacturer to new levels of achievement. I am proud to represent an area which has produced business excellence and I look forward to further growth of Berner International in the future.

## CONGRATULATIONS TO UNIVERSITY OF LOUISIANA AT MONROE CHEERLEADERS

### HON. RODNEY ALEXANDER
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES
*Friday, January 23, 2004*

Mr. ALEXANDER. Mr. Speaker, I rise today to add another group of national champions to the Louisiana legacy. The cheerleaders of the University of Louisiana at Monroe (ULM) are champs. They returned last Monday from Orlando, Florida bearing a huge trophy as the Universal Cheerleaders Association's College National Cheerleading champions in the small coed division.

This competition marked the first time ULM cheerleaders had vied for a national title, but they have been working hard since the beginning of the year. Their victory is a testament to the hard work and dedication that all the students and faculty at ULM possess, and President James Cofer should be applauded for his vision of achievement for the university. The squad beat such esteemed universities as Villanova, Pennsylvania State, Hofstra, Northern Arizona and Rider in its division.

The members of the squad came from all over the country and worked this year to come together as a whole. We applaud the coaches, Jennifer Hyde and Trey Griffin, and the members of the squad, Treva Bankston, Carley Carter, Lori Chervenak, Nick Gaspard, Samantha Jones, Alex Kain, Crystal Kelley, Rebecca LeBlanc, Nathan LeCloux, Josh Lee, Hayley Leone, Crystal Lett, Tiffany Luse, R.B. Martin, Kelly Patterson, Billie Sue Roe, Robin

Samuels, Ashley Springfield, and Jamie Ventrella on a job well done. The squad will present the trophy at the January 29 basketball game at Fant-Ewing Coliseum.

Mr. Speaker, please join me in saying "Go, Tribe, Go," to the ULM cheerleading squad, national champions in the small coed division of the Universal Cheerleaders Association's College National Cheerleading competition.

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## RECOGNIZING THE OUTSTANDING EFFORTS OF JAPAN IN THE RECONSTRUCTION OF IRAQ AND THE INTERNATIONAL CAMPAIGN AGAINST TERRORISM

**HON. HENRY J. HYDE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 23, 2004*

Mr. HYDE. Mr. Speaker, I rise today to express deep appreciation for the support and cooperation received by the United States from our close ally Japan. The United States and Japan have maintained a strong relationship over the past half century, successfully overcoming challenges created by the Cold War, globalization, and now the international campaign against terrorism. Our alliance has been the key to insuring stability and security in the Asia-Pacific region for decades. Today, I stand to recognize Japan's recent outstanding contributions in support of ongoing reconstruction efforts in Iraq and the international campaign against terrorism.

Last week, Japan dispatched an advance unit of the Japanese Self-Defense Forces to the Iraqi city of Samawah to assist the coalition in its efforts to stabilize and rebuild the nation of Iraq. This unit will eventually be joined by up to a thousand additional troops and support personnel. The Japanese will provide much-needed medical services, increase Iraq's water supply, rebuild schools, and repair infrastructure. Their mission will result in greater security and prosperity for the Iraqi people and welcome support for American forces in the region.

The arrival of Japanese forces in the Middle East signifies a milestone in Japan's history. For many decades, Japan has provided generous financial support for efforts to promote international security, but the country's postwar constitution has precluded the overseas deployment of Japanese Self-Defense Forces, SDF. This past summer, the Japanese Diet made an historic decision to support coalition efforts in Iraq. Under the leadership of Prime Minister Junichiro Koizumi, the Diet created a legal framework to allow the deployment of Japanese SDF troops to assist in reconstruction efforts. I would like to echo the words of my good friend, Howard Baker, the U.S. Ambassador to Japan, by saying that this unprecedented decision has "enormous symbolic significance."

With this action, Japan has demonstrated recognition of the reality that oceans and geography alone cannot protect free nations from murderous fanaticism. Japan has recently experienced the pains of terrorism. I wrote to Ambassador Ryozo Kato, Japan's ambassador to the United States, to express my condolences to the families of Mr. Katsuhiko Oku and Mr. Masamori Inoue, who fell victim to a terrorist attack in Iraq on November 29. As President Abraham Lincoln noted in the Gettysburg Address, Mr. Oku and Mr. Inoue "gave their lives that that nation might live." Shortly before his death, Mr. Oku wrote a particularly meaningful entry in his diary after visiting the site of a suicide bombing in Nassiriya. He wrote: ". . . what we should learn from this tragedy is to have stronger determination not to yield to terrorists. Terrorists attacks could happen anywhere in the world. The elimination of terrorism is therefore a goal to be sought by all of us." These brave and determined words should strengthen our resolve to carry on with efforts to stabilize and secure post-war Iraq.

Japan's contribution to the rebuilding of Iraq includes significant financial support. After the United States, Japan is the largest donor to Iraqi reconstruction. In October, Japanese Foreign Minister Yoriko Kawaguchi announced a $5 billion aid package for the rebuilding of Iraq, including an outright grant of $1.5 billion for next year and loans in the amount of $3.5 billion to be given under generous terms through 2007. Five billion dollars is a significant contribution by any measure, however, in the context of Japan's current economic challenges it is a particularly generous pledge. Japanese assistance will go toward power generation, education, water and sanitation, and infrastructure—improvements in these areas will lay the critical foundation for future Iraqi development. Last month, Prime Minister Koizumi also announced to U.S. envoy James Baker III that Japan would provide extensive debt forgiveness to Iraq.

Mr. Speaker, not only has Japan stood by the United States during Operation Iraqi Freedom, but it has also actively cooperated with our country in combating terror around the globe. As the United States began to take steps against al-Qaeda and the Taliban in Afghanistan, the Japanese government provided logistical support to Operation Enduring Freedom. Despite the tight controls placed on Japan's armed services by its Constitution, Japan found ways to aid the U.S.-led coalition in freeing the Afghani people from a ruthless regime and rooting out destructive Al-Qaeda cells. The Japanese Diet passed legislation allowing for the deployment of supply ships and destroyers to the Indian Ocean to act as rear military support and provide the U.S. fleet with fuel, food, and water. The Japanese also provided medical assistance to coalition troops, assisted Afghan refugees, and contributed to American intelligence-gathering. This rear support has continued through Operation Iraqi Freedom.

Japan has taken an active role in the reconstruction of Afghanistan. Tokyo hosted the international donors conference for the reconstruction of Afghanistan in January 2002. The two-day conference, co-chaired by Mrs. Sadako Ogata, the Prime Minister's special representative for Afghanistan, succeeded in gaining pledges of $1.8 billion in assistance for 2002 as part of a total of $4.5 billion for a 5-year period. Japan pledged a generous $500 million to be given over a 30-month period. While many of the pledges have not been fulfilled, Japan has remained true to its word and has already disbursed most of the promised funding.

Mr. Speaker, over the past 2 years, the alliance between the United States and Japan has grown stronger as we have worked to improve our mutual security as part of the international campaign against terrorism and to address the critical issues posed by North Korean nuclear proliferation. However, our relationship is based on more than common security interests. It is a reflection of our mutual commitment to democracy and freedom. Today, I rise to thank the people of Japan for their outstanding support of the United States in the international campaign against terrorism. Japan has proven itself a good friend to the people of Iraq and Afghanistan, and a true, loyal ally of the United States.

# SENATE—*Monday, January 26, 2004*

The Senate met at 1 p.m. and was called to order by the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite spirit, today's blanket of snow reminds us of Your constancy in the orderly movements of the seasons. Your thoughts are too high for us to comprehend and Your ways are past finding out.

Great is Your name, O God. You transform our discordant notes into harmony. We thank You that Your goodness and mercy follow us all the days of our lives. Lord, thank You for this land of freedom which we sometimes take for granted.

As Senators deliberate on complex issues, give them the insight to discern truth from untruth, the high from the low, and the enduring from the transient. Give them a perspective that will enable them to find the right path.

Lord, bless our storm-tossed world with its distresses and catastrophes. Use each of us as instruments of Your peace. We ask this in the power of Your Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable ELIZABETH DOLE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, January 26, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mrs. DOLE thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

## SCHEDULE

Mr. McCONNELL. Madam President, today the Senate will resume debate on H.R. 3108, the pension rate bill. While there will be no rollcall votes today, Senators will have an opportunity to offer and debate their amendments. It is the majority leader's intention to complete action on this legislation this week. Therefore, Members are encouraged to make themselves available during today's session to offer their amendments. Any votes ordered with respect to the pension bill will be stacked to occur on Tuesday.

Senators were on the floor on Thursday afternoon and Friday to offer and debate amendments to the pension bill. Although the unanimous consent agreement allows for additional amendments, it is uncertain at this time if those amendments will in fact be offered. If Senators desire to offer an amendment, they should notify their respective cloakrooms today so they can be scheduled for consideration. It may be possible, therefore, to finish the bill at a reasonable time on Tuesday. As always, Senators will be notified when the first vote is going to be scheduled.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, it is my understanding that there will be no rollcall votes until Tuesday afternoon. Is that the decision made by the assistant leader?

Mr. McCONNELL. I would say it is reasonable to expect there will be no rollcall votes until after the policy luncheons tomorrow.

Mr. DASCHLE. I thank the assistant Republican leader for his clarification with regard to that schedule.

## EXPRESSING CONDOLENCES TO THE SENATOR FROM NORTH CAROLINA

Mr. DASCHLE. Madam President, over the last couple of days, the distinguished Presiding Officer lost her mother. I know I speak for all of us in the Senate, Republicans and Democrats alike, expressing our heartfelt sympathy. Our thoughts and prayers are with you and your family.

## HUSSEIN'S WEAPONS OF MASS DESTRUCTION

Mr. DASCHLE. Madam President, I wanted to say a couple of words today with regard to an article that appeared on the front page of the New York Times entitled "Ex-Inspector Says C.I.A. Missed Iraqi Arms Chaos."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 25, 2004]

### EX-INSPECTOR SAYS C.I.A. MISSED IRAQI ARMS CHAOS

(By James Risen)

WASHINGTON, Jan. 25.—Americans intelligence agencies failed to detect that Iraq's unconventional weapons programs were in a state of disarray in recent years under the increasingly erratic leadership of Saddam Hussein, the C.I.A.'s former chief weapons inspector said in an interview late Saturday.

The inspector, David A. Kay, who led the government's efforts to find evidence of Iraq's illicit weapons programs until he resigned on Friday, said the C.I.A. and other intelligence agencies did not realize that Iraqi scientists had presented ambitious but fanciful weapons programs to Mr. Hussein and had then used the money for other purposes.

Dr. Kay also reported that Iraq attempted to revive its efforts to develop nuclear weapons in 2000 and 2001, but never got as far toward making a bomb as Iran and Libya did.

He said Baghdad was actively working to produce a biological weapon using the poison ricin until the American invasion last March. But in general, Dr. Kay said, the C.I.A. and other agencies failed to recognize that Iraq had all but abandoned its efforts to produce large quantities of chemical or biological weapons after the first Persian Gulf war, in 1991.

From interviews with Iraqi scientists and other sources, he said, his team learned that sometime around 1997 and 1998, Iraq plunged into what he called a "vortex of corruption," when government activities began to spin out of control because an increasingly isolated and fantasy-riven Saddam Hussein had insisted on personally authorizing major projects without input from others.

After the onset of this "dark ages," Dr. Kay said, Iraqi scientists realized they could go directly to Mr. Hussein and present fanciful plans for weapons programs, and receive approval and large amounts of money. Whatever was left of an effective weapons capability, he said, was largely subsumed into corrupt money-raising schemes by scientists skilled in the arts of lying and surviving in a fevered police state.

"The whole thing shifted from directed programs to a corrupted process," Dr. Kay said. "The regime was no longer in control;

it was like a death spiral. Saddam was self-directing projects that were not vetted by anyone else. The scientists were able to fake programs."

In interviews after he was captured. Tariq Aziz, the former deputy prime minister, told Dr. Kay that Mr. Hussein had become increasingly divorced from reality during the last two years of his rule. Mr. Hussein would send Mr. Aziz manuscripts of novels he was writing, even as the American-led coalition was gearing up for war, Dr. Kay said.

Dr. Kay said the fundamental errors in prewar intelligence assessments were so grave that he would recommend that the Central Intelligence Agency and other organizations overhaul their intelligence collection and analytical efforts.

Dr. Kay said analysts had come to him, "almost in tears, saying they felt so badly that we weren't finding what they had thought we were going to find—I have had analysts apologizing for reaching the conclusions that they did."

In response to Dr. Kay's comments, an intelligence official said Sunday that while some prewar assessments may have been wrong, "it is premature to say that the intelligence community's judgments were completely wrong or largely wrong—there are still a lot of answers we need." The official added, however, that the C.I.A. had already begun an internal review to determine whether its analytical processes were sound.

Dr. Kay said that based on his team's interviews with Iraqi scientists, reviews of Iraqi documents and examinations of facilities and other materials, the administration was also almost certainly wrong in its prewar belief that Iraq had any significant stockpiles of illicit weapons.

"I'm personally convinced that there were not large stockpiles of newly produced weapons of mass destruction," Dr. Kay said. "We don't find the people, the documents or the physical plants that you would expect to find if the production was going on.

"I think they gradually reduced stockpiles throughout the 1990's. Somewhere in the mid-1990's, the large chemical overhang of existing stockpiles was eliminated."

While it is possible Iraq kept developing "test amounts" of chemical weapons and was working on improved methods of production, he said, the evidence is strong that "they did not produce large amounts of chemical weapons throughout the 1990's."

Regarding biological weapons, he said there was evidence that the Iraqis continued research and development "right up until the end" to improve their ability to produce ricin. "They were mostly researching better methods for weaponization," Dr. Kay said. "They were maintaining an infrastructure, but they didn't have large-scale production under way."

He added that Iraq did make an effort to restart its nuclear weapons program in 2000 and 2001, but that the evidence suggested that the program was rudimentary at best and would have taken years to rebuild, after being largely abandoned in the 1990's. "There was a restart of the nuclear program," he said. "But the surprising thing is that if you compare it to what we now know about Iran and Libya, the Iraqi program was never as advanced," Dr. Kay said.

Dr. Kay said Iraq had also maintained an active ballistic missile program that was receiving significant foreign assistance until the start of the American invasion. He said it appeared that money was put back into the nuclear weapons program to restart the effort in part because the Iraqi realized they needed some kind of payload for their new rockets.

While he urged that the hunt should continue in Iraq, he said continue in Iraq, he said he believed "85 percent of the significant things" have already been uncovered, and cautioned that severe looting in Iraq after Mr. Hussein was toppled in April had led to the loss of many crucial documents and other materials. That means it will be virtually impossible to ever get a complete picture of what Iraq was up to before the war, he added.

"There is going to be an irreducible level of ambiguity because of all the looting," Dr. Kay said.

Dr. Kay said he believed that Iraq was a danger to the world, but not the same threat that the Bush administration detailed.

"We know that terrorists were passing through Iraq," he said. "And now we know that there was little control over Iraq's weapons capabilities. I think it shows that Iraq was a very dangerous place. The country had the technology, the ability to produce, and there were terrorist groups passing through the country—and no central control."

But Dr. Kay said the C.I.A. missed the significance of the chaos in the leadership and had no idea how badly that chaos had corrupted Iraq's weapons capabilities or the threat it raised of loose scientific knowledge being handed over to terrorists. "The system became so corrupt, and we missed that," he said.

### C.I.A. MISSED SIGNS OF CHAOS

He said it now appeared that Iraq had abandoned the production of illicit weapons and largely eliminated its stockpiles in the 1990's in large part because of Baghdad's concerns about the United Nations weapons inspection process. He said Iraqi scientists and documents show that Baghdad was far more concerned about United Nations inspections than Washington had ever realized.

"The Iraqis say that they believed that Unscom was more effective, and they didn't want to get caught," Dr. Kay said, using an acronym for the inspection program, the United Nations Special Commission.

The Iraquis also feared the disclosures that would come from the 1995 defection of Hussein Kamel, Mr. Hussein's son-in-law, who had helped run the weapons programs. Dr. Kay said one Iraqi document that had been found showed the extent to which the Iraqis believed that Mr. Kamel's defection would hamper any efforts to continue weapons programs.

In addition, Dr. Kay said, it is now clear that an American bombing campaign against Iraq in 1998 destroyed much of the remaining infrastructure in chemical weapons programs.

Dr. Kay said his team had uncovered no evidence that Niger had tried to sell uranium to Iraq for its nuclear weapons program. In his State of the Union address in 2003, President Bush reported that British intelligence had determined that Iraq was trying to import uranium from an African nation, and Niger's name was later put forward.

"We found nothing on Niger," Dr. Kay said. He added that there was evidence that someone did approach the Iraqis claiming to be able to sell uranium and diamonds from another African country, but apparently nothing came of the approach. The original reports on Niger have been found to be based on forged documents, and the Bush administration has since backed away from its initial assertions.

Dr. Kay added that there was now a consensus within the United States intelligence community that mobile trailers found in Iraq and initially thought to be laboratories for biological weapons were actually designed to produce hydrogen for weather balloons, or perhaps to produce rocket fuel. While using the trailers for such purposes seems bizarre, Dr. Kay said, "Iraq was doing a lot of nonsensical things" under Mr. Hussein.

The intelligence reports that Iraq was poised to use chemical weapons against invading troops were false, apparently based on faulty reports and Iraqi disinformation, Dr. Kay said.

When American troops found that Iraqi troops had stored defensive chemical-weapons suits and antidotes, Washington assumed the Iraq military was poised to use chemicals against American forces. But interviews with Iraqi military officers and others have shown that the Iraqis kept the gear because they feared Israel would join an American-led invasion and use chemical weapons against them.

### ROLE OF REPUBLICAN GUARDS

Dr. Kay said interviews with senior officers of the Special Republican Guards, Mr. Hussein's most elite units, had suggested that prewar intelligence reports were wrong in warning that these units had chemical weapons and would use them against American forces as they closed in on Baghdad.

The former Iraqi officers reported that no Special Republican Guard units had chemical or biological weapons, he said. But all of the officers believed that some other Special Republican Guard unit had chemical weapons.

"They all said they didn't have it, but they thought other units had it," Dr. Kay said. He said it appeared they were the victims of a disinformation campaign orchestrated by Mr. Hussein.

Dr. Kay said there was also no conclusive evidence that Iraq had moved any unconventional weapons to Syria, as some Bush administration officials have suggested. He said there had been persistent reports from Iraqis saying they or someone they knew had see cargo being moved across the border, but there is no proof that such movements involved weapons materials.

Dr. Kay said the basic problem with the way the C.I.A. tried to gauge Iraq's weapons programs is now painfully clear: for five years, the agency lacked its own spies in Iraq who could provide credible information.

During the 1990's, Dr. Kay said, the agency became spoiled by on-the-ground intelligence that it obtained from United Nations weapons inspectors. But the quality of the information plunged after the teams were withdrawn in 1998.

"Unscom was like crack cocaine for the C.I.A.," Dr. Kay said. "They could see something from a satellite or other technical intelligence, and then direct the inspectors to go look at it."

The agency became far too dependent on spy satellites, intercepted communications and intelligence developed by foreign spies and by defectors and exiles, Dr. Kay said. While he said the agency analysts who were monitoring Iraq's weapons programs did the best they could with what they had, he argued that the agency failed to make it clear to American policy makers that their assessments were increasingly based on very limited information.

"I think that the system should have a way for an analyst to say, 'I don't have enough information to make a judgment,'" Dr. Kay said. "There is really not a way to do that under the current system."

> He added that while the analysts included caveats on their reports, those passages "tended to drop off as the reports would go up the food chain" inside the government.
>
> As a result, virtually everyone in the United States intelligence community during both the Clinton and the current Bush administrations thought Iraq still had the illicit weapons, he said. And the government became a victim of its own certainty.
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> "Alarm bells should have gone off when everyone believes the same thing," Dr. Kay said. "No one stood up and said, 'Let's examine the footings for these conclusions.' I think you ought to have a place for contrarian views in the system."
>
> ### FINDS NO PRESSURE FROM BUSH
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> Dr. Kay said he was convinced that the analysts were not pressed by the Bush administration to make certain their prewar intelligence reports conformed to a White House agenda on Iraq.
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> Last year, some C.I.A. analysts said they had felt pressed to find links between Iraq and Al Qaeda to suit the administration. While Dr. Kay said he has no knowledge about that issue, he did believe that pressure was placed on analysts regarding the weapons programs.
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> "All the analysts I have talked to said they never felt pressured on W.M.D.," he said. "Everyone believed that they had W.M.D."
>
> Dr. Kay also said he never felt pressed by the Bush administration to shape his own reports on the status of Iraq's weapons. He said that in a White House meeting with Mr. Bush last August, the president urged him to uncover what really happened.
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> "The only comment I ever had from the president was to find the truth," Dr. Kay said. "I never got any pressure to find a certain outcome."
>
> Dr. Kay, a former United Nations inspector who was brought in last summer to run the Iraq Survey Group by George J. Tenet, the director of central intelligence, said he resigned his post largely because he disagreed with the decision in November by the administration and the Pentagon to shift intelligence resources from the hunt for banned weapons to counterinsurgency efforts inside Iraq. Dr. Kay is being succeeded by Charles A. Duelfer, another former United Nations inspector, who has also expressed skepticism about whether the United States will find any chemical or biological weapons.
>
> Dr. Kay said the decision to shift resources away from the weapons hunt came at a time of "near panic" among American officials in Baghdad because of rising casualties caused by bombings and ambushes of American troops.
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> He added that the decision ran counter to written assurances he had been given when he took the job, and that the shift in resources had severely hampered the weapons hunt.
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> He said that there is only a limited amount of time left to conduct a thorough search before a new Iraqi government takes over in the summer, and that there are already signs of resistance to the work by Iraqi government officials.

Mr. DASCHLE. The article begins with a paragraph that reads:

> American intelligence agencies failed to detect that Iraq's unconventional weapons programs were in a state of disarray in recent years under the increasingly erratic leadership of Saddam Hussein, the C.I.A.'s former chief weapons inspector said in an interview late Saturday.

Mr. Kay, the head of our government's effort to determine precisely which weapons Saddam possessed prior to the start of the war, offered the view on whether Saddam actually had weapons of mass destruction. His quote:

> I don't think they exist. The fact that we found so far the weapons do not exist—we've got to deal with that difference and understand why.

I also think it is important for us to understand why. On Saturday, Secretary of State Colin Powell held out the possibility that prewar Iraq did not possess any weapons of mass destruction. That is quite an admission, given the Secretary's presentation to the United Nations, given his assertions publicly and privately to us and many others as the case for war in Iraq was made last spring.

These views are consistent with a report issued earlier this month by the nonpartisan Carnegie Endowment. The report by the Carnegie Endowment concluded that the assertion that the fundamental justification for the war with Iraq, namely that Iraq possessed stockpiles of weapons of mass destruction, was not real. Carnegie also concluded:

> Administration officials systematically misrepresented the threat from Iraq's nuclear, chemical, and biological weapons programs and ballistic missile programs.

Given the conclusion by the Carnegie Endowment, we can only get to the bottom of this issue by thoroughly examining the performance of both the intelligence community and senior administration officials.

This has been quite a remarkable turnaround from the debate we had 4 or 5 months ago. During that debate, many of us proposed an independent commission to look at these issues. At that point, there was a debate about whether or not we had all the facts and whether or not the Intelligence Committee in the Senate was prepared to ascertain what the facts were.

But consider now the revelations that have occurred just in the last few days, much less the last several months. You have the Secretary of State reversing his public position with regard to weapons of mass destruction. You have the chief weapons investigator working for this Government publicly declaring that weapons do not exist and questioning whether they did exist at any time in recent years. You have the Carnegie Endowment, one of the most respected nonpartisan organizations that also reviewed the matter, coming to to a similar conclusion.

The question comes now: What do we do about it? We can ignore it. We can hope it will just go away. Or we can investigate it, research it, try to learn from it to ensure that mistakes of this consequence won't happen again in the future. Unfortunately, it appears neither the administration nor the chairman of the Senate Intelligence Committee share this view.

According to Dr. Kay, he is stepping down in large part because the administration has reduced his team of analysts, translators, and interrogators working on the search for Saddam's weapons of mass destruction.

I cannot overstate the significance of these claims. They contributed directly to the decision to go to war last spring. As many of us have said on several occasions, this obviously wasn't the only motivation, but it was clearly a major part of this decision for many of us.

Since we made that fateful decision, over 500 Americans have been killed, over 2,000 have been wounded, and over 100,000 are still deployed in harm's way. In addition, published reports indicate the lack of evidence has badly damaged America's credibility around the world.

So given all of this, I cannot understand why we would not want to get to the bottom of this issue as quickly as possible. We should be dedicating more resources to getting these answers not less.

I am troubled too by the position of the chairman of the Senate Intelligence Committee. This committee has the obligation and the authority to examine both the intelligence community and the administration's role in the intelligence failures leading up to the war with Iraq.

Yet throughout all of the last session of Congress, the chairman steadfastly refused to permit the committee to meet its responsibilities. We are at the start of a new session of Congress now, with the advantage of a lot more information than we had weeks or months ago.

In the wake of the statements by Secretary Powell and Dr. Kay, and the conclusions of the nonpartisan Carnegie Endowment, I urge the chairman of the Intelligence Committee to reconsider his position and that of the majority.

We will work within the Intelligence Committee to urge the chairman to live up to those obligations. If he continues to fail to do so, we will again bring legislation to the Senate floor to establish a nonpartisan, independent commission to look at how intelligence was used by the intelligence community and this administration.

Our troops in Iraq and the American people deserve a full and comprehensive review of all aspects of their Government's actions prior to the start of the Iraqi war. I hope all members of the Intelligence Committee, and indeed the entire Senate, will work with us to give them just that.

Madam President, we will continue to come to the floor to review these matters and to express in the most determined way that it is the responsibility of this Senate to live up to its obligations—the Intelligence Committee, the other committees of jurisdiction, and the broad membership—especially when we become aware of revelations and conclusions drawn by experts in the field. We simply cannot afford to ignore what happened, why it happened, and how we can prevent it from happening again.

I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## PENSION FUNDING EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3108, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

Pending:

Grassley amendment No. 2233, of a perfecting nature.

Kyl amendment No. 2234 (to amend No. 2233) to limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, during the last 3 years, we have seen too many good jobs leave this country, and Americans are ending up with lower pay for part-time jobs. Not only do these jobs pay much less, they are also much less likely to offer pension benefits. In fact, 3.3 million Americans have lost their pension coverage since 2000. In 2002, only 53.5 percent of our Nation's workers were participating in retirement plans, the lowest level in over a decade.

This means the degradation of jobs not only hurts Americans today, it will continue to hurt them for the rest of their lives and into their retirement and old age. Instead of adopting an every-worker-for-himself retirement policy, we should be encouraging the growth of secure pension plans for all workers. Fewer American workers than ever have a secure, defined benefit pension plan.

Only one in five workers today has a defined benefit plan compared with nearly 40 percent of workers in 1980. We must help low-wage workers and employees of small businesses, less than 10 percent of whom have pension coverage today.

Strengthening and expanding our pension system is our long-term goal. But first we must take the initial step of stabilizing the pension plans that exist today, which have been battered by the perfect storm of economic conditions over the last 3 years.

The amendment that Chairman GRASSLEY, ranking Finance Committee member Senator BAUCUS, as well as the HELP Committee chairman, Senator GREGG, and I have offered is a moderate bipartisan measure to address these short-term problems. This amendment does not weaken existing pension funding rules. These are only temporary measures designed to give companies and workers some breathing room, to take steps to further protect these pension plans.

An editorial in today's Washington Post expressed concern about our amendment and its effect on the PBGC and the American taxpayers. It is very important to respond to these concerns because they stem from some misconceptions about how our pension funding system works.

First, additional obligations of the PBGC will not put taxpaying Americans at risk. The Pension Benefit Guaranty Corporation, which ensures defined benefit plans, is a self-funded agency. It is not supported by taxpayer dollars; it is funded by premiums from employers and holds billions of dollars in assets.

Second, the PBGC's funding deficit, while serious, does not mean the agency cannot fulfill its mission. The PBGC has been in deficit before. The PBGC single employer program operated at a deficit for the first 16 years of its existence. The PBGC still holds billions of dollars in assets, and the agency reports that it has sufficient cash flow to cover benefit payments and other operating expenses and other liabilities for a number of years.

Also, the PBGC can and has operated at a surplus. During the Clinton economy, the PBGC not only shed its deficits, it gained a $10 billion surplus. What is more, the PBGC's multiemployer program operated at a surplus for over 20 years—until this year. When our economy improves, the financial outlook of the PBGC will improve as well.

We were also concerned about overburdening the PBGC. That is why we limited the DRC relief to companies with healthy pension plans in 2000. These are companies that have been hit by terrible economic circumstances, from which we believe they will recover. Companies that receive the DRC relief will still be responsible for their regular pension contributions, and they will be restricted from increasing benefits, thus making pension promises they cannot keep. They will also be required to keep up with the costs of current benefits so they won't fall further behind in their funding levels.

Finally, not passing this pension legislation will subject the PBGC to much greater risk than it faces today. Without the crucial three pieces that our legislation includes—temporary replacement of the 30-year Treasury bond rate, targeted deficit reduction contribution relief, and funding relief to multiemployer plans—far more pension plans would terminate, which would place additional burdens on the PBGC.

We want to improve our pension funding rules to ensure that companies adequately fund pension plans. We want to encourage companies to put more money into their pension plans when times are good, instead of only penalizing them with increased contributions when times are bad. However, we must first address the perfect storm that is battering our pension plans today. Once we have adopted this short-term solution, I look forward to working with my colleagues to improve and strengthen pensions for all America.

I thought I would take a few moments to talk about this perfect storm that has adversely impacted the pension system, and also the challenges it presents to our economy generally.

Madam President, 3.3 million Americans have lost their pension coverage since 2000. Only 53 percent of our Nation's workers are participating in a retirement plan, the lowest level in over a decade.

As I mentioned before, the three parts of the stool for the American workers, after they have lived a life of productivity and worked hard in the workplace, are: One, Social Security; two, their savings; and three, their pension programs. We have seen a decline in the number of Americans who are now covered.

The declining quality of jobs in our country also means declining benefits for American workers. Part-time and low-wage workers are far less likely to have a pension than full-time workers.

That is why we are concerned and why this legislation, as I pointed out previously, addresses the needs of nearly 35 million Americans who are covered by single-employer defined benefit pension plans and the 9.7 million Americans who are covered by multiemployer defined benefit plans, such as those who work in the construction industry who move from site to site over a year. That program was developed to make sure those workers will also have a defined benefit pension plan to provide a secure monthly benefit backed by the Pension Benefit Guaranty Corporation. That is a great advantage of the defined benefit program.

What I am talking about in terms of the perfect storm is the economic factors which have been hurting defined pension plans: The prolonged downturn of the stock market during the Bush administration, the longest since the Great Depression; the extremely low

30-year Treasury bond interest rates—it may be good for some industries, if you are purchasing a car or a house, but in terms of its impact on pension plans, it has been extremely adverse—and the generally weak economic conditions, which means that companies cannot afford to make additional payments and pay the excise taxes imposed by our pension laws.

Smaller companies, medium-size companies, and even larger companies are hard pressed at this time because of the economic exigencies we are facing today. They believe they are under all of this pressure and they are unable to meet those responsibilities.

I point this out not only to explain the challenge we are facing with regard to pensions but how inconsistent this is with the remarks of our President in his State of the Union Address when he commented that this economy is strong and growing stronger and also pointed out that the pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years.

As some of us have pointed out, this has been very good for Wall Street but really has not been so good for Main Street.

This chart shows what has happened, going back to 1949, when the U.S. economy recovered from a recession. This is a comparison of first quarter recovery.

Looking at the history, using identical figures—and this is done by EPI Analysis based upon BEA data—first of all, we see, going back to 1949, that wages increased in the first quarter by 16 percent; 10 percent in 1954; in 1958 by 10 percent; 7 percent in 1961; 6.8 percent in 1970; 7.8 percent in 1975; 9.21 percent in 1982; in 1991, 6.1 percent; and look at the year 2001, 1.5 percent. It is a pretty interesting indicator as to what is happening in the job market in terms of economic recovery, of which we heard so much during the State of the Union Address.

This chart is a comparison since 1949 of what has happened to wages for workers in the quarter the recession ended. What we see is that this 1.5 percent is so dramatically different from every other quarter that it is difficult for many of us to be enthusiastic about this as an economic indicator.

It is very interesting to look at where the resources have gone in the recovery. In the Bush economy, corporate profits ballooned compared to workers' wages. Look at this: In the early nineties, we saw workers' wages, as a percent of the economic recovery, were 60 percent; corporate profits, 39 percent. Workers' wages, 60 percent; corporate profits, 39 percent.

Now look what it is this year. In today's recovery, we find workers' wages represent 13 percent of the total recovery and profits 86 percent—profits 86 percent. When many of us talk about the recovery being good for Wall Street, this is it; bad for Main Street, this is it.

Where are the resources going? They are going to the profits of the corporation. They are not being returned to the workers. We see what has happened.

At the end of last week, I noted, when I got home, a very interesting CNN report on overwhelmed Americans. This is what they pointed out in their study and review:

> Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Then it quotes Kate Bronfenbrenner, a professor from Cornell University, talking about American workers:

> They are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out or eliminated. They are overwhelmed because they feel like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder and longer and faster just to stand still.

I showed those other charts that say American workers are working longer and harder than any other industrial society in the world. Not only are workers working longer and harder, but it's all hands on deck both men and women, moms and dads are working longer and harder just to try to stay even.

The report goes on:

> In growing numbers, workers are feeling overworked, underappreciated, and burned out. That's according to a recent study of 1,100 workers that concluded "Emotion about the current work experience is extremely negative."

In the Wall Street Journal on Friday, January 23, we saw a lead story.

"The Gap in Wages Is Growing Again for U.S. Workers.

"Inequality Is Seen as a Result of the Jobless Recovery; Potential Election Theme."

> Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.
>
> The trend is a reflection of the job market's exceptionally weak response to the current economic recovery.

This is the Wall Street Journal. This is not just an article by some Democratic study group. This is the Wall Street Journal, their studies. It says:

> The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers. The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular are bearing the brunt . . .
>
> The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

This is the real state of the Union. I am reminded of the study that just came out at the end of last week from the Economic Policy Institute, a January 21st study.

I will explain this chart. Basically it says the jobs that are being created, the few jobs that are being created—the estimate by the administration is it is going to be 300,000. They created 1,000 jobs this last month. The jobs that are being created are not as good as the jobs lost under this administration.

This chart shows that in 48 of the 50 States, jobs in higher paying industries have given way to jobs in lower paying industries since the recession ended in November 2001. Nationwide, industries that are gaining jobs relative to industries that are losing jobs pay 21 percent less annually. For the States that have lost jobs since the recession purportedly ended, this is the other shoe dropping. Not only have jobs been lost, but in 29 of them the losses have been concentrated in higher paying sectors. For 19 of the 20 States that have seen some small gain in jobs since the end of the recession, the jobs gained have been disproportionately in the lower paying sector.

They mentioned several States. One is the State of New Hampshire. Overall, 15,700 New Hampshire jobs have been lost since this President took office, and New Hampshire's unemployment rate has increased 54-percent under President Bush. The unemployment rate in New Hampshire was 4.3 percent in November 2003, up from 2.8 percent in January 2001. This change represents a 54-percent increase since President Bush took office.

According to the most recent State estimate, 6.1 percent of New Hampshire residents live in poverty, up from 5.5 percent in 2001. New Hampshire had lost a fifth of its manufacturing jobs since April of 2001. Under President Bush, the low-paying jobs are replacing the high-paying jobs in New Hampshire. The New England Economic Project recently estimated the sectors that lost the jobs between 2001 and 2002 in New Hampshire have an annual average wage of about $44,000. These sectors adding jobs in the State have an average wage of $38,000.

Over a third of the jobless people in New Hampshire used up their unemployment benefits before finding a new job. Madam President, here 26 percent of the people on unemployment in New Hampshire used up their benefit before finding new jobs. However, in September of 2003 nearly one-third were unable to find work by the time their benefits ended.

These are hard-working Americans who have paid into the unemployment fund, which has about $20 billion surplus at this time. There are 90,000 workers a week who are losing their unemployment insurance. That is happening up there in New Hampshire. We have tried more than a dozen times to get a temporary extension of 13 weeks. It costs about $7 billion. It has been objected to by the Republicans.

Real people are hurting. The unemployment filings in New Hampshire are the highest since 1992. From 2001 to 2003, the number of unemployment filings in New Hampshire was the highest it has been since 1992.

Of 240,000 New Hampshire taxpayers, 40 percent—and I mention this because in the State of the Union Address, the President talked about how we have doubled the child tax credit, reduced the marriage penalty, begun to phase out the debt, reduced taxes on capital gains, dividends, cut taxes on small businesses, have lowered taxes for every American who pays income tax.

Listen to this. In New Hampshire, 241,000 New Hampshire taxpayers, which is 40 percent of the New Hampshire taxpayers, will receive less than $100 from the Bush tax plan in 2004. The top 1 percent of New Hampshire taxpayers receive 28 percent of the benefits in 2004 and get an average tax cut of over $67,000.

Some people have asked why some of us were somewhat disappointed in the State of the Union Address and didn't jump up and applaud these figures. We take the State of the Union seriously. When you have that kind of result, in terms of the President's tax bill, one which I voted against for these very kinds of reasons, you begin to understand what is happening on Main Street of America.

Not only are we talking about the question of pensions, and we talk about jobs, let's think about what has been happening to the average workers with regard to their health care costs and their health care coverage. We have one in five workers who are uninsured and, when they are offered insurance, decline coverage because of the limitations of their wages and because of the costs of health insurance, which I will come back to. Sixty-five percent of the employers increased the amount workers pay for their health insurance and 47 percent of the employers increased the amount workers pay for prescription drugs and 34 percent of employers increased the cost share employees pay for office visits.

These are the pressures workers are under. That is why we have some 44 million Americans who do not have health insurance—members representing not only workers but family members of the workers. About 80 percent of all those who do not have health insurance are either workers or members of workers' families. That is why I believe if it is worker related in terms of trying to get coverage, we can make a major step in reducing the total number of those who are uncovered.

Look at what is happening to the costs, the premium costs versus the Consumer Price Index—the average cost of products. Look at what is happening. This is a comparison of costs for workers. In 1999, the Consumer Price Index was 2.7 percent but 5.3 percent for health care. The next year, 2000, 3.4, 8.2; 2001, 1.6, 10.9. The next year, 2002, 2.4, for the Consumer Price Index, 12.9. In 2001, 1.8, 13.9 percent increase in the cost of health insurance.

We wonder why workers cannot afford it and workers can't afford it. That is the real state of the Union. That is the real state of the Union.

To offer a refundable tax credit of $1,000 is laughable. I say it is like throwing a 5-foot rope to somebody who is in a boat 10 feet away and is about to go over Niagara Falls. It is virtually useless. These are costs that are impacting, affecting the costs of health care insurance and why workers cannot afford it.

What do we hear from the administration? What is their solution? Should someone tell us? Do I hear it? I looked hard in the President's State of the Union Address to find it. Do you know what it was? It was medical malpractice. That is their answer to all of the problems we are talking about, and the increase in costs. We will have a chance to get into that at some time. That is going to be the answer.

It isn't only the cost of health insurance. Look at what is happening to the families. These are family responsibilities. Workers have responsibilities. Parents don't want to be a burden. They worked hard. We guaranteed to the families in 1965 when we passed Medicare that we would attend to their health care needs. We didn't know prescription drugs would be so important. Every day that we fail to provide a comprehensive prescription drug program, we fail in our pledge to our seniors.

Look at what has happened to the prescription drug costs with respect to the Consumer Price Index: In 2000, 3.4 percent, and the average cost-of-living increase was 16 percent; in 2001, 1.67, and 15 percent; 2002, 2.4 percent, and 14 percent. We allegedly passed a prescription drug program. What did we say in that bill that would get a handle on costs? Virtually nothing. We prohibited the Secretary of HHS from being able to negotiate for lower prices. That is not true with VA; they can reduce prices down some 47 percent, but not with regard to Medicare because we were prohibited from that. I pay respect to my Democratic leader, Senator DASCHLE, and Congresswoman PELOSI for offering amendments which we will have a chance to address here very soon to change that.

We have to do something on the coverage, we have to do something on the costs, or we are not really looking after what is happening out on Main Street. We talk about jobs. We talk about health. Let us take a look at another issue families are very much concerned about; that is, the cost of education.

This is the Bush education record: Failure to provide tuition relief as college costs increase. On this chart, you find what 4-year costs for a college education are. This includes not only the tuition but it is room and board and the routine expenses with which students are faced. Look over here. In 2002, on help and assistance, these are for young people who come from families with limited means but have scholarships and are academically gifted, or are able to meet the academic standards and gain admission to these excellent schools all over the country. Look at what we see: Significant increase in the cost. Look at what help and assistance: Basically flat over the period of time.

These are family issues for working families concerned about the cost of prescription drugs that are being paid by their parents. These are family issues for working families who are concerned about the cost of having their children go to the fine schools across this country. We have left them high and dry.

If we look at the Bush economic record, the median household income is down effectively $1,500 across the country according to the Bureau of Census in the Department of Commerce; $1,500 for the year 2002, and a further decline beyond to 2004. That is what is happening out on Main Street. People are working harder, as these reports point out, and they are barely able to keep up. Millions are working and competing as well. As productivity goes up, they are working more for less. We see that allocations of profits versus the wages.

We see the failure to respond to the needs of working families with regard to their health care costs or their children's education. These are all the issues which have been left behind. What has been the response to those urgent needs? It has been disappointing, at best.

First of all, there are 13 million children who are hungry. We have 8 million Americans who are unemployed. We have 8 million workers who lose overtime under the Bush proposal. We have 7 million low-wage workers who have been waiting 7 years for an increase in the minimum wage. We have 3 million more Americans in poverty since President Bush took office, and 90,000 workers a week are losing their unemployment benefits every week. We have tried and tried to get a temporary extension for these workers.

The decline in the economy is not the result of workers not working hard and producing. It is because of general overall economic mismanagement.

This country has always recognized that those workers pay into the unemployment compensation, and when there is a slide in the economy, they ought to be able to withdraw some of that. But there has been objection time in and time out by our Republican friends and virtually no leadership on this issue from the President.

More than three in four—77 percent—of the unemployed Americans say the level of stress in their family has increased. How do we measure that? We listened the other night to how our GNP is going up, with all of the favorable economic indicators. How do you measure the fact that in 77 percent of the unemployed families the level of stress in their family has increased? Two-thirds of those with children have cut back on spending for their children. Where is that indicated in any of these economic indicators we heard about in the State of the Union?

Twenty-six percent say another family member has had to start a job or increase their work hours in order to keep the family together, and 23 percent have had to interrupt their education or that of a family member. They had to drop out of school for a year, go back to work, and then come back and try to complete their education. That is what is happening out there.

We didn't hear about what is happening for average working families. If we had been able to extend the unemployment insurance, we could have avoided many of these indicators. But no, we were unable to do so.

What has been the impact by this administration saying no to extending unemployment compensation? No, we can't do that. What about those workers who worked hard for 40 hours a week and 52 weeks of the year? It has been 7 years since the last increase in the minimum wage. Now, at the end of this year, it will be at an all-time low.

A majority of the Members of this body would vote for an increase in the minimum wage, and we are not able to get it because of the Republican filibuster. That is the reason. Make no mistake about it.

Who are these people? These are men and women of great dignity. These people work hard. They take pride in what they do. They work cleaning out the great buildings that are the offices of American industry. Many of them are teacher's aides, or they work in child care. Many of them work in nursing homes to help look after a generation who brought this country out of the Depression and sacrificed for their children. They fought in the wars. Those are minimum wage workers. They are men and women of dignity. Most of them are women. This is a women's issue. Most of the women have children. So it is a children's issue. It is a family issue. Many of them are members of minorities. It is a civil rights issue.

Beyond all of that, Americans understand that if you work 40 hours a week for 52 weeks of the year, you should not have to live in poverty. You should not have to live in poverty. That is our belief. That is our standard.

We are going to take this issue to our Republican friends time in and time out all of this year. We welcome those listening to communicate to our Republican friends their views on this issue. Talk about a family issue. Talk about family values. How you care for your child, how much time you are able to spend with your child, talk about family values, this is it. And we have opposition from the Bush administration on this.

Finally, I mention again what is happening in terms of the overtime, opposition to extending unemployment compensation, opposition to an increase in the minimum wage, and then the rule and regulation that was debated in the Senate with Republicans and Democrats alike. Rejected. It went to the House of Representatives. Rejected. And then it was tucked into the omnibus bill behind closed doors in the dead of night and passed, although many Members strongly opposed it.

Who are the 8 million Americans who would lose their overtime? It is extraordinary with this economy for the administration to say that one of the principal problems with our economy today is the fact that these workers are being paid too much. They are saying these workers are being paid too much. Who are these workers? Police officers will lose their overtime under the definition of the administration. Police officers, nurses, and firefighters will lose their overtime.

Do we hear about homeland security? Who is on the front line of defense? It is the nurses, the firefighters, and the policemen. We are asking them to risk their lives in terms of homeland security yet on the other hand we will make them ineligible for overtime. Give me a break.

It is very interesting that so many are professions that involve women. Women will be very adversely affected. That is why organizations, including Nine-to-Five and all of the various women organizations, are so strongly opposed to the administration's proposal.

Not only did they do this but they added something new regarding who is made ineligible. That was to say if individuals had gone into the Armed Forces and they took training programs and then they come out and they have special skills—that is just what our military has today—that because they got these training programs, because they have special skills, they will by definition be ineligible for overtime.

Can anyone believe that, to say to those fighting overseas in Iraq, Afghanistan, scattered around the world, when they come on back, they are in the National Guard and Reserve and they come on back in, if they have the special skills, they will not be eligible for overtime—for the first time in the history of this country.

Obviously, one of the great reasons we have the best military in the world is because it is the best trained, best led, and has the best technology. It should always be that way. When we are talking about the training, the training they receive saves other soldiers' lives and carries forward the interests of the United States.

I have my differences with the administration in terms of the Iraqi policy, but I am going to make sure these soldiers are well trained, well led, and have that kind of help and assistance. For those in the Armed Forces who have gone through the various training programs, quite frankly, it was a very important inducement for recruitment. I don't know what conversations the Secretary of Labor had with the Secretary of Defense. I would love to see the exchange of notes, and love to know if they ever had a conversation; obviously, it has a very important impact on recruitment.

With the failed economy, so many young people, see going into the military as a way to get the kind of training that will put them on the road to some kind of hope and opportunity in the future. Now we are saying: No, no, no; that is not going to be the way it is. You get the training, you come back, and you will not be able to get paid.

This is the final insult that the Bush administration would take away from the veterans, as I mentioned, the overtime pay. That would reduce the standard of living and quality of life of veterans in scientific, engineering, medical, and technical operations. Under the Bush administration, veterans who have received the training in the military, equivalent to a specialized 4-year degree, could be classified as exempt "professional employees" and would lose their overtime protection. This is a breach of faith with the American veterans, another reason it should be defeated. It was not.

Then, one of the most extraordinary publications that any agency has ever produced in the time I have been in the Senate was the Department of Labor issuing guidelines of how to avoid paying overtime. They said: The reason for having this change in the overtime is we are bringing more workers up, raising their wages. It will have a favorable impact on a certain number of workers. It will really not disadvantage all these estimated.

Then we find out what the real issue was: the publication by the Department of Labor about how to avoid paying any overtime, giving every business in this country the pathway to avoid paying any overtime. If they could not figure it out, all they had to do was read the Department of Labor recommendation and avoid it. Why? To shortchange American workers. State of the union of American workers, what is happening to their jobs, their wages, their health care, their education, and now we find out their overtime. That is "How to Avoid Paying Your Employees Overtime," courtesy of the Bush Department of Labor.

I will take a moment to read a letter from a veteran and a Boeing employee worried about losing his overtime.

> My name is Randy Fleming. I live in Haysville, Kansas—outside Wichita—and I work as an Engineering Technician in Boeing's Metrology Lab.
>
> I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.
>
> I've worked for Boeing for 23 years. During that time I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.
>
> First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.
>
> The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10% or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help her get her college degree, too, when that time comes. For my family overtime pay has made all the difference.
>
> That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man, and a veteran. That issue is overtime rights.
>
> The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought they could count on.
>
> When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay. You've heard of the marriage penalty? Well I think that what these new rules do is to create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra.
>
> If that's not bait and switch, I don't know what is.
>
> And I don't have any doubt that employers will take advantage of this new opportunity to cut our overtime pay. They'll tell us they have to in order compete. They'll say if they can't take our overtime pay, they'll have to eliminate our jobs.
>
> It won't be just the bad employers, either—because these rules will make it very hard for companies to do the right thing. If they can get as many overtime hours as they want for free instead of paying us time-and-a-half, they'll say they owe it to the stockholders. And the veterans and other working people will be stuck with less time, less money, and a broken deal.
>
> I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.
>
> And for all those who want to let these military penalty rules go through, I have a deal I'd like to propose. If you think it's okay for the government to renege on its deals, I think it should be your job to tell our military men and women in Iraq that when they come home, their service of their country will be used as a way to cut their overtime pay.

That says it all. This Senate rejected the administration's proposal. The House of Representatives rejected it. But the Bush administration insists they are going to implement it. And they insisted in taking the Senate passed. House approved language protecting workers' overtime pay out of the Omnibus.

We are going to do everything we can, with every opportunity we have, to make sure that provision is overturned. We will do that every time we get a chance as long as we are in Congress this session.

I will just take a minute to show what happens when people do not have the overtime protection.

It is probably pretty understandable, workers without overtime protection are more than twice as likely to work longer hours. This chart shows that for those workers working a scheduled 40-hour workweek, without the overtime protection, 44 percent of them work overtime. If they have overtime protection, in terms of time and a half, only 19 percent of them work overtime. If there is no overtime protection for workers if they work over 50 hours a week, still, you get 15 percent of the workers who work more than 50 hours in a week; but with overtime protection, only 5 percent work overtime. It is very clear what is going to happen to workers without overtime protection: They are going to work harder—a lot harder—and make a good deal less money.

Is overtime protection what is wrong with our economy? Absolutely not. I think this administration and this Congress ought to get it: People are hurting. And they are trying to find out who is on their side. We are going to address each and every one of these issues in the course of this Congress because that is required if we are going to be a fair and decent country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise today to speak about the latest numbers from the Congressional Budget Office that reveal the seriousness of the explosion in deficit and debt that is occurring in this country.

Before I do that, when I came to the floor I heard the senior Senator from Massachusetts, Mr. KENNEDY, speaking about the change in overtime rules in this country and discussing the unfairness of what has happened.

Just days ago, one of the people who works in this Capitol, who works with us every day, talked to me about how this change in overtime would affect him and his family. This man is one of the camera technicians for one of the networks that covers much of what we do in this body.

He took me aside the other day and said: Senator, this change in overtime fundamentally threatens me and my family. If those changes go forward, if they are not stopped, I probably won't be able to keep my house, where I live with my wife and my two kids.

He said: In our business, an awful lot of our income is overtime pay because we don't work an 8-hour day. Sometimes we are here 16 hours. Very frequently we are here, and part of our pay is overtime pay. It is that overtime pay that allows me and my family to own the home we are in and to have bought a new car last year and to have made improvements to the house. If these overtime changes go forward, it is going to dramatically change my life. I wonder what they are thinking of in terms of fueling the economy. I think my family and I have done a pretty good job of fueling the economy. We bought a home, furnished the home, bought a car—all because there was overtime pay. Now, if they take that away, my family and tens of thousands of other families like mine are going to be in a much weakened situation.

I hope people are listening. I hope we have a chance to revisit these changes in overtime that were permitted by the Omnibus appropriations bill that recently passed. There were lots of things in that omnibus bill that should be revisited. It is one of the unfortunate examples of what happens when a few people go in a back room someplace and come out with a product that has had too little scrutiny, too little involvement and, frankly, too little fairness.

### CBO REPORT ON THE BUDGET

Mr. President, I rise to talk about the Congressional Budget Office report on the budget condition of the United States. They have indicated that the deficit for this year will be $477 billion. That is $100 billion more than the biggest deficit we ever had. That was last year's deficit. Now it is $100 billion more for 2004. Now the record of the President on the question of fiscal responsibility is becoming more and more clear.

In the last year of the Clinton administration, we had a $236 billion budget surplus. Now in the third year of this President, we have a $477 billion budget deficit, the biggest by far, a record.

This chart shows the long-term relationship of the deficit. We can see the $477 billion; last year it was $374 billion—both of those much bigger than the previous record deficit of $290 billion back in 1992 when the President's father was President, Bush 1, as they term it.

The President and some of his aides have said: Well, yes, in billion-dollar terms, they are record deficits, but as a percentage of gross domestic product, it is not so big.

If we exclude Social Security instead of lumping it in with everything else, what we see is, even as a percentage of gross domestic product, this deficit is the biggest since World War II, with the one exception of 1983. In 1983, there was virtually no Social Security surplus.

This year, not only is the deficit off the charts at $477 billion, that understates how much is being taken because under this President's plan he is also taking every penny of the Social Security surplus, over $150 billion. So on an operating basis, the deficit is over $620 billion, on a budget of about $2.2 trillion, approaching $2.3 trillion.

Some say it is not that big. What are they talking about? An operating deficit of over $600 billion on a budget of $2.2 trillion, and that is not big? What would convince them it is big? It is the biggest ever in dollar terms and one of the biggest ever, even if you look at it as a percentage of gross domestic product.

But the biggest worry is not the deficit this year. The biggest worry is where this is all headed. If you add to what the Congressional Budget Office has told us, the President's recommendations for additional tax cuts and the looming crisis in the alternative minimum tax, which will hit 40 million people in this country by 2013 if we fail to act, if we put just those two things in, no other additional spending, no more supplementals by the President, if we just take what the Congressional Budget Office has told us plus the tax cuts the President is recommending, plus fixing the alternative minimum tax, we can see there is no end to the red ink. In fact, it explodes as the baby boom generation starts to retire, and a deficit on an operating basis of more than $600 billion for this year will climb to $861 billion by the end of this forecast period.

This is a record of fiscal irresponsibility that is utterly reckless. That is the course the President has us on.

I hear the President say it is spending: spending is all the problem. Let us look at where the increases in spending have occurred. Ninety-two percent of the increase in discretionary spending has occurred in defense, homeland security, and a third category that is rebuilding New York, the airline bailout after September 11, and the increase in international affairs, a dramatic increase there, again, as a result of the attack of September 11. As you can see, the vast majority of the increase, 69 percent, is in defense alone. But 92 percent of the increase in discretionary spending is in just these three categories.

Interestingly enough, the President says he is now going to restrain growth in what he calls discretionary spending. But if you look at what has happened to the categories of discretionary spending, domestic spending has not been growing. Domestic spending is not the problem. Non-defense domestic spending, as the Administration defines it, excluding international affairs and homeland security, has grown in real terms in the last 2 years by just three-tenths of 1 percent. Now he is going to restrain the growth by 1 percent in this category.

Again, remember, he has a special definition of the discretionary spending that he is constraining. Most of us think of defense and homeland security as a part of discretionary spending that is growing. Indeed, that is where spending has grown. But on the discretionary spending that he has identified, excluding homeland security, excluding international affairs, excluding defense, there has been almost no real growth in spending in the last 2 years, three-tenths of 1 percent. Now he says he is only going to allow it to grow 1 percent this year. That is not going to do much. That is a very small part of Federal spending. In fact, that is only 17 percent of the Federal spending he is talking about restraining.

So he is going to do very little to cope with these mushrooming deficits. That is a fact. That is reality. If you look at the revenue side, it is very interesting. That is where the deficit has exploded. It is largely on the revenue side.

This year, according to CBO, revenue will be at 15.8 percent of gross domestic product. That is the lowest revenue as a percentage of gross domestic product since 1950. Remember, when we had high revenue as a percentage of GDP, the President said the answer was tax cuts. Now that we have revenue at the lowest it has been since 1950, the President's answer is more tax cuts. Dig the hole deeper. Make the deficits bigger.

The President's plan doesn't add up. It doesn't come close to adding up. It fundamentally threatens our economic security long-term. We can go back and check the President's record on what he has told us and what happened. In 2001, he told us:

> We can proceed with tax relief without fear of budget deficits.

He was wrong.

In 2002, he told us:

> Our budget will run a deficit that will be small and short-term.

He was wrong.

In 2003, he told us:

> Our current deficit is not large by historical standards and is manageable.

It is hard to top a record. Not large by historical standards? It is the biggest it has ever been by a huge margin—$100 billion bigger than last year, and last year was a record. He was wrong again.

He said:

> The deficit will be cut in half over the next 5 years.

Will he be wrong again? His track record is pretty clear; he has been wrong consistently. Does it matter?

There is a story in the Washington Post this morning about the dollar and how the dollar has gone down dramatically. What they said in this article was:

> Currency traders who are fretting over that dependency—

They are referring to the need to borrow money from abroad for our trade deficit, borrow money from abroad for our budget deficit, and also borrow money internally for our budget deficit.

> Currency traders who are fretting over that dependency have been selling dollars fast and buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will dump U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies, and economic malaise will follow.

Mr. President, that is the risk this President is running by conducting a fiscal policy that is absolutely irresponsible. I want to make clear that I am less concerned about the deficit this year than I am about the long-term implications of this fiscal policy. That is what these economists are warning us about. But it is not just them. We have the Comptroller General of the United States, a Republican, warning us that we are on an unsustainable course. We have the International Monetary Fund warning us that the buildup of deficits and debt in this country doesn't just threaten our own economic security, it fundamentally threatens the economic security of the globe.

We have already seen the effect on the dollar from these policies. The dollar has plummeted. It is down nearly 30 percent against the euro in just 2 years. In the short term, that can be helpful to U.S. manufacturers. But in the longer term, it is fundamentally threatening to our economic security.

If you think about it, if you were holding dollar-denominated investments, and you are a foreign investor, how would you feel if the underlying value of that currency plummeted? Does that make sense to continue holding dollar-denominated investments? Warren Buffet, one of the most successful investors in America, is quoted in the article as indicating he started to diversify his investments away from dollar-denominated investments. He is not alone.

It is time for us to think carefully and clearly about our response to this growing fiscal crisis. Record budget deficits—some say they don't matter. I think any sober person knows that deficits do matter. Deficits of this magnitude are simply stunning.

We are running deficits under this President this year of $900,000 a minute—$900,000 a minute. Every minute that goes by, under this President's budget plan, we are spending $900,000 more than we take in. That is a course that is not sustainable. It must be changed. The President says he has a plan—it appears to be a secret plan at this point—to cut the deficit in half over the next 5 years. But that avoids the much larger issue because we know from all of the work that has been done that the deficit will recede from these record levels. Cutting it in half is not much of an accomplishment when you are running an operating deficit of over $600 billion a year. And what is of deepest concern is that the President's budget plan, which, if he is good to his word, will reduce the deficit somewhat over the next few years, puts us on course for the deficit absolutely to explode as his tax cuts become permanent and as the baby boomers retire. That is the much greater threat to the economic security of this country.

When the Federal Government runs massive deficits, that puts upward pressure on interest rates. When interest rates go up, that slows economic growth and economic activity. That is a reality. This is a reckless course the President has taken us on, and not just in the short term. In the short term, we can afford deficits to give lift to the economy. The President is proposing massive deficits even at a time when he projects strong economic growth. CBO is telling us the economy will grow at 3½ percent a year over the next 5 years. Well, 3½ percent growth is considered relatively strong in an advanced economy. Yet we see no end to the budget deficits under the President's plan. In fact, once we get past this 5-year period and the baby boomers start to retire, the deficits absolutely explode. That is a reality.

It is time for the President and this Congress to address that very deep challenge to America's economic future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Mr. President, I would like to address for a few moments the bill that is now on the floor, H.R. 3108, dealing with pension funding for defined benefit pension plans. The House passed this bill. In the House version of the bill, what it does is it mainly changes the interest rate assumptions that plans are required to use when figuring their actuarial liability for their pension plans and for their annuitants in their plans.

The House bill mainly addresses the situation that has arisen by virtue of the 30-year Government bond being done away with. A few years ago, the Treasury Department made the decision that it would no longer issue 30-year Treasury bonds and the interest rate for 30-year Treasury bonds had historically been what was used in calculating the liabilities for defined benefit pension plans. Now that there are fewer and fewer 30-year Government bonds in circulation, the interest rates for those bonds have gone down, and, of course, interest rates have been very low in general for the last couple of years.

So industries in sectors where defined benefit pension plans are common have come to Washington, asking for some relief in the way they calculate their unfunded liabilities, or their liabilities, and they have asked for the replacement of the 30-year Treasury bond with a benchmark that is, instead, made up of the yield of high-grade corporate bonds. By going to that different reference point, plans ultimately will have to put less money in their pension plans because they can assume a higher rate of return if they are using 30-year corporate debt or high-grade corporate debt as opposed to 30-year Treasury bonds.

In fact, right now companies in America, absent any legislation, would have to put about $170 billion into their defined benefit pension plans next year. If the interest rate relief alone in H.R. 3108 is passed, that will cut about 25 percent off the required payments that all companies with defined benefit pension plans will be required to make into their plans over the next 2 years. So the relief in this bill as it passed the House—and the only relief in the House bill is the interest rate relief—if that relief passes, it would cut about $40 billion per year off the amount that companies have to put into their defined benefit pension plans. Over 2 years, the life of the bill, it would cut $80 billion off of the required payments.

What has happened in the Senate is somewhat disappointing, to me. I could see the public policy rationale for changing the interest rate benchmark that companies use, now that we have done away with the 30-year Treasury bond. I can see the argument for coming up with a different reference. I can see the argument for changing the assumptions that would allow plans to put less money into their pension plans. But the Senate is going way beyond that. In addition to giving the interest rate relief that the House passed, the Senate now is on the verge of passing amendments that would provide special relief for airlines and steel companies.

The airlines and the steel companies would get further reductions in the amounts they have to pay into their pension plans. This is very troubling because airlines and steel companies, as we all know, tend to have the most woefully underfunded pensions of all industry in America. Obviously, they are asking for permission to dig their hole even deeper.

In addition, the Senate amendment that will be offered this week has a sweetheart provision for Greyhound Bus Company. I don't know why Greyhound Bus Company is singled out for this special treatment of all the companies in America, but it certainly must have some powerful friends here on Capitol Hill.

Also getting a sweetheart deal is CNF Trucking, which apparently gets some sort of relief in this bill and some limitation on liability that it might have to a former subsidiary that it spun off a couple of years ago.

So there are a couple of sweetheart deals, not just for some chosen industries, the airlines and steel companies, but also some rifle shots that would be put in here for two special companies, Greyhound and CNF Trucking.

In addition, and perhaps most discouraging, is that the Senate amendment will, in effect, go way beyond just the steel and the airline industries and allow all companies that have underfunded pension plans to go through a political process in applying for a waiver from their required contributions to their pension plans. All companies would be able to go to the Treasury Department and request a waiver.

If this provision becomes law, you can just imagine right before the election all the industrial companies in the Upper Midwest, in Michigan, Pennsylvania, Illinois, Wisconsin, and so forth, all those industrial companies in States that are critical for the upcoming election, they will all be going to the administration, asking for this special waiver from the Treasury Department. They will be making political threats at the same time, that if the administration doesn't give them this relief, they may just support someone else for President. It sets a very bad precedent because now there is a waiver process. But it is an apolitical one, and one for which you have to apply with the Internal Revenue Service and also with the Pension Benefit Guaranty Corporation.

As I said, if it were merely adopting the interest rate relief, we would be granting a 25-percent reduction in the required contribution of all companies in toto in America to their defined benefit pension plans. We are going way beyond that. In the Senate amendment, we are threatening to grant them an additional about $17 billion a year, at least in reductions in required amounts going into pension funds.

There is also a provision in the Senate amendment in the managers' package that will allow all multiemployer pension plans—those are union-run plans which span employers—from having to make their full contributions.

All of these reductions in required contributions into the pension plans wouldn't be so troublesome but for one fact: In allowing these companies to dig the hole deeper for themselves, it is more likely that they will ultimately default on their pension obligations and turn those obligations over to the Pension Benefit Guaranty Corporation to take advantage of the Government guarantee. It wouldn't be so offensive if it were freezing the Government guarantees. But we are not.

There is a no hold harmless provision in this legislation. There are no reforms of pension funding trying to get tough on the companies that have considerably underfunded their pension plans. We are just allowing them to skip required payments into their pension plans. We are allowing the government guarantees to stay in place.

What is more, we are allowing the companies with underfunded plans to continue sweetening the benefits for their workers and raising their own pension liabilities while those pension liabilities are all guaranteed by the Federal Government.

I know pension funding is something that perhaps makes the eyes of the press glaze over. Not many members of the public understand the importance of this. This is a very roundabout way of transferring liabilities to taxpayers. It is not easy for people to understand. But if I were to make an analogy that the average American could understand about what we are doing here, imagine that you have someone who is behind in their credit card payments. Imagine that you said to that person, you are behind in making your payments on the credit card. You are only making the minimum payment. You are trying to make a minimum payment due each month. You have this huge balance. It is going to take years and years to pay off this deficit of what you owe the credit card company or the bank. Imagine if this person were to have their minimum payments lowered. Imagine that when they are already just barely making the minimum payments, you say: OK, we will even lower your minimum payment.

We are doing that here. But in addition, we are going beyond that. We are telling the credit card holder while you are lowering your minimum payments and digging the hole deeper so that you are likely never to get out of debt, we are going to go out and allow you to continue spending and add more to your credit card. Can you imagine a credit card company telling anybody that? That wouldn't be a way to advise a distressed consumer to try to get out of debt.

We are doing that and more here today in the Senate. We are not only allowing these companies to quit making their required payments into their pension plans, but we are allowing them to continue spending. We are allowing them, specifically if they are 60-percent funded, to keep sweetening the pension benefits for their employees and digging the hole deeper. That would be not only allowing the credit card holder to keep spending but encouraging the credit card holder to go out while they are behind in the payments on this one credit card and get some more credit cards and run up balances on those credit cards.

Obviously, if we pass this legislation we are going to make it hopeless for some companies ever to recover and to fulfill the promises they have made to their pension participants.

Right now, the Pension Benefit Guaranty Corporation—the Government corporation that guarantees pension benefits of people in defined pension plans—is in the worst financial condition of its entire history. It has at least a $11.2 billion deficit. Pension plans in America are now thought to be underfunded by at least $350 billion. This legislation would allow that collective underfunding in defined benefit pension plans in America to grow considerably.

The House was much more responsible. It only passed the change in interest rate assumptions. It passed the separate version of the bill that had the interest rate change, plus some relief for airlines. The Senate is poised to go much further. I am troubled by that. The administration has issued a threat to veto the legislation.

I refer to a letter. This is a Statement of Administration Policy that was issued on January 22. I ask unanimous consent that Statement of Administration Policy on H.R. 3108 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
*Washington, DC, January 22, 2004.*

STATEMENT OF ADMINISTRATION POLICY

H.R. 3108—PENSION FUNDING EQUITY ACT

The Administration supports prompt Senate passage of H.R. 3108, the Pension Funding Equity Act. The Administration supports the interest rate provisions in the bill, which are consistent with the transitional portion of the Administration proposal for more accurate discounting of pension liabilities. The Administration also supports the provision in H.R. 3108 that calls for comprehensive funding reform to protect the benefits American workers have earned.

H.R. 3108 passed the House with overwhelming bipartisan support. Since that time, the temporary adjustment to the statutory rate for discounting pension liabilities has expired, which means that employers are denied important short-term funding relief unless and until legislative action is taken.

Recent data from the Pension Benefit Guaranty Corporation (PBGC) highlight the importance of passing this legislation free of additional provisions that would worsen underfunding in America's pension plans. The PBGC reports a record single-employer program deficit of $11.2 billion, which is three times larger than any previously recorded deficit, and the first multiemployer program deficit in two decades, as of the end of fiscal year 2003. In addition, the PBGC remains exposed to $85 billion in pension underfunding in plans sponsored by financially weak employers.

Consequently, the Administration will strongly oppose any amendment that would substantially weaken funding requirements for single-employer or multiemployer pension plans.

The Administration is developing comprehensive reform proposals to strengthen America's defined benefit pensions, and has consistently taken the position that any provisions to alter the DRC rules should be reviewed in that context. The DRC is part of a flawed system of funding rules that should be reviewed and reformed. A well-structured system of funding rules would lead to less volatility in employer contribution requirements, while producing stronger pension funding over time.

*Pay-As-You-Go Scoring*

The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. OMB's cost estimate of this bill currently is under development.

Mr. FITZGERALD. Mr. President, a couple of days ago, Elaine Chao, Secretary of the Department of Labor; John Snow, Secretary of the Treasury; and Don Evans, the Secretary of the Department of Commerce, the three board members of the Pension Benefit Guaranty Corporation, wrote a letter to our majority leader, BILL FRIST, which asks that the Senate not go beyond amending the interest rate changes that were passed by the House. They said they would oppose it and recommend that the President veto any legislation that would further exacerbate the systemic underfunding of defined benefit pension plans in America.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION BENEFIT GUARANTY
CORPORATION,
*Washington, DC, January 22, 2004.*
Hon. BILL FRIST,
*Majority Leader, U.S. Senate,*
*Washington, DC.*

DEAR MR. LEADER: As you are aware, the Senate has entered into a unanimous consent agreement for the consideration of H.R. 3108, the Pension Funding Equity Act. We appreciate the Senate's timely action on this issue of great importance to America's workers and pension plan sponsors. We are writing to you in our role as the board of the Pension Benefit Guaranty Corporation (PBGC).

At the end of 2003, the temporary adjustment to the statutory rate for discounting pension liabilities expired. This has denied pension plan sponsors the certainty they need to plan their pension funding for 2004. The Administration has expressed its support for the provision in H.R. 3108 that would discount pension liabilities for the next two years using a blend of long-term corporate bond rates.

The PBGC reported a record single-employer program deficit of $11.2 billion through the end of 2003, three times larger than any previously recorded deficit. Last year, the General Accounting Office added the PBGC's single-employer pension program to its "high risk" federal program list. In addition, the PBGC remains exposed to $85 billion in pension underfunding in single-employer plans sponsored by financially weak employers. The PBGC also reported the first multi-employer program deficit in two decades.

Pension underfunding threatens workers and retirees, who depend on the defined benefit pension system to be predictable and reliable. If the Congress encourages firms to underfund their pensions by substantially weakening pension funding requirements, retirees could face pension cuts when a firm terminates its defined benefit pension plan.

We believe that H.R. 3108 would best protect pensions and pensioners if passed free of any provisions to alter the Deficit Reduction Contribution (DRC) rules. Specifically, it would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic pension plan underfunding. If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

The Administration is developing comprehensive proposals to strengthen America's defined benefit pensions, and any provisions to alter the DRC rules should be reviewed in the context of reforms to strengthen pension funding over time. We look forward to working with you in the future to strengthen the protection of the pension benefits that America's workers have earned.

The Office of Management and Budget has advised that this letter is consistent with the Administration's program.

Sincerely,

ELAINE L. CHAO,
*Chairman, Board of Directors.*
JOHN W. SNOW,
*Director.*
DONALD L. EVANS,
*Director.*

Mr. FITZGERALD. Mr. President, I think the Washington Post editorial page had a very good editorial on this issue this morning. They dealt with the irresponsibility of allowing companies with underfunded pension plans to dig the hole deeper. They also talked about how it is troubling that in Washington there are always incentives for Members of the House and Senate to do what is wrong, to cater to the special interests—in this case, the airlines, the steel companies. This is a situation in which the airlines and the steel companies and their managers have conspired with their union members to come to Congress and allow dispensation which allows the companies to put less money into their pension plans. And no one in those companies cares because the pension plans are guaranteed by the taxpayers. So you have the labor unions and you have the managers coming here to Washington lobbying for this relief.

We have gone far beyond just the airline and steel companies. Apparently, in the Senate bill every company in America would be eligible to ask the Secretary of Treasury for a waiver from its pension contributions.

Allow me to read this editorial from this morning's Washington Post. It is called "Pension Perniciousness."

Monday, January 26, 2004, by the Washington Post:

> Not for the first time, Congress has muscled up to an important problem, taken a good long look at it and resolved to make it worse. The problem is the vast hole in the nation's corporate pension schemes, and the perverse rules that helped create them. Congress's solution, championed in the Senate by an alliance of Sens. Charles E. Grassley (R-Iowa), Judd Gregg (R-N.H.), Max Baucus (D-Mont.) and Edward M. Kennedy (D-Mass.), is to reward the hole-diggers with what amounts to a $16 billion loan from taxpayers.
>
> About one in five private-sector workers has a "defined-benefit" pension, the sort in which an employer guarantees a certain pension to its workers when they retire. To pay for these future benefits, employers are supposed to put sufficient money into a pension fund; the problem is they often don't. The gap between money put aside and money needed in the underfunded pension plans comes to an enormous $350 billion. When companies go bust, the Pension Benefit Guaranty Corp., the government-backed entity that insures pensions, gets saddled with plans that are in deficit. As a result, the PBGC itself has a deficit of $11.2 billion, which taxpayers may have to plug eventually. As more companies go bust, more of the $350 billion problem out there in the private sector will land on taxpayers' shoulders.
>
> Why do companies run these pension deficits? Because regulations perversely encourage them to do so. If a firm gives workers a pay raise, it will have to pay for that immediately; if it gives them an increase in their pension, accounting rules allow it to defer the cost into the future. This deferral is especially tempting for cash-strapped companies—which often means ones with a strong chance of going bust. Bethlehem Steel, for example, upped its pension promises and declared bankruptcy three years later. Wobbly companies that underfund their pensions would pay extra insurance premiums if the insurer were a private company. But the PBGC's rules do not allow it to price risk properly, adding a further incentive for shaky companies to hitch a free ride with the others.
>
> There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence; labor leaders from those same firms lobby lawmakers in the same direction; nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.
>
> Yet taxpayer support for people in defined-benefit pension plans is a perverse notion. Fully one in two private-sector workers has no company pension plan whatever. Why should the less fortunate bail out the lucky ones?

That was the editorial from this morning's Washington Post. It accurately summed up the imprudence of the bill that the Senate will be considering this week. Ideally, it would be great if the Senate did not pass such an irresponsible bill. Obviously, as the Washington Post points out, when you have labor leaders and CEOs of airlines and steel companies lobbying together, conspiring together to stick a liability of theirs off on the taxpayers, I fear they are probably going to win.

My hope, however, is that the House, which has been more responsible on this issue, and the White House, which is opposed to the vast expansion of underfunded liabilities that would be engendered by this legislation—my hope is that the White House and the House will prevail upon the conference committee to pass something more responsible than the legislation currently before the Senate.

One final point. The Washington Post editorial referred to this case of Bethlehem Steel and the editorial talked about how Bethlehem Steel was sweetening its pension benefits for the 3 years prior to its going into bankruptcy; then it just handed the pension plan and all its liabilities off on the Pension Benefit Guaranty Corporation and, by extension, the taxpayers.

That brings up another issue. Some people think the pension funding rules are too severe for companies in America and that we ask too much of companies in the ERISA law where we require them to fund their pension plans as well as possible. But it turns out that—I held a hearing on this issue over the summer and what I found was very troubling—the current rules are exceedingly lax. The law, ERISA, which was passed in 1974, requires defined benefit plans to be 90 percent funded. If they are not 90 percent funded, they have to make extra catchup payments. But that 90 percent funding level is referred to in ERISA as "current liability." It turns out that the definition of current liability is not an actuarial definition. It is not the definition of how much would actually be owed to pay the benefits that have been promised. It turns out that the definition of current liability is actually a political definition.

To illustrate this, the Bethlehem Steel case probably is the best example of how woefully inadequate the current pension funding rules are. In its last filing with the Pension Benefit Guaranty Corporation, Bethlehem Steel claimed it was 84 percent funded on a current liability basis. That was Bethlehem Steel's last filing. Then they filed for bankruptcy and handed their pension plan over to the PBGC. It turns out that Bethlehem Steel's pension plan was not 84 percent funded: it was only 45 percent funded as a percentage of how much the PBGC actually had to pay, to pay the benefits that had been promised.

That example shows how the pension funding laws of this country are already woefully lax. We are allowing companies to make promises to employees that they have no hope of ever fulfilling, promises which risk that the taxpayers will ultimately have to pay these pensions. This legislation the Senate is considering this week will make this lax funding of pensions in this country far more lax. It will do a lot of long-term damage.

I hope my colleagues in the Senate will think carefully about this notwithstanding the political pressures they will have from airline executives and from labor union leaders.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 2236 TO AMENDMENT NO. 2233

Mr. KYL. Mr. President. I have an amendment No. 2236 at the desk.

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. KYL) proposes an amendment numbered 2236 to amendment No. 2233.

Mr. KYL. Mr. President. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver)

At the end of section 3, insert:

(____) RESTRICTIONS ON APPLICATION FOR FUNDING WAIVER FOR EMPLOYERS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.—An employer who makes an election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan for 2 plan years may not receive a funding waiver under section 412(d) of such Code for any plan year beginning after December 27, 2005, and before December 28, 2007.

Mr. KYL. Mr. President, I will describe the amendment briefly, the reason for the amendment, and set the stage here. Of course, the pending business is H.R. 3108, a bill the House passed, dealing with the requirements for businesses to pay into the pension fund to ensure that all of the promises they have made to their employees about pension benefits being there will in fact exist when the time comes.

What has happened is some Senators have offered an amendment to that bill which would provide what we call deficit reduction contribution relief. Deficit reductions are the amounts of money the companies are supposed to pay into the fund to ensure the fund will be able to compensate any employees on the pension that has been promised to them. We have had a deficit in that pension over the last few years because of the way the amounts due were calculated. That is being fixed. But in the meantime there has to be some kind of makeup payment to account for the deficit that has been created. This deficit reduction contribution will do that.

The problem is some specific industries are seeking relief from that so they don't have to pay in as much money. They are asking in effect for a waiver of the requirement that they pay this money into the pension fund so their employees will be able to collect when the time comes. Their argument is they don't have enough money. That should be our first clue that there is a problem. If they don't have enough money to pay their employees what they are due, we probably should not dig the hole any deeper by allowing them to continue to make promises and not pay into the fund what is necessary for them eventually to pay to their employees.

Some of the Senators have decided what we are going to do is grant a 2-year partial waiver just to certain airlines and two steel companies. One of the airlines, it is said, cannot afford to pay the premium that would be required, or the bond payment that would be required, if they sought a general waiver from the Treasury Department, which you can do. If you are having trouble making your payments, you can go to the Secretary of the Treasury and meet certain requirements and say I would like to have a general waiver. That could be granted. This company apparently doesn't even have the money to pay for the bond that would be required in order to seek that relief. But they are asking us to believe if we will just bail them out for 2 years, everything will be fine; they will have enough money, and the Government won't have to make up any of the difference.

The concern I and others have expressed is this partial waiver is going to result in the Government letting these companies off the hook, paying less money into the fund than is necessary, and a couple years from now, if they don't make it financially, it is the taxpayers who will be on the hook for that difference because we have not had them pay the full amount. In fact, they are only going to have to pay 20 percent of their obligation next year and only 40 percent the year after that. So it is a 2-year waiver of almost the entire amount.

I would say this ought to be of concern to us. I don't think it is a good idea to grant this waiver, and the three key people in the Bush administration who sit on the board that oversees this have said they would recommend a veto to the President if this deficit reduction contribution amendment causes any greater strain on the board to make payments.

What I have done is offer one amendment, and this is the second amendment, both of which will reduce that strain just a little bit, hopefully enough so the Bush administration will not veto this legislation, should it end up passing.

I urge colleagues, those who agree with me that this whole deficit reduction contribution waiver is not a good idea and those who think it is a good idea but might be a little bit concerned the administration might veto the bill over that provision, to support my amendments because they are designed to close the loophole a little bit so that at least the companies that are taking advantage of this 2-year waiver cannot take unfair or undue advantage of it.

Let me describe what the amendment specifically does. The amendment, which I have just offered, provides that a company which seeks to take advantage of this special waiver, where you would only have to pay 20 percent next year and 40 percent the year later, then would not, at the end of the 2-year period, also then be able to go to the Secretary of the Treasury and say: Now we want a general waiver. The law currently provides for a general waiver, and if you want a general waiver, you can apply for it.

This special waiver that is being granted is designed to be a substitute for the general waiver, not where you would add one on top of the other. I think it is a perfectly reasonable request.

I would ask, if anybody is against this, why? Is it because, after the 2-year special waiver, they then want to seek a general waiver? The question then would be, if that is the case, why don't you seek a general waiver right now?

I think it is a perfectly legitimate amendment. It obviously doesn't upset the whole process. The deficit reduction contribution amendment that has been offered will still be permitted to go forward, but what I would call a little bit of a loophole would be closed so the company that gets this 2-year holiday date from making their full DRC payments would not then afterward also be able to apply for a general waiver under the provisions of law that already permits that to be done. It is very simple.

By the way, just a word about the general waiver. You can apply to the Treasury Department for any or all of the normal required contributions to the pension fund, and the only part of the contribution Treasury cannot waive is an amortization payment of a previous funding waiver, which makes sense. To receive a waiver, a company must show there is substantial business hardship, which these companies all allege; that it is temporary, and they make that point: We are going to be healthy in 2 years, they say. Good. And it is reasonable to expect the plan cannot continue unless the waiver is granted. In other words, if they can't continue to pay into the pension fund unless a waiver is granted, as I say, a bond can be required of the Secretary to show their good faith.

I think it is a perfectly sound amendment. Those people who don't like the DRC waiver, like myself, and those who do should support the amendment. For those who do like the waiver, it doesn't hurt the companies they are seeking to help, and it might actually prevent the bill from being vetoed by the President.

Let me tell you what I have in this regard. I understand my colleague from Illinois, Senator FITZGERALD, has already submitted into the RECORD this letter, so I will not do it, but I would like to make reference to the letter, dated January 22, 2004. It is on the letterhead of the Pension Benefit Guaranty Corporation, which is the Federal entity that guarantees Federal pensions. It is to Leader BILL FRIST, and it is signed by Elaine Chao, the Chairman of the Board of Directors, John Snow, director, and Don Evans, director. You might also recall that Elaine Chao is Secretary of the Department of Labor; John Snow is Secretary of the Treasury; and Don Evans, of course, is Secretary of Commerce. These three important members of the Cabinet are the three board members of the PBGC or the Pension Benefit Guaranty Corporation.

What they said in their letter to Senator FRIST, among other things, is this:

> The PBGC reported a record single-employer program deficit of $11.2 billion through the end of 2003—

One of my colleagues earlier said there was a $20 billion surplus in their fund. This letter from the directors notes an $11.2 billion deficit. They point out:

> three times larger than any previously recorded deficit. Last year, the General Accounting Office added the PBGC's single-employer pension program to its "high risk" federal program list. In addition, the PBGC remains exposed to $85 billion in pension underfunding in single-employee plans sponsored by financially weak employers. The PBGC also reported the first multi-employer program deficit in two decades.

What this means is that the PBGC, which is the guarantor of employers' pensions, is in very bad financial condition—a $11.2 billion deficit. It is in the high-risk category of Federal programs. That means that if we add to the risk by reducing the amount that employers pay into the fund, then we are increasing the risk that taxpayers will have to bail these companies out because the fund will not have enough money to make the payments.

It is a little surprising to me that people who ordinarily like to present themselves as on the side of employees would be taking the sides of the employers here saying: Let's let them off the hook so they don't have to pay as much into this fund for the pensions of their employees.

The fund exists for the employees, and I would like to be sure there is enough money in those funds to ensure the employees are paid. But when we relieve the companies of paying their full obligation, we are creating a risk that the employees are not going to be paid.

The answer of the bill sponsors is: We will have the Government pick up that risk. After all, that is the job of the Pension Benefit Guaranty Corporation. The directors of the Corporation are saying: We are in financial trouble. We don't have enough money to do this. So guess who is going to have to make up the difference. You guessed it: our constituents, the taxpayers.

Haven't we heard a great deal recently about the fact the Federal Government is spending too much taxpayer money and we have to start reining in how much we spend? Right now we are committing to spend a whole lot more because the board that backs up the pension funds is in a deficit situation. The companies that are seeking relief say they don't have enough money to cover the obligations to which they have committed. That leaves only one party to make up the difference: the taxpayer. And that means either they pay for it in taxes that we collect or we have to go out and borrow it. Nobody likes the size of the deficit.

Mr. President, I say to my colleagues, those of you who are supporting this bill and this amendment—not my amendment but the underlying amendment—are guaranteeing that we are going to have a bigger deficit, more taxpayer funding of an obligation that corporations took on because the corporations don't have the money to do it themselves.

This amendment is asking that we relieve them of the full 100 percent of what they are supposed to pay in; that for 1 year, they only pay in 20 percent, and for the other year they only pay 40 percent of this makeup payment, this deficit reduction payment that is required to make up the full amount. We are doing it because they are pleading that they don't have enough money.

My observation is, when you are in a hole, the first thing you do to get out of it is to stop digging.

Today's edition of the Washington Post makes the same point. I understand Senator FITZGERALD also put this in the RECORD. But let me quote a couple lines from this editorial called "Pension Perniciousness" from the Washington Post today. They point out:

> Not for the first time, Congress has muscled up to an important problem, taken a good long look at it and resolved to make it worse. The problem is the vast hole in the nation's corporate pension schemes, and the perverse rules that helped create them.

Then it talks about the bill that has been introduced by our colleagues "to reward the hole diggers with what amounts to a $16 billion loan from taxpayers." That is why I say we are already in a hole. This old rancher friend of mine from Apache County said, if you are in a hole, the first thing to do to get out is to stop digging. We are digging the hole even deeper because instead of the companies trying to fill this hole, we are going to have a deeper hole with greater taxpayer exposure as a result.

They point out in the Washington Post editorial:

> To pay for these future benefits—

That are promised to employees—

> employers are supposed to put sufficient money into a pension fund; the problem is they often don't. The gap between money put aside and money needed in the underfunded pension plans comes to an enormous $350 billion. When companies go bust, the Pension Benefit Guaranty Corp., the Government-backed entity that insures pensions, gets saddled with plans that are in deficit. As a result, the PBGC itself has a deficit of $11.2 billion, which taxpayers may have to plug eventually.

And then, down toward the end of the editorial, they say this:

> There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence; labor leaders from those same firms lobby lawmakers in the same direction; nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.

In the letter to leader FRIST from the Pension Benefit Guaranty Corporation directors, the three Secretaries I mentioned earlier, are these two points. I quote now:

> Pension underfunding threatens workers and retirees, who depend on the defined benefit pension system to be predictable and reliable. If the Congress urges firms to underfund their pensions by substantially weakening funding requirements, retirees could face pension cuts when a firm terminates its defined benefit pension plan.
>
> We believe that H.R. 3108 would best protect pensions and pensioners if passed free of any provisions to alter the Deficit Reduction Contribution rules—DRC rules. Specifically, it would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic pension plan underfunding. If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

By the way, they note that the Office of Management and Budget has advised that this letter is consistent with the administration's program.

What you have here is a pretty firm warning from the key Secretaries in the Bush administration, the people who sit as directors on the board here of the Pension Benefit Guaranty Corporation, that if the underlying amendment that is proposed here passes, and it significantly "further exacerbates the systemic pension plan underfunding"—which I think it is hard to argue would not occur—they would recommend a veto of this legislation.

The two amendments I have offered—the one I offered Friday which would hold the PBGC harmless for obligations incurred after this, that would be incurred during the time of and for 2 years after this DRC waiver plan, and the amendment I offered today which simply provides that a company that takes advantage of this DRC waiver not be able to apply also for a general waiver—these two amendments should make the DRC amendment slightly less onerous. It may be enough for the administration, then, to decide to allow the amendment to go forward and not recommend a veto.

But I am afraid if my two amendments—both of which I think one could argue are not harmful to the companies but they might be just enough for the administration to conclude that it is willing to allow these to go to the President without a recommended veto—don't pass, one of two things will happen: Either the President will veto the legislation or, if he doesn't, the taxpayers are going to be required to make up a fairly large amount of money when these companies decide they can't make it in the long run.

I hope my colleagues will give consideration to this. It is my understanding that perhaps, after the lunches tomorrow, somewhere in the 2:45 timeframe, we may have a vote on these two amendments. We will have about a half-hour to discuss the two amendments, so anybody who has missed the discussion, the robust debate we are engaged in here, will have an opportunity to at least hear both sides of the argument and then we will vote on these at 2:45 tomorrow.

Again, I reiterate, I can argue that the DRC waiver that is being proposed here by the Senator from Iowa, the Senator from Montana, the Senator from New Hampshire, and the Senator from Massachusetts greatly jeopardizes the financial stability of the PBGC: the granting of a 2-year waiver of most of the payment obligations into the fund is a bad idea. I think a lot of our colleagues agree to that.

What I am saying is, even if you don't agree with that, if you support the two steel companies or the two airlines—I think there are two or three airlines that want to take advantage of this—if those are your constituents and you need to support them here, you need to try to give them some relief so they don't have to pay as much money in over the next 2 years—I understand why you would have to do that. But I would argue, A, don't saddle everybody else with that and, B, if you really want it to go into law, it would be important to make sure the President doesn't veto this legislation. Three Secretaries have already given you a pretty good idea this is what they are going to recommend if this DRC waiver is actually adopted by the Senate tomorrow.

What I am suggesting is that you can ameliorate the effect of that just a little bit by adopting these two amendments. One would ensure that, as I said about the amendment today, there are not going to be any additional waivers granted. The waiver you get for 2 years is it; You don't add a general waiver behind that. I think that is consistent with the intent of the authors here. I certainly hope they will be willing to support that. And, second, the Pension Benefit Guaranty Board would be held harmless for obligations that were incurred once a company began to take advantage of the special waiver provisions. That is only fair.

I hope my colleagues will support both of these amendments. Take a look at the Washington Post editorial of today. Certainly take a look at the letter from Secretaries Chao, Evans, and Snow, and consider whether a very slight amendment to the underlying amendment would not be appropriate in order to preserve the intention of what they are trying to achieve.

I appreciate the earlier comments from my colleague from Illinois, Senator FITZGERALD. I think he hit the nail right on the head. I note one of the airlines seeking to take advantage of this has reported a huge amount of cash on hand, over a couple of billion dollars of cash on hand. Yet it is saying it doesn't have enough money to make these modest payments into this fund. It seems to me either that corporation could apply for a general waiver, which it could get today, or it can afford to make the payments into the fund. It should not be up to the taxpayers of this country to be bailing out a company in that kind of position.

I urge my colleagues to think very carefully. We have just been home talking to our constituents, talking about their concerns about deficits, about the role the taxpayers are going to have to pay funding new spending of the Congress. Yet the very first thing we do this year out of the box is take on an additional liability that will, in fact, add to the debt if we have to make up the payments to the Pension Benefit Guaranty Corporation because companies that took advantage of this special waiver decided they could no longer remain in existence or went bankrupt.

I hope my colleagues will support these two amendments. I will discuss them again tomorrow right after the lunches.

At this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. DORGAN. I ask consent to speak in morning business for as much time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THE DEFICIT

Mr. DORGAN. Mr. President, today the Congressional Budget Office released its summary of what to expect in fiscal policy in this country. I know several of my colleagues have spoken about that today. But they predict that in the coming fiscal year, the budget deficit for this country will be $477 billion—nearly a $500 billion deficit—easily and by far outdistancing any previous budget deficit.

Last week I listened to the State of the Union in the Chamber of the House.

The President described the state of the Union as he saw it. There was no discussion about the nearly $.5 trillion budget deficit this coming year. It was as if everything is just fine; don't worry about it; be happy.

Days later, the Congressional Budget Office released their January review. Here is what they show. They show that in January 2001, 3 years ago, they expected us to have a surplus of $5.6 trillion during the 10-year period. As a result of that expected budget surplus, we had people scurrying around here like folks who just had not enough to do and they wanted to find some way to deal with their $5.6 trillion surplus. Some of us said this surplus doesn't yet exist. It is just a prediction; maybe we ought to be a little bit conservative, a little bit careful about how we deal with this. No. The President said don't worry about that, and those who supported him in Congress said don't worry about that; be happy; we are going to have a big, long-term, 10-year surplus, and let's have very large tax cuts which, by the way, are token for the highest income earners in this country. If you earn $1 million a year—and not many do—this Congress passed tax cuts that said we believe you ought to have a tax cut of nearly $100,000. I didn't support it. We got busy in this Congress giving that money back not to working families but the wealthiest people who benefited most from those tax cuts.

In January of 2003, 2 years later, the expectation was that most of those surpluses had vanished. A number of things had happened, but most of those surpluses had vanished. Now, 1 year later, we find out there are no surpluses at all. In fact, we face 10 years of deficits equaling somewhere around $2.6 trillion. In a period of 3 years, the Congressional Budget Office expected us to have a $5.6 trillion surplus, and then 3 years later a $2.6 trillion deficit.

I didn't go to fancy math classes in my small school, but that adds up to an $8 trillion difference in just 3 years. What happened? As I indicated, the smell of $5.6 trillion in surplus was just too much for some: we have to get rid of this surplus—despite the fact it didn't exist. How shall we do it? Let us give the upper-income Americans a very generous tax cut; and they got it through the Congress. Some of us cautioned, saying maybe something is going to happen. What if something interferes? What if there is an economic downturn? What if we don't have these surpluses? Never mind, we were told; it doesn't matter. Don't worry about it; be happy; we are going to have a long-term surplus and we are going to get about the business of giving it back.

In just a matter of months after that debate began, we discovered the country entered into a recession. I know my colleagues are fond of saying President Bush inherited a recession. He did not. That is not true. The recession started in March of 2001. This President didn't inherit a recession. In March of 2001, the recession started. It lasted until about November 2001. So we ran into a recession in March.

On September 11, 2001, we had this tragic event in which terrorists murdered innocent Americans by flying airplanes into buildings. Thousands of Americans lost their lives that day. That had a dramatic impact on the economy. There is no question about that.

Then we began a war against terrorism, which was expensive; then homeland security, which is expensive; and then an increase in defense spending, which is expensive.

Think about it: A $5.6 trillion surplus expected in 10 years, and the fiscal policy coming from the White House was to say, Let's have very big tax cuts for upper income Americans.

Then we ran into a recession; September 11, 2001, a terrorist attack; a war on terrorism; homeland security spending; and defense spending up, up, way up. Now we discover that not only is there not a surplus, but we have the largest Federal budget deficit in the history of this country.

The President in his State of the Union Address did not mention it. Why would the President neglect to mention this? Is it because there is no fiscal policy coming from this administration that remedies it? Is it because the medicine here is not easy to take?

I just finished reading a book that was written by a man named Suskind about former Treasury Secretary O'Neill who was the Treasury Secretary for the first 2 years of this administration during the time this fiscal policy was constructed. That book ought to be read by every American because it says again from the Treasury Secretary of this administration that this fiscal policy is folly. It doesn't result from the best minds sitting around thinking about what is the best policy to advance this country's economic interests. It was nothing of the sort. It was all about politics, all about the easy lifting, saying let us give tax cuts and let us give tax cuts especially to those who supported the administration.

I was, frankly, very surprised to read that book. I was very disappointed as well to read that book. The book needed to be written, and it is controversial. I am sure Mr. O'Neill, former Secretary O'Neill, will pay dearly for having been candid. But what he described was the development of a fiscal policy that had nothing at all to do with thoughtful analysis by people who would know. It had everything to do with people in the basement constructing political strategy and how that political strategy should find its way into the fiscal policy of this country and should actually run that fiscal policy.

Here we are 3 years later. Instead of a $5.6 trillion budget surplus, we have the prospect of a $2.6 trillion deficit that we will decide our children should pay. Here we are with an administration that has no plan except to say deficits don't matter—an administration that gives us a State of the Union that conveniently forgets we have now the largest Federal budget deficit in human history.

I mentioned I went to a very small school with a high school senior class of nine. They didn't teach advanced math. But 1 and 1 equals 2, and 2 and 2 always equals 4. You cannot have a fiscal policy for our country that increases defense spending, increases homeland security spending, and cuts taxes again and again, and have it add up. It just does not, especially in circumstances when we hit a rough patch in the economy and are fighting a continuing war on terror. It simply does not add up. We require—this country demands—leadership on these issues. All of us here in the Congress need to get serious about spending initiatives and tax initiatives.

Not too many weeks ago, we had a debate on the floor of the Senate. I offered an amendment and I lost. It had to do with the expenditure of $20.3 billion for the reconstruction of the country of Iraq. I said we ought not spend $20.3 billion to reconstruct the country of Iraq. We did not bomb Iraq in a manner that destroyed their infrastructure. We didn't target their roads. We didn't target their electric grids, nor their dams. We did not target the infrastructure of Iraq, and we did not destroy their infrastructure. It is not the obligation or the burden of the American taxpayers to rebuild it. The country of Iraq has the second largest reserves of oil in the entire world next only to Saudi Arabia.

My proposition was very simple: that Iraq would be pumping 3 million barrels of oil a day, according to Ambassador Bremer, by July 1 of this year, and the sale value of that which is available for export will be $16 billion a year. That is $160 billion over 10 years. That could easily be securitized, and the money from a few years of Iraq oil could easily reconstruct all that is necessary to be reconstructed in Iraq. It is the burden, it seems to me, of Iraq oil, the resource that belongs to Iraq, to reconstruct Iraq. It is not the burden of the American taxpayer.

I have felt strongly—and I did when we debated this issue—that Iraq oil owned by the Iraqi people ought to be used to reconstruct the country of Iraq, not the American taxpayer. I lost that vote. That vote was $20 billion.

Those who decided, no, it is the American taxpayers' burden, decided we want to spend that money. That is part of Federal spending. We want to borrow the money, which is what we are now doing in order to reconstruct the infrastructure of Iraq.

The next time I hear someone come to this floor to say the problem is the big spenders, it is important to take a look at how Members voted on the $20 billion to reconstruct Iraq. Talk about big spending, that is the big daddy of spending, one big chunk, $20.3 billion, not paid for. We borrowed the money, added it to the Federal debt, and said let's send it to Iraq.

Now we read in the newspapers that a Halliburton subsidiary has decided to give money back because there were kickbacks, because there was fraud. There are investigations. We discover the price charged to the American taxpayer to haul gasoline into Iraq is probably $1 more per gallon than it should be.

Are you surprised? I am not. When we throw money at these issues, which is what happened to the issue of reconstructing Iraq, we find dramatic amounts of waste. That is what is happening.

We need a fiscal policy that works. Part of it is beginning to cut back on spending in some of these areas. This would have been a good candidate and would still be a good candidate. We do not have to spend all of the $20 billion. There is still time to take some back and reduce the runup of Federal deficits.

Second, we ought to collect some taxes from those who are not paying it, some of the largest corporations in the country, some whose names you would recognize instantly because they advertise all the time. They do a lot of business in this country and are household names. They have decided they want to run their business out of a mailbox in the Bahamas or the Grand Caymans. Why do they want to make a mailbox their corporate headquarters? To avoid paying U.S. taxes. It is time for us to shut that down. The American people pay taxes. They earn a wage; they pay a tax. They do not have flexibility to get out of it. So, too, should the large corporations that do business and earn profits here.

Deciding either they want to renounce their citizenship, which is called an inversion, or deciding they want to create all these special enterprises, special subsidiaries, and run them through a mailbox in the Bahamas or Grand Caymans or the Dutch Antilles is not something this country should allow happen.

That means tax reform. It is not just the obligation of working families to pay taxes, it is the obligation of all Americans who earn in this country. That includes those at the top. That includes some of the largest enterprises, some of the largest corporations that now have decided they want all the benefits of American citizenship except the requirement to pay taxes for our common defense and for the other things that invest in this country and its future.

We have a lot to do. If all Americans will read the Suskind book called "The Price of Loyalty," about former Secretary O'Neill, the first 2 years of this administration, and the construction of a fiscal policy, a reader will shut that book and wonder how on Earth this could have happened. Are there not people involved of good character who want to do the right thing for this country's future? Is it all about politics? Read the book. Then make a judgment. Then ask yourself whether it is not necessary for all, Republicans and Democrats, conservative and liberals, to create a different resolve, beginning now. That resolve is to no longer ignore and pretend, as this administration does, that we have the largest budget deficit in history.

I did not mention that in addition to the largest fiscal policy budget deficit in history, predicted today by the Congressional Budget Office of $477 billion, we also have the largest trade deficit in history. Together, these two deficits are very serious for the long-term outlook of this economy. There is no magic.

I know the administration says, look, this is not an issue. We will just grow out of it. There is no thoughtful economist I am aware of who believes you grow out of these deficits. You do not. I mentioned an $8 trillion turnaround. The President, in his State of the Union Address, despite not mentioning the Federal budget deficits or a fiscal policy dangerously out of control, in my judgment, did mention he wants to make all of the tax cuts permanent, which will add another $2 trillion to those deficits in the next 10 years.

We have a lot at stake. I believe it is incumbent upon both political parties. If the President will not, it is incumbent upon both parties that do work in the Senate to recognize this is a dangerous fiscal policy and we must change it. Men and women of good will serving in this body know that our job is to try to enhance the future of this country. We want to leave things better than we found it. We want our children to live in a better world. We want our children to live in a country that is stronger, whose economy is expanding and producing jobs and opportunities for our children. But that will not happen if we burden our children with a reckless fiscal policy that has the largest deficits in the history of this country.

I call on this President to recognize this issue, work with us to solve this problem, and put this country back on track with a fiscal policy that promotes economic growth, that gets rid of these budget deficits, and provides for a responsible fiscal policy, a balanced budget, one that will promote growth in this country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### CAMPAIGN FINANCE REFORM

Mr. REID. Mr. President, on December 10 I was in Las Vegas when my staff stepped into a meeting and said the Supreme Court had upheld the McCain-Feingold Campaign Reform bill. I couldn't believe it. All of the political prognosticators said this very conservative Supreme Court would not uphold that law. They not only upheld the law but they completely repudiated what the intermediate court of appeals had done. They went past them and upheld the law.

I was so happy that after I got out of my meeting, when the press called me, I said that if Sandra Day O'Connor were available I would give her a big hug because the decision she wrote was tremendous. She broke from the pack to do what no one thought she would do. I have tremendous respect and admiration for her courage in doing that. I wrote her a letter and told her what I said publicly. What she did was tremendous.

Why did she do it? A lot of it is not only based upon her academic prowess but the fact that she served as an elected State legislator in Arizona. I am sure she remembers what fundraising is all about.

The bipartisan campaign finance reform law—I call it bipartisan because JOHN MCCAIN was one of the main sponsors, even though it was passed primarily by Democrats in the House and the Senate—and the December 10 ruling were the culmination of a remarkable 8-year effort by two outstanding public servants.

They first introduced this bill in September of 1995. Both of these men realized that since our campaign laws were revamped many years ago, those who wanted to get around the intent of the law had discovered some gaping holes and exploited them beyond what anybody could have imagined.

In the late 19th century and early part of the 20th century, corporate America basically owned Congress. As a result of that, in the early 20th century, Congress passed a law saying there could be no corporate funds used in Federal elections. That is the way it was during almost all of this past century. Slowly but surely that changed because the courts ruled that even though you could not give corporate or soft money directly to a Federal candidate, that candidate could go out and, in any way they wanted, raise money for the State party.

As we know, during the last 15 years or so, the largest amount of money spent in Federal elections was soft money, corporate money, because corporations would give huge amounts of money to the two State parties and they would run these mostly negative ads. The negative advertising taking place in America in recent years has come generally from soft money—so-called corporate money.

Mr. President, the same was developing in recent years that was in effect before 1900 and shortly after 1900 when corporate America was giving these huge amounts of money to Congress. Maybe Congress, prior to December 10, 2003, was not compromised. Maybe they were not corrupted. I am confident that is true, but what was going on was corrupting. It would only have been a matter of time until this got way out of hand, more so than it should have been.

So I appreciate very much the law having been drafted. I appreciate very much the fact that now we have a campaign practice in America which says if somebody is running for office, they can go ask an individual for money and individuals are the only ones who can give money. An individual Senator or Congressman cannot ask for corporate money in any fashion or form. That is the way it should be. There is nothing wrong with asking for campaign money. There is nothing wrong with giving campaign money, as long as there is full disclosure and it comes from individuals, not corporations.

The law that passed and was upheld by the Supreme Court is not a perfect law. I am sure people will manage to find ways around it. But public confidence had been eroding and now the political parties are not being allowed to accept large contributions, at least directed at individual Senators, who won't have as much money, and there is certainly nothing wrong with that. I am sure we won't see all the negative ads that we have seen in the past.

These unlimited contributions damaged out political system by raising the stakes for those who wrote big checks. I am a strong supporter of business. Businesses create jobs and provide health insurance for many Americans. They generate the products and services we all enjoy. Most businesses play by the rules and play fair. They realize their short-term pursuit of profit is not the only thing that matters. They understand in the long run, America prospers best when we all share in the prosperity.

The influence of big money in politics created an environment in which special interests threatened to overwhelm the common good. Instead of seeking common ground and compromise, business and interest groups began to think in terms of a winner-take-all strategy, with the ability to influence the process going to the highest bidder.

This poisonous climate actually widened the gap between the interests of big business—which could contribute large sums of soft money—and the interests of ordinary Americans. Unfortunately, in most cases, ordinary Americans found themselves on the outside, looking in on a process that was dominated by big money.

I am not pointing fingers at anyone because it was happening on both sides. Senators FEINGOLD and MCCAIN realized that something was wrong, and they set out 8 years ago to make it right. It wasn't easy. It took years to get to a conclusive vote on the bill. I offered an amendment identical to their proposal, but a cloture vote failed and it died.

Finally, in 2002, the Senate passed the Campaign Finance Reform Act. A week later, it was signed by President Bush into law. A little over a month ago, that law was upheld by the highest court in the land. The saga of campaign finance reform is a useful lesson to those who study government. It illustrates the importance of tenacity and conviction.

I have no doubt that the great majority of Americans supported campaign finance reform from the very beginning. As indicated by the vote, the people in this body and in the House knew that people favored this. There may have been some individuals who didn't want to vote for the bill in their hearts, but they did so because they recognized that the overwhelming number of people in America supported it. Despite this support of the American people, the bill would never have become law if Senators MCCAIN and FEINGOLD had not kept pushing it because there were a lot of people who may have been outwardly supportive of this in Congress but simply weren't willing to push very hard to make sure it came to be.

Time and time again, Senators FEINGOLD and MCCAIN encountered all kinds of setbacks. Time and time again, they refused to give up. I don't know how many cloture votes failed in this matter—I would estimate at least 25 over the years. These two men kept fighting because they believed in their hearts that this was an issue of fundamental importance to our democracy.

Senators MCCAIN and FEINGOLD stayed the course because they were fighting not just for a piece of legislation, they were fighting to save our political system. The tenacity might have surprised their opponents, but those of us who followed their careers should not have been surprised. Is McCain-Feingold perfect? Of course not. Will people try to get around it? Of course they will. We will have to look at ways to plug those holes. But it is so much better that we don't have these large amounts of soft money coming into elections.

Just to be illustrative, in the State of Nevada, when I ran 6 years ago, Senator JOHN ENSIGN and I spent, between us, $20 million. The vast majority of that was soft money that went through political parties. There were negative ads against me and negative ads against Senator ENSIGN. The system would have been better without that money. You can multiply this all over the country because it was the same. So what has happened here and what happened with the Supreme Court is good for the system. I have great respect and admiration for Senator RUSS FEINGOLD.

To show you what a man of conviction he is, 6 years ago when he was involved in his first reelection effort, he was behind in the polls. We knew that and we said to RUSS FEINGOLD: Let us give some money to the State party to help you. He said: Do not give money to the State party. In fact, if I recall correctly, money was given and he made us take it back. Even though he was behind at the time, losing the election was more acceptable to him than violating a principle—that is, corporate money being involved in his election. He wound up winning. I think one reason for that is that people know he is a man of conviction and that proved it.

He comes from the State of Wisconsin, which has a rich tradition of progressive reform. There is a statue in this Capitol of "Fightin'" Bob LaFollette, a leader of the progressive movement in that State. Senator FEINGOLD's father was involved in that movement, and he passed along his strong values to his son.

RUSS FEINGOLD graduated from the University of Wisconsin at Madison. He is a Rhodes scholar. Then he went and graduated with honors from Harvard School of Law. He then served 8 years in the Wisconsin State Senate before coming to this body.

His trip to the Senate is a story in itself. Twelve years ago, the Senate race in Wisconsin was a race involving money. There were people there who had raised a lot of money and were spending a lot of money. RUSS FEINGOLD had almost no money. He was a State senator, but he had been walking door to door all over the State of Wisconsin.

Maybe a month before the election, a number of newspapers in Wisconsin said: We have had enough of this negative campaigning going on in this race, and we are going to support this young State senator from Wisconsin. We want people to focus on RUSS FEINGOLD, which was a name few people had heard of. RUSS FEINGOLD came from nowhere within a matter of weeks to win that election.

Here in the Senate he fights to help working people and farmers by improving health care, education, and creating jobs. I know RUSS FEINGOLD is a man who stands for good government, not only what he did on campaign finance reform, but also as a watchdog against wasteful spending.

RUSS FEINGOLD is a man who practices what he preaches. When he launched his effort to ban unregulated soft money, the naysayers said it couldn't be done. They said the political process had become so expensive that nobody could get elected without corporate money. RUSS FEINGOLD proved them wrong. He stuck to his principles, kept his promises to limit spending and reject the use of soft money in his own race, and he was reelected.

He is a man of strong principles, and he shows strong principles and successful politics are not mutually exclusive.

I have gotten to know RUSS FEINGOLD very well. I have gotten to know his lovely wife Mary, who is a friend of mine. I try to call her once in a while just to see how she is doing. She is perky and astute—a wonderful woman. I want the record to be spread with my admiration for RUSS FEINGOLD and his wife Mary, for the team they are, and I am certain the encouragement she gave him to stay the course.

Mr. President, the other member of this duo that was responsible for this legislation is JOHN MCCAIN. JOHN MCCAIN is an interesting person, to say the least. He is a true American hero. He has lived through things that most of us cannot comprehend.

More than 20 years ago, I went to a congressional prayer breakfast. JOHN MCCAIN and I served together in the House of Representatives. We were elected at the same time. The prayer breakfast in the House, as I recall, was every Thursday morning. I can't remember the exact day, but it was held in the morning. I wanted to go because JOHN MCCAIN—this person with whom I was elected in the same class—was going to make a presentation at the prayer breakfast. It was one of the most memorable 45 minutes I have ever spent.

JOHN MCCAIN recounted to us—there was no press around; it was a private meeting—what he had gone through in the state of being a prisoner of war in Vietnam. He is a graduate of the U.S. Naval Academy. His father was an outstanding military officer, as was his grandfather.

In October of 1967, JOHN MCCAIN was flying a mission over Vietnam when his plane was struck, and he was forced to eject from that jet airplane. He parachuted and landed in a lake, a short ways from the prison where he was going to be placed. He broke both of his arms, broke a leg, and sustained many other injuries. Not only that, but a mob dragged him out of the lake to the shore and then proceeded to beat on him, even though he was badly injured. He was taken a short distance to the famous Hanoi Hilton where he was tortured and held in solitary confinement.

He spent 6 years in prison, much of that in solitary confinement. Because his father was head of the Seventh Fleet—I think that's the proper designation; he took care of the theater of war in Vietnam—the Vietnamese said because your father is a military leader in this area, you can go home. JOHN MCCAIN said: No, I am not going home unless my fellow prisoners go with me. So they proceeded to break his shoulders again and cause him all kinds of physical pain, discomfort, anxiety, and emotional stress. It was brutal what they did to him.

He recounted this in some detail at the prayer breakfast. But a lot of it had to be put together because he is certainly not a boastful man and doesn't talk about his military experience very much and, I repeat, this was in a very private, prayerful meeting. I can remember his explaining the first time all these prisoners were able to get together for Christmas and how they found a way to sing Christmas songs.

It was, as I said, a remarkable experience to listen to JOHN MCCAIN. He is a man of integrity. To show his humility, if you look at his biography on his Web site, it is four very short paragraphs. He doesn't talk about most of the things he has accomplished in life. You have to read on, not on his Web site, because he is a man of some humility.

MCCAIN and FEINGOLD are a lot alike. They both have tenacity, perseverance. They both cause the Senate and myself, someone who is trying to move legislation along, a bit of heartburn on occasion. I have sometimes asked myself about these two guys—oh, why are they doing this? They are doing what they do, even though there is some short-term pain for me and others who are trying to move legislation on the floor, because they feel strongly about different issues.

There are times when I am anxious and concerned about the issue they raise, but I never ever question why they do it. I know why they do it. I work as much as I can to understand that these two watchdogs work together on a number of issues, and they also work separately. They have different interests in life.

I couldn't let any more time go by without talking about how important it is for the body politic to have passed McCain-Feingold and how important it is to the country that the Supreme Court of the United States upheld that law nearly as we had written it. It has changed our lives, but I think for the better. Even though some people are upset it passed, I am very glad, and it would never have happened but for the perseverance of these two men. It will renew the vitality of our political system and restore our faith in Government. It could not have happened but for these two fine Senators about whom the States of Wisconsin and Arizona should feel proud.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). WITHOUT OBJECTION, IT IS SO ORDERED.

### AMENDMENT NO. 2260

Mr. SPECTER. Mr. President, I have sought recognition to discuss amendment No. 2260, which has been filed. At a later point in my presentation, I will ask unanimous consent that the pending amendment be set aside. But I first want to talk about the amendment and about the plight of US Airways, a very important constituent for a Pennsylvania Senator, and a very important airline for the United States on domestic and foreign travel.

There is a long history of the problems which US Airways has faced, arising really out of the problems of 9/11, when the airline industry generally has been subjected to great problems because of the reduction of airline passengers.

US Airways has been in the throes of reorganization, in bankruptcy proceedings. They have had difficulties obtaining a loan going back to December of 2002, when there was a critical point.

At the request of US Airlines, requests were made by me to Labor Secretary Chao, then-Treasury Secretary O'Neill, and Commerce Secretary Evans to strongly encourage the Pension Benefit Guaranty Corporation to accept US Airways' pilot pension plan proposal. Ultimately, the PBGC declined to do so.

Then on January 9, 2003, Senator SANTORUM and I introduced S. 119 on behalf of the Air Line Pilots Association with the aim to protect their pension by allowing US Airways to terminate and then restore their pension plans. The resolution of the pension liability situation is to the completion of US Airway's plan of reorganization by the Air Transportation Safety Board.

Then on January 14, I chaired a hearing of the Labor, Health and Human Services, and Education Subcommittee on the pension plans regarding US Airways because it dealt with the labor issue. What we have sought to do here is to have a longer period of time than the 5 years which US Airways had to fund the program. We have asked for flexibility of up to 30 years—not necessarily 30 years but up to 30 years.

Had the 2-year relief or deficit reduction been in effect when US Airways faced the issues relating to its pension plan, there was the distinct possibility, perhaps likelihood, that US Airways would not have been in the throes which it is in today. US Airways has since added to the pilots' defined contribution plan, and the pilots would be very pleased to see the funding there offset the obligation which US Airways would have if amendment No. 2260 were to be adopted. That is a brief statement as to the status of the matter.

There was a unanimous consent agreement entered into on December 9 of last year which limits the first-degree amendments which are available. It was only last week that the US Airways pilots came to my office, to me, to ask that we introduce this amendment. Procedurally, the only way at this stage that it can be done is as a second-degree amendment.

I have inquired of the Parliamentarian as to whether 2260 would be germane as a second-degree amendment, and I have been advised that that is under consideration now and no final decision has been made. I thought it useful this afternoon to take the floor and go through the explanation, which I have.

I thank the assistant majority leader for the Democrats, the Senator from Nevada, for coming to the floor so that he would be present to hear what I have had to say.

I now ask unanimous consent that the pending second-degree amendment be set aside so that this second-degree amendment may be considered.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Reserving the right to object, the Parliamentarians have not had an opportunity to study this in detail. Therefore, they are not at this time ready to rule on whether or not this amendment is in order. A number of people have called our cloakroom, recognizing that as soon as the Parliamentarian makes a decision, that will answer the question itself. Based upon that, on behalf of a number of other Senators, I object to setting this amendment aside.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I understand the situation as stated by the Senator from Nevada. I understand there are other Senators who represent States which have other airlines, and it is a tough competitive line out there. So having made the explanation, I shall await the judgment of the Parliamentarian. When the current second-degree amendment is disposed of, I will then be in a position to offer this second-degree amendment.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO DR. HIRAM C. POLK

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a world-renowned surgeon, inspiring educator, and fellow Louisvillian, Dr. Hiram C. Polk.

While most of us are sleeping in the early morning hours, Dr. Polk is already hard at work, making rounds and advising residents. Since 1971, he has served as the chairman of the Department of Surgery at the University of Louisville.

Hiram attended Millsaps College in his home State of Mississippi. As a favor to his chemistry professor, Hiram applied to Harvard Medical School. Since he wouldn't go to Massachusetts for a candidate-screening interview, Hiram received a visit from the late Arthur Guyton, M.D., Ph.D. Dr. Guyton, widely regarded as the world's leading physiologist, discussed the future with Hiram and then offered him a scholarship to Harvard Medical School. While Hiram eventually accepted the scholarship, he dropped out of the program three times because of his aversion to the more tedious demands of the field. He graduated from Harvard in 1960 and began residency at Washington University in St. Louis where he was greatly influenced by one of his instructors, Carl Moyer, M.D. Inspired by Dr. Moyer, Hiram began to consider teaching. His love for intellectual stimulation and talent for surgery made academia a natural conclusion for Hiram.

Under Hiram's leadership in the Department of Surgery at the University of Lousiville, the number of staff has grown from 5 to 70 and the department now receives $1.2 million in annual grants from the National Institutes of Health. He's trained almost 230 general surgeons, more than any other surgery chair and America. He is an inspiration to his residents, colleagues, and patients.

Hiram is also a leader in research. He's considered a world authority in surgical wound infections and has done landmark research regarding the use of perioperative antibiotics. Hiram is also an accomplished author with nearly 400 papers and journal articles, 152 textbook chapters, and 11 books to his name.

Hiram is a dedicated and talented surgeon who has brought the University of Louisville's Department of Surgery to national recognition. He receives the highest praise from his residents, colleagues, and patients. I ask that my colleagues join me in thanking Hiram for his dedication to medical excellence.

## TRIBUTE TO JACK KAIN

Mr. McCONNELL. Mr. President, I rise today to pay tribute to Jack Kain, a successful Kentucky businessman and dedicated community member. For the past 50 years, Jack has built an award-winning car dealership empire in central Kentucky that generates more than $20 million in gross annual sales.

What originally started out as a way to avoid milking cows has become a fifty-year passion for Jack Kain. In 1947, while a pre-law student at the University of Kentucky, Jack first delved into the world of car sales with the hopes of escaping work on the family dairy farm. For the next three years, he sold vehicles at the Harry Aldridge and Shug Glenn dealerships. He joined the Air Force in 1950 and served in Korea as a second lieutenant. Following his tour of duty, Jack returned to Kentucky with his late wife Kathy Webb and their daughter Becky. With some financial support from his father, Jack returned to car sales with the purchase of a DeSoto/Plymouth dealership in Frankfort. In 1960, he started selling Fords. While there have been some bumps on his road to success, Jack has continued to expand his dealership, which now employs 50 people, including four of his nine children.

Jack's business has received the Ford Motor Co. President's Award, a selective accolade bestowed upon dealerships with superb customer service. Less than one percent of the 5,000 Ford dealers nationwide receive this award. Stephen Lyons, the president of the Ford Division of the Ford Motor Company hails Jack as a "master of customer service" and a "legend." Jack's dedication to customer satisfaction is illustrated in his frequent interaction with those who enter his dealership where he welcomes and thanks every customer. Whether he's helping Kentucky Governor Ernie Fletcher, Frankfort Mayor Bill May, or a lesser-known inhabitant of Woodford County, Jack treats all his customers with respect.

Jack, who has nine children, twenty-one grandchildren, and three great-grandchildren, also stays active in the community. He has been a member of the Greater Lexington and the Kentucky Chamber of Commerce, president of the Woodford County Chamber and he has served as director of St. Joseph Hospital. For the next couple of years, however, Jack will be spending more time outside the commonwealth with his new position as vice chairman and soon will serve as chairman of the National Automobile Dealers Association. He's the first Kentucky dealer to be elected to these posts and will lobby on behalf of dealers in Washington, DC and in Detroit.

I ask my colleagues to join me in congratulating Jack Kain on his 50 years of business success and his excellent record of customer service.

## WILLIAM T. YOUNG TRIBUTE

Mr. McCONNELL. Mr. President, I rise today to honor the life of a prominent Kentuckian, successful businessman, and devoted philanthropist, William T. Young. I would also like to take this opportunity to extend my condolences to his two children, William T. Young, Jr. and Lucy Young Hamilton, and to all of those who knew and loved him.

Mr. Young graduated from the University of Kentucky in 1939, receiving a bachelor's degree in mechanical engineering. After graduation, he went on to serve in the U.S. Army during World War II, returning home to Lexington as a major. In 1946 Mr. Young married Lucy Maddox, and later had two children.

After he married Lucy, Mr. Young decided to make his longtime entrepreneurial dreams a reality by starting Big Top Peanut Butter, which he sold in 1955 to Proctor and Gamble who later renamed it Jif. In 1958 he opened a moving and storage company, W.T. Young Storage Co., and started Lexington Cartage, a shipping operation. Mr. Young was also appointed to the board of Kentucky Fried Chicken at this time and to the Royal Crown Co. Board, which he became chairman of in 1966.

Mr. Young, a true Kentuckian, became a horseman in his later days turning a small parcel of land into Overbrook Farms. This 2,400-acre breeding operation trained Derby, Preakness, and Belmont Stakes winners, as well as breeding the Nation's leading stallion, Storm Cat. However successful Young became, he never forgot his roots and his home of Lexington, giving back to the community a hundred times over.

Mr. Young's generosity long exceeds the list of his business achievements. He gave much to higher education in Kentucky, particularly to two institutions in Lexington—the University of Kentucky and Transylvania University. His proudest donation was to UK for the building of a state-of-the-art library, which now bears his name. At Transylvania University, Young started the Thomas Jefferson Scholars, one of the Nation's first merit-based scholarships, which the University later renamed after him. Besides donating his money, Mr. Young also donated his time to the institutions. He served on the Council of Higher Education, Board of Curators at Transylvania, University of Kentucky Board of Trustees, and the UK Development Council.

He will forever be remembered through the many contributions he made to his community and through the many stories his friends and family tell of an ambitious gentleman whose humble heart never stopped giving. Charles L. Shearer, the president of Transylvania University, tells a story of Mr. Young declining a nomination for a fundraising award given by the university. Mr. Young explained, "If other people had my resources, they would do the same thing." UK Dean of Libraries Carol Diedrichs discussed how Mr. Young would walk through the library stopping to talk to the students, asking them how they were doing and how their studies were going. Former Kentucky Gov. John Y. Brown described Mr. Young as "closest to the perfect human being I've ever known."

William T. Young's generosity stretched far across the Nation and far into the hearts of all those who met him. I ask each of my colleagues to join me today in paying tribute to William T. Young, for all he has done. He will be missed.

## ADDITIONAL STATEMENTS

### OREGON EDUCATION HERO

• Mr. SMITH. Mr. President, I rise today to honor one of Oregon's unsung heros, Dean Azule. For more than three decades, Mr. Azule has dedicated his life to educating and enriching the lives of countless young Oregonians. He is an educator in both mind and spirit and has dedicated his life to ensuring the success of Oregon's youth.

While attending Oregon College of Education, OCE, now know as Western Oregon State University, Mr. Azule worked as a family liaison with an American Indian youth program funded by the Indian Education Act. As a family liaison, he tutored and counseled hundreds of American Indian youth, providing career guidance and helping them to explore their career opportunities. Upon graduation from OCE, Mr. Azule joined the Northwest Regional Educational Lab and worked on their Indian Reading Language Development Program. This program has been invaluable in helping American Indian youth keep their indigenous languages alive.

Mr. Azule next established the Confederated Tribes of Grand Ronde's extremely successful Education Department. With his invaluable assistance, the Department now includes Head Start, Youth Education, Higher Education, and Vocational training programs which has served to help the lives of hundreds of tribal members. The Grand Ronde Education Department has become a model of success across the county—much to the tireless efforts of Mr. Azule.

After almost 10 years with the Grand Ronde Tribes, Mr. Azule joined the Salem-Keizer public school system in 1999. Active in community outreach programs, he has helped disadvantaged children continue their education despite facing social and economical hardships at Washington Elementary, Keizer Elementary, and Miller Elementary School. Most recently, he has taken a behavioral health position at the new West Salem High school.

Mr. Azule is a true champion for Oregon's children, and I know he will continue to play a vital role in educating and making a difference in the lives of children in our State. His tireless spirit serves as an inspiration to us all. Today, I am proud to honor Dean Azule as an education hero for our great State of Oregon.•

### HONORING OUR ARMED FORCES

#### STAFF SERGEANT KENNETH HENDRICKSON

• Mr. JOHNSON. Mr. President, I am saddened to report the passing of SSG Kenneth Hendrickson of Bismark, ND. Kenneth was killed on January 24, 2004, while serving in Operation Iraqi Freedom.

Kenneth, who was called up for active duty last spring, was scheduled to leave Iraq in March. He was one of two North Dakota Army National Guardsmen killed by a roadside bomb while traveling near Fallujah. Kenneth was a member of the Bismarck-based 957th Multi-Role Bridge Company and a 15-year veteran of the National Guard.

Kenneth, a computer technician for Bismarck public schools, was married just 4 days before being deployed. Born in Fargo, Kenneth lived with his family in Bismarck. His father Lyle Hendrickson lives in Rapid City, SD and is a Pennington County commissioner. Kenneth is described by family members as a free spirit who loved children and knew how to have fun. Even while in Iraq, his number one concern was his family back home.

Kenneth and his fellow National Guard members are playing a vital role in Iraq. These brave men and women have taken time away from their family, friends, and jobs to serve their country thousands of miles from home. Kenneth and many other National Guard members have given the ultimate sacrifice in defense of freedom. Our country owes them a tremendous debt of gratitude for their service.

The lives of countless people were enormously enhanced by Kenneth's goodwill and service. He inspired all those who knew him. Our Nation is a far better place because of his life. The best way to honor him is to emulate his commitment to our country.

I express my sympathies to the family of Kenneth Hendrickson. I know he will always be missed, but his service to our Nation will never be forgotten.•

### TRIBUTE TO HUMAN RESOURCES COMMAND—ST. LOUIS

• Mr. BOND. Mr. President, I wish to pay special tribute to the U.S. Army's Human Resources Command St. Louis, formerly known as the Army Personnel Command, AR-PERSCOMD. On October 2, 2003, ARPERSCOM was deactivated and merged with the U.S. Army's Total Army Personnel Command to form the Army's Human Resources Command, headquartered in Alexandria, VA. Although its name has changed, the organization's proud legacy of selfless service to Army Reserve Soldiers, veterans, and their family members continues.

The mission of Human Resources Command—St. Louis, HRC-St. Louis, is to ensure the full spectrum of human resources programs, services and systems are executed to support the readiness and well-being of Army personnel worldwide. HRC-St. Louis and its predecessor organizations have a long and distinguished history of service to the

Nation. Located in the Charles F. Prevedel Building at the Federal Records Complex in suburban St. Louis, the command was officially activated on October 1, 1998, with the mission of providing the highest quality life cycle management and services resulting in a trained and ready force in support of the National Military Strategy. Formed provisionally on October 16, 1997, AP-PERSCOM replaced the former U.S. Army Reserve, USAR, Personnel Center on ARPERCEN.

HRC-St. Louis traces its lineage back to 1919, when the Demobilized Records Division was established in Washington, D.C., as an activity under the Adjutant General's Office. Its mission was to store and maintain the records of soldiers demobilized after World War I. After a number of moves, the division came to St. Louis in 1945. First located at the Federal facility at 4300 Goodfellow Blvd., the division moved to its present location on 9700 Page Avenue—1 Reserve Way—in 1956. Through the years, the organization underwent a number of name and mission changes, including the establishment of the Reserve Components Personnel and Administration Center or RCPAC in 1971, and ARPERCEN's establishment as a field operating agency under the Chief, Army Reserve in 1984. In 1994, a U.S. Army council of colonels convened and determined that USAR personnel management, service and policy functions should be streamlined and consolidated under one command: AR-PERSCON.

Serving as the single focal point for the supporting Army Reserve Personnel life cycle management in peacetime, mobilization, and demobilization environments, HRC-St. Louis provides efficient and seamless human resource support to Army Reserve Soldiers who are Troop Program Unit, TPU, members, drilling Reserve unit members; Individual Mobilization Augmentees, IMA; Individual Ready Reservists, IRR; and Active Guard Reserve, AGR soldiers, reservists on extended full-time active duty. The command supports almost 329,000 Ready Reserve Soldiers, approximately 212,000 in the Selected Reserve—TPU, IMA, and AGR, and over 115,000 IRR Soldiers.

HRC-St. Louis is a highly innovative organization; maximizing the talents of its combined military and civilian work force over 1,100 members. It serves as a leader within the Department of Defense in maximizing use of advanced technology providing personalized, e-care—electronic—to customers. Its award-winning HRC-St. Louis, formerly 2xCitizen, website, with its numerous applications, informs Reserve soldiers and the public on Army personnel matters. In 2002, alone, there were over 28 million visits—logins—to the website. Soldiers can access and update their records online at any time via the Internet through their own individual self-service web portal—a significant innovation and major evolution in soldier personnel service support. No longer do Reserve soldiers have to wait extended periods for hardcopy documents or microfiche copies to arrive through the mail to review their records or prepare for promotion boards. In providing responsive, real time e-care for soldiers, HRC-St. Louis contributes significantly toward the Army's readiness to engage in support of the implementation of the National Military Strategy on behalf of the Nation's security objectives.

The command's merger with the Total Army's PERSCOM, and incorporation as part of the new U.S. Army's Human Resources Command, is part of an overall Army transformation effort to streamline and enhance integration of all personnel functions—making them more efficient and responsive in meeting a wide range of missions—while enhancing personnel service for the soldier.

This proclamation recognizes and salutes all those who currently serve as members of Human Resources Command—St. Louis—soldiers and civilians alike—and all who have gone before them who have made countless contributions to the United States of America. As the Army's Human Resources transformation continues, the soldiers and civilians of HRC-St. Louis will continue to make many more significant contributions to the soldiers and our Nation as a part of the U.S. Army's Human Resources Command.●

## HONORING THE MEMORY OF WILLIAM L. PIERCE

● Mr. CRAIG. Mr. President, as cochair of the Congressional Coalition on Adoption, I rise today to remember the recently passed William L. Pierce, a man who dedicated his life to helping children. As founder and president of the National Council on Adoption, William Pierce was a leading adoption advocate who worked tirelessly to help formulate and promote several major adoption policies over the last 25 years. To name a few:

The Infant Adoption Awareness Act created the Infant Adoption Training Program, which trains health and pregnancy counselors in presenting adoption as an option for unplanned pregnancies; the Multi-Ethnic Placement Act of 1994 reduced obstacles to many adoptions; the Adoption and Safe Families Act of 1997 promoted adoptions out of foster care by removing barriers to adoption and creating incentives for States to place more foster children with adoptive families; and the Economic Growth and Tax Relief Reconciliation Act of 2001 included provisions to permanently extend and expand the tax credit for adoption expenses and the employer-based adoption assistance program.

William Pierce's consistent advocacy of pro-child adoption policies helped improve the lives of countless children, birthparents, and families. He was an outstanding husband, father, grandfather, citizen, advocate, and leader. I remember him today.●

## TRIBUTE TO THE UNIVERSITY OF KENTUCKY VARSITY CHEERLEADERS

● Mr. BUNNING. Mr. President, I pay tribute in the Senate to University of Kentucky Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Wildcats coed varsity cheerleading squad was awarded their 13th national title in Division I-A. This is their 9th championship in the last 10 years. It wouldn't be wrong to say that they are the most successful team in the history of this competition, and I and so many others are so proud of them.

The Commonwealth of Kentucky should be very proud of this squad, and I know they are. Their example of hard work and determination should be followed by all in the Commonwealth.

Congratulations to the members of the varsity squads for their success. But also, I want to congratulate their coach, Jomo Thompson, along with their peers, faculty, administrators, and parents for their support and sacrifices they've made to help the Wildcats meet their cheerleading achievements and dreams. Keep up the good work.●

## TRIBUTE TO THE MOREHEAD STATE UNIVERSITY VARSITY CHEERLEADERS

● Mr. BUNNING. Mr. President, I pay tribute to the Morehead State University Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Morehead State University coed varsity cheerleading squad was awarded their 14th national title in Division I. Along with winning the overall title, Morehead State University received second place in the all-girl squad.

The citizens of Morehead, KY, are proud to have Morehead State University cheerleading champs living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I congratulate the members of the varsity squad for their success. But also, I want to congratulate their coach, Myron Doan, along with their peers, faculty, administrators, and parents for their support and sacrifices they've made to help them meet those achievements and dreams.●

## TRIBUTE TO LINDA KURZ

• Mr. BOND. Mr. President. Sieglinde Kurz received her bachelor of arts degree from Fontbonne College, St. Louis, MO. in 1961 and her masters degree in Health Care Management from Northwestern University, Evanston, IL. in 1976.

Linda Kurz started her career with the Department of Veterans Affairs in November 1965 as a Research Chemist in Renal Hypertension Research at the St. Louis VA Medical Center.

Linda Kurz, during her government career, was the Administrative Assistant to the Associate Director, Hines, IL; Associate Director, VA Medical Center, Tomah, WI; Associate Deputy Regional Director, Northeastern Region, Albany, NY; Associate Director, VA Medical Center, Marion, IL; Director, Construction Project Coordination and Budget, VA Headquarters, Washington, DC; Director, VA Medical Center, Marion, IL. She left the Marion VAMC to accept the position of Director at the St. Louis VAMC.

Linda Kurz served as director of the St. Louis VA for 5 years and 8 months from May 1998 thru January 2004, one of the largest and most complex VA facilities in the Nation.

Linda Kurz provided leadership for this dual division hospital, providing care for in excess of 36,000 veterans annually, within a primary service area of metropolitan St. Louis, including 9 counties in Missouri and 14 counties in West Central Illinois and lead a care team of 1,900 full time employee equivalents.

Linda's life time achievements include: A leader in the health care management field, mentor for VHA Health Care Management Trainees, Executive Career Field Director Trainees and achieved the status of Diplomat in the American College of Healthcare Executives.

Linda Kurz, was listed as one of the Top Female Directors in Missouri Hospital Association Newsletter, Summer 2003 Edition and in Who's Who Among Top Executives in 1998-1999 and Linda Kurz, during her tenure as Director, St. Louis VA Medical Center was recognized in 1999, with the Vice-Presidential "Hammer and Scissors" award for her efforts in piloting the first Department of Veterans Affairs Canteen Integration.

During her tenure at the St. Louis VA, Linda has worked tirelessly to improve access to care for veterans and opened three health clinics; she supported her employees by providing educational opportunities for mid-level managers through programs such as mini-MBA and she promoted an open policy, communicating with staff at all levels by establishing employee and supervisory forums.

Linda Kurz will retire January 31, 2004, after 37 years of government service, having devoted countless hours and years to the welfare of the American Veterans.•

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## LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Leawood, KS. Gary Raynal, an openly gay man, was found dead under an apartment deck after being tortured and severely beaten. Raynal had been sexually tortured with a metal rod, his ears had been burned and his throat showed signs of strangulation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

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## HONORING JIM AND CHAS GRANT

• Mr. CRAPO. Mr. President, I rise today to honor two of my staff members who not only are integral for my office operations, but have filled the same needs for two previous Idaho Senators. For over 20 years Jim and Chas Grant have worked on the staffs of Idaho Senators in the U.S. Senate. These Caldwell, ID, natives began their service in the offices of Senator Steve Symms in the early 1980s. They remained to work with his successor, Senator Dirk Kempthorne, and now they fill a vital role in my office.

Chas and Jim are without peer when it comes to knowing the people of Idaho. Through their work in constituent mail, they have processed hundreds of thousands of constituent letters. That incredible number is a testament not only to the Grants' longevity, but also to their great dedication. The Grants read and carefully sort each letter, ensuring prompt response from my office. In the 5 years that Jim and Chas have directed the constituent mail program for me, the number of letters, faxes, and e-mails has consistently grown, reaching over 45,000 last year. It is a tribute to the Grants that they have effectively handled this large increase in mail. Constituents often express their satisfaction with the quick, accurate responses to their inquiries. It is the hard work of the Grants that makes these quick responses possible.

While they work side-by-side, they most definitely have provided tremendous individual contributions to my office.

Chas Grant was born and raised in Idaho. He graduated from Caldwell High School in 1972, and later received a B.A. in history from Boise State in 1977. Chas began working on Capitol Hill for the Postmaster in 1981. Since that time he has worked for Senator Symms, then Senator and now Governor Dirk Kempthorne, and myself.

Jim Grant grew up in Idaho, where he attended Caldwell schools. He graduated from Caldwell High School in 1975. From there, Jim attended Gallaudet in Washington, DC, where he earned a bachelor of arts in English. He began working for Senator Symms on July 18, 1983. During his time working in the Senate he has assisted three Idaho Senators: Symms, Kempthorne, and myself. We have all benefited greatly from his service.

I asked Senator Symms and Governor Kempthorne to contribute to this statement, as I know they valued the Grant's contributions as much as I do.

From Governor Dirk Kempthorne: "Jim Grant was a dedicated and dependable employee in my Senate office for six years. His work ethic and 'can-do' attitude was a pleasure to be around. As with many of us, he has had to overcome personal challenges, but has served the citizens of Idaho well. His hard work was truly appreciated, and he has been a tremendous public servant for the citizens of Idaho.

"Chas Grant was always ready to help resolve any problems that came up with constituent mail. His common sense view and solutions put the constituent first, and provided me with a smooth running mail operation. Chas faced personal challenges, and always found a way to make certain that his work responsibilities were met. His tenure as a public servant has been remarkable for many reasons, and I thank him for his years of service."

And from Senator Steve Symms: "Congratulations, Jim and Chas, on your many years of exemplary service. On behalf of Steve Symms, Governor Kempthorne, the members of my staff, and other Senate staffers that have benefited from your work: we honor you today. Thank you for your great work!"

Since Jim and Chas started in the Senate, many things have changed. When Chas came to Washington, Ronald Reagan had just been elected President and Pac-Man was the latest craze. When Jim started in '83, camcorders and "Just Say No" had just been introduced. In the Senate, we have gone through 24 sessions of Congress and have made changes like allowing TV cameras to cover all the happenings on the Senate floor. Even mailrooms have become increasingly complicated as e-mail and fax messages have been added to traditional letters as means of long-distance communication.

One constant that has been, however, is Jim and Chas Grant's dedicated service to the members of the Senate and the people of Idaho. Also unchanged is the Grants' untiring work ethic and commitment to their job. I have appreciated their talent, experience, and knowledgeable assistance in my office. Jim and Chas recently went out of town for an extended period and the rest of my staff stepped in to keep up with the barrage of mail over that time. Trying to fill in for the Grants gave everyone a better appreciation of the important role the Grants play in the office. We were all very glad to have them back, as we realized we weren't that great doing their jobs. I look forward to having them around for as long as they intend to be.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5911. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; MOBILE6-Based Motor Vehicle Emission Budgets for the Delaware Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area" (FRL#7593-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5912. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations" (FRL#7598-6) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5913. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections" (FRL#7593–2) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5914. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Emissions and Volatile Organic Compounds from Consumer Products" (FRL#7596-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5915. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Nevada" (FRL#7595-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5916. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Approval of Revision of 34 Clean Air Act Title V operating Permits Programs" (FRL#7589-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5917. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and Defer Sanctions, South Coast Air Quality Management District" (FRL#7594-2) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5919. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico" (FRL#7598-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5920. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valled Unified Air Pollution Control District" (FRL#7597-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5921. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL#7588-7) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5922. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL#7593-9) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5923. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District" (FRL#7590-7) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5924. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Nevada; Designation of Areas for Air Quality Planning Purposes; Lake Tahoe, Nevada Area" (FRL#7595-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5925. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay Sanctions, Ventura County Air Pollution Control District" (FRL#7590-6) received on December 15, 2004; to the Committee on Environment and Public Works.

EC–5926. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Benzene Waste Operations; Final Rule; Amendments" (FRL#7594-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5927. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills" (FRL#7594-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5928. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area" (FRL#) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5929. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Notice of Request for Initial Proposals (IPs) for Projects to be Funded from the Water Quality Cooperative Agreement Allocation (CFDA 66.643—Water Quality Cooperative Agreements)" received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5930. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses of Certain Chemical Substances" (FRL#7307-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5931. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standard of Performance for Bulk Gasoline Terminals and National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)" (FRL#7599-9) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5932. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Memphis-Shelby County Revised Format for Materials Being Incorporated by Reference" (FRL#7596-6) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5933. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for Kentucky: Permit Provisions for Jefferson County, Kentucky; Partial Withdrawal of Direct Final Rule" (FRL#7600-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5934. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of California" (FRL#7600-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5935. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration" (FRL#7601-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5936. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Centralized Waste Treatment Point Source Category" (FRL#7601-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5937. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Regional Haze Rule to Correct Mobile Source Provisions in Optional Program for Nine Western States and Eligible Indian Tribes Within that Geographic Area" (FRL#7601-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5938. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Regulations for State Facilities in Rapid City" (FRL#7606-6) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5939. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans: Tennessee: Nitrogen Oxides Budget and Allowance Trading Program" (FRL#7612-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5940. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of the Title V Operating Permit Program for Antelope Valley Air Pollution Control District in California" (FRL#7611-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5941. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; New York" (FRL#7610-5) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5942. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7609-6) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5943. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District" (FRL#7600-7) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5944. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Clarify the Scope of Certain Monitoring Requirements for Federal and State Operating Permits Program" (FRL#7612-5) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5945. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL#7609-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5946. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revocation of Significant New Uses of Certain Chemical Substances" (FRL#7320-1) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5947. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements" (FRL#7604-9) received on January 15, 2004; to the Committee on Environment and Public Works.

EC–5948. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Operating Permits Program; San Diego County Air Pollution Control District" (FRL#7603-1) received on January 15, 2004; to the Committee on Environment and Public Works.

EC–5949. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions from Highway Motorcycles; Final Rule" (FRL#7604-8) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5950. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified, Ventura, Santa Barbara Counties, and Monterey Bay Unified Air Pollution Control Districts and Yolo Solana, Bay Area, and Mojave Desert Air Quality Management Districts" (FRL#7598-1) received on January 5, 2004; to the Committee on Environment and Public Works.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DeWINE:

S. 2024. A bill to reduce the incidence of motor vehicle-related child injuries and deaths occurring inside or outside of motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2025. A bill to amend title 23, United States Code, to improve highway safety; to the Committee on Environment and Public Works.

By Mr. DeWINE:

S. 2026. A bill to improve consumer awareness of motor vehicle safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2027. A bill to amend title 23 and 49, United States Code, to improve national highway traffic safety through improved motor vehicle driver education and licensing programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2028. A bill to improve tire safety and labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE:

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's Disease or related organic brain disorders; to the Committee on Finance.

By Ms. SNOWE:

S. 2030. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 291. A resolution to authorize testimony and legal representation in the case of James McKoy v. North Fork Services Joint Venture; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 491

At the request of Mr. REID, the name of the Senator from Washington (Ms.

CANTWELL) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1666

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1841

At the request of Mrs. CLINTON, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1841, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 2004

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2004, a bill to permanently reenact chapter 12 of title 11, United States Code, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the names of the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

S. 2007

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2007, a bill to provide better protection against bovine spongiform encephalopathy and other prion diseases.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 291—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN THE CASE OF JAMES McKOY v. NORTH FORK SERVICES/JOINT VENTURE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 291

Whereas, in the case of James McKoy v. North Fork Services/Joint Venture, No. 2004–CAA-00002, pending before the United States Department of Labor, testimony has been requested from Resi Cooper, an employee in the Long Island office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate; Now, therefore, be it

*Resolved*, That Resi Cooper is authorized to testify in the case of James McKoy v. North Fork Services/Joint Venture, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Resi Cooper in connection with the testimony authorized in section one of this resolution.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2236. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

SA 2237. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2238. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2239. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2240. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2241. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2242. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2243. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2244. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2245. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2246. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2247. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2248. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2249. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2250. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2251. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2252. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2253. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2254. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2255. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2256. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2257. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2259. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2260. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2261. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2236.** Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; as follows:

At the end of section 3, insert:

( ___ ) RESTRICTIONS ON APPLICATION FOR FUNDING WAIVER FOR EMPLOYERS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.—An employer who makes an election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan for 2 plan years may not receive a funding waiver under section 412(d) of such Code for any plan year beginning after December 27, 2005, and before December 28, 2007.

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**SA 2237.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 3, 4, and 5 and insert:

**SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.**

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

"(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

"(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

"(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) ELECTION.—An election under this paragraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph)."

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

"(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

"(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

"(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

"(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

"(I) the information described in clause (ii)(I),

"(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

"(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

"(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

"(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph)."

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting "or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary" after "101(e)(2)".

(e) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term "applicable period" means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the fourth plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term "applicable plan year" has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(f) ELECTION.—Each election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

## SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

"(ii) a statement of the fair market value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

"(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

"(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted under regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be written in a manner so as to be understood by the average plan participant, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided."

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 104(d)".

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

### SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

"(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

"(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) If a plan elects an amortization hiatus, under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

"(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information."

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

"(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi)."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

"(F) AMORTIZATION HIATUS.—

"(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (l)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

"(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

"(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) ELECTION.—An election under this subparagraph shall be filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information."

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

"(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii)."

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**SA 2238.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3 and insert:

### SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) ELECTION.—An election under this paragraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph)."

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or

"(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

"(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

"(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

"(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

"(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

"(I) the information described in clause (ii)(I),

"(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

"(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

"(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

"(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph)."

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan .

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting "or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary" after "101(e)(2)".

(e) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term "applicable period" means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the fourth plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term "applicable plan year" has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(f) ELECTION.—Each election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

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**SA 2239.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 12, line 10 through page 13, line 6 and strike page 16, line 24 through page 17, line 20.

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**SA 2240.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 10, line 13 through page 11, line 14 and insert:

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2)."

Strike page 15, line 1 through page 16, line 8 and insert:

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

"(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

"(II) the increase in the consumer price index for the preceding year,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2)."

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**SA 2241.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 21, line 4, insert the following new paragraph (e):

"(e) ELECTION.—Each election under section 412(1)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986."

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**SA 2242.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 20, line 22, insert at the end the following new sentence:

"If an employer makes an election for a plan under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section), and if that plan terminates within four years after the end of the plan year to which the election applies, the maximum guarantee limitation under section 422(b)(3) of the Employee Retirement Income Security Act of 1974 and the phase-in rate of benefit increases under section 4022(b)(5) and (7) of the Employee Retirement Income Security Act of 1974 shall be frozen as of the beginning of the plan year to which the election applied."

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**SA 2243.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 20, line 10, insert at the end the following subparagraph:

"(iv) If the employer is part of a controlled group subject to section 4010 of the Employee Retirement Income Security Act of 1074, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded percentage for that plan year and the following four plan years for any plan maintained by the controlled group."

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**SA 2244.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 13, lines 20 through 22, and insert:

"(E) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe."

Strike page 20, lines 10 through 13, and insert:

"(F) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe."

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**SA 2245.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 4 and 5 and insert:

### SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

"(ii) a statement of the fair market value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

"(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

"(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted under regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be written in a manner so as to be understood by the average plan participant, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided."

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 104(d)".

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

### SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

"(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

"(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

"(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information."

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

"(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi)."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

"(F) AMORTIZATION HIATUS.—

"(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (l)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

"(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

"(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) ELECTION.—An election under this subparagraph shall be filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information."

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

"(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii)."

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**SA 2246.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 21, line 12 through line 18 and insert:

"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation."

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**SA 2247.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 22, line 6 through line 11 and insert:

"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);"

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**SA 2248.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 22, line 12 through line 16 and insert:

"(ii) a statement of the fair market value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;"

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**SA 2249.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 23, line 6 through line 10 and insert:

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted by the regulations prescribed by the Secretary."

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**SA 2250.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 23, line 18 through line 19, and redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

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**SA 2251.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 24, line 7 through line 11 and insert:

"(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the provisions of this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder in a reasonable manner to fulfill the notice requirement under this section."

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**SA 2252.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 24, line 12 through line 14 and insert:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003."

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**SA 2253.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 25, line 16 through line 19 and insert: "Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006."

Strike page 29, line 14 through line 18 and insert: "Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006."

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**SA 2254.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 1 through line 5 and insert:

"(I) the funded current liability percentage (as defined in subsection (d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,"

Strike page 30, line 3 through line 8 and insert:

"(I) the funded current liability percentage (as defined in subsection (l)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent."

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**SA 2255.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 6 through 16 and insert:

"(II) if the funded current liability percentage is at least 75 percent and the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or"

Strike page 30, line 9 through line 22 and insert:

"(II) if the funded current liability percentage is at least 75 percent and the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or"

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**SA 2256.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph."

Strike page 31, line 1 through line 6 and insert:

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph."

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**SA 2257.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph."

Strike page 31, line 1 through line 6 and insert:

"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph."

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**SA 2258.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 27, line 7 through line 21 and insert:

"(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer the amount of investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from the PBGC."

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**SA 2259.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 27, line 22 through line 25 and insert:

"(viii) An election under this subparagraph shall be filed within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days after the date of enactment, by filing with the Secretary in such manner as the Secretary, after consultation with the Secretary of Treasury, may prescribe. The plan administrator of any multiemployer plan that elects an amortization hiatus under section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder as if the plan were subject to those requirements for that plan year and the following four plan years. The PBGC may make public asset, liability, and funded percentage information."

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**SA 2260.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

### SEC. ___. RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—Notwithstanding any provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003 while the employer was in bankruptcy under chapter 11 of title 11 of the United States Code.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) Amortization of Unfunded Amounts Under Restoration Payment Schedule.—

(1) Post-restoration initial unfunded accrued liability.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) Unfunded section 412(l) restoration liability.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) Rules of special application.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) Quarterly Contributions.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) Resetting of Funding Standard Account Balances.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) Terms of Restored Plan.—

(1) In general.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) Specific terms.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC Liability Limited.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) Effective Date.—This section shall apply to plan years beginning after December 31, 2002.

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**SA 2261.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add:

**SEC. ___. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) Amendment of Internal Revenue Code of 1986.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) Amendments of ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

**SEC. . CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) In General.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i) the gross receipts for the taxable year do not exceed $600,000, and

"(ii) more than 50 percent of such gross receipts consist of premiums.".

(b) Controlled Group Rule.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) Conforming Amendment.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "exceed $350,000 but".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. ___. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.**

(a) In General.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Insurance Company Defined.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

## AUTHORIZATION TO SENATE LEGAL COUNSEL

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 291, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 291) to authorize testimony and legal representation in the case of James McKoy v. North Fork Services/Joint Venture.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony in an administrative proceeding before the U.S. Department of Labor. An employee of a private contractor at the Plum Island Animal Disease Center, a Department of Homeland Security facility in New York, was terminated from his employment.

An investigation by the Occupational Safety and Health Administration sustained the employee's allegations that his termination was in retaliation for his voicing environmental safety concerns to the Homeland Security Department and to Senator CLINTON's office and was therefore in violation of the employee protection provisions of the Clean Air Act and the Federal Water Pollution Control Act of 1972. That finding is now the subject of the employer's appeal to the Labor Department and is set for an evidentiary hearing.

The regional director in Senator CLINTON's Long Island Office is a direct fact witness to the events underlying this controversy and, hence, is a necessary witness in this proceeding. Accordingly, this resolution would authorize Senator CLINTON's employee to testify at this hearing, with representation by the Senate Legal Counsel.

Mr. KYL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, in the case of James McKoy v. North Fork Services/Joint Venture, No. 2004-CAA-00002, pending before the United States Department of Labor, testimony has been requested from Resi Cooper, an employee in the Long Island office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Resi Cooper is authorized to testify in the case of James McKoy v. North Fork Services/Joint Venture, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Resi Cooper in connection with the testimony authorized in section one of this resolution.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar Nos. 514 through 535.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en block are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

DEPARTMENT OF EDUCATION

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

UNITED STATES INSTITUTE OF PEACE

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

DEPARTMENT OF EDUCATION

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## ORDERS FOR TUESDAY, JANUARY 27, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon tomorrow, Tuesday, January 27. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pensions bill, with the time until 12:30 equally divided between the bill's managers or their designees.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 for the weekly policy luncheons. In addition, I ask unanimous consent that the time from 2:15 to 2:30 be equally divided between Senators KYL and BAUCUS or their designees; provided that at 2:30

the Senate proceed to a vote on or in relation to the Kyl amendment No. 2234, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SCHEDULE

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of H.R. 3108, the pensions bill. Under the previous order, at 2:30, the Senate will proceed to vote on or in relation to the Kyl amendment No. 2234.

It is our intention to complete action on this bill no later than Wednesday of this week. Again, I encourage all Members who wish to offer amendments to contact the bill managers so they can establish an order for amendment consideration. I also inform all Senators that additional rollcall votes should be anticipated during tomorrow's session.

## ADJOURNMENT UNTIL TUESDAY, JANUARY 27, 2004

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:52 p.m., adjourned until Tuesday, January 27, 2004, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate January 26, 2004:

### AMTRAK

LOUIS S. THOMPSON, OF MARYLAND, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE JOHN ROBERT SMITH, TERM EXPIRED.

### DEPARTMENT OF TRANSPORTATION

KIRK VAN TINE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE MICHAEL P. JACKSON, RESIGNED.

### FEDERAL LABOR RELATIONS AUTHORITY

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE JOSEPH SWERDZEWSKI, RESIGNED.

### MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEM PROTECTION BOARD, VICE BETH SUSAN SLAVET.

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009, VICE BETH SUSAN SLAVET, TERM EXPIRED.

### UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2010, VICE EINAR V. DYHRKOPP, TERM EXPIRED.

### FOREIGN CLAIMS SETTLEMENT COMMISSION

DAVID B. RIVKIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2004, VICE LARAMIE FAITH MCNAMARA.

## CONFIRMATIONS

Executive nominations confirmed by the Senate January 26, 2004:

### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE ANTONIO APONTE, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004.

EDWARD LOUIS BERTORELLI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

CAROL L. DIEHL, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

ALLISON DRUIN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006.

BETH FITZSIMMONS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006.

PATRICIA M. HINES, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

COLLEEN ELLEN HUEBNER, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

STEPHEN M. KENNEDY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

BRIDGET L. LAMONT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

MARY H. PERDUE, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

HERMAN LAVON TOTTEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

### DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

### JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

DREW R. MCCOY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF SIX YEARS.

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES MCBRIDE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2008.

### UNITED STATES INSTITUTE OF PEACE

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

J. ROBINSON WEST, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

### DEPARTMENT OF EDUCATION

SUSAN K. SCLAFANI, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION.

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 27, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JANUARY 28

9 a.m.
Foreign Relations
To hold a closed briefing regarding steps toward rapprochement in relation to Pakistan and India.
S–407 Capitol

9:30 a.m.
Armed Services
To hold hearings to examine the nominations of Francis J. Harvey, of California, to be an Assistant Secretary of Defense, William A. Chatfield, of Texas, to be Director of Selective Service, and Lawrence T. Di Rita, of Michigan, to be an Assistant Secretary of Defense.
SR–222

Commerce, Science, and Transportation
To hold hearings to examine NASA's future space mission.
SR–253

10 a.m.
Indian Affairs
Business meeting to consider pending calendar business.
SR–485

Judiciary
To hold hearings to examine the nomination of Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.
SD–226

10:30 a.m.
Foreign Relations
To hold hearings to examine steps toward rapprochement relating to Pakistan and India.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine health issues relating to health care costs and the uninsured.
SD–430

### JANUARY 29

9:30 a.m.
Foreign Relations
To hold hearings to examine the protocol additional to the safeguards agreement between the United States of America and the IAEA.
SD–419

### FEBRUARY 3

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization request for FiscalYear 2005 and the future years defense program.
SH–216

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine fund operations and governance relating to current investigations and regulatory actions regarding the mutual fund industry.
SD–538

Banking, Housing, and Urban Affairs
Business meeting to mark up the Federal Public Transportation Act of 2004.
SD–538

Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

2 p.m.
Governmental Affairs
To hold hearings to examine workforce issues relating to preserving a strong United States Postal Service.
SD–342

### FEBRUARY 4

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar items.
SD–366

Governmental Affairs
To continue hearings to examine workforce issues relating to preserving a strong United States Postal Service.
SD–342

Indian Affairs
To hold hearings to examine President's fiscal year 2005 budget request.
SR–485

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

### FEBRUARY 5

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine maintaining confidence in consumer products relating to mad cow disease.
SD–430

### FEBRUARY 10

9:30 a.m.
Armed Services
To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.
SR–325

2 p.m.
Veterans' Affairs
To hold hearings to examine the Adminstration's proposed fiscal year 2005Department of Veterans Affairs' budget.
SR–418

### FEBRUARY 11

9:30 a.m.
Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR–485

### FEBRUARY 12

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

### FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

### MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

### MARCH 4

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

### MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MARCH 18

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the FleetReserve Association.

345 CHOB

MARCH 25

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

## POSTPONEMENTS

JANUARY 29

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry.

SD-538

# SENATE—*Tuesday, January 27, 2004*

The Senate met at 12 noon and was called to order by the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our rock, our health, and our life, we thank You that You have been to us a high tower and a strong defense. Thank You for helping us to conquer our anxieties and fears, our sins and follies, our failures and doubts. Lord, we put our trust in You, for our times are in Your hands.

Today, give our Senators the light of Your truth. May they find in You the source of highest joy. Take each of us beyond secondhand faith into an experiential relationship with You. Stir us to new heights of excellence, as You show us Your majesty and glory. Let Your strong right arm defend us. We pray this in Your wonderful name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable MICHAEL B. ENZI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, January 27, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Michael B. Enzi, a Senator from the State of Wyoming, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENZI thereupon assumed the Chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, today the Senate will again resume debate on H.R. 3108, the pension rate bill. It is our hope to complete the bill either today or early tomorrow. In accordance with the consent agreement entered yesterday, we will vote at 2:30 p.m. today in relation to the Kyl amendment, No. 2234, which is the PBGC hold harmless language. Senator KYL has an additional amendment pending, and I will be talking to the Democratic leadership as to a time certain for a vote in relation to that amendment. There are a number of meetings this afternoon with Members on both sides. So we will be looking for an appropriate time today for that vote.

In addition, one other Senator has expressed an interest in offering an amendment, and we will be trying to schedule that amendment for consideration as well. Having said that, additional votes will, therefore, occur this afternoon as we attempt to finish the pension rate bill today or tomorrow.

I thank Members for their cooperation in letting us move forward on this legislation.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I appreciate the announcements of the majority leader and will work with him to see if we can't finish the pension bill, if not today, certainly by tomorrow. I think we have had a good debate. There are a lot of good issues that have been addressed. It is an important bill. Even though it is a temporary measure, I think it goes a long way to addressing some of the concerns.

## WHITE HOUSE LEAKS AND NATIONAL SECURITY

Mr. DASCHLE. Mr. President, I wish to address an issue that I think deserves even greater attention in the Senate. It has been 6 months now since a senior White House official publicly disclosed one of this Nation's most protected and valuable national security secrets: the identity of an intelligence operative. This act of political retribution not only placed at risk the life of an intelligence operative, it put at risk the security of every American.

In the war on terrorism, the importance of intelligence agents to our national security simply cannot be overstated. Human intelligence is our best weapon against terrorists. By revealing the name of this operative, the senior White House official or officials responsible acted in an unprecedented manner to break a fundamental bond of trust that protects both the mission and the lives of intelligence officers.

Secretary of Defense Donald Rumsfeld summarized the stakes involved when he said:

> Leaks put people's lives at risk. And I think that the people in any branch of Government have the obligation to manage their mouths in a way that does not put people's lives at risk. Folks that leak and put people's lives at risk ought to be in jail.

Former President George H.W. Bush put it even more succinctly:

> I have nothing but contempt and anger for those who betray the trust by exposing the names of our sources. They are, in my view, the most insidious of traitors.

While Republicans, including President Bush and members of his Cabinet, have been quick to condemn the act of leaking sensitive information, it took the Justice Department nearly 3 months after this leak to announce it was launching an investigation.

Several more months ensued before Attorney General Ashcroft, in response to criticism about a potential conflict of interest, removed himself from heading up the investigation and turned it over to another Justice Department attorney. Not surprisingly then, given these twists and turns, the identity of the leaker remains unknown to this day.

Last week, unsatisfied with its apparent lack of progress, a group of former intelligence officers asked Congress to open an immediate inquiry into the disclosure of Valerie Plame's name to the media. They said:

> The disclosure of Ms. Plame's name was an unprecedented and shameful event in American history, and, in our professional judgment, has damaged U.S. national security, specifically the effectiveness of U.S. intelligence gathering using human sources.

These former intelligence officers took this extraordinary step because they feared that the Justice Department investigation underway may not uncover those responsible or may attempt to explain away the incident as little more than an unfortunate event that does not rise to the level of criminal behavior.

No American—Democrat or Republican—can afford to allow this affair to

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

be swept under the rug. The cloud of uncertainty hangs over our intelligence community. Intelligence agents report growing fear that the community is increasingly viewed as a political tool rather than as an instrument of independent and objective discovery and analysis.

Too many agents and analysts are beginning to wonder what will happen to them if they come forward with facts or analyses that contradict official policies of the administration.

In addition to affecting their work, we should all be concerned about the chilling effect this could have on the willingness of foreign nationals to cooperate with our agents if they, too, come to fear their identities could come to be disclosed. These fears are justified. Leaking the names of covert agents or other intelligence assets represents a direct assault on our intelligence community and our ability to work with foreign agencies and assets.

The nature of intelligence officers' work prevents them from ever receiving from the American people the recognition or thanks they deserve. In fact, despite the incredible risks they assume on our behalf, they do not ask for recognition or thanks. All they ask is that we keep faith with them and offer them the protection they need to do their jobs.

Someone in the White House betrayed that trust, and we owe it to every intelligence officer—indeed, to every American—to uncover the truth about this leak and punish those responsible to the fullest extent.

In order to shed more light, House Democratic Leader NANCY PELOSI, several colleagues, and myself have requested that the GAO investigate whether or not the White House complied with the administrative requirements to safeguard classified information in the case of CIA operative Valerie Plame.

This investigation is fundamentally different from the Justice Department investigation currently underway. That investigation will assess whether any criminal statutes have been violated.

We have asked the GAO to assess a separate, yet equally important, question of whether the White House followed appropriate internal administrative procedures protecting Ms. Plame's identity and responding to the leak once it occurred.

In order to safeguard the lives of our intelligence agents and the integrity of our intelligence process, we have an obligation to discover the truth about this affair and hold those responsible accountable.

Yesterday at this time I discussed the growing consensus that Iraq did not, in fact, have weapons of mass destruction prior to the start of the war, as we had been told.

I said then and I will say today, every Member of this body has a responsibility to review matters such as these and see that this Senate lives up to its obligations. We simply cannot afford to ignore what happened, why it happened, and our own responsibility to ensure that it does not happen again.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before I address the legislation at hand, I will make a brief response to the distinguished Democrat leader's statement concerning our efforts in Iraq and weapons of mass destruction. I think the Senator from South Dakota has a legitimate point in that there needs to be a thorough evaluation of the intelligence and what happened that led us to believe that perhaps some of that information was incorrect. I point out, again, that I am very pleased to note that the overwhelming majority of the American people still believe we did the right thing in Iraq. There is very little doubt in anyone's mind, including the previous administration's statements, that Saddam Hussein had acquired weapons of mass destruction, used weapons of mass destruction, and there is no doubt in this Senator's mind that if he were still in power he would be attempting to acquire weapons of mass destruction.

Certainly we need to find out all the elements that went into the estimates concerning weapons of mass destruction, but at the same time there is a clear record in statements made by the previous President, as well as this President, concerning Saddam Hussein's intentions.

Mr. REID. Mr. President, I wish to say very briefly that Senator DASCHLE's statement regarding the leaking of the name of the informant—someone who worked for the CIA—had nothing to do about whether there were or were not weapons of mass destruction in Iraq. Senator DASCHLE had to leave but he wanted to make sure I made the record clear. His statement had no reflection on whether there were or were not weapons of mass destruction in Iraq. His statement simply relates to the fact that there simply should be an investigation into who leaked the most sensitive information regarding someone who worked for the CIA.

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## PENSION FUNDING EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3108, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

Pending:

Grassley amendment No. 2233, of a perfecting nature.

Kyl amendment No. 2234 (to amendment No. 2233), to limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected.

Kyl amendment No. 2236 (to amendment No. 2233), to restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver.

The ACTING PRESIDENT pro tempore. Under the previous order, the time between now and 12:30 p.m. shall be equally divided between the bill managers or their designees.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, a series of high profile events, including the Iowa caucuses, the State of the Union Address, the passage of a massive Omnibus appropriations bill, and today's primary in New Hampshire have overshadowed our consideration of this measure, and that is regrettable.

The pension bill that is almost sure to pass this Chamber is folly. The amendment offered by Senators GRASSLEY, BAUCUS, GREGG, and KENNEDY, while addressing the short-term interests of a handful of special interests, could further exacerbate a severe pension underfunding problem. I might say this measure is recognized as such by the administration.

As an editorial in yesterday's Washington Post noted:

> Not for the first time, Congress has muscled up to an important problem, taken a good look at it and resolved to make it worse.

I ask unanimous consent that the editorial of Monday, January 26, entitled "Pension Perniciousness" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 26, 2004]

### PENSION PERNICIOUSNESS

Not for the first time, Congress has muscled up to an imported problem, taken a good long look at it and resolved to make it worse. The problem is the vast hole in the nation's corporate pension schemes, and the perverse rules that helped create them. Congress's solution, championed in the Senate by an alliance of Sens. Charles E. Grassley (R-Iowa), Judd Gregg (R–N.H.), Max Baucus (D-Mont.) and Edward M. Kennedy (D-Mass.), is to reward the hole-diggers with what amounts to a $16 billion loan from taxpayers.

About one in five private-sector workers has a "defined-benefit" pension, the sort in which an employer guarantees a certain pension to its workers when they retire. To pay for these future benefits, employers are supposed to put sufficient money into a pension fund; the problem is they often don't. The gap between money put aside and money needed in the underfunded pension plans comes to an enormous $350 billion. When companies go bust, the Pension Benefit

> Guaranty Corp., the government-backed entity that insures pensions, gets saddled with plans that are in deficit. As a result, the PBGC itself has a deficit of 11.2 billion, which taxpayers may have to plug eventually. As more companies go bust, more of the $350 billion problem out there in the private sector will land on taxpayers' shoulders.
>
> Why do companies run these pension deficits? Because regulations perversely encourage them to do so. If a firm gives workers a pay raise, it will have to pay for that immediately; if it gives them an increase in their pension, accounting rules allow it to defer the cost into the future. This deferral is especially tempting for cash-strapped companies—which often means ones with a strong chance of going bust. Bethlehem Steel, for example, upped its pension promises and declared bankruptcy three years later. Wobbly companies that underfund their pensions would pay extra insurance premiums if the insurer were a private company. But the PBGC's rules do not allow it to price risk properly, adding a further incentive for shaky companies to hitch a free ride with the others.
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> There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence; labor leaders from those same firms lobby lawmakers in the same direction: nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.
>
> Yet taxpayer support for people in defined-benefit pension plans is a perverse notion. Fully one in two private-sector workers has no company plan whatever. Why should the less fortunate bail out the lucky ones?

Mr. McCAIN. Mr. President, the editorial goes on to say:

> There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence: labor leaders from those same firms lobby lawmakers in the same direction; nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.
>
> Yet taxpayer support for people in defined-benefit pension plans is a perverse notion. Fully one in two private-sector workers has no company pension plan whatever. Why should the less fortunate bail out the lucky ones?

Once again, Congress is poised to give another handout to certain airline, steel, and labor interests, regardless of the costs this could impose on the employees and retirees of these businesses and ultimately on American taxpayers. By allowing these entities to dig their already underfunded plans further into debt, we are creating a very real risk of defaults. When this occurs, the Federal agency that ensures private sector fixed benefit plans, the Pension Benefit Guaranty Corporation, or PBGC, will be the first to try to cover this liability. The PBGC itself is hugely in deficit and ultimately the American taxpayer is on the hook.

I join the PBGC in opposing this proposal that relieves severely underfunded pension funds of the obligation to make deficit reduction contributions, or DRCs, to catch up on their deficits. As the PBGC's director has said:

> Giving a special break to weak companies with the worst-funded plans is a dangerous gamble.

In a letter to the majority leader last week, the directors of the PBGC, Cabinet Secretaries Chao, Snow, and Evans, wrote:

> It would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic plan underfunding. If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

The Grassley, Baucus, Gregg, and Kennedy amendment does just that. In addition to being fiscally irresponsible, the amendment is grossly unfair, once again lavishing Federal largesse on selected industries and companies.

Explaining why the pension system is already in jeopardy, the PBGC directors wrote:

> The PBGC reported a record single-employer program deficit of $11.2 billion through the end of 2003, three times larger than any previously recorded deficit. Last year, the General Accounting Office added the PBGC's single-employer pension program to its "high risk" Federal program list. In addition, the PBGC remains exposed to $85 billion in pension underfunding in single-employer plans sponsored by financially weak employers. The PBGC also reported the first-multiemployer deficit in two decades.

As the Secretaries explained in another letter sent last November:

> The DRC rules were put into place to guard against the continuing deterioration of funding levels in underfunded plans. These rules were designed to protect participants' accrued benefits and the financial integrity of the pension insurance system. Suspension of the DRC rules would mean a significant further reduction in the resources available to meet the promises made to existing and future retirees. Moreover, suspending DRC rules would jeopardize pension funding in the future, as companies begin to fund their plans less prudently in anticipation of extraordinary relief from their contributions when the plans become underfunded.

Despite these warnings and a $400 billion gap between what companies have contributed to their pension funds and what they owe under their plans, why is the Senate ready to give companies whose pensions are severely underfunded a pass on their obligations to ensure their employees' retirement pay? Because, we are told, economic forces beyond anyone's control have come together to create a "perfect storm."

The extraordinary coincidence of low interest rates and a poorly performing stock market, proponents claim, has led to big losses and created a unique hardship for these companies' pension funds.

A look at historical contributions suggests, however, that the anomalous "perfect economic weather" of the last decade is as likely an explanation for the current sorry shape of pension plans as the "perfect economic storm." In the 1990s, record stock market returns allowed companies radically to reduce or simply not budget for pension contributions. Whereas single-employer pension contributions totaled $63 billion between 1980 and 1984, between 1990 and 1995 single-employer pension contributions amounted to only $26 billion.

Clearly, today's economic climate is not what it was in the late 1990s, and I do not question that many companies now face significant liabilities to their pension funds. I am not proposing that nothing be done, and the base bill, H.R. 3108, provides enormous relief to all pension funds by adjusting the way in which contributions and assets are calculated so as to reduce companies' obligations to their pension funds by $80 billion.

The Grassley, Baucus, Gregg, and Kennedy amendment, however, would give another huge break to a very select group of entities. Why, when companies' pension liabilities are so high, should we let a favored few walk away from their responsibilities to their employees and retirees? Why should the Senate permit these select entities to use money that should go to reduce their pension deficits for other purposes, and invite them to dig themselves deeper in the hole, especially when it is likely that the American taxpayers, many of whom have no pension plans, are going to have to bail them out?

We can talk about economic "perfect storms," interest rates, and bull and bear markets, but I hope that people understand that we are really talking about the ability of retirees to pay their heating bills, buy needed medicine and groceries, and visit their grandchildren. Even if, as I suspect the managers and union officials who support the amendment cynically calculate, the PBGC will assume pension liabilities if plan sponsors default, the benefits that participants will get from PBGC will likely be far less than what they were counting on receiving.

There is no doubt that current pensions laws are in desperate need of reform, but I don't support DRC relief in a vacuum.

The amendment contains yet another bailout of certain airlines, steel producers, and one apparently very special labor union. DRC relief is granted to these entities with no restrictions. Any other entity that wants to receive DRC relief has to show that it is able to meet its future contributions in a timely manner. Let me repeat that. Any other entity that wants DRC relief must show that it can make its future contributions. Certain passenger airlines, steel producers, and one union, however, get a DRC break, regardless.

Let us talk about the airline industry. I was one of the first people to support giving financial assistance to this industry in the aftermath of September 11. At the onset of the Iraq War, I supported, with some reservations, additional temporary relief to the industry. But here we are again facing another cry for help and an outstretched hand. Let us review the assistance to the airlines over the past few years.

After September 11, Congress provided to the airlines $5 billion in direct payments to compensate for losses stemming from the September 11 attacks; $10 billion in loan guarantees; Federal terrorism insurance; $68 million in reimbursements for increased insurance costs; and, liability protection against claims arising in connection with the September 11 attack.

Later in 2001, Congress provided that the Federal Government assume responsibility for security from the airlines.

In the legislation that established the Department of Homeland Security, Congress extended the terrorism insurance.

In the Iraq Wartime Supplemental Appropriations Act, Congress provided $2.3 billion directly to the airlines in the proportional share each carrier has paid the TSA or collected in passenger security and air carrier security fees, and suspended security fees from June 1 through September 30, 2003. This has been estimated to provide a savings of $700 million to airlines.

Congress has appropriated almost $200 million to reimburse airlines for hardened cockpit door installation.

In the FAA reauthorization bill that was just signed into law Congress once again extended terrorism insurance—through March 30, 2008.

I don't begrudge the airlines the assistance Congress has provided to date, and I understand that the industries' health is inextricably bound to the well-being of our economy. That said, I won't continue to support special aid to airlines without some accountability. We can't seem to go more than 6 months without the airline industry asking Congress for another handout. I have not doubt that they will be up here again soon asking for tax relief, relief from security fee obligations, or some other form of aid.

I urge my colleagues to stand up for workers and taxpayers, and against a bailout. Disregarding the interests of their employees and members, management and labor have joined in urging Congress to support the amendment by Senators GRASSLEY, BAUCUS, GREGG, and KENNEDY, that is premised on the hope that companies' currently inadequate pension assets will recover, not through contributions, but through rising interest rates and a robust stock market. I know the Super Bowl is coming up, but this "Hail Mary" pass is not the right move. Let us spend a little time crafting a true pension reform bill rather than simply rushing through a bill that will benefit a handful of coddled industries at the risk of workers and taxpayers throughout this country.

If, as I am afraid will happen, however, the amendment providing select DRC relief is adopted, and this folly is enacted into law, I would expect that companies and unions that avail themselves of this relief will freeze the compensation of their highest paid officials at the same time. If companies and unions determine that they cannot or will not make contributions to their severely underfunded pension plans and honor their obligations to their rank and file, they should not then turn around and increase the princely sums being paid to their top executives. We will be watching.

To reiterate, the airlines were major recipients of this pending amendment, the Grassley-Baucus-Gregg-Kennedy amendment. After September 11, Congress already provided the airlines $5 billion in direct payments to compensate for losses stemming from September 11, $10 billion in loan guarantees, Federal terrorism insurance, $68 million in reimbursement for increased insurance costs, and liability protection against claims arising in connection with September 11. Later, Congress provided that the Federal Government assume responsibility for security for the airlines. The list goes on and on about what we have already done for the airlines and now another bailout for the airlines. I really strongly object to the selectivity of this amendment and I don't know how you rationalize it.

I thank my colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, is there a time limit?

The ACTING PRESIDENT pro tempore. There is a time limit. The Senator has 9 minutes 42 seconds remaining.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I have an additional 5 minutes. Perhaps it has to be yielded to me by someone.

Mr. REID. Mr. President, I ask unanimous consent that the request be modified so that if someone from the majority wishes to speak for an extra 5 minutes after Senator BAUCUS, they be allowed to do so.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### WORKING FOR A BETTER AMERICA

Mr. BAUCUS. Mr. President, I simply wish to say thank you. I rise to say thanks to all my colleagues, particularly here in the Senate, my friends and family in Montana and across the country, my wife Wanda and my son Zeno, my mother, and so many others. Thank you for the best wishes, the get-well cards, flowers, phone calls, and e-mails for the past few weeks. It is astounding how much we do live in kind of a global village and how connected we are. I deeply appreciate the concern of so many of my very good friends.

A few weeks ago, I underwent surgery for a condition known as subdural hematoma which was the result of a fall I took in November while running in what is called the JFK 50 Miler in Maryland. You might ask, Why in the world would someone want to run 50 miles? I sometimes ask myself. Nonetheless, it was then that I took a fall, and as a consequence of that fall, I had this condition called subdural hematoma.

I must say I am very grateful to the doctors, nurses, and everyone who was very helpful. They have encouraged me to take my time. They didn't want me to do something stupid or dumb, or to get back to work too quickly. Unfortunately, as you well know, we have 24-hour news service these days. When I was at home, I had an extremely bad case of cabin fever. I could hardly wait to get back to work. The doctor said stay home. Wanda said stay home. My friends said stay home. So I stayed home for a little while.

In all seriousness, I am very delighted to be back in this Chamber and back in the Senate with all of you, doing what I love; that is, representing Montanans and working to make their lives better.

Following the surgery, I have been asked several times if any of this has changed my perspective. Does it give me pause? The answer, obviously, is that it does; clearly, it does. It gives you a deeper sense of perspective. It is humbling. I am sure the response would be different for different people, but for me, it caused me to just think a little more clearly and deeply about what we are all about and what we are doing.

I must say I think it has been very helpful. It makes one deeply appreciate what we have in life—our family, our friends, including our health. It also reinforces one's resolve. It makes you want to keep driving, pushing, working to create change and help people. You realize, even more, that we have only a finite amount of time here to get our work done. It subtly reminds you about the ever-daunting deadline that time imposes on all of us, the sense we have to get as much done as we can in the short time we have been given so as not to waste one day, an hour, or a minute.

It also reinforces what my Indian friends taught me so long ago in Montana—that we have a moral obligation to leave this place in as good or better shape than we found it, to pass on to our kids and our grandkids an America as great as our parents bestowed upon us.

It is written in Scripture that much is expected from those to whom much has been given. As Americans—particularly as Members of the Senate—we have been given an awful lot. We have a lot of work ahead of us.

That is why it is imperative we look to the example of leadership set by so many here in this Chamber—courageous yet humble leaders such as my friend and mentor, former majority leader of the U.S. Senate, Ambassador Mike Mansfield. I don't know of a more gentle, a more strong, or, in a sense, a more profound man than Mike Mansfield. He is a man to whom we should all look up for leadership and try to exemplify, although we may never get there, as much as possible.

We have a big year ahead of us. For my part, I will continue to work together with all of you—my distinguished colleagues on both sides of the aisle—to make America an even better place to live, to work, and to raise a family.

I look forward to passing a new transportation bill that will create jobs and ensure safety on our Nation's roads.

I look forward to reforming our pension system to ensure that workers and their families' life savings are protected.

I look forward to working with my good friend, chairman of the Finance Committee, Senator CHUCK GRASSLEY, to pass our JOBS bill, otherwise known as FSC/ETI reform, and to give a boost to domestic manufacturing and create jobs.

I look forward to working together to boost agriculture in our country and get international markets open to U.S. beef as soon as possible.

I look forward to cracking down on tax cheats. There are too many people who cheat Americans by breaking the law in our income tax code. I look forward to making a greater investment in education, something we do not do enough of in this Chamber.

I look forward to working together to curb the rising number of uninsured Americans. I was lucky. I had surgery performed by excellent people. I am fortunate enough to have good health insurance coverage. A lot of Americans do not. An event like this reminds us that the 43.6 million Americans who go without health insurance must have it. We in Congress, who do have the security of good health insurance, must do much more to assure that more Americans and soon all Americans have health insurance. We are not doing enough.

We tend to get all involved in lots of peripheral issues and not spend enough time on the core issues. I daresay that health insurance inadequacy, the cost of health insurance, is probably the first, second, and third most important issue facing Americans. We do not spend enough time on it.

We have an aggressive agenda before the Senate. It is up to us to fulfill the promises we made, set aside partisan differences, and work together—not talk about it but do it. Do what is right for America. Move our country forward. It is up to us to lead. People want Congress to do what is right. Most Americans are not partisan. They are not very rightwing or very leftwing. Most Americans are in the big middle. They want the Congress to do what is right. It is up to us to provide that leadership.

I say thank you. I deeply appreciate my colleagues in the Senate. It is my distinct honor and privilege to serve here.

I also will address the pension bill and the pending managers' amendment that will be before the Senate later today. First, I thank the chairman of the committee, Senator GRASSLEY, and also Senator KENNEDY, who gave some very kind remarks a few days ago, and Chairman GREGG for their collective persistence, determination, and their willingness to work together. Here is a good example of the two committees, the leadership from both committees on both sides of the aisle, working together to craft a very important piece of legislation. The amendment before the Senate is truly bipartisan. I also thank again Senator KENNEDY for managing the bill in my absence and I deeply appreciate his kind words on the floor a few days ago.

Now let me turn back to the pension bill and the managers' amendment. This legislation helps address the retirement security of literally millions of workers and retirees. It seeks to support the pension benefits they have earned and upon which they rely for their economic well-being. It is an important step to help preserve the embattled defined pension benefit plan. And it is embattled.

The security of our pension system is at stake. Daily we hear employers are dropping out of the defined benefit plan system. The reasons are simple. The defined benefit plans require a commitment on the part of the employer. This is a commitment many employers are no longer willing to make or can afford to make.

A recent survey found that 15 percent of the defined benefit plan sponsors have frozen plans since January 1, 2001. That means these plans will no longer allow workers to earn more benefits. Another 6 percent are actively considering freezing the defined benefit plans. This could mean that more than one in five employees earning a guaranteed retirement benefit will not earn future benefits.

We need to ask what caused this and what can we do. According to the survey, the most common reason for freezing the defined benefit plans is the cost—not just the total cost but also the volatility and unpredictability of the cost. It is one thing to have an obligation you can put in the budget projections. Businessmen love to know what is going on. We understand that. Then business can build a plan to meet certain obligations. It is another thing to have costs that vary wildly from year to year. You do your best to project these costs, but it is difficult. Having cash available for investment in growth and expansion is critical to a successful business. Fluctuating minimum contribution requirements make good business plans very difficult.

In the worst of times, a large unexpected contribution requirement can spell disaster. It can bankrupt an enterprise. That enterprise has to turn the unfunded pension liability over to the Pension Benefit Guaranty Corporation, known as the PBGC.

Last September, the Finance Committee marked up the National Employee Savings and Trust Equity Guarantee Act, a bill that includes a set of long-term funding changes to address the situation. That bill provides temporary relief for companies that are suffering. It provides a temporary substitute for the 30-year Treasury rate, similar to the provision in the amendment before the Senate today. It also provides temporary relief for the deficit reduction contribution for companies that were well funded in the year 2000. These provisions were designed to give companies relief from large contribution cash demands.

The Finance Committee bill includes provisions to allow companies to put more money into their plans when times are good, and the bill provides for long-term replacement of the 30-year Treasury rate with a yield curve, which is a conservative basis for liability measurement.

We need to look at long-term reforms such as those included in the Finance Committee bill. I hope we will do that later this year.

We have an immediate, more pressing need to deal with the problems we face today: low interest rates, the effects of recent market downturns, and the resulting high contribution requirements that companies will face if we do not take action today. Normally, low interest rates are good, but in this case they tend to exacerbate the problem with respect to defined benefit guarantee plans. Increased payments would have to be made as early as April 15. We must act quickly to provide the needed relief.

The pending managers' amendment has three important components to deal with the immediate problems we face. First, it substitutes the long-term corporate bond rate with a 30-year Treasury rate. Second, it provides partial relief from deficit reduction contributions from companies that did not make a deficit reduction contribution in 2000. And it provides temporary relief from experience loss amortization payments for multiemployer plans.

These are not long-term solutions. They will provide short-term relief from contribution volatility for employers who have been generous enough to provide defined benefit programs for their employees.

The more important factor in the health of the defined benefit system and of the PBGC, which guarantees the benefits of the system, is the health of the employers in response to the plans. The short-term relief provisions will help. The more employers who stay in the system, the healthier those employers and the stronger the system.

I look forward to working with my colleagues to come up with a long-term solution. But the provisions in this bill cannot wait. The retirement security of millions of workers hangs in the balance. I urge my colleagues to support this amendment.

## RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CRAIG).

## PENSION FUNDING EQUITY ACT OF 2003—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the time until 2:30 will be equally divided between the Senator from Arizona, Mr. KYL, and the Senator from Montana, Mr. BAUCUS, or their designees.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from Montana is otherwise occupied for the moment, so we are going to turn our attention, through myself and Senator KYL, to the legislation we are considering, which is critically important and which has to do with pension plans and offering predictable solutions.

There are many people who I would like to thank, but I will not do that because I only have 7½ minutes.

The legislation we are considering enacts critical reforms that will shore up defined benefit pension plans upon which so many Americans depend. Today, we are updating the interest rate that companies must use when they calculate the liabilities of their pension plans. An index of long-term corporate bond rates is surely more accurate as a measurement of expected investment return than the now entirely defunct 30-year Treasury rate.

This bill also provides a grace period for pension plans, including multiemployer plans, which have experienced extraordinary losses in the recent stock market declines. Make no mistake, if companies are not accorded reasonable flexibility in funding their plans, then they will not be able to maintain or afford plans for their workers, and their workers will hurt. I know of that because I live in a State where that surrounds me.

I hope today's action is only the first step in a thoughtful and careful process to provide meaningful reforms for the defined benefit pension plan system. Congress ought to do all it can to encourage employers to provide retirement security through such plans.

Today, only 35,000 companies provide defined benefit pension plans, which is less than a quarter of the plans available 20 years ago. That is a big loss. Given the volatility we have seen in the stock market over the last few years, more employees would benefit from having the opportunity to earn secure, predictable pension benefits.

I stand ready to work with my colleagues to address the other important issues facing companies that are interested in providing defined benefit pension plans. For example, Congress ought to reconsider the funding rules to ensure that companies are able to invest appropriately in their pension plans when business is good and profits are strong. We also need to consider ways to strengthen the Pension Benefit Guaranty Corporation which, to say the very least, is stretched dangerously thin.

I hope my colleagues will work with me on important reforms such as these so we can improve retirement security for millions of Americans. As I ask my colleagues to do exactly that, I remind them of the people who are dependent upon us. I have met with many West Virginians who have worked hard all of their lives—as they say, played by the rules—and earned pension benefits from their employers, only to have the rug pulled out from under them in retirement. It is a painful, painful sight.

Wheeling Pittsburgh Steel, Weirton Steel, Kaiser Aluminum, and Special Metals—and I am talking about companies in West Virginia—have been taken over by the PBGC in recent years. Retirees who dedicated their working years to those companies have told me how scared they are. Many have also lost their health insurance. Without their full pension benefits, they have no way to provide for their health care needs.

Some people—and I am talking about seniors who are 60 or 65 years old—have told me they are looking for work. Part of their so-called retirement will be spent on the job because the pension benefits they were promised—the benefits they did earn—have been taken away.

The legislation we are considering today will not solve all problems. More comprehensive pension reform is needed. But I am pleased this bill will help companies maintain pension plans that otherwise might have been canceled.

### AMENDMENT NO. 2234

I would also like to take a moment to address the amendment that has been offered by my colleague from Arizona. On behalf of the steelworkers of my State and the steelworkers of the State of the Presiding Officer, and on behalf of steelworkers across this country and many other hundreds of thousands of working people, I want to oppose the amendment that the Senator has offered.

The legislation that Congress is considering today is designed to help companies maintain critical pensions on which workers are depending. We are doing so to protect workers from losing benefits that they have been promised. We understand some companies, faced with particularly hard times, are unable to immediately make up the investment losses recently suffered by pension plans. If companies cannot afford to meet strict deficit reduction contribution requirements, they might be compelled to abandon pension plans and leave workers without secure retirement benefits.

Having said this, the Kyl amendment would dramatically decrease the security of hard-earned retirement benefits. The amendment fundamentally undermines the guarantee provided by the Pension Benefit Guaranty Corporation which insures the defined benefit retirement plans. Let me be very clear about that because the PBGC is, unfortunately, something that we know a great deal about in the part of the country I come from. I repeat, the Senator's amendment would dramatically decrease the security of hard-earned retirement benefits. It undermines the guaranteed portion of the Pension Benefit Guaranty Corporation. If Congress is going to change the guarantee provided by the PBGC, we must look for ways to improve the guaranteed benefit, not undermine it.

Hundreds of thousands of Americans currently depend on PBGC for their retirement security. These are people who toiled away for years, often in very dangerous occupations, in all kinds of them. It is absolutely essential that we do not erode the already inadequate guarantee that protects these workers in their old age. Retirees depend upon PBGC payments to pay for food, housing, and, increasingly, to cover health care costs when retiree health benefits have been reduced or eliminated, as is so often the case. It would be unconscionable for Congress to provide relief to cash-strapped companies to help them maintain the pension plans they offer, only to punish the employees of those companies by denying them the benefits they have earned.

I hope my colleagues will join me in standing up for workers and defeat this amendment.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Arizona.

Mr. KYL. Mr. President, it is my understanding that I have 7½ minutes to speak to the amendment which I have offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. KYL. Let me point out what we are doing here and then explain the very modest amendment I have offered which would not undermine the pension guarantee for employees.

The basic problem we have is that the Treasury note that was used to calculate the payments that companies make to the fund to guarantee pensions for their employees is no longer being issued, so some substitute had to be found. The underlying bill uses the 30-year Treasury note as that substitute. I think everybody agrees that needs to be done on a temporary basis.

There was a deficit created in the pension fund because companies were not paying in the appropriate amount during the period of time that the Treasury note was not being issued. As a result, the fund accrued a deficit. It is over $11 billion. So companies are being asked to pay in a deficit reduction contribution to make sure that the fund has the money that is required to ensure that employees will receive their benefits.

Ironically, it is the proponents of the amendment that are undercutting the fund because what they are saying is not everybody will have to pay their fair share into the fund to guarantee payments to employees; that for a couple of steel companies and a couple of airlines, they will not have to make the full deficit reduction contribution. Instead, in the first year, they only have to pay 20 percent of what is required. In the second year, they would only pay 40 percent of what is required. That, obviously, is going to mean, for those companies, they are not paying in what they should be to ensure that their employees are fully covered.

All my amendment does is say that given the fact that in this situation an employer is not paying in the full amount, the pension guaranty board should not be on the hook for benefits that are accrued just during this period of time. So what we say is that if a business takes advantage of this special rule, and if it fails during the 2-year period that this is in effect or 2 years thereafter, then all of the benefits that accrued during that period of time would not be guaranteed by the board. In other words, the corporation would have to hold harmless the pension guaranty board.

If we don't do this, then the prediction that the board members who are in charge made in their recent letter would potentially come true. The Pension Benefit Guaranty Corporation has three board members: The Secretary of Treasury, the Secretary of Commerce, and the Secretary of Labor. They wrote a letter to Leader FRIST on January 22 and this is among the things they said:

> We believe that H.R. 3108 would best protect pensions and pensioners if passed free of any provisions to alter the Deficit Reduction Contribution rules.

The underlying amendment does, in fact, alter the deficit reduction contribution rules.

> Specifically, it would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic pension plan underfunding.

Obviously, if you don't require all of the companies to pay in their fair share, you are, in fact, undermining the fund. They conclude by saying:

> If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

My point in mentioning this is to note that it may be that the amount of money we are talking about would not be interpreted as significantly underfunding. That would be the hope because if it would be, then I don't think any of us would be happy. But what I would suggest is that as a way of ensuring that the impact is minimized, my amendment should be adopted. It is very minimal. It simply says for those companies, if any, that choose to take advantage of this special waiver from the deficit reduction contribution, if they fail during this 2-year waiver period, then only the benefits that are accrued during that period would not be covered. That is to say, they would have to hold harmless the pension guaranty board for that amount of money.

The reason is obvious: They are not paying in. They should not receive the benefit of the guarantee. If they want to receive the benefit of the guarantee for those benefits, then pay in their fair share. Obviously, they are totally covered for all of the benefits accrued up to that date because they paid in up to that date. So we are basically saying: If you choose as a corporation to take advantage of this waiver and not pay in what everybody else has to pay in, you should be on the hook for that amount of money. You should not ask the taxpayers or your rivals in business, your competitors, or the board to try to make up that difference.

The reality is, we are not talking about a great deal of money. The principle is important and would help to make this underlying amendment a little bit more palatable to some of us on this side and to the administration.

I yield to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want my colleague from Arizona to listen. If I misstate this, I hope he will correct me. I urge our colleagues to vote in favor of the Kyl amendment.

The Pension Benefit Guaranty Corporation is in trouble. It guarantees pensions, both single-employer plans and multiemployer plans, and it doesn't have enough money to provide the guarantees that it has already made.

So there is a catchup provision that says, well, you should pay up; you should help. This bill we are getting ready to pass is going to make it easier on some companies—airlines and steel—so they don't have to pay as much on the catchup. The Senator's amendment says if those companies grant additional benefits, i.e., increased pensions, and if they go upside down—declare bankruptcy—PBGC will not be held for any incremental benefits increase during this 2-year period of time; is that correct?

Mr. KYL. Mr. President, if I may correct one aspect. Theoretically, a new employee would be a new benefit, but the reality is that since the accrual or the benefit is usually a 3- to 5-year time period, new employees would not in fact be covered.

Mr. NICKLES. If the Senator will yield further, you want to make sure people are not receiving additional pension changes, i.e., increasing benefits by 10 percent for all covered employees?

Mr. KYL. Mr. President, that is one of the purposes of this. To be clear, technically, a new employee would be counted, but since the benefits don't accrue for 3 to 5 years anyway, it probably would be de minimis.

I urge my colleagues to support the Kyl amendment.

The PRESIDING OFFICER. All time has expired.

Mr. ROCKEFELLER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No.

Mr. ROCKEFELLER. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the Kyl amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "nay."

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the

Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 25, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—67

Akaka
Alexander
Allen
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Byrd
Cantwell
Carper
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Grassley
Gregg
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lugar
McConnell
Miller
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Roberts
Rockefeller
Sarbanes
Schumer
Shelby
Smith
Specter
Stabenow
Stevens
Talent
Voinovich
Warner
Wyden

NAYS—25

Allard
Bunning
Burns
Campbell
Chafee
Cornyn
Craig
Crapo
Dole
Ensign
Fitzgerald
Graham (SC)
Hagel
Hutchison
Kyl
Lott
McCain
Murkowski
Nickles
Reid
Santorum
Sessions
Snowe
Sununu
Thomas

NOT VOTING—8

Baucus
Biden
Chambliss
Edwards
Inhofe
Kerry
Lieberman
Mikulski

The motion was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, could I have the attention of the chairman of the Finance Committee? Would the Senator enlighten us as to what he expects as far as when we are going to complete this legislation? As the Senator well knows, we have been on it Wednesday. Wednesday afternoon, Thursday afternoon, Friday, Monday, and today. We have had one amendment. I know we are going to run into all kinds of problems later on in the session about time, and I was just wondering what the leadership intended to do on this bill.

Mr. GRASSLEY. We hope to work out agreements on all of the remaining amendments yet today and then have a vote tomorrow and close down very shortly because of weather.

Mr. KENNEDY. Fine. I do not believe there are any amendments on this side.

Mr. GRASSLEY. There is one more on this side.

Mr. KENNEDY. Fine. I look forward to working with the chairman. We are together on this.

Mr. GRASSLEY. Yes.

Mr. KENNEDY. As a matter of interest, Members on our side have inquired about how we were going to proceed on the legislation. I wanted to give them some opportunity. I thank the Senator.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, over the past few days we have had a good debate and discussion of the challenges facing the defined benefit pension plan system. I thank my colleagues for engaging with us on these issues that are so vital to the well-being of American workers and their families.

As I and others have mentioned, defined benefit pension plans provide a greater certainty and greater security to retirees. Every American deserves this kind of security in his or her old age in terms of retirement. There are savings, which are so important, Social Security and pensions. We have seen savings reduced significantly with our economic downturn and we have also seen the pensions of so many of our citizens threatened.

This legislation is designed, as pointed out earlier, to try to deal with a particular challenge in a temporary way until we can reach a final determination on how we are going to proceed. But it is absolutely essential.

This week we have taken the first important step to stabilizing our Nation's pension plans, which have been battered by a perfect storm of economic conditions over the last 3 years.

I again thank Chairman GRASSLEY, the ranking minority member, Senator BAUCUS, as well as our HELP committee chairman, Senator GREGG, for working with all of us to develop a moderate bipartisan measure to address the pension system's short-term problems. This amendment does not weaken the existing funding bill. It simply provides temporary, moderate relief to give companies and workers the breathing room needed to take steps to further protect these pension plans. We must take advantage of this time to improve and expand our pension system.

More and more American workers are finding themselves without a pension. Since 2000, 3.3 million Americans have lost their pension coverage. In 2002, only 53 percent of our Nation's workers were participating in retirement plans—the lowest level in over a decade. Only one in five workers today has a secure defined benefit plan.

This drop in pension coverage is part of an overall decline in the quality of jobs and the quality of benefits that American workers are receiving. American workers are working harder than ever, but they are getting less and less for their effort.

I want to take a few moments here on the floor of the Senate to remind our friends and colleagues what the real state of the union is with regard to workers in our country at this time.

As recently as today, there were statements and comments by the chairman of the Federal Reserve. On CNN, they asked the question: Do you agree with Federal Reserve Chairman Alan Greenspan's comment that new jobs will replace old jobs as they always have?

We could ask that in this Chamber. I wonder what the answer would be. The American people get it—certainly the viewers of CNN do. This is nonscientific, but it is a reaction. Those who believe Mr. Greenspan was right were 11, and those who believe he was wrong were 89 percent.

Americans are getting it. They are understanding it.

The Federal Reserve Bank publication Economics and Finance, last summer said—I will include the appropriate references—that the downward turn in the mid-1970s and early 1980s shows an even mix of cyclical and structural adjustments—those who lost their jobs as temporary workers and who lost their jobs which are more permanent in nature. During these episodes, half the unemployment was structural and half was cyclical. The pattern changed in the early 1990s when industry was undergoing structural adjustments and increased its share of total employment to 57 percent.

The greatest change, however, is apparent. In the 2001 downturn, 79 percent of the employees worked in industries affected more by structural shifts than by cyclical shifts. That means, in simple language, those who responded to the CNN poll understand that 80 percent of the jobs that are lost today are permanently lost. This has to be a major concern.

This chart indicates that the Federal Reserve reports the Bush job loss is permanent. In the 1950s, the permanent job loss was 51 percent; in the 1980s, again 51 percent; and, early 1990s, only 57 percent. Now, there is an 80 percent permanent job loss—the first time in the history of this country.

There is a report from the Department of Labor which shows that 36 States have lost jobs since President Bush took office, and 27 States lost more jobs in the last month alone. The rate of job loss in my State of Massachusetts since President Bush took office is higher than in any other State.

I say to the Chair, my friend and colleague from Rhode Island, I doubt if

Rhode Island is very far behind. Over the last 3 years, 193,000 jobs disappeared, and 200,000 Massachusetts residents are currently unemployed. In Massachusetts, 2,500 workers a week are running out of benefits because our Republican friends and the Bush administration refuse to extend the unemployment compensation temporarily for 13 weeks to permit these families to pay a mortgage and to put food on the table. These workers have paid into the fund. The fund has $17 billion in surplus. The cost of this legislation for 13 weeks is $7 billion. But no.

Look at what the President of the United States said at the time of his State of the Union. He said, "This economy is strong and growing stronger." Applause. And then he said, "Jobs are on the rise." Applause.

That really defies the facts and reality in terms of what is happening across the United States in terms of real jobs.

I referred previously to the excellent article and report of just last Friday. This information is current. These figures are current with regard to my own State of Massachusetts. The statement of the chairman of the Federal Reserve is current. The study of the Federal Reserve is current.

Here is the Wall Street Journal pointing out that the gap in wages and equality is growing for U.S. workers. The gap between the highest and lowest earners in America is widening again, with election year ramifications. The trend is a reflection of the job market. The exceptionally weak response to the current economic recovery as well as the long-term technological and economic changes have eroded the bargaining power of America's lowest paid workers. Data show that younger workers, who currently have fewer job prospects than a few years ago, in particular are bearing the brunt. The numbers indicate a movement to greater wage inequality around the time President Bush succeeded President Clinton.

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The disparity started under President Bush with the economic slide into recession 3 years ago. The trend represents a reversal of the late 1990s when the lowest rates in a generation enabled the lowest paid workers to keep pace with those at the top. Mr. President, we will look at the jobs referred to in the President's State of the Union. He talked about these jobs as being on the rise.

Look at this chart. This refers to what is happening in the job market.

The late 1990s, 1998 to 2000, all the fourth quarter—the same quarter we were coming out of the recession—for every job that paid $16.31, the new job paid $18.32, a $2 bonus. Lost your job? Get a new job and get better pay. This is the average of all the new jobs.

What is it today? Under the Bush recovery, for every job that was paying $16.92, the replacement job is $15.65—22 percent nationwide; 35 percent in the State of New Hampshire where so many of our friends and colleagues are today. No wonder the citizens of New Hampshire are concerned about the state of the economy, the cost of tuition, and the cost of health care.

Look what is happening in the industries across the country at the point of hiring. We find workers are working harder, working longer, and they are making less. This is the real state of the Union.

This chart shows nationwide only two States—Nebraska and Nevada—have actually increased employment and had a pay increase over the employment figures when the President took office. Every other State has seen a decline.

How does the recovery stack up with other recoveries, the last nine recoveries, going back to 1949? This chart compares the constant quarter used when the recession ended. What happened to wages? Going back to 1949, they went up 16 percent; 10 percent in 1954; 10 percent again in 1958; in 1961, 7.9 percent; 9.2 percent in 1982; 1991, 6.1 percent; and 2001, 1.58.

That is what is happening out here among workers in the workplace. No wonder, as CNN reported last week, that American workers are finding themselves competing with cheap foreign labor just to hold on to their jobs. They are overwhelmed because they feel as if forces way beyond their control are making decisions that affect their lives. They are exhausted because they are working harder and longer and faster just to stand still.

Who is making out with this recovery? This chart compares the recovery in the 1990s and the recovery today. In the Bush economy, corporate profits ballooned compared to workers' wages. With the recovery in the early 1990s, 60 percent of the new economic activity was reflected with 60 percent going to the workers' wages; with the recovery in the 1990s, 40 percent went to corporate profits. With today's recovery, 86 percent goes to corporate profits and 13 percent goes to the workers in this country.

Talk about disparity. Talk about fairness. What is going on is the most dramatic change and shift in recent history in terms of the relationship between the profits and what the workers are earning.

That is absolutely wrong. The results are dramatic. In the year 2000, there were 31 million Americans living in poverty. Today, there are 34 million Americans living in poverty, according to the Department of Commerce.

It is not just what is happening in the job markets; it is happening in health care costs. We see this in the most recent Time magazine. February 2, "Why Your Drugs Cost So Much More." The report shows Americans spent $162 billion on prescription drugs in 2002, up from less than $100 billion a decade ago.

Health care spending continues to rise; 9.3 percent in 2002, according to the trade journal Health Affairs. That is the largest increase in 11 years. Employers tighten coverage to cut costs; consumers are more resentful of what they are paying at the drugstore. While prescriptions represented only 10 percent of the total health care costs in the United States in 2002, they amount to 23 percent of the out-of-pocket costs for the consumer.

We passed a drug bill last fall. One would think we would look at coverage and try to do something about costs. No way. Written into that, behind closed doors, were the provisions that this Bush administration and the Republicans prohibited the Secretary of HHS to be able to bargain with the drug companies in order to see some reduction. The Secretary for Veterans Affairs can do it and it means a 47-percent reduction for veterans' prescription drugs. But this was prohibited in the legislation.

Hopefully in this Congress under the leadership of TOM DASCHLE and Congresswoman PELOSI, we will address what is happening with health care costs. Prescription drug costs are a special problem because the cost of prescription drugs is out of control. We have to do something for our fellow Americans, primarily our seniors but for others as well, and about the costs of health care generally.

Workers are working harder, longer, and for less. They are worried about their health care. The costs are going through the roof, with very little insight to get a handle on that cost.

We look not only at what workers are looking for in terms of their costs for health care and the costs of health care for their parents. Look at the costs of college education. This chart is a comparison of tuition at a 4-year public university: it was $3,700 in 2001–2002; now it is $4,700. That's a 26-percent increase since 2001.

How can average working families afford to send their child to school? How do they afford their health care costs, their prescription drug costs, their tuition?

Look what has happened to wages—nothing. That is the real state of the Union, not this "jobs are on the rise, and the economy is strong and getting stronger."

This is the description of what is happening out there to American workers. What is the answer of this administration? We say, with regard to the lowest workers, let's see an increase in the minimum wage.

The minimum wage has not been increased in 7 years. By the end of this year it will be at its lowest purchasing power, in real terms, in the history of the minimum wage. We say: Let's get an increase. There is a majority of the Members in this body who would vote for an increase in the minimum wage, and we have been prohibited from getting it because the Republican leadership will not let us get a vote on the issue.

Seven million Americans are entitled, when they are working 40 hours a week, 52 weeks a year, not to have to live in poverty. That is what we believe on this side. We challenge the other side to give us an opportunity to let the Senate express itself.

We have the second issue that I have mentioned, unemployment compensation. Mr. President, 90,000—think of that number of people—90,000 individuals a week are losing their unemployment compensation. I do not know how those families do it. How does a father and mother come back and look into the eyes of their children when they lose that unemployment compensation, having worked hard all of their lives, paid into the fund, and it is suddenly gone? And they cannot find a job because we are in a jobless recovery. As the figures show, in the last month, this administration said there would be 300,000 jobs. There have been 1,000 jobs created. It is a jobless recovery.

How do those parents deal with it? How do those children react? That is what is happening. Now we cut away their lifeline, the temporary unemployment compensation. No, you cannot have it. You cannot have an increase in the minimum wage to provide some relief. And that is a family value issue because most of those who work for the minimum wage are women, and many of the women have children. It is a family issue, a children's issue, a women's issue, a civil rights issue, a fairness issue. Yet we cannot have a raise in the minimum wage. We cannot have an extension of unemployment benefits.

Beyond that, we are going to stick it to 8 million Americans in denying them overtime. We had the debate on that earlier, that proposed regulation by the administration to restrict overtime coverage for 8 million Americans. It was rejected here under the leadership of my friend and colleague, Senator **HARKIN**. It came up in the House of Representatives. It was rejected there. Then those provisions rejecting this regulation were stripped out of the omnibus bill behind closed doors in the middle of the night.

That is unfair to a number of different professions. It is unfair to nurses, firefighters, and police officers. They are the backbone of homeland security. But it is unfair to others as well, including many professions which have predominantly women in them. It is very unfair to working women.

The cruelest part of this whole proposal was the part of the regulations that said if service men and women, when they are over in Iraq defending this country, and Afghanistan or other parts of the world, got a little specialized training, when they come back and take a job, if they had that specialized training, they would not be eligible for overtime.

Can you imagine that? We use these training programs as an incentive for people to go into these services. I have asked on the floor and would love to see the exchange of information between the Secretaries of Labor and Defense on that issue because this is a major incentive—training programs, education—for young people who perhaps do not have the resources to be able to go on to college and do not want to be a burden on their parents. They go into the service—proudly go into the service—and wear the uniform of our country, and defend our country, but they also try to get that help and assistance in the form of training and education.

I will end on this issue with this letter from Randy Fleming, a veteran, and what this proposal would mean to veterans. He is a Boeing employee worried about losing his overtime. This is what his letter says:

> My name is Randy Fleming. I live in Haysville, Kansas—outside Wichita—and I work as an Engineering Technician in Boeing's Metrology Lab.
>
> I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.
>
> I've worked for Boeing for 23 years. During that time I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.
>
> First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.
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> The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10% or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help her get her college degree, too, when that time comes. For my family overtime pay has made all the difference.
>
> That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man, and a veteran. That issue is overtime rights.
>
> The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought they could count on.
>
> When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay. You've heard of the marriage penalty? Well I think that what these new rules do is to create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra.
>
> If that's not bait and switch, I don't know what is.
>
> And I don't have any doubt that employers will take advantage of this new opportunity to cut our overtime pay. They'll tell us they have to in order to compete. They'll say if they can't take our overtime pay, they'll have to eliminate our jobs.
>
> It won't be just the bad employers, either—because these rules will make it very hard for companies to do the right thing. If they can get as many overtime hours as they want for free instead of paying us time-and-a-half, they'll say they owe it to the stockholders. And the veterans and other working people will be stuck with less time, less money, and a broken deal.
>
> I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.
>
> And for all those who want to let these military penalty rules go through, I have a deal I'd like to propose. If you think it's okay for the government to renege on its deals, I think it should be your job to tell our military men and women in Iraq that when they come home, their service of their country will be used as a way to cut their overtime pay.

You can't say it any better than that. And the cruelest part of it all is that the Labor Department puts out a publication to show employers how to go about cutting his overtime pay.

Mr. President, just finally, I want to make mention of something we ought to be concerned with—and we ought to be concerned about all workers—but it just came to my attention that the administration's overtime proposal will affect the U.S. Capitol Police.

The Capitol Police was first created in 1828 with the sole mission of providing security for the U.S. Capitol Building. These dedicated officers protect our lives, the lives of our staff, and the security of the Nation's Capitol every single day.

Nearly 2,000 officers are responsible for these duties, and hundreds of them could lose their overtime pay under the Bush plan.

After September 11, many of these officers worked around the clock to secure our safety. During the anthrax attacks, the officers dedicated hours and hours away from their families to secure the Capitol against further biochemical attacks.

If you walk through these halls, you can hear the buzz among these officers: Are we going to be affected by this overtime proposal? How could they do this to us?

Rhode Island is very far behind. Over the last 3 years, 193,000 jobs disappeared, and 200,000 Massachusetts residents are currently unemployed. In Massachusetts, 2,500 workers a week are running out of benefits because our Republican friends and the Bush administration refuse to extend the unemployment compensation temporarily for 13 weeks to permit these families to pay a mortgage and to put food on the table. These workers have paid into the fund. The fund has $17 billion in surplus. The cost of this legislation for 13 weeks is $7 billion. But no.

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You can't say it any better than that. And the cruelest part of it all is that the Labor Department puts out a publication to show employers how to go about cutting his overtime pay.

Mr. President, just finally, I want to make mention of something we ought to be concerned with—and we ought to be concerned about all workers—but it just came to my attention that the administration's overtime proposal will affect the U.S. Capitol Police.

The Capitol Police was first created in 1828 with the sole mission of providing security for the U.S. Capitol Building. These dedicated officers protect our lives, the lives of our staff, and the security of the Nation's Capitol every single day.

Nearly 2,000 officers are responsible for these duties, and hundreds of them could lose their overtime pay under the Bush plan.

After September 11, many of these officers worked around the clock to secure our safety. During the anthrax attacks, the officers dedicated hours and hours away from their families to secure the Capitol against further biochemical attacks.

If you walk through these halls, you can hear the buzz among these officers: Are we going to be affected by this overtime proposal? How could they do this to us?

Not every officer would be affected, but many with the specific duties listed in the Bush proposal could lose their overtime protections. Denying overtime protections to even one Capitol Police officer is too much.

Sergeants and other officers who spend most of their time on nonmanagerial activities but who supervise two other officers could lose their overtime protection.

And for the first time in the history of the Fair Labor Standards Act, nearly 40 percent of the Capitol Police force—those earning above a certain amount who meet just one of the exemption criteria—will not have access to overtime protections.

Well, this is where we are. We want to give the assurance to the American workers, to their families, to parents and their children that we are going to battle.

We are going to battle to make sure this administration doesn't implement those overtime rules. We are going to battle every moment we have, every opportunity we have, to extend unemployment compensation. And we are going to battle time and time again to increase the minimum wage. Let there be no mistake about it. It is going to come up in the Senate time and time and time and time again, until we provide some justice for workers in America.

### AMENDMENT NO. 2264 TO AMENDMENT NO. 2233

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purpose of offering another amendment that has been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I send an amendment to the desk on behalf of Senator NICKLES and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. NICKLES, proposes an amendment numbered 2264 to amendment No. 2233.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate with respect to the status of private pension plans)

At the appropriate place, insert:

**SEC. . SENSE OF THE SENATE ON STATUS OF PRIVATE PENSION PLANS.**

(a) FINDINGS.—Congress makes the following findings:–

(1) The private pension system is integral to the retirement security of Americans, along with individual savings and Social Security.

(2) The Pension Benefit Guaranty Corporation (PBGC) is responsible for insuring the nation's private pension system, and currently insures the pensions of 34,500,000 participants in 29,500 single-employer plans, and 9,700,000 participants in more than 1,600 multiemployer plans.

(3) The PBGC announced on January 15, 2004, that it suffered a net loss in fiscal year 2003 of $7,600,000,000 for single-employer pension plans, bringing the PBGC's deficit to $11,200,000,000. This deficit is the PBGC's worst on record, three times larger than the $3,600,000,000 deficit experienced in fiscal year 2002.

(4) The PBGC also announced that the separate insurance program for multiemployer pension plans sustained a net loss of $419,000,000 in fiscal year 2003, resulting in a fiscal year-end deficit of $261,000,000. The 2003 multiemployer plan deficit is the first deficit in more than 20 years and is the largest deficit on record.

(5) The PBGC estimates that the total underfunding in multiemployer pension plans is roughly $100,000,000,000 and in single-employer plans is approximately $400,000,000,000. This underfunding is due in part to the recent decline in the stock market and low interest rates, but is also due to demographic changes. For example, in 1980, there were four active workers for every one retiree in a multiemployer plan, but in 2002, there was only one active worker for every one retiree.

(6) This pension plan underfunding is concentrated in mature and often-declining industries, where plan liabilities will come due sooner.

(7) Neither the Senate Committee on Finance nor the Senate Committee on Health, Education, Labor and Pensions (HELP), the committees of jurisdiction over pension matters, has held hearings this Congress nor reported legislation addressing the funding of multiemployer pension plans;

(8) The Senate is concerned about the current funding status of the private pension system, both single and multi-employer plans;

(9) The Senate is concerned about the potential liabilities facing the PBGC and, as a result, the potential burdens facing healthy pension plans and taxpayers;

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance and the Committee on Health, Education, Labor and Pensions should conduct hearings on the status of the multiemployer pension plans, and should work in consultation with the Departments of Labor and Treasury on permanent measures to strengthen the integrity of the private pension system in order to protect the benefits of current and future pension plan beneficiaries.

Mr. GRASSLEY. Mr. President, as I indicated, this amendment has been cleared on both sides. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 2264) was agreed to.

Mr. GRASSLEY. Mr. President, there have been some inquiries about other amendments. We have some other amendments on which we are working. I will file them. Then I believe that would be the end of consideration of this legislation today. I will come back later on to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I would like to offer a comment or two about the legislation before us and express my thanks to two Members of the Senate who have been very involved in shaping this legislation, Senator GRASSLEY and Senator KENNEDY. I thank them for the work they have done.

There is a lot of concern in this country about the exodus of manufacturing jobs and technology jobs. The legislation before us is a thoughtful, timely response to a number of employers, large and small, who are concerned that unless we address this problem with respect to selecting an appropriate successor to the 30-year Treasury bond, an appropriate measure to determine what magnitude of money should be contributed to pension funds, we are going to otherwise increase the exodus of jobs, manufacturing and otherwise.

We are doing good work. My hope is we will be able to finish this legislation this week and get on with our business and allow employers to get on with theirs.

### ENERGY EFFICIENCY FOR AIR CONDITIONERS

Mr. CARPER. Mr. President, about a week or so ago I learned that a U.S. circuit court of appeals, I believe for the Second District, had released a decision that is a major victory for energy efficiency. It offers significant savings for consumers of electricity. It is important for our Nation's energy future. Finally, it will help to improve the quality of air we breathe.

Let me take a moment to talk more about this decision and its impact. To provide a bit of background, among the U.S. Department of Energy's responsibilities is to establish energy efficiency standards for electrical appliances. Central air-conditioners, the type that cool most of our homes and offices, must meet the appropriate seasonal energy efficiency rating, better known as SEER. During warm summer days—which seem a long way away now—central air-conditioners account for more than half of the electricity we use. Increasing the efficiency of these necessary modern comforts will result in significantly less stress on our Nation's electricity grid and reduce the occurrence of blackouts.

According to the Alliance to Save Energy, requiring energy-efficient air-conditioners would avoid having to construct as many as 48 new electric powerplants over the next 16 years. It would also result in less greenhouse gases and harmful air pollution being released into the atmosphere because of reduced electricity demand.

Some of you may recall at the close of the Clinton administration, after exhaustive research, review, and comment, the Department of Energy set forth a new standard known as SEER 13. In doing so, the Energy Department directed that central air-conditioners, sold beginning in 2006, would need to be 30-percent more energy efficient than those currently available.

Unfortunately, that standard was withdrawn a couple of years ago when the current administration took office. That standard was replaced with a less efficient, less rigorous requirement. The revised standard, known as SEER 12, would have required just a 20-percent increase in energy efficiency.

In response to the administration's actions, 10 States, several consumer groups, and the Natural Resources Defense Council filed suit at that time in an attempt to overturn this weakened standard.

It was 2 years ago, as the Senate was beginning to consider the Energy bill, that I was encouraged that the legislation we are considering should have restored the higher SEER 13 standard originally embraced by the Clinton administration. Unfortunately, that language was removed during the debate on the bill and the weaker SEER 12 standard was allowed to stand.

Last year, I discussed options for reinstating the higher SEER 13 standard but decided to hold off until the pending court case was decided. As I said, I was gratified to learn last week that the U.S. Circuit Court of Appeals for the Second Circuit had decided in favor of the original, more rigorous standard. The court's decision means that consumers will be able to purchase energy-efficient air-conditioners that could cut electricity bills for them by over $1 billion per year. The administration could decide to appeal the court's decision to the Supreme Court. I urge them today not to do so.

As we debate again and again the future of energy policy, this court decision is one that should be embraced and encouraged, not appealed. We should take every opportunity to increase our energy security. This is one of those opportunities.

I yield the floor and thank Senator DURBIN for his consideration.

The PRESIDING OFFICER. The Senator from Illinois.

### CBS REJECTION OF MOVEON.ORG AD

Mr. DURBIN. Mr. President, I thank the Senator from Delaware for his statement and for holding to the time limit he promised. He is a man of his word.

Recently I learned that the CBS television network, which claims to be the No. 1, most-watched network, with more than 200 affiliated stations, rejected an ad for its upcoming Super Bowl broadcast that will be on Sunday. CBS's explanation for rejecting this ad was that their network prohibited the showing of advertisements that take stands on controversial public policy issues.

So what was this controversial, dangerous ad which CBS is protecting American viewers from watching? Well, it was an ad sponsored by a nonprofit organization called MoveOn.Org. You can find it on your Web site at MoveOn.Org. You can see the ad. This 30-second ad shows several children working unhappily in a variety of grownup jobs.

When you go to the Web site and bring up this ad, you can see a little girl cleaning the floor of a commercial building with music playing in the background, a boy washing dishes at a restaurant, another youngster working on an assembly line in a factory, another fixing tires at an automobile shop, and another collecting trash for the back of a truck.

The ad ends with this line:

> Guess who's going to pay off President Bush's $1 trillion deficit?

That is the controversial ad. The ad that CBS doesn't want America to see, which those who are following this debate can go to MoveOn.org/cbs/ad and see this "dangerous," "controversial" ad that crosses the line, an ad which CBS is going to protect the American people from even getting a chance to see. These are some of the still photos from that ad showing kids in working situations, and closing with one short tag line:

> Guess who's going to pay off President Bush's $1 trillion deficit?

CBS is afraid of this ad. They are afraid if the American people see it, they would be so caught up in the controversy of this ad, it would just be unfair.

Is it controversial? Is this ad too hot for network TV? Would America be traumatized and changed forever viewing this dangerous, controversial, 30-second ad? Well, clearly not. This ad makes two factual assertions every American knows to be true. First, it says we are facing a growing national debt, a debt exceeding $1 trillion, which has to be paid off by future generations. Guess what. Those future generations are going to be comprised of our children.

Second, in those few words at the close of the ad, it says President Bush and his administration have to accept responsibility for creating this debt—a fact President Bush's own budget documents readily admit, a fact substantiated by President Bush's programs of tax cuts for the wealthy. Everybody with even a short-term memory recalls that only a few years ago we were dealing with a budgetary surplus under the Clinton administration. Now we are deep in historic debt year after year after year during the Bush administration. To argue the Bush administration's hands are clean when it comes to America's debt defies common sense and history. So what is so controversial about these unambiguous facts that our children will be inheriting a large national deficit created since the time President George W. Bush took office? Since when has stating the truth—and obvious truth at that—turned out to be too controversial for America to witness?

Think about it for a moment. CBS was the network, 30 years ago, that dared to put on a sitcom called "All in the Family." In that sitcom about a blue-collar, opinionated, rough-talking guy named Archie Bunker, we heard the reality of a family saying some things which, frankly, we had never heard before on television. Can you imagine if these timid souls running from controversy at CBS today were asked to look at a pilot for a sitcom with Archie Bunker? Frankly, I guess they would force Archie Bunker to wear a suit and tie and call Meathead his beloved son-in-law. Otherwise, it just might be too controversial, too risky for the American people.

Maybe controversy is in the eye of the beholder, and the eye of CBS now runs from controversy. Or maybe there is another dynamic at work. Maybe network executives at CBS are so afraid of political pressure from the rightwing and their business advertisers who are in league with the rightwing politics of America that they are afraid to put anything on the air that might in fact make things uncomfortable. If that is the case, it is time for CBS to announce the name of their network is the "conservative broadcasting system" and come clean with American viewers.

Look at the record, though. CBS has run controversial ads, many of which were good for America to see. Ads sponsored by the White House Drug Control Policy Agency confronted a tough issue, maybe in controversial terms to some, but ads that were important. The White House Drug Policy ad that ran during last year's Super Bowl accused American drug companies of directly supporting international terrorism that led to the taking of lives of American citizens. Risky, edgy, controversial? Yes. Did we have a right to see that as Americans? You bet we did.

Why was CBS ready to run those ads a year ago, but won't let MoveOn.org address the issue of the debt of America that will be borne by our children? CBS also runs ads by tobacco companies and antismoking groups to advocate viewpoints on health. In fact, they are scheduled to run during the Super Bowl—ads from two different groups, which are the American Legacy Foundation and Phillip Morris, which are basically antismoking adds. I fully support these ads. Some may view them as controversial. But so what. If these airwaves are truly the realm of the public to learn, why do we run away from a controversial ad even if it relates to a public health policy some disagree with?

CBS also routinely runs a whole range of controversial, if not downright offensive, ads during the Super Bowl. We have seen that CBS has no qualms about running ads featuring comely young women mud wrestling while a couple of beer-drinking fellows look on. Controversial? Perhaps to some, but they will run those ads. It appears CBS executives consider it important to run not one, two, but three separate ads promoting drugs for sexual dysfunction during the Super Bowl. They believe in a national debate on such sexual problems is more important to the public interest than a discussion about the future of this Nation. In the CBS eye, sexual dysfunction is a topic families with children can watch. But budgetary dysfunction, which our children will pay for, is just too controversial, too hot to handle.

So how does CBS define controversial content? Let's take a look at what goes into their thinking. Remember the series on President Ronald Reagan? The CBS executives did a complete reversal overnight and pulled the plug on the miniseries, "The Reagans," after spending millions of dollars producing it. We learned that the decision was made after conservative Republicans barraged the boardroom and executives and said we cannot run this, even though we have not seen it. In fact, CBS caved in, without the public ever having seen one single episode.

These are the same executives at CBS, incidentally, who, during 1999 and 2000 gave 98 percent of their soft money political contributions to the Republican Party. They decided this MoveOn.org ad, which just might raise a question about President Bush's policies leading this Nation, and the deficit and debt our children face, those same CBS executives said we don't think we ought to step into this controversial area.

The major pharmaceutical companies, which will be running ads on three different sexual dysfunction drugs during the Super Bowl, have also been consistently placed among the five top spenders on lobbying the Republican Congress and in soft money and PAC contributions to Republican candidates.

Now let's connect all the dots because there is something more direct and topical behind this CBS decision, from my point of view. These are the same executives at CBS who successfully lobbied this Congress to change the FCC rules on TV station ownership to their corporate advantage. The provision that was sneaked into the Omnibus appropriation bill that passed last week and has been signed by the President. It establishes a new ceiling of 39 percent as the maximum percentage of American TV viewers in a market that may be reached by TV stations owned by any one company. Remember that number, 39 percent.

Before the FCC adopted rules in June to raise the cap to 45 percent, the cap was limited to 35 percent. Upset at what the FCC had done, a strong majority in the House and Senate agreed to roll back the FCC rule and take it back down to 35 percent. Why is this important? The White House and the Republicans in this conference on this Omnibus appropriation bill, with no Democrats present, came up with a figure of 39 percent as the new cap—39 percent. What is so magic about 39 percent? Allow me to explain. This wasn't chosen at random; it wasn't a good-faith compromise. No, it just so happens that Viacom, which owns CBS, currently owns stations reaching 38.8 percent of American households, and Rupert Murdoch's news corporation, the owners of that "fair and balanced" Fox Network, owns stations reaching 37.8 percent.

Interesting. Interesting that the White House and Republican leaders in Congress pushed a provision in a spending bill in the dark of night, without Democrats present, that benefited two corporations when it came to their ownership of television stations—Fox, which is a wholly owned subsidiary of the Republican Party, and now Viacom, CBS. Both entities currently violate the old FCC limitation. They needed this new language. They would have been forced to sell off stations if their Republican friends in Congress and the White House had not come through for them.

So the White House and the congressional Republicans give CBS a significant corporate favor and CBS rewards them by killing an ad critical of the Bush White House during the Super Bowl. Doesn't that sound like a perfect subject for a "60 Minutes" investigation? Oh, I forget. "60 Minutes" is a CBS program. I don't think we are going to hear about this on "60 Minutes." I don't think Mike Wallace and Lesley Stahl are going to be taking an undercover camera into the boardrooms of CBS to find out what is going on there.

Listen to what our colleague, Senator JOHN MCCAIN of Arizona, said about this provision that was sneaked into this bill at the last minute to benefit Viacom and CBS, the biggest corporate favor they could ever ask for. I am quoting my colleague, Senator JOHN MCCAIN, who said on the floor:

> This provision is objectionable because while purporting to address public concerns about excessive media consolidation, it really only addresses the concerns of special interests. It is no coincidence, my friends—

And this is JOHN MCCAIN speaking—

> that the 39 percent is the exact ownership percentage of Viacom and CBS. Why did they pick 39 percent? So that these two major conglomerates would be grandfathered in, purportedly, in order to reduce the media ownership, which was voted down 55 to 40 in the Senate. The fact is now they are endorsing Viacom and CBS's 39 percent ownership, grandfathering them in because they should have been at 35 percent.

In the words of Senator MCCAIN:

> Remarkable.

It is clear from the examples, such as the rejection of MoveOn.org's ad, that CBS and other media companies are dominant in a marketplace that exercises vast influence over what the American people can see on television. This is exhibit A in the case against media concentration.

Too much power has been given to media executives who now are going to pick and choose and censor the content of political material which we as Americans can see. They can decide on one hand that their friends will be favored with ads and then reject ads critical of their political friends as just too controversial for America to witness.

That is exactly what they have done on this MoveOn.org ad. CBS is able to reject MoveOn.org and anyone else whose views they disagree with because the executives know there are thousands of other companies standing in line ready to pay for ads during the Super Bowl.

It all comes down to this: Through years of deregulation, we have created a situation in America where massive media conglomerates, such as CBS, are operating without any effective oversight and with little or no feeling of responsibility to the public.

It used to be people remembered that the airwaves these TV stations use don't belong to these TV stations, they don't belong to the media giants, such as Viacom, they don't belong to CBS. They belong to you, me, and every American. We allow these companies to use the airwaves, and they make a fortune. We licensed them for that purpose. We used to say, before the Reagan administration changed the law: If you are going to use America's airwaves, you have to be fair in the use of the airwaves. The fairness doctrine was thrown out. Now the only standard is that they only have to serve the public interest.

It is such a vague term, "serve the public interest," that CBS, undoubtedly, can get by with rejecting ads for political reasons, such as their rejection of this MoveOn.org ad. But if the public interest standard is to mean anything, it must require broadcast licensees to air diverse points of view on issues of national interest.

It is all right for me as an American to watch something on television with which, frankly, I disagree. Maybe I want to pick up the phone and call the station manager or register my complaint with one group or the other. Isn't that what free speech in America is all about? Not from CBS's point of view. From the CBS point of view, they will pick and choose what you can watch. Ads for beer with young folks doing things which maybe you don't want your children to see—not controversial. Ads by pharmaceutical companies for sexual dysfunction drugs you may not want your children to watch—not controversial. But an ad which says that our children are going to pay off a $1 trillion national debt created by this administration—over the line, way too scandalous, way too controversial. Children and good American families should not be subjected to that, in the eyes of CBS. I certainly disagree.

Broadcasters and executives running broadcast stations should remember that, first and foremost, they are journalists. They have a responsibility to the American people to speak the truth, to give us the information and let us decide. They have a professional and ethical obligation to be fair and balanced, even if it means they have to set aside their own political views and prejudices and perhaps—perhaps—just once in a while, step on the toes of their political allies and friends, even the ones who just handsomely rewarded them with the provision in the recent appropriations bill.

While broadcasters may wish to exercise their discretion in selecting ads that would run afoul of a community's decency standards, broadcasters should not and must not become censors of content. That is the fundamental promise of the first amendment. It is wrong for the Government to censor content. It is wrong for corporate stewards of our public airwaves to do so.

If you believe, after watching this ad by MoveOn.org, that CBS was wrong, that CBS should have allowed this ad, which shows children at work and says, in its closing frame, "Guess who's going to pay off President Bush's $1 trillion deficit?"—if you think CBS made a mistake, you have a right, as an American, to contact them. You can write to them at: CBS Television Network, 51 West 52nd Street, New York, NY, 10019, or you can call them: (212) 975-4321. Ask to talk to the corporate executive who decided this ad was too controversial for your family to see. Make certain they understand, as I feel and hope you feel, that America is ready for an ad which tells the truth, an ad which may be controversial in the eyes of one political party but certainly deserves to be aired so the public can finally decide what is right and what is wrong.

I hope the American people will not sit idly by and watch as these media giants, such as CBS, become bigger, more powerful, and decide just exactly what we as Americans will get to see on TV.

I urge everyone watching to call CBS and remind the executive that you, the American people, are the owners of the American public airwaves.

For CBS, let me say this: The CBS eye has been closed to truth, closed to fairness, closed to presenting the facts honestly to the American people. CBS has a great legacy. It is a storied name when it comes to public information in America. This chapter is sad and disgraceful.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

### AMENDMENT NO. 2261, AS MODIFIED, TO AMENDMENT NO. 2233

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Kyl amendment be temporarily set aside and, further, that the Senate now proceed to the consideration of amendment No. 2261, as modified, which is at the desk. I further ask consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2261), as modified, was agreed to, as follows:

(Purpose: To extend transfers of excess pension assets to retiree health accounts, and for other purposes)

At the appropriate place add:

**SEC. . EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.**

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".

**SEC. ___. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) IN GENERAL.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i) the gross receipts for the taxable year do not exceed $600,000, and

"(ii) more than 50 percent of such gross receipts consist of premiums.".

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "exceed $350,000 but".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. ___. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.**

(a) IN GENERAL.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. ___.**

On page 12, line 5, before "or" insert "or the mining or processing of iron ore or beneficiated iron ore products,".

On page 16, line 18, before "or" insert "or the mining or processing of iron ore or beneficiated iron ore products,".

**SEC. . FUNDS FOR REBUILDING FISH STOCKS.**

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated Appropriations Act, 2004) is repealed.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the pension rate bill tomorrow, there be 30 minutes of debate equally divided between the chairman and ranking member or their designees, with an additional 10 minutes under the control of Senator KYL. I further ask consent that following the use or yielding back of the time, the Senate proceed to a vote in relationship to the Kyl amendment No. 2236; provided further, that following the disposition of the Kyl amendment, the Senate then proceed to a vote on the adoption of the Grassley amendment No. 2233, with no intervening action or debate. Finally, I ask consent that following the disposition of that amendment, the bill be read a third time and the Senate proceed to a vote on passage of the bill, again, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, if my friend from Iowa will yield, I express my appreciation, for the Senate and the staff, to the leader for getting us out of here as early as possible. The weather is treacherous. There was a meeting at the White House that prevented us from getting out earlier. For everyone, I express my appreciation to the leader for adjourning at this time.

Senator INHOFE and I just finished a very constructive conversation. I have spoken to Senator JEFFORDS and to Senator BOND. We feel very good about moving forward on the highway bill next week. I know the chairman of the Finance Committee is here. They are going to meet on Monday to work on a provision on taxes. We can't do the bill unless they do that. I have spoken to the Senators from Alabama and Maryland, Senator SARBANES and Senator SHELBY. They are going to mark their provision up on Tuesday as it deals with mass transit.

I hope this most important bill, creating hundreds of thousands, if not millions, of jobs over the next 5 years can be completed before we go for our break in the middle of February.

Mr. GRASSLEY. Mr. President, I associate myself with the remarks the distinguished assistant Democratic leader just made about the highway bill. It is one of the most important jobs bills we can have before the Senate this year. It should have been done last year. We couldn't get it done. But we can do that now and the Senate is committed to that. I think the leadership in the House is committed to it. Obviously, we need to get it done.

I thank the Senator from Nevada.

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## MOULIN ROUGE HOTEL AND CASINO

Mr. REID. Mr. President, March 24, 1955, was a significant date in the history of Las Vegas. That date marked the opening of Nevada's first racially integrated hotel—the Moulin Rouge Hotel and Casino.

At that time, the city of Las Vegas was already earning international recognition as an entertainment and resort mecca. However, black entertainers performing in Las Vegas were not allowed to stay in the hotels where they performed, nor were they allowed to enter the casinos or restaurants on the Las Vegas Strip. Instead, entertainers such as Sammy Davis Jr., Nat "King" Cole, and Lena Horne were forced to seek accommodations in local boarding houses.

The Moulin Rouge changed all that. When the Moulin Rouge opened, it immediately became the night spot for top stars such as Davis, Harry Belafonte, and Frank Sinatra. They were joined by Ella Fitzgerald, Lionel Hampton, Count Basie, Bob Hope, Tallulah Bankhead, Louis Armstrong, and many more.

When shows on the Strip ended, entertainers and their followers flocked to the Moulin Rouge where they would continue performing into the wee hours of the morning.

The hotel became home to black entertainers headlining on the Strip, and a venue where they performed, alongside their white peers, to audiences of all races.

The Moulin Rouge closed in October of 1955, just 6 months after its celebrated opening. However, its impact lived on. Other Las Vegas hotels began their own efforts at desegregation. And when the civil rights movement reached full swing in early 1960, the old Moulin Rouge became the site of an historic meeting between Governor Grant Sawyer, leaders in the African-American community, and Las Vegas hotel operators. The meeting resulted in an agreement by resort operators to end their segregation practices, and to make their casinos, restaurants, and hotel rooms accessible to all people regardless of race.

The "Moulin Rouge Agreement" made national news, and the building has since been listed on the National Register of Historic Places. It is a living symbol and tribute to the struggle for equality and civil rights. Over the years, a number of owners tried to bring the Moulin Rouge back as a viable resort, but none was ultimately successful. Then, last year, a tragedy occurred. On May 29, 2003, one day before a new owner was scheduled to take over the property, an arsonist's fire ravaged the casino. The three-alarm blaze destroyed many irreplaceable historic photos and relics, including the famous Moulin Rouge wall mural and its unique mahogany bar.

Miraculously, the entire front facade and the historic Moulin Rouge neon sign survived the fire, along with the original tile-covered columns and the signature tower. These structures, along with the original hotel building which also survived, will provide the foundation from which a new Moulin Rouge will rise.

This year marks the 40th anniversary of the landmark Civil Rights Act of 1964, so it seems fitting to announce that the Moulin Rouge, a symbol of civil rights change in Las Vegas, will rise from the ashes.

The Moulin Rouge Development Corporation, which was stymied in its efforts to purchase the hotel by the tragic fire, will soon finalize purchase of the property. This Thursday, January 29, the company will publicly announce its plans for the new Moulin Rouge.

These plans call for restoration of the original facade and the original hotel, along with construction of a new hotel, casino, and shopping mall. This new facility will include museum exhibits, provided by the Moulin Rouge Museum and Cultural Center, that celebrate the history of the property and the achievements of minority leaders, entertainers, and other pioneers of the civil rights era.

I congratulate Dale Scott, Rod Bickerstaff, Chauncey Moore, and other officials of the Moulin Rouge Development Corporation for their vision and hard work in bringing forth this proposal.

It has been a long road. But those of us who love history are delighted that the Moulin Rouge will be saved, and that its famous neon sign will shine once again. It will serve as a reminder of how far we have come, and how much remains to be done.

## HONORING OUR ARMED FORCES

### CHIEF WARRANT OFFICER TWO BRIAN D. HAZELGROVE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Edinburgh, IN. CWO2 Brian D. Hazelgrove, 29 years old, died outside of Mosul, Iraq, on January 23, 2004, after his Kiowa Warrior helicopter crashed while returning from a combat mission. Brian joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Brian was the 24th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Brian leaves behind his father, Ron; his wife, Kimmi; his half brother, Brad; and his children, Taylor, Zachary, Brandon, and Katelyn. May Brian's children grow up knowing that their father gave his life so that young Iraqis will some day know the freedom they enjoy.

Today, I join Brian's family, his friends, and the entire Edinburgh community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Brian, a memory that will burn brightly during these continuing days of conflict and grief.

Brian graduated from Edinburgh High School in 1994, where he played on the basketball team. Friends and family members remember Brian for the love he shared with his entire family, his energetic personality and his unfailing sense of humor. His half brother Brad spoke for all who were blessed to have known Brian when describing him to the Indianapolis Star as "just a joy . . . the guy was amazing."

After joining the Army in 1994, Brian began his military career in intelligence. He later became a helicopter pilot, serving with the 3rd Squadron, 17th Air Cavalry Regiment from the 10th Mountain Division at Fort Drum, NY. Prior to Brian's service in Operation Iraqi Freedom, he also served two tours of duty in South Korea. He was deployed to the Middle East in November.

As I search for words to do justice in honoring Brian's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Brian's actions will live on far long than any record of these words.

It is my sad duty to enter the name of Brian D. Hazelgrove in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Brian's can find comfort in the words of the prophet Isaiah who said:

> He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.

May God grant strength and peace to those who mourn, and may God bless us all.

### TRIBUTE TO SGM PHILIP ALBERT

Mr. DODD. Mr. President, I rise in tribute to U.S. Army SGM Philip Robert Albert, of Plymouth, CT, who lost his life on duty in Afghanistan on November 23, 2003. He was 41 years old.

Sergeant Major Albert, a member of the 2nd Battalion of the 87th Infantry Regiment, 10th Mountain Division, was killed along with four other soldiers in a helicopter crash in northeastern Afghanistan. His service to his country will not be forgotten.

Philip Albert was a career military man. He enlisted in the Army after graduating high school at 18 years of age, and he never looked back. He fought in the first gulf war in 1991 and was serving his second tour of duty in Afghanistan. Sergeant Major Albert was on the front lines in the war on terror, searching the mountains of Afghanistan for members of al-Qaida and the Taliban, protecting coalition forces as well as the Afghan people.

Like so many of the men and women who serve in our Armed Forces, Philip Albert didn't consider himself a hero. For him, putting his life on the line for his country was simply part of his job—a job he did with dignity, courage, and honor.

Sergeant Major Albert's devotion to his country was matched only by his love for his family. The youngest of 8 siblings, he enjoyed the company of his brothers and sisters, and he was especially fond of the time he spent with his many nieces and nephews.

In recent years, Sergeant Major Albert had spoken with his family and friends about the possibility of retiring from the Army. But it was difficult for an individual like Philip Albert to walk away from the job he loved. After he witnessed the horrific attacks of September 11, he must have decided that America could use his experience, his dedication, and his service. Because once again, when his country called on him, Philip Albert answered the call.

Philip Albert perished just a few days before Thanksgiving. The Thanksgiving holiday will obviously have a very different meaning for his family and friends for many, many years to come. But I would like them to know that each and every one of us in the Senate—and indeed every single American—owes a tremendous debt of thanks to Philip Albert.

It is people like Sergeant Major Albert who make it possible for us to live each and every day in freedom, peace, and security. It is their sacrifices, in lands thousands of miles away, that keep us safe here at home. We must never forget those sacrifices—especially those of people like Philip Albert who have left us with a debt we can never repay.

I offer my deepest sympathies to Philip Albert's family, and to everyone who knew and loved him.

### IN MEMORY OF PFC JEFFREY BRAUN

Mr. President, I also rise to speak in memory of PFC Jeffrey Braun, of Stafford, CT, who was killed in Iraq on December 11, 2003. He was 19 years old.

Private Braun was truly an inspiration to everyone who knew him. He joined the Army shortly after the attacks of September 11, motivated by a desire to be part of the global campaign to rid the world of terror. After completing his senior year at Stafford High School in 2002, he became a paratrooper in the 82nd Airborne Division.

Jeff Braun's heroic sacrifice in Iraq will never be forgotten. But in the words of a friend, Adrian Scarpa, "He was a hero even before he went over."

No matter what he did, Jeff Braun was always striving to be part of something greater than himself. At Stafford High School, wherever you looked, you could find Jeff Braun. He played soccer, wrestled, and ran track. He sang, acted in school plays, and was active in local community service projects.

Jeff's friends and family members knew him as a young man who always had a kind word, a smile, and an outgoing and infectious sense of humor. He would make friends with classmates who were lonely. He would give away his own lunch to students who didn't have any.

Jeff Braun was a fascinating person, and he had a fascinating life story. He was born in the village of San Pedro Sula in Honduras. When he was 6 months old, he was adopted by Meredith and William Braun, who brought him to Stafford. He came to love his adopted country so much that he joined its armed forces. But he also shared a deep and meaningful connection with his homeland. Even while in Iraq, Jeff was actively pursuing his dream of building an orphanage in his native Honduras. It's a dream that Jeff's parents have said they will strive to make a reality.

Jeff didn't have to enlist in the military. But with his enthusiasm, his generosity, his spirit, and his character, he simply couldn't stay on the sidelines and watch as his fellow countrymen fought overseas in defense of freedom. Jeff saw a job that needed to be done—and he knew that he had to be a part of it.

I join the town of Stafford, the State of Connecticut, and the entire United States Senate in mourning the loss of Private Jeffrey Braun, a truly remarkable individual who was taken from us far, far too soon.

I offer my deepest sympathies to Jeff's parents William and Meredith, to his sister Julie, his entire family, and the many, many people whose lives were touched by Jeff Braun.

## OMNIBUS APPROPRIATIONS

Mr. LEAHY. Mr. President, I see my good friend from Kentucky on the floor, and I want to take this moment to clarify a couple of funding issues in the Foreign Operations portion of the Omnibus Appropriations bill.

I notice that the conference report is silent on the issue of funding for Laos. Is it the chairman's intention that the administration should implement the language contained in the Senate Foreign Operations Appropriations Report, 108-106?

Mr. McCONNELL. I thank the Senator from Vermont. Before I respond, I was wondering if he could take a moment to read the Senate report language for the benefit of our colleagues.

Mr. LEAHY. I would be happy to. It reads:

> The Committee recommends that USAID provide $2,000,000 in Child Survival and Health Programs Fund and Development Assistance to Laos—one of the world's poorest and most repressive countries—through nongovernmental organizations. The Committee intends that these funds will not be used to offset or substitute INL funding that would otherwise go to Laos.
>
> The Committee is concerned by the actions of the regime in Laos, which continues to be responsible for serious human rights abuses. The Committee is also concerned by the recent detention and trial of an American citizen and two foreign journalists in Laos. While the Committee is pleased that these individuals have recently been released, it is deeply troubled that the fate of four Laotian citizens accompanying the journalists is still unknown.

Mr. McCONNELL. As I know my friend from Vermont is particularly interested in this issue, it would be both accurate and fair to say that it is our collective intention that this language be implemented.

Mr. LEAHY. I am pleased we are in agreement. As I know of your strong interest in the region, I hope we can continue to work together to support United States funded programs through Southeast Asia.

Mr. McCONNELL. I look forward to our continued cooperation, and urge the State Department and USAID to meet with our respective staffs to discuss countries of particular concern, including Laos, Vietnam, Cambodia, Thailand, and Burma.

Mr. LEAHY. On the issue of Burmese refugees along the Thailand-Burma border, is it the chairman's expectation that funds from the ERMA account should be used to provide funding for these refugees?

Mr. McCONNELL. Yes, it is. The situation on the Burma-Thailand border is disturbing, and if sufficient funds cannot be found from the MRA budget then the administration should consider using ERMA funds to ameliorate this situation.

Mr. LEAHY. I thank the Chairman.

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## BLACK ON BLACK CRIME PREVENTION MONTH

Mr. PRYOR. Mr. President, 1 year ago this month, a powerful new force joined together and it has since swept through the neighborhoods in Arkansas. Its members said enough to the homicides plaguing our streets, enough to the violence in our schools and homes and enough to standing by to watch our communities crumble.

Members of the community saw that although African Americans comprised 12 percent of the national population, a staggering 45 percent of all murder victims in 2002 were black. A resounding 91 percent of those murders were incidents of black on black crime.

Homicide was and is still literally tearing apart African-American families, serving as the leading cause of death for black men ages 15 to 24, and the second leading cause of death for black women of the same age group. Black-on-black crime remains an epidemic, having a devastating impact on our families and ultimately compromising the safety and quality of life in my great State of Arkansas.

One year ago this month, community leaders, faith leaders, government officials, community organizations, and businesses did more than just say enough is enough. They formed the Black on Black Crime Coalition to inform and educate the citizens of Little Rock about black-on-black crime, but also to implement programs and initiatives to reduce homicides, reduce violent crimes and take back their streets and neighborhoods.

I am proud to be a partner of this coalition, to join with coalition members and its wide array of partners and raise public awareness about black-on-black crime. The coalition has spent its first year creating and supporting intervention and mentoring programs, conducting workshops for community organizations, supporting neighborhood associations, implementing youth programs and lobbying elected officials to implement policies for effective change. The coalition is working through the statistics, trying to understand the systemic causes, determining the solutions and reversing this epidemic that is stealing away our future leaders.

This January, in Arkansas, we celebrate Black on Black Crime Prevention Month. The coalition has organized a month filled with ceremonies, roundtable discussions, town meetings, and prayer to help meet its mission. By all means, these efforts are contributing to a better understanding of the challenges that Arkansas' black communities face each and every day, but we are also learning and implementing strategies to beat back and overcome these challenges.

As the former attorney general of my State, I have worked closely with law enforcement officers and the community to make Arkansas a safer place to live and raise a family. As a Senator, I have continued to fight for legislation, programs, technology and budgets to accomplish this goal. And I pledge to continue this commitment.

It is a tremendous responsibility that the Black on Black Crime Coalition has accepted. I commend the members of this coalition for their dedication and teamwork, and congratulate them for several meaningful and successful events during this year's Black on Black Crime Prevention Month and for their unyielding efforts throughout the year.

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## ISRAEL'S DESIGNATION OF JANUARY 27, 2004 AS "NATIONAL DAY TO COMBAT ANTI-SEMITISM"

Mr. LEVIN. Mr. President, today, people in Israel and around the world are joining in solidarity to commemorate January 27, 2004, as a "National Day to Combat Anti-Semitism." At a time when many Jewish communities are facing a rising tide of anti-Semitism, it is important that all people of goodwill work together to educate and fight anti-Semitism. This insidious form of hatred has lingered in this world for so long that it has been dubbed "the longest hatred."

Today marks the 64th anniversary of the liberation of Auschwitz. While six decades have passed since the genocidal regime of Adolf Hitler fell, the urgency of combating anti-Semitism has never ceased. In the past year, numerous anti-Semitic acts have occurred across the world. In many European countries, including several countries that are amongst our closest allies, the frequency of anti-Semitic attacks are increasing. Jewish cemeteries, schools, synagogues, and individuals have been the center of an increasing number of violent incidents.

These targets have essentially remained the same over the millenia. Such attacks seek to intimidate and threaten individuals and desecrate institutions. We face an increasing array of groups who would perpetrate these acts.

In November 2003, people across the world were horrified when suicide bombers targeted two synagogues in Istanbul, Turkey. At least 25 people were killed and almost 300 people, both Jewish and Muslim, were wounded. One of the synagogues was Neve Shalom, the center of Turkey's Jewish community. This crowded congregation was celebrating a young boy's Bar Mitzvah at the time of the bombing. This attack was, without question, a specific and politically charged choice, given Turkey's close ties with Israel, the United States and NATO as well as its commitment to democracy.

Another widely reported anti-Semitic act came a month earlier when former Malaysian Prime Minister Mahatir Muhammed stated that, "The Europeans killed 6 million Jews out of 12 million. But today the Jews rule this world by proxy. They get others to fight and die for them." That a leader would make allusions to a worldwide Jewish conspiracy, one of the foremost claims of anti-Semitic hatred, is particularly appalling. It is unconscionable to think that a longtime leader of a sovereign nation would fan the flames of hatred and recrimination against people of the Jewish faith. It is more disconcerting that 57 leaders of the countries in the Islamic conference stood and applauded his speech. Mahatir's rhetoric was both ignorant and dangerous.

Even while these two events splashed the front pages of newspapers worldwide, numerous other incidents that hardly received notice caused irreversible damage all the same.

During an exhibit held in Australia last month called "Courage to Care," two extremist groups sprayed a museum with anti-Semitic and racist slogans and covered it with swastikas. This was an exhibit that commemorated Australian survivors of the Holocaust. The criminals also left papers at the scene that portrayed a skull and crossbones and said, "Death to Israel."

In an attack in a suburb of Paris that coincided with the synagogue bombings in Turkey, a Jewish school was set on fire. Just a month earlier in Paris, a rabbi was verbally and physically attacked on his way to synagogue. In October, tombstones in a Jewish cemetery east of Berlin, Germany, were defaced by vandals who painted swastikas and anti-Semitic statements such as "you got what you deserved," and "Heil Hitler."

The United States has not been free from such attacks, either. Earlier this year, a Holocaust Museum in Terre Haute, IN, was destroyed by arson, with only the words "Remember Timmy McVeigh," left behind.

In April 2002, I joined with 99 of my colleagues in sending a letter to President Bush that requested that he and his administration "make every effort possible to raise, at the highest level, our concerns about anti-Semitic acts in Europe and anti-Semitic portrayals in the Arab media."

I was heartened by German Foreign Minister Joshka Fischer's statement at a conference on anti-Semitism last fall that, we are firmly committed to countering every kind of anti-Semitism, every kind of racism and xenophobia." In addition, French Prime Minister Chirac announced that "attacking a Jew in France is an attack on all of France." Such remarks fully acknowledge the threat posed by anti-Semitism. Anti-Semitism is not merely the enemy of Jews. It is the enemy of tolerance, freedom and openness; the very core values of all democracies.

Attacks on one religion, race or ethnicity threaten all of us. We have learned that when hatred is allowed to fester and grow, it can spread with a frightening degree of rapidity and virulence. It is imperative that the global community work to address not only the continuing prevalence of anti-Semitism, but also hatred against all religious and ethnic minorities.

I hope all my colleagues will join with me in commemorating Israel's "National Day To Combat Anti-Semitism," and in rededicating their commitment to fight hatred wherever it may be found.

## ADDITIONAL STATEMENTS

## CONGRATULATIONS TO HOSKINS COIN AND JEWELRY

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. and Mrs. Charles and Doris Hoskins of Paducah, KY on their dedication and entrepreneurial spirit in their 50th year of business at Hoskins Coin and Jewelry, Inc.

Mr. and Mrs. Hoskins opened business together in 1953, selling mostly furniture in downtown Paducah, KY. Mr. Hoskins, building on his military service in World War II, joined the Paducah police force and served for the next 16 years. Meanwhile, Mrs. Hoskins ran their small business and kept its books.

Over the last few decades, their business has flourished an evolved. This small family business looked for opportunities to expand—moving to a larger location down Third Street. Following the passions of Mr. and Mrs. Hoskins, the store started to buy and sell coins, estate jewelry and eventually began to offer a full line of retail jewelry.

Hoskins Coin and Jewelry, Inc. is now a staple of downtown Paducah. Their children, Ronnie and Linda Hoskins Duff, work alongside their parents who have even found room for grandson Brent Hoskins to work part-time. Local residents walk into this families store looking for a special gift, to learn about the latest coin they have found or just to talk about the community. This small family business is a shining example of one of the many small businesses that form the local economic foundations in Kentucky.

Thank you, Charles and Doris, for your commitment to the city of Paducah and your entrepreneurial spirit. I have sincere appreciation for your work. I wish you and your family continued success and happiness.•

## TRIBUTE TO THE SPIRIT OF IDAHO AWARD RECIPIENTS

• Mr. CRAPO. Mr. President, today I honor over 158 individuals and organizations working every day to make Idaho a great place to live. I'm talking about the recipients of the Spirit of Idaho Award. I created this award almost 3 years ago to recognize and bring attention to the many deeds of service that happen in local Idaho communities that are not always recognized by the media or the general public. Recipients of this award improve lives every day with their selfless giving and shining examples. I would like to take a moment today and recognize each of these outstanding individuals.

Kamrud Jacobson delivers newspapers in Twin Falls. While completing his route one day, Kamrud noticed unusual smoke coming from the chimney of a nearby house. He quickly asked a neighbor to call 911. The Fire Department responded and put out a growing house fire. Kamrud's vigilant actions effectively saved the house from burning to the ground. Kamrud's efforts embody the qualities of service and selflessness the Spirit of Idaho award hopes to recognize.

Alex and Jay Phelps are truly lifesavers for one woman. The two, who deliver newspapers in Twin Falls, noticed several newspapers piling up at a particular house on their route. Concerned by this development, the boys explained the situation to their mother, who then contacted authorities. The boys were right to be concerned: the resident of the house had had a stroke and was in need of medical care. As a result of the efforts of these two boys, the resident was rescued and received medical care.

Ten members of the Wood River Winter Recreation Coalition in Sun Valley worked together for hundreds of hours on a volunteer basis to offer a community-based, historic recreation agreement that will be implemented in the Sawtooth National Forest. The members crafted what is often extremely difficult to create: a collaborative solution to a perplexing problem. Both user groups and our forest are the beneficiaries of the Coalition's outstanding work.

Barbara Dehl of Nampa authored and lobbied the Idaho State Legislature and the U.S. Congress for passage of "Cassie's Law," a law intended to prevent abusive dating relationships, as well as assist victims of such abuse. Ms. Dehl courageously battled for this legislation at both the State and Federal level after the tragic death of her daughter Cassie in December of 1999. She has been the catalyst behind important progress in the fight against violence.

Idaho Working Partners, through Janet Miller their State Chairwoman, are models of community service, assisting numerous organizations in and around Boise. The Salvation Army, the Hope House, and the Booth Family Center, to name a few, have all been helped. Food drives, donations for flood ravaged areas, and Christmas projects for the needy have been just a few of the outstanding projects engaged in by Idaho Working Partners. They are to be commended for their efforts.

Dr. Dan Prinzing, Social Studies and Curricular Materials Coordinator for Idaho's State Department of Education and a former teacher for the Boise School District, is Idaho's first contact for projects, scholarships, and special programs in areas of civics, U.S. history and government, economics, and responsible citizenship. Dr. Prinzing is also an advocate for the need to improve international education for Idaho's students, and works closely with a variety of civic organizations to promote student involvement in programs focusing on an understanding of the U.S. Constitution and state and federal laws.

Jackie Phelps has been an exemplary volunteer with Meals on Wheels in Boise. For many years, she has delivered meals to shut-in seniors who aren't able to pick-up or prepare meals themselves. Jackie has benefited many in need through her constant, dedicated service. I commend her for her caring.

Gail Chumbley and her students at Eagle High School in Boise have worked diligently to honor Idaho veterans. Ms. Chumbley has spearheaded a local effort to document the personal histories of a number of Idaho veterans through classroom assignments where students interview veterans. Her work has earned the notice of the VFW and the Idaho State Historical Society Library and Archives, among others. Chumbley and her students also conducted a drive to raise money for the national World War II veteran's memorial to be built on the Capitol Mall in Washington, DC. Through her work introducing so many Idaho veterans to Idaho school children, Gail Chumbley honors herself, her profession, and all of Idaho's veterans. In addition, her students have demonstrated a respect for past sacrifices and service, and in so doing have enriched their educational experience.

Students at Eagle High School in Boise went the extra mile to help the less fortunate during a recent Christmas season. The Salvation Army enlisted the help of local high schools during their Christmas food drive. Eagle High's generosity was clear as they took in the most poundage of all the local high schools. These students coupled their feelings of compassion with actions of kindness.

Kyle Enzler of Eagle completed a cross-country bicycle trip to raise money and awareness for needy children around the world. Enzler is the founder and organizer of Trek for Kids, the foundation behind his cross-country trek. His journey covered over 4,500 miles in 15 weeks, raising over $1,000 for the cause. Kyle is a great example, choosing to make meaningful contributions in fighting the world's problems.

Sherrill and James Cooper of Lewiston are saints to numerous children they have taken in through over 30 years of caring for young people in need. Children have arrived at their house in Lewiston Orchards at all hours lonely, frightened, traumatized, angry, sometimes hurt and the Coopers have opened their doors and hearts. These wonderful people have also been recognized with the Angels in Adoption award for their work in this critical labor of love.

Blaine County Senior Center of Hailey was honored for the work of their senior citizens on behalf of KidShop, an after school program in the Blaine County School District. The seniors raised $5,000 through the Festival of Trees to provide healthy snacks to the children. The endeavor was also very successful in bridging the generation gap and allowing "juniors and seniors" to get to know one another. Each of these seniors is to be commended for supporting this very important endeavor.

Pete Mecham of Idaho Falls received the Sammy Award. The Sammy Award recognizes outstanding scholar athletes based on academic performance, athletic excellence, leadership, and community service. With over 19,000 applicants and just 25 recipients, Pete's award is quite an honor. His activities and honors, which are nearly too numerous to mention, include National Honor Society, High School Seminary President, Eagle Scout, numerous wrestling championships, and the U.S. Marine Corps Distinguished Athlete Award.

Pam Davison of Malad works for the USDA Rural Development office in Blackfoot and has spent many hours working with Southeast Idaho senior citizens to improve their homes under a Federal self-help program. Through the program and Pam's dedicated work, seniors have been able to winterize their homes and save money on energy bills. In times of tight budgets and rising energy prices, the help Pam has provided to our seniors is invaluable.

Jay Heuser of Preston has worked diligently in economic development for the city of Preston. His outstanding projects include a business incubator, new water tank, and city industrial park improvements. Jay has been a dedicated public servant, serving as mayor, and improving the lives of the residents of Preston.

Rosa Moosman of Montpelier is the editor and manager of The News Examiner. Rosa has reported on lumber and Forest Service issues in a professional and polished manner for the community. In a State with a large lumber industry, this reporting has been an invaluable public service. She has also been a great example for journalists statewide.

Jensen Lumber Company of Montpelier uses small-diameter timber in productive ways. A necessary component of healthy national forests is the thinning of these small trees, and Jensen Lumber has put these trees to good use. In doing so, they have made great economic contributions to the community.

Heritage Safe Company is a model to many businesses, and an economic force in the community of Grace. Heritage Safe started as a small business in a small town. However, it is quickly becoming one of the country's largest makers of gun safes. Heritage Safe Company is recognized for its economic contributions to the community.

After the terrorist attacks on September 11, 2001, Idaho Red Cross volunteers responded by the dozens. These selfless life-savers provide relief to victims of disasters and help people prevent, prepare for, and respond to emergencies. In times of need, these individuals have come forward to help. These volunteers included: Richard Kaylor, Mary Wolf, Cheryle Andrews, Glenda Loomis, Cindy Bahora, Allison Mallow, Marlene Bailey, Jim Manring, Marva Barnes, Brooks Mathern, Julie Benintendi, Gordon McAllister, Robert Bones, Carol McAllister, Steve Button, Linda McGuire, Farrell Byington, Tempe McFarlane, Bonnie Capell, Joseph Morisette, Sherri Carpenter, Lynette Muson, Ben Cavaness, Roger Olson, David Chehey, Kathlene Parsons, Richard Cripe, Shirley Perkins, Frank Dalley, Ray Ragan, Julie Dillehay, Lorraine Roberts, Kathy Dutt, William Roberts, Germaine Eslinger, Carolyne Rucker, Lynn Farnworth, Susan Saldin, Sarah Farnworth, Kent Schaufelberger, Sean Farrell, Rick Sonnenberg, Gloria Fastabend, Cynthia Schulze, Richard Fesler, Barbara Stevens, Leslie Freeman, Joseph "Bill" Stevens, Jim Fulfer, Colleen Stevens, Michele Gamblin, James Stumpf, Rich Gorman, Jennifer Swanberg, Jeri Gowen, Donna Taylor, Gina Gridley, Jana Thomas, Jim Grigg, Terry Tippery, Oreanna Harless, Steve R. Tryk, Susan Hill, Barbara Webster, Allen Howard, Patsy Walton, Rick Huffard, Daniel Weigel, Ronald Jacques, Phillip White, Sharon Katz, Mimsi Wise, Rich Kaylor, Stephanie Witt, Edward Kinghorn, Mary Wolf, and Daunna Kirkham of Boise, Nampa, Meridian, McCall, Arco, Lewiston, Idaho Falls, Eagle, Coeur d'Alene, Black Foot, Kimberly, Moscow, Rathdrum, Rexburg, and Terreton.

Mark Langlois, Robert Macfarlane, James Pollard, and David Larson of Idaho Falls are Idaho National Engineering and Environmental Laboratory engineers who assisted recovery efforts in New York, Pennsylvania, and Washington, DC, following the tragic events of September 11, 2001. At a time of great need and obvious peril, these selfless individuals rushed to help their countrymen.

Dan O'Brien, a name you may know for his Olympic competitions, has diligently served the cause of youth sports in Moscow. His dedication not only serves the youth of Moscow, but also the community as a whole. His hard work and dedication have been recognized on several fronts, receiving not only the Spirit of Idaho, but also the Sporting Goods Manufacturers Association Hero Award. I commend Dan on his outstanding efforts.

Students at Peregrine Elementary of Meridian were chosen by the Red Cross as winners of the "Your Coins Count" statewide campaign not once, but twice. The "Your Coins Count" campaign offers schools educational programs about Red Cross services and history, then asks students to collect spare change and donate the money to the Red Cross in support of local services like disaster relief. These students' shining example proves that each of us can make a difference in the lives of others.

The fight against child pornography needs more warriors like those at the FBI child pornography unit in Pocatello. This unit analyzes illegal computer traffic in order to find and prosecute those that are victimizing children. Each of our children are safer thanks to the work of these dedicated professionals.

Moscrip Family and Bandana's Running and Walking Shop of New Plymouth have been pillars of support for young people wishing to participate in the local high school cross country and track programs. For the past three years these two groups have joined to provide affordable running shoes to local youth involved in the cross country and track programs at the New Plymouth High School. As a strong supporter of healthy living, I applaud the efforts of these two organizations.

Ana Marie Schachtell has served the cities of Nampa and Treasure Valley well, organizing the Fiesta Idaho events. This event helps groups with differing backgrounds to come together in a spirit of understanding and respect. Under Ana's leadership and vision the annual Fiesta Idaho celebration has blossomed into a major event celebrated each fall in several locations in and around Nampa.

Jim Olson and George Gorino are Boise American Legion members. In addition to their service in this organization, and their military service for our country, these two have gone the extra mile to honor the victims of September 11, 2001, as well as military personnel involved in the war on terror. As a result of their dedication, a monument and flag have been erected on Freezeout Hill in Gem County honoring these groups. Today, it is Jim and George who are honored.

John Jackson of Nampa owns the successful Jackson Food Stores, and has used his success to help others. John donated funds to build an indoor track and field facility next to the Idaho Center. The facility is very important to the Boise State University track team, as well as local youth and adult track clubs. The site is also scheduled to host some significant competitions in the coming years. John's selfless and important donation has also spurred additional economic development in the area.

Wiley Dobbs of Twin Falls has served as an Idaho Congressional Award Board Member since 1993, where he has spent thousands of hours working as a student advisor, making presentations to different groups, and talking to parents. Idaho leads the United States in the number of participants in this prestigious award program and the Twin Falls region leads the way in Idaho, thanks in large part to Wiley and his associates.

Sixteen-year-old Jessy Peterson of Castleford saved a man's life in December 2002. As he headed home late one evening, Jessy spotted a fire burning in the garage of a house. Jessy was able to successfully awaken the resident of the house, who escaped without harm. He then went one step further and helped the resident to extinguish the fire. Jessy's courageous actions speak to his depth of character.

Bob Harmon of Meridian is a hero in the war on terror, but he doesn't wear a uniform or carry a gun. Bob owns Harmon Travel and used his business to support our troops. He donated airline tickets for family members to attend the burial of a soldier killed in Operation Iraqi Freedom. Bob Harmon gave freely to help a military family in a time of need.

Scott Andrews of Blackfoot is the Bingham County Prosecutor. As part of his efforts to keep his county safe and make the Prosecutor's Office more accessible, Scott has created a new website. The website: www.co.bingham.id.us/prosecutor/prosecuting_attorney.htm, provides people with quick and easy access to important information about matters handled by the Prosecutor's Office, including information on victim and witness services, the public record, and legal research links. Scott has made our judicial system more responsive with his innovative approach to his office.

Taylor and Alyssa Jenson's story is truly touching. These two Pocatello sisters literally gave of themselves to help others less fortunate than they. Seeing the needs of cancer victims, Taylor and Alyssa cut and donated their long hair to make wigs for those who had lost their hair as a result of chemotherapy. They are to be commended for this exceptional act of service.

Jared Helm is a senior at Lewiston High School. He is dedicated to volunteering and making the community a better place. He is also a role model for younger children and stresses the importance of volunteering to them. Last year he volunteered over 450 hours, has a 4.0 GPA, and is a Lewiston High School Student Body officer. Such commitment embodies "The Spirit of Idaho."

"Grandma" Gay Reese plays an important role for the "America Reads" program every day at Lincoln Elementary School in Twin Falls. For the past five years, she has helped young students learn to read. Gay's remarkable dedication has helped to instill a lifelong love of reading within several hundred Magic Valley children. In addition, she has been instrumental in recruiting new Grandparents to the America Reads program. "Grandma" Reese embodies the selfless service honored by the Spirit of Idaho award.

The Hospice of Eastern Idaho provides a full range of supportive services for terminally ill individuals and their families while they are in the latter stages of a terminal illness. This critical service depends largely on volunteers. The following individuals have given of their time and talents for the benefit of others:

Donna Stone has been a Hospice Volunteer for three years. Last year she provided 195 volunteer hours for one patient, consistently showing up twice a week to give respite care for the patient's husband for two to three hours at a time. Her willingness and faithfulness week after week are inspiring.

Since becoming volunteers in spring 2002, Buck and Debbie Horton have each worked almost 200 volunteer hours for many different families under the care of the Hospice. They are both retired and have dedicated themselves to helping others in the community. Those at the Hospice of Eastern Idaho are fortunate to be able to call upon these outstanding individuals at any time to help patients and their families.

Larry and Evelyn Miller are Mormon missionaries, assigned to the Hospice of Eastern Idaho by the LDS Church. They serve as volunteer spiritual liaisons for patients and families, but also are available to give families respite care when needed. These volunteers have given hundreds of hours of respite care to many in need.

Donna Meyer has been a Hospice Volunteer since 1994 and has put in over a 100 hours helping patients. Since 2002, she has been visiting and reading to one particular patient who does not speak. Donna reads to her and puts cream on her face and hands to let her know that someone cares. Recently she purchased a bird feeder to place outside the patient's window so she might enjoy watching the birds. Donna connects with this woman, even though there is not a word spoken during the visit.

Dorothy Wayne has been a Hospice Volunteer since 1989 and has given over 100 hours to a variety of patients. She has traveled extra miles to stay with patients when necessary, often during the evening hours or even on weekends when needed. She is a retired nurse and uses her excellent training and experience to the benefit of all involved with the Hospice.

Fern Jones has been a Hospice Volunteer for 10 years while continuing to work full time. She has spent over 100 hours visiting patients during her lunch hour, after work, or on weekends when necessary. Soon she will retire. I am confident that her self-sacrificing spirit will continue to shine as she carries on with her important work.

Bob Siedelmann has been a Hospice Volunteer since 1999, and has volunteered for over 100 hours of service. He is always willing to stay with a patient, even if he has to change his plans to make the time work. Recently he attended the early service at his church so that he could be with a patient by 10:30 a.m. on Sunday. Bob's help and caring have improved the lives of many of the Hospice's male patients.

Vince Aquino has always been willing to visit with any patient, even if that patient did not know he was there and could not communicate with him. He has spent many hours in the secure units of more than one nursing home to be with patients suffering from dementia or Alzheimer's. He has been a Hospice Volunteer since 1999, putting in over 100 hours of service.

Connie Staffel is a professional counselor who works full-time at Eastern Idaho Technical College. Since becoming a volunteer last October, Connie has worked many Saturdays to facilitate a support group for grieving family members. In addition she has been available for patient care when her schedule permits. With her specialized training and experience, Connie has been a valuable resource for the Hospice.

Leora Cornia, a volunteer first with District 7 and now with Hospice of Eastern Idaho, has given 100 hours to a variety of patients. She is willing to give of her time to any and all that need her, though I am told her favorite activity is conversing with patients. Leora's service is invaluable to the Hospice and its patients.

Jim McCue is a volunteer who began with District 7 and now works with Hospice of Eastern Idaho. Jim has spent countless volunteer hours listening intently to his patients. He prefers to report on his visits in poetic form, and after visiting his most recent patient wrote: "I can already see it getting harder, I can already see it ending hard. I can already see it lasting too long, and not long enough." The Hospice Staff appreciates his insight and poetry as they work to assist the Hospice's patients.

When the Hospice had patients in the St. Anthony, Rexburg area, Barry Leeck of Chester was, for an extended period, the only volunteer close enough to be of assistance. He has always been willing to fit patients into his work schedule, and often visits patients after work or on his days off. His volunteer hours also include helping the Hospice office with clerical matters. I commend him for his service.

Domestic violence is a terribly destructive, hurtful thing. The victims of this horror need help and protection. The Family Service Alliance of Pocatello provides this support. Many women and children in southeast Idaho have been the beneficiaries of the safe haven provided by the Alliance. This organization also provides counseling to victims of rape. This important organization is truly representative of the "Spirit of Idaho."

It was an honor to present the Spirit of Idaho award to a group of dialysis patients from Coeur d'Alene. This group rides stationary bicycles to remain healthy during treatment. The group collectively set a goal to ride the miles equivalent to a biking trip across the United States. Their journey had a special destination for me—they were pedaling to Crapo, Maryland. As a result, this group is affectionately called the "Crapo Bikers." Day after day, these dedicated individuals biked for miles, moving a pin across the map of the United States. Despite adversity this group reached their goal. Their resolute determination stands as an example for all.

Jenny Busdon, a world champion gold medal recipient in cross country skiing, has worked on multiple fundraising projects over the past decade to benefit the Harriman Trail system and Galena Lodge in Sun Valley. She promotes increased participation in cross country skiing and overall awareness of the sport. As a strong supporter of healthy living, and an avid sportsman, I applaud Jenny's efforts.

Carol Harlig of Ketchum is a two-time breast cancer survivor who mentors others with the disease and serves on numerous community boards for breast cancer awareness. She also serves at the Ketchum Library. Recently she also put together care packages for Blaine County troops stationed in Iraq. Even with all of these important responsibilitics, Carol finds time to mentor at-risk elementary school children. She is a great example for others in Idaho.

I honor all Spirit of Idaho recipients, past and future, for their exceptional contributions and accomplishments. It is a privilege to pay tribute to these individuals for their important efforts on behalf of the citizens and communities of the great State of Idaho.●

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5951. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting two documents related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–5952. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's 2003 Performance and Accountability Report; to the Committee on Environment and Public Works.

EC–5953. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Changes to the Adjudicatory Process" (RIN3150–AG49) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5954. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting several documents related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–5955. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Standardized NUHOMS–24P, –52B, –61BT, –32PT, and –24PHB Revision" (RIN3150–AH28) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5956. A communication from the Administrator, General Services Administrator, transmitting copies of Reports of Building Project Survey for Ft. Lauderdale, FL, Benton, IL, Greensboro, NC, and Sioux Falls, SD; to the Committee on Environment and Public Works.

EC–5957. A communication from the Program Analyst, Directorate Civil Works, Army Corps of Engineers, transmitting, pursuant to law, the report of a rule entitled "United States Navy Restricted Area Cooper River and Tributaries, Naval Weapons Station Charleston, Charleston, SC" received on December 30, 2003; to the Committee on Environment and Public Works.

EC–5958. A communication from the Program Analyst, Directorate Civil Works, Army Corps of Engineers, transmitting, pursuant to law, the report of a rule entitled "United States Navy Restricted Area, Naval Weapons Statin Earle, Sandy Hook Bay, New Jersey" received on December 30, 2003; to the Committee on Environment and Public Works.

EC–5959. A communication from the Director, Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Solicitor, Department of the Interior, received on December 30, 2004; to the Committee on Environment and Public Works.

EC–5960. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting two Uniform Resource Locators (URLs) for documents that the Agency has recently issued; to the Committee on Environment and Public Works.

EC–5961. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Amendments to the Phase 2 Requirements for Spark-Ignition Nonroad Engines at or Below 19 Kilowatts" (FRL#7606–1) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5962. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Kentucky Update to Materials Incorporated by Reference" (FRL#7601–2) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5963. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Iowa; Correction" (FRL#7608–3) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5964. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Kansas" (FRL#7608–9) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5965. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL#7608–8) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5966. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Disapproval of State Implementation Plan Revisions, San Joaquin Valley Unified Air Pollution Control District" (FRL#7607–6) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5967. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to California State Implementation Plan, Monterey Bay Unified Air Pollution Control District" (FRL#7600–9) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5968. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "State Implementation Plans; States of Arizona, California, and Nevada; Correction" (FRL#7609–4) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5969. A communication from the Assistant Secretary, Department of the Army, transmitting, pursuant to law, a report relative to the Biscayne Aquifer Storage and Recovery Program located in Miami-Dade County, Florida; to the Committee on Environment and Public Works.

EC–5970. A communication from the Director, Office of Congressional Affairs, Nuclear

Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Part 71—Compatibility with IAEA Transportation Safety Standards (TS–R–1) and Other Transportation Safety Amendments" (RIN3150–AG71) received on January 13, 2004; to the Committee on Environment and Public Works.

EC–5971. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Standardized NUHOMS–24P, –52B, –61BT, –32PT, –24PHB, and –32PT Revision" (RIN3150–AH36) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5972. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: NAC–UMS Revision" (RIN3150–AH25) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5973. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the 1998, 1999, and 2000 Annual Reports compiled by the Fish and Wildlife Service on reasonably identifiable expenditures for the conservation of endangered and threatened species by Federal and State agencies; to the Committee on Environment and Public Works.

EC–5974. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a notification that the Deputy Secretary of State has determined that the export to Iraq of composite armor panels for uses other than body armor is in the national interest of the United States; to the Committee on Foreign Relations.

EC–5975. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the lack United Nations' grants of official status, accreditation, or recognition to any nation which promotes, condones, or seeks the legalization of pedophilia; to the Committee on Foreign Relations.

EC–5976. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning an amendment to Part 126 of the International Traffic in Arms Regulations, promulgated pursuant to the Arms Export Control Act; to the Committee on Foreign Relations.

EC–5977. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5978. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a copy of Presidential Determination 2004–07 relative to military assistance under the Rome Statute and an accompanying report; to the Committee on Foreign Relations.

EC–5979. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5980. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a copy of Presidential Determination 2004–17 relative to military assistance under the Rome Statute and an accompanying report; to the Committee on Foreign Relations.

EC–5981. A communication from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting, pursuant to law, the report of vacancy for the position of Assistant Administrator, Agency for International Development received on December 30, 2003; to the Committee on Foreign Relations.

EC–5982. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2004–3) received on January 13, 2004; to the Committee on Finance.

EC–5983. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Procedures for Letter Rulings and Determination Letters" (Rev. Proc. 2004–1) received on January 13, 2004; to the Committee on Finance.

EC–5984. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Republication of Rev. Proc. 2003–4" (Rev. Proc. 2004–4) received on January 13, 2004; to the Committee on Finance.

EC–5985. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting With Respect to Foreign Disregarded Entities" (Announcement 2004–4) received on January 13, 2004; to the Committee on Finance.

EC–5986. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Abusive Roth IRAs" (Notice 2004–8) received on January 13, 2004; to the Committee on Finance.

EC–5987. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Definition of Income for Trust Purposes" (RIN1545–AX96) received on January 13, 2004; to the Committee on Finance.

EC–5988. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Credit for Increasing Research Activities" (RIN1545–AY82) received on January 13, 2004; to the Committee on Finance.

EC–5989. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Regarding Deduction and Capitalization of Expenditures" (RIN1545–BA00) received on January 13, 2004; to the Committee on Finance.

EC–5990. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores" (Rev. Rule 2004–7) received on January 13, 2004; to the Committee on Finance.

EC–5991. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Definition of Agent for Certain Purposes" (RIN1545–AY94) received on January 13, 2004; to the Committee on Finance.

EC–5992. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Administrative, Procedural, and Miscellaneous" (Rev. Proc. 2004–13) received on January 13, 2004; to the Committee on Finance.

EC–5993. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Definition of Agent for Certain Purposes" (RIN1545–AY94) received on January 13, 2004; to the Committee on Finance.

EC–5994. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Administrative, Procedural, and Miscellaneous" (Rev. Proc. 2004–13) received on January 13, 2004; to the Committee on Finance.

EC–5995. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Republication of Rev. Proc. 2003–6" (Rev. Proc. 2004–6) received on January 13, 2004; to the Committee on Finance.

EC–5996. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Republication of Rev. Proc 2003–5" received on January 13, 2004; to the Committee on Finance.

EC–5997. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Improper to Proper Depreciation Changes" (Rev. Proc. 2004–11) received on January 13, 2004; to the Committee on Finance.

EC–5998. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Rulings and Determination Letters" (Rev. Proc 2004–7) received on January 13, 2004; to the Committee on Finance.

EC–5999. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Republication of Rev. Proc. 2003–8" (Rev. Proc. 2003–8) received on January 13, 2004; to the Committee on Finance.

EC–6000. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Changes in Computing Depreciation" (RIN1545–BC17) received on January 13, 2004; to the Committee on Finance.

EC–6001. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 42 Carryover and Stacking Rule Amendments" (RIN1545–BA85) received on January 13, 2004; to the Committee on Finance.

EC–6002. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Video Teleconferencing Appear" (RIN0960–AE97) received on January 13, 2004; to the Committee on Finance.

EC–6003. A communication from the Chairman, Medicare Payment Advisory, transmitting, pursuant to law, a report relative to outpatient dialysis payment rates; to the Committee on Finance.

EC–6004. A communication, transmitting, pursuant to law, the report of a rule entitled "Medical Devices: Classification of the Dental Sonography Device and Jaw Tracking Device" (Doc. No. 200N–0305) received on January 13, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6005. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to increasing health care to non-elderly, low-income populations; to the Committee on Health, Education, Labor, and Pensions.

EC–6006. A communication from the Regulations Coordinator, Administrator for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rule on Head Start Transportation" (RIN097–AC16) received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6007. A communication from the President, Midwestern Higher Education Compact, transmitting, the report of a resolution regarding the reauthorization of the Higher Education Act; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 129. A bill to provide for reform relating to Federal employment, and for other purposes (Rept. No. 108–223).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself, Mr. DODD, and Mr. LOTT):

S. 2031. A bill to authorize the States to implement such mechanisms as are necessary in a time of national crisis to ensure the continuity of the Senate in the event that a quorum of the Senate is not present due to the inability of members of the Senate to discharge the powers and duties of their office; to the Committee on Rules and Administration.

By Mrs. BOXER:

S. 2032. A bill to provide assistance and security for women and children in Afghanistan and for other purposes; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2033. A bill to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building"; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself, Mr. BIDEN, Mr. DORGAN, Mr. JOHNSON, and Mr. DODD):

S. Res. 292. A resolution designating the week beginning February 2, 2004, as "National School Counseling Week"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 664

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 846

At the request of Mr. SMITH, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 910

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 910, a bill to ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security.

S. 1035

At the request of Mr. CORZINE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 1189

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1189, a bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1326

At the request of Mr. VOINOVICH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1326, a bill to establish the position of Assistant Secretary of Commerce for Manufacturing in the Department of Commerce.

S. 1354

At the request of Ms. MURKOWSKI, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1354, a bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

S. 1398

At the request of Mr. DEWINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1398, a bill to provide for the environmental restoration of the Great Lakes.

S. 1457

At the request of Mr. BUNNING, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1457, a bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on distilled spirits to its pre-1985 level.

S. 1568

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1706

At the request of Mr. SCHUMER, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1706, a bill to improve the National Instant Criminal Background Check System, and for other purposes.

S. 1786

At the request of Mr. ALEXANDER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 1948

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 1961

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 1986

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1986, a bill to amend the Help America Vote Act of 2002 to require voter verification and improved security for voting systems under title III of the Act, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 2032. A bill to provide assistance and security for women and children in Afghanistan and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, yesterday was an important and historic day for Afghanistan. President Hamid Karzai signed a new constitution that guarantees the equal rights of all Afghans, including women.

Given the terrible hardship women and girls in Afghanistan faced during the years of war, drought and the draconian policies of the Taliban, this new constitution is an important step forward.

However, yesterday's victory will be sort-lived if the constitution is not implemented and women continue to suffer from discrimination and violence, and are denied access to health care, education and job training.

The biggest challenge facing women today is a lack of basic security. Human Rights Watch reported earlier this month that:

> women and girls bear some of the worst effects of Afghanistan's insecurity. Conditions are generally better than under the Taliban, but women and girls continue to face severe governmental and social discrimination. Those who organize protests or criticize local rulers face threats and violence. Soldiers and police routinely harass women and girls, even in Kabul city. Many women and girls are afraid to remove the burqa. Because soldiers are targeting women and girls, many are staying indoors, especially in rural areas, making it impossible for them to attend school, go to work, or actively participate in the country's reconstruction.

Today, I am introducing legislation that will ensure that women and children are able to thrive in a post-Taliban Afghanistan.

This legislation authorizes $300 million each year to provide assistance to Afghan women and children with four specific goals. First, the bill seeks to enhance the political and human rights of women by providing assistance to help them exercise property, inheritance and voting rights and to enforce provisions in the new constitution that ensure equal rights for women.

Second, the bill provides funding for health care, including assistance to reduce maternal and infant mortality and to train midwives, nurses and traditional birth attendants.

Third, funding is authorized to be used for education and training, including expanding schools for women and girls, technical and vocational training and literacy programs.

Finally, the bill addresses the issue of security by providing programs to prevent the trafficking of women and girls, support the return of refugees, and provide general security to prevent violent attacks against schools. The bill also calls for an expansion of international peacekeeping forces throughout the country.

We have heard many times that failure is not an option in Afghanistan. Passage of this legislation will go a long way to ensure the success of a democratic and peaceful nation.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2033. A bill to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building"; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, I rise today to introduce a bill to rename the Federal building in Roswell, NM, after my dear friend, Representative Joe Skeen. On December 7, 2003, Joe lost his valiant battle with Parkinson's Disease. He will be deeply missed.

I first met Joe more than 40 years ago when I was fresh out of law school and Joe was a rising star within the New Mexico Republican party. From that moment, I knew that Joe was destined for great things. To the great benefit of the people of the State of New Mexico and the Nation, Joe chose to dedicate his life to public service.

For those of us who knew Joe, it came as no surprise when he became only the third person in our Nation's history to win a U.S. House seat as a write-in candidate in 1980. During his 22 year tenure as New Mexico's representative for the 2nd Congressional District, Joe was a powerful voice for the people of his district and its rural lifestyle. For instance, he was a staunch defender of New Mexico's farming and ranching interests.

Many have described Joe as one of the most powerful members of Congress that New Mexico ever sent to Washington, DC. But Joe never forgot who he was and where he was from. He was part and parcel of this land and its people. Joe truly represented the people of the 2nd Congressional District, both politically and in spirit.

Joe sought committee assignments that would most benefit the largely rural district that he represented. During his time in the U.S. Congress, Joe served 17 years on the House Appropriations Committee, serving as Chairman of both the Interior Appropriations Subcommittee and the Agriculture Appropriations Subcommittee.

In 2002 Joe retired from Congress. After 11 terms in Congress, Joe decided to return to his ranch, a place that he described as being "at the center of my upbringing and which shaped my character and principles in life." I feel truly blessed to have had the honor to serve with Joe for those 22 years. I know Washington will go on without Joe, but it will not be nearly as good a place.

For all the good that Joe accomplished during his 22 years as a Congressman, I know he could not have done it alone. We owe a great debt of gratitude to Mary, his wife of 57 years. She and the Skeen children deserve great credit for making his life so remarkable.

Today I introduce legislation that would designate the Federal Building in Roswell, NM, the "Joe Skeen Federal Building." I would like to thank my distinguished colleague Senator JEFF BINGAMAN for co-sponsoring this legislation. Additionally, Representatives WILSON, PEARCE and UDALL will introduce shortly a companion bill honoring Joe for his service to his State and Nation.

Joe was born in Roswell, NM, represented the people of the Second Congressional District for 22 years and spent his final days in Roswell, NM. It is fitting that the Roswell Federal Building bear his name. One of Joe's first actions after he took office in 1981 was to introduce legislation to name the Federal Building in Las Cruces after the man he replaced, the late Congressman Harold Runnels. I believe it's appropriate, 22 years later, to return the favor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2033

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, shall be known and designated as the "Joe Skeen Federal Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the Joe Skeen Federal Building.

**SEC. 3. EFFECTIVE DATE.**

This Act shall take effect on January 1, 2005.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 292—DESIGNATING THE WEEK BEGINNING FEBRUARY 2, 2004, AS "NATIONAL SCHOOL COUNSELING WEEK"

Mrs. MURRAY (for herself, Mr. BIDEN, Mr. DORGAN, Mr. JOHNSON, and

Mr. DODD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 292

Whereas the American School Counselor Association has declared the week beginning February 2, 2004, as "National School Counseling Week";

Whereas the Senate has recognized the importance of school counseling through the inclusion of elementary and secondary school counseling programs in the reauthorization of the Elementary and Secondary Education Act of 1965;

Whereas school counselors have long advocated that the American education system must leave no child behind and must provide opportunities for every student;

Whereas personal and social growth results in increased academic achievement;

Whereas school counselors help develop well-rounded students by guiding them through their academic, personal, social, and career development;

Whereas school counselors were instrumental in helping students, teachers, and parents deal with the trauma of terrorism inflicted on the United States on September 11, 2001, and its aftermath;

Whereas students face myriad challenges every day, including peer pressure, depression, and school violence;

Whereas school counselors are usually the only professionals in a school building that are trained in both education and mental health;

Whereas the roles and responsibilities of school counselors are often misunderstood, and the school counselor position is often among the first to be eliminated in order to meet budgetary constraints;

Whereas the national average ratio of students to school counselors of 485 to 1 is more than double the 250 to 1 ratio recommended by the American School Counselor Association, the American Counseling Association, the American Medical Association, the American Psychological Association, and other organizations; and

Whereas the celebration of "National School Counseling Week" would increase awareness of the important and necessary role school counselors play in the lives of the Nation's students: Now, therefore, be it

*Resolved,*

### SECTION 1. DESIGNATION OF NATIONAL SCHOOL COUNSELING WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning February 2, 2004, as "National School Counseling Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning February 2, 2004, as "National School Counseling Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies and activities that promote awareness of the role school counselors perform within the school and the community at large to prepare students for fulfilling lives as contributing members of society.

Mrs. MURRAY. Mr. President, today I am pleased to submit a resolution designating the week of February 2, 2004, as "National School Counseling Week," on behalf of my colleagues Senator BIDEN, Senator DORGAN, Senator JOHNSON and Senator DODD. This resolution would honor and celebrate the important work of school counselors, which the Senate has recognized since 1965 through the inclusion of school counseling in the Elementary and Secondary Education Act.

Across the country, there are approximately 95,000 school counselors, including 2,100 in Washington State. School counselors are critical components of a successful school and contribute significantly to the growth and success of students. In fact, school counselors were instrumental in helping students, teachers, and parents deal with the trauma of terrorism on September 11, 2001, and its aftermath. However, despite their important service, counselors are expected to serve, on average 485 students each, and are overwhelmed. The American School Counseling Association, the American Medical Association, and the American Psychological Association recommend the ratio of students to school counselors be 250 students to 1 school counselor.

I want to share just a few examples of how school counselors throughout America are helping students.

In a middle school in southern California, school counselors realized that 257 students were in danger of not passing onto the next grade. They discovered that only 15 percent of the students understood the promotion and retention requirements. The school counselors presented a series of individual and small group lessons on promotion and retention criteria. After the lessons, 100 percent of the students understood the requirements. As a result, 72 of the 257 students, about 28 percent, avoided retention that year.

In a high school in Racine, WI, a math teacher realized that 100 of his students failed algebra in the first quarter of the year. He asked a school counselor for help. Together, they discovered some of the reasons why students were failing. They initiated several programs, such as peer tutoring and homework assistance. As a result, 93 of the 100 students passed algebra by the end of the year and were able to move on to the next level of math.

A school district in Kentucky realized that the retention rate among ninth grade students was unacceptably high. School counselors, teachers and administrators worked together to develop and implement strategies targeted at helping ninth graders move to 10th grade. As a result, retention rates improved in 16 of the 17 high schools in the county in just one year. One school saw the retention rate improve more than 25 percent.

This resolution is merely the beginning of what we need to be doing to support school counselors. We need to reduce the ratio of students to counselors to, at the most, 250 to 1. We need to help schools maintain their funding so that school counselors are not cut from school budgets. And we need to support our school counselors so that they can continue to be integral in the fabric of our schools and help our students achieve success in high school and beyond.

School counselors design and implement comprehensive developmental school counseling programs that are integral to the success of every student. They help students improve academic achievement, develop personally and socially and prepare for successful careers that will enable them to be contributing members of society. National School Counseling Week focuses public attention on the unique contribution of professional school counselors and highlights the tremendous impact that school counselors have in helping students achieve success in school and beyond.

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## AMENDMENTS SUBMITTED AND PROPOSED

SA 2262. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table.

SA 2263. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2264. Mr. GRASSLEY (for Mr. NICKLES) proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra.

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## TEXT OF AMENDMENTS

**SA 2262.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

### SEC. . RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—The provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003 while the employer was in bankruptcy under chapter 11 of title 11 of the United States Code.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of the Internal Revenue Code of 1986 and section 302(d)(1)(A)(i) of the Employee Retirement Income Security Act of 1974 with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(l) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

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**SA 2263.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

**SEC. . RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.**

(a) IN GENERAL.—The provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of the Internal Revenue Code of 1986 and section 302(d)(1)(A)(i) of the Employee Retirement Income Security Act of 1974 with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(l) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

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**SA 2264.** Mr. GRASSLEY (for Mr. NICKLES) proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

### SEC. ___. SENSE OF THE SENATE ON STATUS OF PRIVATE PENSION PLANS.

(a) FINDINGS.—Congress makes the following findings:-

(1) The private pension system is integral to the retirement security of Americans, along with individual savings and Social Security.

(2) The Pension Benefit Guaranty Corporation (PBGC) is responsible for insuring the nation's private pension system, and currently insures the pensions of 34,500,000 participants in 29,500 single-employer plans, and 9,700,000 participants in more than 1,600 multiemployer plans.

(3) The PBGC announced on January 15, 2004, that it suffered a net loss in fiscal year 2003 of $7,600,000,000 for single-employer pension plans, bringing the PBGC's deficit to $11,200,000,000. This deficit is the PBGC's worst on record, three times larger than the $3,600,000,000 deficit experienced in fiscal year 2002.

(4) The PBGC also announced that the separate insurance program for multiemployer pension plans sustained a net loss of $419,000,000 in fiscal year 2003, resulting in a fiscal year-end deficit of $261,000,000. The 2003 multiemployer plan deficit is the first deficit in more than 20 years and is the largest deficit on record.

(5) The PBGC estimates that the total underfunding in multiemployer pension plans is roughly $100,000,000, and in single-employer plans is approximately $400,000,000. This underfunding is due in part to the recent decline in the stock market and low interest rates, but is also due to demographic changes. For example, in 1980, there were four active workers for every one retiree in a multiemployer plan, but in 2002, there were only two active workers for every one retiree.

(6) This pension plan underfunding is concentrated in mature and often-declining industries, where plan liabilities will come due sooner.

(7) Neither the Senate Committee on Finance nor the Senate Committee on Health, Education, Labor, and Pensions (HELP), the committees of jurisdiction over pension matters, has held hearings this Congress nor reported legislation addressing the funding of multiemployer pension plans;

(8) The Senate is concerned about the current funding status of the private pension system, both single and multi-employer plans;

(9) The Senate is concerned about the potential liabilities facing the PBGC and, as a result, the potential burdens facing healthy pension plans and taxpayers;

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance and the Committee on Health, Education, Labor, and Pensions should conduct hearings on the status of the multiemployer pension plans, and should work in consultation with the Departments of Labor and Treasury on permanent measures to strengthen the integrity of the private pension system in order to protect the benefits of current and future pension plan beneficiaries.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that three hearings have been scheduled before the Committee on Energy and Natural resources to consider the President's proposed FY 2005 budget.

The Committee will hear testimony from the following:

1. The Department of Energy on Tuesday, February 10, 2004, beginning at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

2. The Department of the Interior on Thursday, February 12, 2004, beginning at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

3. The Forest Service on Tuesday, March 2, 2004, beginning at 10 a.m., in room SF-366 of the Dirksen Senate Office Building in Washington, D.C.

For further information on these hearings, please call Carole McGuire, Deputy Staff Director at (202) 224-0537; or Shane Perkins, Staff Assistant, (Department of Energy hearing) at 202-224-7555 or Meghan Beal, Staff Assistant, (Department of the Interior and Forest Service hearings) at (202) 224-7556.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Tuesday, January 27, 2004. The purpose of this hearing will be to examine the current situation regarding the discovery of a case of bovine spongiform encephalopathy in a dairy cow in Washington State as it relates to food safety, livestock marketing, and international trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 27, 2003 at 10 a.m. to hold a hearing on "Afghanistan Stabilization & Reconstruction: A status report.

The PRESIDING OFFICER. Without objection, it is so ordered

### COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, January 27, 2004, at 9:30 a.m. on "Ensuring the Continuity of the United States Government: A Proposed Constitutional Amendment to Guarantee a Functioning Congress," in the Dirksen Senate Office Building Room 226.

Witness List: Hon. Alan K. Simpson, Co-Chairman, Continuity of Government Commission, Former United States Senator [R-WY], Cody, WY and Prof. Sanford V. Levinson, W. St. John Garwood and W. St. John Garwood, Jr., Centennial Chair in Law and Professor of Government, University of Texas Law School, Austin, TX.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, January 27, 2004 from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET AND INTERNATIONAL SECURITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Tuesday, January 27, 2004 at 10 a.m. for a hearing titled, "Oversight Hearing on Mutual Funds: Hidden Fees, Misgovernance, and Other Practices that Harm Investors."

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on Tuesday, January 27, 2004, at 11:15 a.m., on "Covering the Waterfront—A Review of Seaport Security since September 11, 2001," in the Dirksen Senate Office Building Room 226.

Witness List: Larry Hereth, Rear Admiral, Director of Port Security, United States Coast Guard, Alexandria, VA; Mr. Robert M. Jacksta, Executive Director, United States Customs and Border Patrol, Fairfax, VA; and Mr. Gary M. Bald, Inspector—Deputy Assistant Director FBI, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR WEDNESDAY, JANUARY 28, 2004

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m., Wednesday, January 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pension bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. GRASSLEY. Tomorrow morning the Senate will resume consideration of H.R. 3108, the pension bill. Under the previous order, there will be 40 minutes of debate prior to the vote in relation to the Kyl second-degree amendment regarding waivers. Following the disposition of the Kyl amendment, we should be prepared to quickly move to a vote on passage of the underlying legislation. Senators should therefore expect a vote or maybe two votes prior to noon tomorrow. In addition to the pension rate bill, the Senate may consider any judicial nominations that can be cleared for action. Additional votes are, therefore, possible during Wednesday's session of the Senate.

## ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:49 p.m., adjourned until Wednesday, January 28, 2004, at 11 a.m.

# HOUSE OF REPRESENTATIVES—*Tuesday, January 27, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BONNER).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 27, 2004.*

I hereby appoint the Honorable JO BONNER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

## THE U.S. MUST DO MORE TO FIGHT CHILD HUNGER

Mr. MCGOVERN. Mr. Speaker, on December 11, 102 Members of Congress sent a bipartisan letter to President Bush asking him to restore the original funding level for the George McGovern-Robert Dole International Food for Education Program when he submits his fiscal year 2005 budget next week.

The McGovern-Dole program began as a $300 million pilot program in 2001. It provided at least one nutritious meal each day to nearly 7 million children in 38 countries. The catch? These children had to attend school in order to get the meals.

Providing food to malnourished children in schools is one of the most effective strategies to fight hunger and poverty. Where programs are offered, enrollment and attendance rates increase significantly, particularly for girls. Instead of working or searching for food to combat hunger, children have the chance to go to school. Providing food at school is a simple but effective means to improve literacy and help poor children break out of poverty.

The McGovern-Dole program helps us to achieve many of our foreign policy goals and communicates America's compassion to those around the world. And at the end of the day, it will be programs like McGovern-Dole that will ultimately triumph over poverty and terror.

One year ago, in February 2003, the U.S. Department of Agriculture evaluated this program, and the conclusions were overwhelmingly positive. In addition to significantly reducing the incidence of hunger among school-age children, the program was also found to promote educational opportunity, especially for girls, among some of the poorest populations in the world.

Sadly, in fiscal year 2003, McGovern-Dole received only $100 million in funding, reducing the number of children served to scarcely more than 2 million worldwide in just 28 countries. In fiscal year 2004, President Bush only asked for $50 million, and acting under severe budget constraints, this is what Congress provided. In brief, for fiscal year 2004, the United States will literally be taking food out of the mouths of yet another 1 million hungry children and forcing many of their families to remove them from school.

The senior Senator from Kansas and the chairman of the Senate Intelligence Committee, PAT ROBERTS, has stated on a number of occasions his belief that the McGovern-Dole program serves our national security interests by attacking the breeding grounds of terrorism, hunger, poverty, ignorance, and despair, while at the same time ensuring that children are fed in settings where they receive a quality education rather than hate-filled indoctrination. But rather than expanding this program to reach even more school-age children, to help stabilize communities devastated by HIV/AIDS, and to support HIV/AIDS orphans so that they might contribute to the future of their nations rather than burden them, we cut this program once again.

On November 26, the United Nations Food and Agriculture Organization released its 2003 report on hunger. It found that after falling steadily during the 1990s, hunger is again on the rise. In the developing world, the number of malnourished people grew by an average of 4.5 million a year for the past 3 years. The report also found that hunger exacerbates the AIDS crisis, drives rural people into the cities, and forces women and children to trade sex for food and money.

Yet over the past 3 years, we have cut funding for the McGovern-Dole school feeding program so that it is now one-sixth of what it once was. This means that 84 out of every 100 children we were feeding and schooling under this program in 2001 have been cut off from this food source. They now either go to school hungry or have once again dropped out of school.

Mr. Speaker, this is a disgrace, plain and simple.

Mr. Speaker, we are going in the wrong direction, not just for the children of the world, but for the security of our Nation. If as a nation we are committed to defeating terrorism, then we must increase and fully fund programs like McGovern-Dole, along with other food aid and development programs.

If as a nation we are committed to addressing hunger, poverty, illiteracy, and ignorance, then we must increase and restore full funding to the McGovern-Dole program and our other food aid and development programs.

And if we, as a nation, are committed to helping educate the children of the world, especially girls, then we must increase and restore full funding to the McGovern-Dole program.

Mr. Speaker, I call on President Bush and the congressional leadership to restore full funding in fiscal year 2005 to the George McGovern-Robert Dole International Food for Education Program. It is truly a matter of life or death.

CONGRESS OF THE UNITED STATES,
*Washington, DC, December 11, 2003.*

Hon. GEORGE W. BUSH,
*President of the United States,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are writing to urge you to provide $300 million in your Fiscal Year 2005 Budget Proposal for the George McGovern-Robert Dole International Food for Education and Child Nutrition Program. We believe it is urgent to restore funding for this program at levels similar to those of the original pilot program.

We strongly believe this funding is critical for sustaining and expanding the McGovern-Dole Program in order to combat terrorism and to help build and consolidate democracy in the Middle East, southern Asia, the Near East, and in other regions critical to U.S. national security. As you are aware, the McGovern-Dole Program provides donations of U.S. agricultural products, as well as financial and technical assistance, for school feeding and maternal and child nutrition programs in low-income countries. We note that recommendations made by the General Accounting Office (GAO) in February 2002 on how to strengthen and improve the administration and implementation of school feeding programs were fully integrated into the law establishing the McGovern-Dole Program, enhancements that we believe contribute to its success.

Both the initial pilot program and the current McGovern-Dole Program have a proven

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

track record at reducing the incidence of hunger among school-age children and improving literacy and primary education, especially among girls, in areas devastated by war, hunger, poverty, HIV/AIDS, and the mistreatment or marginalization of women and girls. School meals, teacher training, and related support have helped boost school enrollment and academic performance. McGovern-Dole nutrition and school feeding programs also improve the health and learning capacity of children both before they enter school and during the years of primary and elementary school.

In February 2003, the U.S. Department of Agriculture evaluated the McGovern-Dole pilot program and found significant positive results. Specifically—

"The results to date show measurable improvements in school enrollment, including increased access by girls. In projects involving more than 4,000 participating schools, the WFP reports an overall enrollment increase exceeding 10 percent, with an 11.7 percent increase in enrollment by girls. The PVO's report an overall enrollment increase of 5.75 percent in GFE-participating schools. In some projects, increases in enrollment were as high as 32 percent compared with enrollment rates over the previous three years." (USDA, The global Food for Education Pilot Program: A Review of Project Implementation and Impact, page 2, February 2003)

We firmly believe that these programs reduce the risk of terrorism by helping to eliminate the hopelessness and despair that breed terrorism. American products and commodities are directly associated with hunger alleviation and educational opportunity, encouraging support and good will for the United States in these communities and countries.

We strongly urge that you restore the capacity of this critically important program by providing $300 million for Fiscal Year 2005.

Sincerely,

James P. McGovern, Frank Wolf, Jo Ann Emerson, Marcy Kaptur, Doug Bereuter, Tom Lantos, Earl Pomeroy, Amo Houghton, Barbara Lee, Sam Graves, Edolphus Towns, Don Manzullo, Vic Snyder, Jim Leach, Tammy Baldwin, Christopher Smith (NJ), Marty Meehan, Doc Hastings (WA), Dennis Moore, George Nethercutt, John Olver, Jerry Moran (KS), Bennie G. Thompson (MS), Todd Tiahrt, Adam Schiff, David Price, Maurice Hinchey, James Oberstar, Betty McCollum,

William Delahunt, Bob Filner, Jan Schakowsky, Sheila Jackson Lee, Leonard Boswell, Gary Ackerman, George Miller, Dale Kildee, Julia Carson (IN), Albert Wynn, Carolyn Maloney, Bobby Rush, Diana Christensen, Rául M. Grijalva, Bob Etheridge, Pete Stark, Jim McDermott, Jim Matheson, Jerry Costello, Mike Capuano, Joseph Crowley, Susan Davis (CA), Rosa DeLauro, Martin Frost, Rick Larsen (WA), Sander Levin,

Ed Markey, John Tierney, Lynn Woolsey, Donald Payne, Hilda Solis, Mike McNulty, Elijah Cummings, Mike Doyle, Joseph Hoeffel, Lucille Roybal-Allard, Bernie Sanders, Sam Farr, Neil Abercrombie, Jim Marshall, Charles Gonzalez, Rubén Hinojosa, Eleanor Holmes Norton, Earl Blumenauer, Robert Wexler, Rob Andrews, Madeleine Z. Bordallo, José Serrano,

Maxine Waters, Lane Evans, Barney Frank, Ron Kind, Sanford Bishop, Jr., Sherrod Brown (OH), Henry Waxman, Steve Rothman, Nancy Pelosi, Dennis Kucinich, Tom Allen, Jim Moran (VA), Rick Boucher, Brad Sherman, Carolyn Kilpatrick, Lois Capps, Karen McCarthy, Patrick Kennedy (RI), Jane Harman, Alcee Hastings (FL), William Jefferson, Chris Van Hollen, Chaka Fattah, Stephen Lynch, Charles Rangel.

## IMMIGRATION REFORM NEEDED IN MEXICO

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, good afternoon. With our Nation's dedication to homeland security after the horrors of September 11, most citizens believe today that it is time to strengthen, secure our borders and reform our immigration policies.

It appears that some type of reforms are on the horizon. And reforms are needed. Many of us on this floor believe that above all else, we should enforce our immigration laws that are currently on the books. It is the men and women who stand on our borders today, enforcing these laws every day, but they may be confused. Unsure of their relevance, border agents are now questioning why they must fight each day to secure our borders in light of the proposed "guest worker" program.

This program was to help Mexico's President Fox as part of a large amnesty plan that has been in the works since September 11 after the terrorist attacks. But, Mr. Speaker, a question could be asked, why are we rewarding a country that has been opposed to our war on terror?

According to the Subcommittee on Social Security of the House Committee on Ways and Means, benefits paid to retirees will exceed revenues in just 15 years. The pay-as-you-go system could have serious financial problems in the year 2030. These projections do not take into account the economic impact of the "guest worker" proposal, which would allow untold millions of illegal aliens from Mexico to collect benefits for themselves and their families from their home country without having to work the required number of years that law-abiding citizens must work to be eligible for these same payouts.

The deal may cost overburdened U.S. taxpayers over the next 20 years also. Supporters of this "guest worker" program call this program, "totalization." I am not sure what they mean. But, this proposed agreement could be thought of as a transfer of wealth from those who play by the rules the American way to those who willingly and knowingly mock our own immigration and tax laws.

Mr. Speaker, I believe it is time for Mr. Fox, the President of Mexico, to look to his own country for reform instead of his continuing to lobby to change U.S. policy. Vital reforms in Mexico will break down the barriers to economic growth and provide more and better opportunities for the people of Mexico. Similar reform in other regional countries will reduce the incentives to make the difficult trek into our country. The President's plan, although convenient, merely, I believe, postpones our reckoning with a situation in which over 8 million people are here illegally.

I certainly hope that the administration will take a hard look at this "guest worker" program that is being proposed and perhaps look for real immigration reform first, and that, Mr. Speaker, could start with reform in the state of Mexico.

## NEW CBO DEFICIT NUMBERS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, yesterday the nonpartisan Congressional Budget Office once again confirmed that President Bush is the most fiscally irresponsible President in our Nation's history. Yesterday CBO forecast a budget deficit for the 2004 fiscal year of $477 billion, the largest deficit in history. Furthermore, CBO said the overall Federal deficit will total nearly $2.4 trillion over the next decade. That is nearly $1 trillion worse than what CBO forecast last fall.

After the estimates were released, Treasury Secretary John Snow commented from London that the administration remains committed to deficit reduction, stating, "Make no mistake: President Bush is serious about the deficit."

Mr. Speaker, who is Secretary Snow trying to fool? President Bush being serious about the deficit? This is the same President Bush who inherited a $5.6 trillion surplus from President Clinton. Over the past 3 years, thanks mainly to three large tax breaks primarily benefiting America's millionaires, President Bush has presided over an $8.5 trillion fiscal collapse.

And our Nation's fiscal situation could get even worse this year if Congress continues to listen to President Bush and the House Republican leadership. That is because CBO's estimates only take into account existing policies.

And just last week, during the State of the Union address, President Bush asked Congress to make all his fiscally irresponsible tax policies permanent. Last year CBO estimated that such action would cost the Federal Government an additional $1 trillion.

The President also once again proposed partially privatizing Social Security at an additional expense of at least $1 trillion in extra funds over the next decade, and that is $2 trillion right there to add to the already gloomy deficit forecast. And this is not even including the $700 billion the President wants to spend for a mission to Mars, the $50 billion that the President will propose for the continuing war in Iraq, and the $1.5 billion throwaway to the far right in his party to help train couples to develop better interpersonal skills that sustain "healthy marriages."

Based on these facts, how can Secretary Snow say that President Bush is serious about the deficit?

Let us be clear. It is the policies of President Bush and my Republican colleagues that have put us in this situation. Democrats do not control the White House. Democrats do not control the Congress, either the House or the Senate. And yet I would not be shocked if conservative Republicans do not come to the floor today and try to blame Democrats for the fiscal mess our Nation now faces.

Clearly, Mr. Speaker, President Bush now sees the huge budget deficit as a threat to his reelection campaign, and that is why he vowed to cut the deficit in half over the next 5 years during his State of the Union address last week. But we might be asking ourselves how the President plans to cut the deficit in half with the more than $2 trillion in tax cuts and other new spending he wants Congress to approve this year. The President and Republicans will say holding down domestic spending to 1 percent during the next year will put a huge dent in the deficit, but that is simply not the case, considering that domestic spending only amounts to 17 percent of all the Federal spending expected this year.

The bottom line, Mr. Speaker: The fiscal record of the Bush administration and congressional Republicans is clear. As long as Republicans control the Federal budget, our Nation's fiscal future is seriously in question; and in order to prevent a total fiscal collapse, it is time for President Bush and my Republican colleagues to face reality and repeal the President's tax cuts for the very wealthiest Americans.

It is time President Bush and congressional Republicans stand with our Nation's children, who will be forced to bear the brunt of the cost of their fiscal irresponsibility. It is time the President and congressional Republicans stand with our Nation's seniors and baby boomers that need Social Security and Medicare strengthened and not raided.

Yesterday's CBO report should serve as a wake-up call to Washington Republicans. And let us hope they finally listen to the alarms before this mess gets even worse.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 44 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

## AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, shepherd Your people as never before, for the times are turbulent. Violence and terrorism rip apart the very fabric of civilization, ancient and new. Friendships between nations are threatened. And who will replace the basic trust and faithful love once found in family life?

As in the days of the prophet Zechariah, we call out to You to show forth Your power.

Take up Your two staves, one called Favor, the other Union.

With the staff of Favor, fashion us again as Your people. Renew Your covenant love within Your chosen ones.

With the staff of Union, bind all in this House to one another as leaders, worthy and willing to be brother and sister to others.

May You delight in us as Your very own and our coming together as a glimpse of Your kingdom, now and forever.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois (Mr. DAVIS) come forward and lead the House in the Pledge of Allegiance.

Mr. DAVIS of Illinois led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## SPECIAL-ED STUDENT VOTED HOMECOMING KING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, most homecoming kings are probably athletes or student government leaders, the "in crowd"; but students at a Tempe, Arizona, high school broke the mold. Marcos de Niza High School's landslide winner for homecoming king was a 21-year-old student with Down Syndrome, Poco Carton.

Poco is well-known around campus for his dance moves at lunch and for his insistence on saying hello to nearly everyone. The election is a vivid reminder that each and every life, regardless of what value the world places on it, is worthy of living. Every day, Poco and those who share his challenges offer priceless contributions to our communities, but too often they are taken for granted, excluded from the opportunities many of us take for granted.

Studies show that 86 percent of unborn children who are diagnosed with Down Syndrome are never given a chance to be elected homecoming king. They are aborted. Down Syndrome is a challenge that taxes anyone facing it. Families caring for children with this disease need our support and encouragement, but if we believe that the way to kill Down Syndrome is to kill babies, we are dead wrong.

How many Poco Cartons have we lost to this strategy? How many lives could have been touched at schools like Marcos de Niza? It is a cost too high to calculate.

## HONORING THE REVEREND CHARLIE MURRAY

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute.)

Mr. DAVIS of Illinois. Mr. Speaker, on Sunday I had the opportunity to participate in a tremendous ceremony, the naming of a dining hall at the church that I attend on a regular basis. We named it the Charlie H. Murray, the Reverend Charlie Murray, who is the pastor emeritus of this church; and as we thought of the contributions that this gentleman had made, we had brought practically every Senator, every mayor, Presidential candidates, all to this small church because of the tremendous outreach and appeal of the Reverend Charlie Murray.

So as we go into primary elections and people are voting and thinking about electing a new President, we thought that was an appropriate time to pay tribute to a church man who had been civically involved.

## TRIBUTE TO CHIEF WARRANT OFFICER BRIAN D. HAZELGROVE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it is written that we are to grieve with those who grieve and mourn with those who mourn. It is in that spirit today that I rise to honor a hero, Chief Warrant Officer Brian Hazelgrove.

Warrant Officer Hazelgrove is the son of Ron and Patty Hazelgrove of Edinburgh, Indiana, a small town just a stone's throw from my home, where I am sure today in Sherman's Barbershop and elsewhere there is genuine grief and sadness at the loss of this 1994 graduate of Edinburgh High School.

Warrant Officer Hazelgrove joined the Army in that year of 1994. He began his service in military intelligence before becoming a pilot and serving two tours of duty in South Korea.

He was serving with the 3rd Squadron, 17th Air Cavalry Regiment from the 10th Mountain Division at Fort Drum, New York. He died this January 23, 2004, in support of Operation Iraqi Freedom when his OH–58D Kiowa Warrior helicopter went down 31 miles south of Mosul, Iraq. He was bravely executing a combat mission at the time.

Warrant Officer Hazelgrove, Mr. Speaker, died like every other American soldier throughout our Nation's history, bringing hope and freedom to a people who have never known it before.

On behalf of the people of the sixth congressional district, I extend my deepest sympathies and prayers to the family of Chief Warrant Officer Hazelgrove, to his lovely wife, Kimmi; their four children, Taylor, 11; Zachary, 10; Brandon, 3; and Katelyn, 7 months. Indiana and America mourn the loss of this heroic American, Chief Warrant Officer Brian Hazelgrove.

## WHAT PRESIDENT BUSH DID NOT TELL US ABOUT THE MEDICARE BILL

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, last week President Bush stood in this well and told us that he signed a Medicare bill last month. What he did not tell us was that this bill does not take effect until 2006. What he did not tell us is that this bill gives the insurance companies a $14 billion taxpayer subsidy. What he did not tell us is that this bill provides $139 billion more to the drug companies in profits, and what he did not tell us was how little coverage this Medicare prescription drug bill will give to most of America's seniors.

This bill falls short because the Medicare bill was written by the drug industry and by the insurance industry, for the drug industry and for the insurance industry in the Oval Office.

## COLLABORATION ON THE AFTERMATH OF IRAQ

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I do not believe it is important at this time to restate a position that many of us took in this Nation in opposition to the attack against Iraq: preemptive, unilateral, and without a constitutional vote of this Congress.

We have long since said that we stand united behind the United States military, but it is clear that our policies now in the aftermath are failing, with the insurgents going against our troops in high numbers, with the loss of life increasing and now the political delay because those in Iraq want direct and prompt election. In addition, it is important not to cover up the wash out, the white out, the words of Mr. Kay, finding no weapons of mass destruction.

Today, I ask for a serious and collaborative effort with the United Nations who, of course, this government has approached, our NATO allies and Mideast allies to deal with the aftermath of Iraq.

Secondarily, I ask for a full and open hearing by all committees of jurisdiction on the issue of the lack of finding of weapons of mass destruction. I do that because that is the basis upon which representations were made to the United States and the people for which we entered into Iraq. It is imperative that these hearings are open and free for the public to hear, for the national security, to ensure the security of our homeland and the security of our troops and the security of all those around the world.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## BREAST CANCER STAMP EXTENSION

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1385) to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research, as amended.

The Clerk read as follows:

H.R. 1385

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BREAST CANCER STAMP EXTENSION.**

Section 414(h) of title 39, United States Code, is amended by striking "2005" and inserting "2006".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

### GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1385, introduced by my distinguished colleague from my home State of California (Mr. BACA), extends the life of the breast cancer research semipostal stamp.

Mr. Speaker, on the night of July 22, 1997, Dr. Ernie Bodai, Betsy Mullen, and David Goodman sat breathlessly in the House gallery awaiting the outcome of a vote that they had worked tirelessly to see become a reality. At that time, H.R. 1585, the Stamp Out Breast Cancer Act, was landmark legislation establishing the Breast Cancer Research Stamp Program and directing the U.S. Postal Service to issue a new first-class breast cancer stamp with proceeds benefiting breast cancer research at the National Institutes of Health and the Department of Defense Breast Cancer Research Programs.

This advocacy team, a surgeon, a survivor and a widower, used their own time and resources to convince lawmakers to pass this essential legislation.

Dr. Ernie Bodai of Carmichael, California, a constituent and personal friend of mine, led the charge. After 14 visits to Washington within 2 years, as well as spending over $100,000 of his personal savings, he succeeded, creating the lead for breast cancer fundraising. Dr. Bodai is the pioneer of the breast cancer stamp, chief of general surgery for Kaiser Permanente, and CEO of CureBreastCancer, Inc.

Joining him in this crusade was Betsy Mullen. Ms. Mullen is one of slightly over 2 million women living in the United States who have been diagnosed with and treated for breast cancer. She was diagnosed with breast cancer in 1992 at age 33 and formed the Women's Information Network Against Breast Cancer, the acronym WIN ABC, which provides information and support for life-and-death decisions about treatment options.

The final member of this advocacy team is David Goodman, a WIN board member who lost his wife to breast cancer less than a year before appearing on the House floor.

H.R. 1585, the Stamp Out Breast Cancer Act, passed the House on a 433 to three vote; and on August 13. 1997. President Clinton signed this legislation into law. By May 9, 1998, the U.S. Postal Service unveiled the new 40 cent stamp, and August 9 the stamp officially went on sale to the public.

The legislation we are considering today, H.R. 1385, reauthorizes the breast cancer research stamp program through the year 2006. The stamp marks the first time that some of the proceeds of stamp sales have gone to fund research, and the awareness raised as a result of this historic stamp designed to save lives continues to be priceless. As of December of 2002, 421.3 million breast cancer research stamps have been sold dating from July 29, 1998, raising almost $30 million for biomedical breast cancer research at the National Institutes of Health and the Department of Defense.

The Department of Defense Breast Cancer Research Program receives 30 percent of the moneys raised from stamp sales. Since the breast cancer stamp was introduced, Department of Defense has received over $9 million from the stamp's sales, and the National Cancer Institute has received $24 million.

The breast cancer stamp functions like a regular first-class stamp and is purchased on a voluntary basis by the public. In 1997, when a person purchased the breast cancer stamp, 32 cents would be used for postage and the extra 8 cents from each stamp sold was turned over to research programs run by the National Institutes of Health and the Defense Department. Today, the stamp can be purchased for 45 cents.

The stamp is a line drawing of the Roman goddess Diana reaching back to retrieve an arrow from her quiver, and the words, "Fund the fight. Find a cure," written across.

□ 1415

The exact cause of breast cancer is not known; therefore it is imperative that researchers continue to study the basic biology of cancer.

Research proposals funded by the Breast Cancer Research Stamp look at the basic biology of breast cancer, such as understanding the changes in breast cells, including DNA and proteins in the cells that result in the development of breast cancer. An increased understanding in cancer cells could lead to the development of new drugs to prevent or treat breast cancer.

Funding is directed to prevention, detection, diagnosis and treatment research projects. Studies examine the use of antibiotics to block breast cancer cell growth, to observe tumor behavior to keep the cancer from spreading, to explore immunotherapy and the potential to create a vaccine to stimulate the human immune system to protect itself from breast cancer, and search for alternatives to mammography for breast cancer detection.

The program's success encouraged Congress to appropriate additional funds to the Breast Cancer Research Program in subsequent years, totaling over $1.6 billion through fiscal year 2004. To date, the Breast Cancer Research Program supported awards in three categories: Research, Research Resources, and Training Recruitment, as well as the Innovator Award.

Projects are coordinated to specifically avoid duplication of research between the Department of Defense on the one hand and the National Institutes of Health on the other. Awards are meant to fill gaps in ongoing research and to compliment initiatives sponsored by other agencies. The Department of Defense Breast Cancer Research Program has emphasized support for research and training awards that encourage innovative approaches to breast cancer research to accomplish the program's vision of eradicating breast cancer.

In addition to research, the Department of Defense Breast Cancer Research Program has sponsored three Era of Hope meetings to publicly present results of DOD funded studies and provide researchers with the opportunity to share their results with the scientific community, with policymakers, and with the lay public. The most recent meeting, in 2003, was held in Orlando, Florida, with over 1,500 scientists, clinicians, and breast cancer survivors and advocates in attendance.

A National Cancer Institute report estimates that about one in eight women in the United States will develop breast cancer during her lifetime. It is the most commonly diagnosed cancer in women, accounting for 30 percent of all cancers in women. In 2004, more than 40,000 individuals are projected to die from breast cancer. In 2003, the American Cancer Society estimated 21,100 new cases of breast cancer will be diagnosed among women in my home State of California and, of these, 4,000 women will die from this disease.

An individual's breast cancer risk depends on a variety of factors, including family history, reproductive history, life-style factors such as heavy alcohol consumption and smoking, and a number of other factors that are not yet understood. A woman's risk for developing breast cancer increases if her mother, her sister, her daughter, or two or more other close relatives, such as cousins, have a history of breast cancer, especially at a young age. However, 85 percent of women who develop breast cancer have no known family history of the disease.

Early detection and treatment is the key to survival. Declining death rates caused by breast cancer are believed to be the result of early detection and improved treatment. Breast cancer prevention experts strongly encourage women of all ages to have regular mammograms and to conduct breast self-examinations monthly.

When people choose to purchase the Breast Cancer Stamp every day, they can turn that simple little act into a meaningful and effective way to participate in the fight against breast cancer.

Mr. Speaker, I would like to conclude by thanking my friend, Dr. Ernie Bodai, for his persistence in this fight against breast cancer. Driving through Sacramento, he can be easily spotted in his car, which is adorned by its license plate PL 105–41, the public law number that made the breast cancer fund-raising stamp official. It is in honor of this man and to honor the lives of the victims of breast cancer that I stand before my colleagues, supporting the reauthorization of H.R. 1385.

Mr. Speaker, I thank the gentleman from California (Mr. BACA) for his efforts towards stamping out breast cancer, and I urge all Members to support the passage of H.R. 1385.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the Committee on Government Reform's Special Panel on Postal Reform and Oversight, I am pleased to join my colleague, the gentleman from California (Mr. OSE) in consideration of H.R. 1385 extending the issuance of the Breast Cancer Semipostal Stamp through December 31, 2006. H.R. 1385, as amended, was introduced by the gentleman from California (Mr. BACA) on March 20, 2003, and has 145 cosponsors.

Semipostals are stamps sold with a surcharge above the cost of a first-class postage stamp with the net surcharge amount going to a designated cause. We owe our interest in semipostal stamps to Dr. Ernie Bodai, Chief of Surgery at the Kaiser Permanente Medical Center in Sacramento, California, and former Representative Vic Fazio. Dr. Bodai first proposed the idea of a semipostal with the money raised going towards breast cancer research. He took his idea to Representative Fazio, and on May 7, 1996, Representative Fazio introduced the first semipostal bill, H.R. 3401, the Breast Cancer Research Stamp Act. Representative Fazio was joined in this effort by Senator Dianne Feinstein of California when she introduced identical legislation in the Senate.

The following year, Representative Fazio joined Representative Susan Molinari of New York in introducing H.R. 1585, Stamp Out Breast Cancer. This bill was subsequently enacted into law, Public Law 105–41. The law not only authorized a breast cancer research stamp for 2 years, it also required the General Accounting Office to submit a report to Congress that evaluated the effectiveness of the appropriateness of this method of fundraising. In its first report issued in 2000, GAO determined that the semipostal statute was successful and an effective and appropriate way to fund-raise.

By way of addressing the health issues raised by many of the semipostal bills pending in Congress, the chairman and ranking members of the former Subcommittee on the Postal Service, the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) introduced H.R. 4437, the Semipostal Authorization Act. This measure, which became law, Public Law 106–253, provided the Postal Service with discretionary authority to issue semipostals provided the revenue raised goes to Federal agencies and is for medical research. Such authority is similar to the discretion the Postal Service currently has in deciding which commemorative stamps to issue.

Breast cancer is the second leading cause of cancer deaths among women in our country. More than 2 million women have been diagnosed with breast cancer and at least another 1 million are unaware that they have it. Every year, nearly $7 billion is spent on breast cancer treatment, all the more reason to support the issuance of a Breast Cancer Semipostal Stamp.

Since its issuance in 1998, the Breast Cancer Stamp has raised over $30 million for research. By law, the National Institutes of Health and the Department of Defense are the recipients of the money and are required to submit an annual report to Congress on the amount of funds received, how the funds were spent, and accomplishments. The sale of the Breast Cancer Research Stamp has done much to increase public awareness of the disease and has allowed millions of people the opportunity to participate directly in raising money for this much-needed research.

Mr. Speaker, I commend my colleague for his effort and cannot express enough my support for his measure. I would also like to thank the chairman, the gentleman from Virginia (Mr. TOM DAVIS), the ranking member, the gentleman from California (Mr. WAXMAN), and the House leadership, both Democrat and Republican, and the Senate for working to ensure an additional source of research money for breast cancer.

I urge the swift adoption of H.R. 1385.

Mr. Speaker, I reserve the balance of my time.

Mr. OSE. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from California (Mr. BACA), who introduced this important resolution.

Mr. BACA. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time, and I thank the gentleman from Virginia (Mr. TOM DAVIS) for his support.

I rise in support of H.R. 1385, my bill to authorize the Breast Cancer Research Stamp through the year 2006. I am proud to say that the language in my original bill extending the stamp through the year 2005 was included in the omnibus and signed by the President last Friday. This amendment will extend the stamp for 1 additional year, through the year 2006.

It has been a long, hard fight to extend the Breast Cancer Research Stamp. It is a fight I began when I was in the California assembly and have continued to do so here in Congress.

But we would not be here today without the hard work of several individuals. I want to thank Dr. Bodai for first asking me to introduce this resolution urging Congress to extend its research stamp when I was in the California State Assembly. It was Dr. Bodai who developed the idea of a Breast Cancer Research Stamp, and it was through his crusade and persistence that we have it here today. Had it not been for him doing it in California, in Sacramento, it would not have happened.

I also want to thank Senator FEINSTEIN and the gentleman from California (Mr. OSE). And I know it was difficult for him to be here this afternoon, because he and I were both on the Redeye. He knew the importance of this bill and what it means to many individuals, and I want to thank him for his leadership and his hard work and what he has done to make sure that the sunset on the research stamp is extended. And for that, I compliment the gentleman for taking the time, on the Red-eye, on this important issue to address this issue here today.

I introduced this bill last year for one reason, and that is to save lives. All of us care about saving lives. This issue is more important to me now. I recently learned from my son, Joe Baca, Jr., that his wife's grandmother passed away from breast cancer. We will miss Josefine Sanchez and many others who have died, but early detection and prevention and research may have prevented this. By working together to pass this important piece of legislation we can prevent such tragedies.

This year, more than 200,000 women and men will be diagnosed with breast cancer. More than 40,000 women and men will die from this disease. Breast cancer is the most commonly diagnosed cancer among women in every major ethnic group in the United States. And I say every ethnic group, not one, but all. It does not discriminate. Whether an individual is white, black, Hispanic, or whatever race or ethnicity, everyone is at risk. Early prevention and early detection is of the utmost importance.

Breast cancer is still the number one cancer killer of women between the ages of 15 to 54, between 15 to 54. The disease claims a woman's life every 15 minutes in the United States. Imagine that, claiming the life of a woman every 15 minutes. More than 2 million women are living with breast cancer in America today, yet 1 million of them have not been diagnosed. One million women have not been diagnosed. That is why it is important to increase the funding for breast cancer research.

The Breast Cancer Research Stamp is among the most successful commemorative stamps of all time, with 485 million stamps sold. I repeat: 485 million stamps sold. The stamp program has generated over $35 million for breast cancer research. It has been a critical ally in generating the resources necessary to wage war on this terrible, terrible disease.

☐ 1430

The stamp is a semipostal stamp that can be voluntarily purchased by the public for only 45 cents. It is worth it to save a life. Eight cents of each stamp sold goes to the National Institutes of Health and the Department of Defense Breast Cancer Research Program.

Working with Dr. Bodhai, Senator FEINSTEIN introduced the Breast Cancer Research Stamp bill in 1998 to help support the fight against breast cancer. I am also proud to say that California continues to lead the way, and I thank the gentleman from California (Mr. OSE) for starting it in Sacramento, along with Dr. Bodhai. It has contributed over $3 million in research funds, or roughly 21 percent of the money raised nationwide.

Today, I ask for Members' support for the Breast Cancer Research Stamp, my bill, and all women and men who will benefit from the money the stamp raises.

We have the support of 150 Members who have cosponsored my bill, and countless organizations like the American Cancer Society, American Medical Association, the Breast Cancer Fund, and the Susan G. Komen Breast Cancer Foundation.

By supporting reauthorization of this stamp, you are not only helping research but you are helping to raise awareness and save future lives.

Think about it: the customer purchases a stamp, a carrier delivers it, and a person receives it. That is three people who have seen the message saying breast cancer needs to be stamped out. Each time we use the stamp, not only do we raise additional funds for research; we send a message of hope to many men and women who have this terrible disease. We need to find a cure, and we will find a cure. With Members' continued support of this legislation, we will do that.

Mr. OSE. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and for being here for what I believe is an enormously important commitment to saving lives.

I thank the gentleman from California (Mr. BACA) for the commitment he has shown, as stated in the gentleman's opening statement, and for offering this legislation, to do something that is more than honorable, that is, to save lives. My hat is off to the gentleman, and I stand here as a very proud cosponsor of this legislation for what it means to those who are fighting every day against this devastating disease.

Needless to say, there is not one of us, 435 in this body and certainly 100 Senators, who has not been confronted by family members and by those who are experiencing the devastation of breast cancer. Certainly there are many of us who have lost loved ones. Breast cancer is a devastating disease, and it has been stood up to by the women of America. This particular semipostal legislation, which allows for research dollars to come, is imperative that it be continued. And the reason is midway, otherwise, in the middle of very serious research, we would wind up having to stop that research because of the fact that resources are no longer there.

I certainly want to acknowledge Ethel Kesler, who helped design this stamp, and Whitney Sherman as well; and I want to make it very clear that we appreciate the senior Senator from California's initial leadership. Let me make note of the fact that cancer makes an impact on every single ethnic group in America.

Mr. Speaker, 2 million are living with breast cancer in America today, but yet 1 million have not been diagnosed. Breast cancer incidence in women has increased from one in 20 in 1960 to one in 8. Breast cancer is still the number one cancer killer of women between the ages of 15 and 54. The disease claims another woman's life every 15 minutes.

I want to emphasize there are major local community groups working on this issue. I have worked with Sisters Network in Houston, Texas. They are an outreach group that goes to inner city residences to encourage women to be tested for breast cancer. One of the worse parts of this disease is it is a silent killer. If women do not get a mammogram, and I remember some fights years ago, and the gentlewoman from California (Ms. ESHOO) remembers this as well, where there were no benefits to allow poor women to go forward and have mammograms. There was a debate whether it be covered or not. I appreciate the Women's Caucus and this body fighting very hard to involve and make everyone conscious of the fact that all women should be able to have access to mammograms.

Sisters Network in Houston, Texas, and they have chapters around the country, is a minority-based, African American-based organization that particularly reaches out to our community for those who may be intimidated by the medical system or are not covered by health insurance. I remember going door to door with packets of information, reaching out to both Hispanic and African American women to encourage them to seek mammograms.

This is an important legislative initiative; and although it may be on a very cold and stormy day in Washington, D.C., there is a glimmer of sunlight that this legislation be reauthorized so researchers on the front line of saving lives will have an opportunity to do so.

As I close, let me thank all of the survivors who are living with cancer or who have survived breast cancer. I thank them for their steadfastness and courage. They are a shining example to others, ensuring others might live. Again, I add my appreciation to the gentleman from California (Mr. BACA), the gentleman from Illinois (Mr. DAVIS), and the gentleman from California (Mr. OSE) for their enthusiastic support, as well as the chairman and ranking member of the Committee on Energy and Commerce.

Mr. Speaker, I an pleased to be here today in support of the Breast Cancer Research Stamp. The Breast Cancer Research Stamp was first introduced in 1998 by Senator DIANNE FEINSTEIN to help support the fight against breast cancer.

It is among the most successful commemorative stamps of all time with 485 million stamps sold. The stamp program has generated in excess of $35 million for breast cancer research.

The idea for the stamp was developed in California by Sacramento oncologist, Dr. Ernie Bodai. The stamp was designed by Ethel Kessler of Bethesda, MD, and illustrated by Whitney Sherman of Baltimore, MD. The stamp is a "semi-postal" stamp that can be voluntarily purchased by the public for 45 cents with 8 cents benefiting the National Institute for Health and the Department of Defense Breast Cancer Research Program. If the sunset on the stamp had not been extended, many important research projects would have gone unfunded, hurting the fight against breast cancer. The stamp was set to expire on December 31, 2003.

This initiative is so important because of the devastating effects of Breast Cancer. Breast cancer is considered the most commonly diagnosed cancer among women in every major ethnic group in the United States. More than 2 million women are living with breast cancer in America today, yet one million of them have not been diagnosed. Breast cancer incidence in women has increased from one in 20 in 1960 to one in eight today. Breast cancer is still the number one cancer killer of women between the ages of 15 and 54. The disease claims another woman's life every 15 minutes in the United States.

This year, more than 200,000 women and men will be diagnosed with breast cancer and more than 40,000 women and men will die from breast cancer. It is tragic that one woman in eight either has or will develop breast cancer in her lifetime. In addition, 1,600 men will be diagnosed with breast cancer and 400 will die this year.

In my state of Texas alone, in 2002, there were 12,819 new cases of breast cancer and an estimated 800 deaths. In Texas, African Americans are more likely to develop cancer and more likely to die from the disease.

At this time there are slightly over 2 million women living in the U.S. who have been diagnosed with and treated for breast cancer. Every 3 minutes a woman in the United States is diagnosed with breast cancer.

As introduced, H.R. 1385 reauthorized the Breast Cancer Research Stamp for two years, through 2005. The language from H.R. 1385 was included in the Omnibus by Senator FEINSTEIN and became law on January 23, 2004. As amended, H.R. 1385 will extend the reauthorization for one additional year, through 2006.

I am pleased to be a cosponsor of this legislation and urge my colleagues to realize the significance of this bill and what we can do to fight this battle together.

Mr. OSE. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the ranking member and I thank the gentleman from California (Mr. OSE) for this legislation. It is an important piece of legislation, and I am proud to be a cosponsor of it.

This is the first fund-raising stamp in the United States, and it benefits the eradication of breast cancer. During the holidays at home wherever I was, whether it was a holiday party, in the grocery store, wherever I was, there was someone that came up to me and said I went to the post office to buy the breast cancer stamp, and was told that it is no longer available because Congress has not reauthorized it. People know, and they have become attached to this effort and very supportive of it for what it produces.

The stamp was introduced in 1998, and the profits are split between the National Institutes of Health and the Department of Defense's Health Research Division, as called for by Congress. Over 450 million of these 45 cent stamps have been sold. I am very proud to say that of the $35 million raised, California continues to lead the way because we have contributed roughly 21 percent of the money that has been raised nationwide.

Mr. Speaker, my colleagues have expressed our collective concerns about the issue of breast cancer. Certainly during my tenure in the Congress I have been very proud to have worked on the causes of breast cancer, for the optimal treatments for breast cancer, and ultimately a cure for breast cancer. These have all been priorities of mine.

I see that the gentleman from Pennsylvania (Mr. GREENWOOD) is here on the floor. We worked very hard together to pass the Breast and Cervical Cancer Treatment Act, which was introduced and passed in the 106th Congress. As one of my colleagues said, more than 2 million women in America are living with breast cancer today. During the time that we have been on the floor and making comments on this, three women in the United States have died as a result of breast cancer. The statistics we still carry with us. I think this is an important effort, and I thank everyone who is a part of this effort and urge all of my colleagues to vote for this measure and make it unanimous so we send a message out to Americans who have gone to their post office and not found this stamp available that Congress has reauthorized it.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate that California is leading the way on this issue, and the rest of us are very pleased to follow their example. I urge swift passage of this bill.

Mr. ROTHMAN. Mr. Speaker, according to the National Cancer Institute, 1 in 8 women will get breast cancer in her lifetime. I rise today in support of H.R. 1385, the Breast Cancer Research Postal Stamp because I believe that number is unacceptable.

Breast cancer is currently the most common cancer among women in the United States with incidents on the rise. In my home State of New Jersey over 6,000 women were diagnosed with breast cancer last year and tragically, approximately 1,500 women died from this terrible disease. I support and cosponsored H.R. 1385 because it is about changing those statistics, it is about hope.

In December of 2003, the Breast Cancer Research Stamp expired, and today we have an opportunity and a responsibility to renew it. Approximately 500 million copies of this special Breast Cancer Research Stamp have been sold, raising about $40 million for the National Institutes of Health and the Department of Defense Breast Cancer Research Program. These are programs that help more women get screened, help more breast cancer cases to be detected and detected early, and help more women get the treatment that allows them to survive.

There is another very positive aspect of the Breast Cancer Research Stamp—it raises awareness. Each time the stamp passes hands as a letter goes from sender to recipient, another person becomes aware; another man grows concerned and reminds his wife to get a mammogram, another woman schedules a check-up with her doctor, and another mother teaches her daughter about breast self exams.

Mr. Speaker, I rise today because "breast cancer needs to be stamped out!" I strongly hope that my colleagues will stand with me and reauthorize the Breast Cancer Research Stamp.

Mr. RODRIGUEZ. Mr. Speaker, today I rise in support of reauthorizing the Breast Research Stamp Act (H.R. 1385). The public has widely supported the stamp, and their voluntary purchases have generated over $35 million dollars for breast cancer research. The National Institutes of Health and the Department of Defense Breast Cancer Research Program use this donation to help the 2 million women nationwide who are daily battling this disease.

The Breast Cancer Research Stamp was developed by Dr. Ernie Bodai, designed by Ethel Kessler, and introduced by Senator DIANNE FEINSTEIN in 1998. Since its introduction, over 485 million stamps have been sold with 8 cents of each purchase price going toward breast research. The stamp expired December 31, 2003 and there has been overwhelming support to extend the stamp's production through 2006. Congressman JOE BACA proposed the stamp's extension with 148 cosponsors and numerous groups including the American Cancer Society and the American Medical Association supporting H.R. 1385.

The revenue created by the sale of this stamp will help fight the most commonly diagnosed cancer among women, and it will be used to educate women and encourage early detection practices in Texas and across the country. The Alamo Breast Cancer Foundation (ABCF) is a San Antonio based organization that supports awareness, treatment, and counsels those receiving cancer treatments. In Texas alone, 13,700 women will be diagnosed and 2,600 lives will be lost to this disease in the coming year. In the entire country, 40,000 people a year will die from breast cancer.

Mr. Speaker, breast cancer will touch 1 out of every 8 women in America. This statistic is far too high and includes mothers, grandmothers, college students, and their loved ones. I urge my fellow Representatives to support the Breast Research Stamp Act and to continue to present the public with a simple method to donate to a worthy cause.

Mr. ROSS. Mr. Speaker, I rise today in support of H.R. 1385, the reauthorization of the Breast Cancer Awareness Stamp.

As a co-sponsor of H.R. 1835, I believe this bill is critical to continue to fund research for a disease that affects 2 million women in the United States alone. The Breast Cancer Research stamp was introduced in July 1998 and has raised $35 million in five years for the Department of Defense and the National Cancer Institute for research in treating breast cancer. Of those funds raised, $279,000 has gone to the University of Arkansas for research.

Breast Cancer is the leading cancer afflicting American women, and this year nearly 40,110 women will die of breast cancer, and over 215,000 new cases will be diagnosed. Unfortunately, many of these cases will not be diagnosed, and deaths will occur, in communities where access to advanced medicine is limited.

Congress's commitment to increasing the funding for cancer prevention and early detection is helping us battle this disease. Today we can be proud of the advancements we have made. But we must continue our commitment to defeating breast cancer by continuing to fund the research necessary to fight breast cancer.

Ms. BORDALLO. Mr. Speaker, I rise today in support of H.R. 1385 to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research. I want to thank Mr. BACA for his support in introducing this legislation.

The Breast Cancer Research stamp has been a successful tool to raise funds to support research and programs to aid in the fight against breast cancer. Despite the extra cost added to purchase the first class stamps and three postage rate increases since its debut in 1998, the Breast Cancer Research stamp has brought in over $35 million for innovative research, prevention and treatment programs and other initiatives at the National Institutes of Health and the Department of Defense.

There are hundreds of thousands of women fighting breast cancer and over 200,000 new cases that will be diagnosed this year. The funds raised by the Breast Cancer Research stamp provide hope to the victims and their families. More importantly, it symbolizes our commitment to eliminating this devastating disease.

I urge my colleagues to support H.R. 1385. Let us continue this successful program in the hopes that one day there will be success in finding a cure.

Mr. GREEN of Texas. Mr. Speaker, I rise today in strong support of H.R. 1385, legislation which would allow the United States Postal Service to continue its successful breast cancer semipostal stamp. Proceeds from this stamp directly benefit breast cancer research.

Breast cancer is a serious concern for all of us. We all have friends, family members, constituents and colleagues who have battled this serious disease. Breast cancer does not discriminate—Americans of every age, race, religion, gender, economic standing and political affiliation are affected by this disease.

The figures are alarming. An estimated three million women in the U.S. are living with breast cancer—one-third of whom do not know they have this deadly disease. It is the most common form of cancer in America, excluding skin cancers. More than 240,000 new cases—1 every 3 minutes—occur in the United States each year. More than 40,000 women will die from the disease.

One of our strongest weapons against breast cancer is early awareness and treatment. Women who are screened and diagnosed early can begin treatment before the disease becomes more advanced. That is why raising awareness of the disease is so critical.

The breast cancer stamp has clearly helped to raise awareness and funds for this serious disease. Since it was first created in 1998, more than 421 million stamps sold, raising $29.5 million for biomedical breast cancer research. The alarming rate at which breast cancer is detected mandates that we continue to work toward a cure for this disease which is claiming so many lives worldwide. Enactment of H.R. 1385 will further enable research in an effort to increase the survival rate.

This disease calls for each of us to take a stand in an effort to find a cure and bring some solace to a disease that has tormented our mothers, wives, aunts, sisters and daughters. The importance of this stamp has immeasurable value and I strongly support enactment of this important legislation.

I encourage my colleagues to join the 145 cosponsors of this bill by passing H.R. 1385.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I join the gentleman in complimenting the gentleman from California (Mr. BACA) for introducing this legislation, and I urge all Members to support its passage.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 1385, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OSE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

Mr. GREENWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3493) to amend the Federal Food, Drug and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3493

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medical Devices Technical Corrections Act".

**SEC. 2. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 107–250.**

(a) TITLE I: FEES RELATING TO MEDICAL DEVICES.—Part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as added by section 102 of Public Law 107–250 (116 Stat. 1589), is amended—

(1) in section 737—

(A) in paragraph (4)(B), by striking "and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness" and inserting "and for which substantial clinical data are necessary to provide a reasonable assurance of safety and effectiveness";

(B) in paragraph (4)(D), by striking "manufacturing,";

(C) in paragraph (5)(J), by striking "a premarket application" and all that follows and inserting "a premarket application or premarket report under section 515 or a premarket application under section 351 of the Public Health Service Act."; and

(D) in paragraph (8), by striking "The term 'affiliate' means a business entity that has a relationship with a second business entity" and inserting "The term 'affiliate' means a business entity that has a relationship with a second business entity (whether domestic or international)"; and

(2) in section 738—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i) by striking "subsection (d)," and inserting "subsections (d) and (e),";

(II) in clause (iv), by striking "clause (i)," and all that follows and inserting "clause (i)."; and

(III) in clause (vii), by striking "clause (i);" and all that follows and inserting "clause (i), subject to any adjustment under subsection (e)(2)(C)(ii)."; and

(ii) in subparagraph (D), in each of clauses (i) and (ii), by striking "application" and inserting "application, report,";

(B) in subsection (d)(2)(B), beginning in the second sentence, by striking "firms. which show" and inserting "firms, which show";

(C) in subsection (e)—

(i) in paragraph (1), by striking "Where" and inserting "For fiscal year 2004 and each subsequent fiscal year, where"; and

(ii) in paragraph (2)—

(I) in subparagraph (B), beginning in the second sentence, by striking "firms. which show" and inserting "firms, which show"; and

(II) in subparagraph (C)(i), by striking "Where" and inserting "For fiscal year 2004 and each subsequent fiscal year, where";

(D) in subsection (f), by striking "for filing"; and

(E) in subsection (h)(2)(B)—

(i) in clause (ii), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(ii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(iii) by striking "The Secretary" and inserting the following:

"(i) IN GENERAL.—The Secretary"; and

(iv) by adding at the end the following:

"(ii) MORE THAN 5 PERCENT.—To the extent such costs are more than 5 percent below the specified level in subparagraph (A)(ii), fees may not be collected under this section for that fiscal year.".

(b) TITLE II: AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES.—

(1) INSPECTIONS BY ACCREDITED PERSONS.—Section 704(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(g)), as added by section 201 of Public Law 107–250 (116 Stat. 1602), is amended—

(A) in paragraph (1), in the first sentence, by striking "conducting inspections" and all that follows and inserting "conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices, which inspections are required under section 510(h) or are inspections of such establishments required to register under section 510(i).";

(B) in paragraph (5)(B), in the first sentence, by inserting after "standards of accreditation," the following: "or where the Secretary has information indicating that the relationship between the establishment and the accredited person may create a conflict of interest,";

(C) in paragraph (6)(A)—

(i) in clause (i), by striking "of the establishment pursuant to subsection (h) or (i) of section 510" and inserting "described in paragraph (1)";

(ii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking "each inspection" and inserting "inspections"; and

(bb) by inserting "during a 2-year period" after "person"; and

(II) in subclause (I), by striking "such a person" and inserting "an accredited person";

(iii) in clause (iii)—

(I) in the matter preceding subclause (I), by striking "and the following additional conditions are met:" and inserting "and 1 or both of the following additional conditions are met:";

(II) in subclause (I), by striking "identified under subclause (II) of this clause" and inserting "identified under clause (ii)(II) as a person authorized to conduct inspections of device establishments"; and

(III) in subclause (II), by inserting "or by a person accredited under paragraph (2)" after "by the Secretary";

(iv) in clause (iv)(I)—

(I) in the first sentence—

(aa) by striking "the two immediately preceding inspections of the establishment" and inserting "inspections of the establishment during the previous 4 years"; and

(bb) by inserting "section" after "pursuant to";

(II) in the third sentence—

(aa) by striking "the petition states a commercial reason for the waiver;"; and

(bb) by inserting "not" after "the Secretary has not determined that the public health would"; and

(III) in the fourth sentence, by striking "granted until" and inserting "granted or deemed to be granted until";

(v) in clause (iv)(II)—

(I) by inserting "of a device establishment required to register" after "to be conducted"; and

(II) by inserting "section" after "pursuant to"; and

(vi) by adding at the end the following clause:

"(v) The eligibility of the establishment for inspections by accredited persons has not been suspended under subparagraph (B)(iv)(II).";

(D) in paragraph (6)(B)(iii)—

(i) in the first sentence, by striking ", and data otherwise describing whether the establishment has consistently been in compliance with sections 501 and 502";

(ii) in the second sentence—

(I) by striking "inspections" and inserting "inspectional findings"; and

(II) by inserting "relevant" after "together with all other"; and

(iii)(I) by inserting "(I)" after "(iii)";

(II) by adding at the end the following subclause:

"(II) In making a decision under this paragraph, the Secretary may consider any information relevant to the establishment's compliance with any provision of this Act. Nothing in the preceding sentence shall be construed to expand the Secretary's inspectional authority under subsection (a).";

(E) in paragraph (6)(B)(iv)—

(i) by inserting "(I)" after "(iv)"; and

(ii) by adding at the end the following subclause:

"(II) If, during the two-year period following clearance under subparagraph (A) with respect to a device establishment, the Secretary obtains information indicating significant deviations from compliance with this Act or implementing regulations, the Secretary may, after notice and an opportunity for a written response, notify the establishment that the eligibility of the establishment for inspections by accredited person has been suspended.'';

(F) in paragraph (6)(C)(ii), by striking ''in accordance with section 510(h), or has not during such period been inspected pursuant to section 510(i), as applicable'';

(G) in paragraph (10)(B)(iii), by striking ''a reporting'' and inserting ''a report''; and

(H) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following:

''(A) the number of inspections conducted by accredited persons pursuant to this subsection and the number of inspections conducted by Federal employees pursuant to section 510(h) and of device establishments required to register under section 510(i);''; and

(ii) in subparagraph (E), by striking ''obtained by the Secretary'' and all that follows and inserting ''obtained by the Secretary pursuant to inspections conducted by Federal employees:''.

(2) OTHER CORRECTIONS.—

(A) PROHIBITED ACTS.—Section 301(gg) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(gg)), as amended by section 201(d) of Public Law 107-250 (116 Stat. 1609), is amended to read as follows:

''(gg) The knowing failure to comply with paragraph (7)(E) of section 704(g); the knowing inclusion by a person accredited under paragraph (2) of such section of false information in an inspection report under paragraph (7)(A) of such section; or the knowing failure of such a person to include material facts in such a report.''.

(B) ELECTRONIC LABELING.—Section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)), as amended by section 206 of Public Law 107–250 (116 Stat. 1613), is amended, in the last sentence—

(i) by inserting ''or by a health care professional and required labeling for in vitro diagnostic devices intended for use by health care professionals or in blood establishments'' after ''in health care facilities'';

(ii) by inserting a comma after ''means'';

(iii) by striking ''requirements of law and, that'' and inserting ''requirements of law, and that'';

(iv) by striking ''the manufacturer affords health care facilities the opportunity'' and inserting ''the manufacturer affords such users the opportunity''; and

(v) by striking ''the health care facility''.

(c) TITLE III; ADDITIONAL AMENDMENTS.—

(1) EFFECTIVE DATE.—Section 301(b) of Public Law 107–250 (116 Stat. 1616), is amended by striking ''18 months'' and inserting ''36 months''.

(2) PREMARKET NOTIFICATION.—Section 510(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(o)), as added by section 302(b) of Public Law 107-250 (116 Stat. 1616), is amended—

(A) in paragraph (1)(B), by striking '', adulterated'' and inserting ''or adulterated''; and

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', adulterated'' and inserting ''or adulterated''; and

(ii) in subparagraph (E), by striking ''semicritical'' and inserting ''semi-critical''.

(d) MISCELLANEOUS CORRECTIONS.—

(1) CERTAIN AMENDMENTS TO SECTION 515.—

(A) IN GENERAL.—

(i) TECHNICAL CORRECTION.—Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), as amended by sections 209 and 302(c)(2)(A) of Public Law 107–250 (116 Stat. 1613, 1618), is amended by redesignating paragraph (3) (as added by section 209 of such Public Law) as paragraph (4).

(ii) MODULAR REVIEW.—Section 515(c)(4)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)(4)(B)) is amended by striking ''unless an issue of safety'' and inserting ''unless a significant issue of safety''.

(B) CONFORMING AMENDMENT.—Section 210 of Public Law 107–250 (116 Stat. 1614) is amended by striking '', as amended'' and all that follows through ''by adding'' and inserting ''is amended in paragraph (3), as redesignated by section 302(c)(2)(A) of this Act, by adding''.

(2) CERTAIN AMENDMENTS TO SECTION 738.—

(A) IN GENERAL.—Section 738(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j(a)), as amended by subsection (a), is amended—

(i) in the matter preceding paragraph (1)—

(I) by striking ''(a) TYPES OF FEES.—Beginning on'' and inserting the following:

''(a) TYPES OF FEES.—

''(1) IN GENERAL.—Beginning on''; and

(II) by striking ''this section as follows:'' and inserting ''this section.''; and

(ii) by striking ''(1) PREMARKET APPLICATION,'' and inserting the following: ''(2) PREMARKET APPLICATION,''.

(B) CONFORMING AMENDMENTS.—Section 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j), as amended by subparagraph (A), is amended—

(i) in subsection (d)(1), in the last sentence, by striking ''subsection (a)(1)(A)'' and inserting ''subsection (a)(2)(A)'';

(ii) in subsection (e)(1), by striking ''subsection (a)(1)(A)(vii)'' and inserting ''subsection (a)(2)(A)(vii)'';

(iii) in subsection (e)(2)(C)—

(I) in each of clauses (i) and (ii), by striking ''subsection (a)(1)(A)(vii)'' and inserting ''subsection (a)(2)(A)(vii)''; and

(II) in clause (ii), by striking ''subsection (a)(1)(A)(i)'' and inserting ''subsection (a)(2)(A)(i)''; and

(iv) in subsection (j), by striking ''subsection (a)(1)(D),'' and inserting ''subsection (a)(2)(D),''.

(C) ADDITIONAL CONFORMING AMENDMENT.—Section 102(b)(1) of Public Law 107–250 (116 Stat. 1600) is amended, in the matter preceding subparagraph (A), by striking ''section 738(a)(1)(A)(ii)'' and inserting ''section 738(a)(2)(A)(ii)''.

(3) PUBLIC LAW 107-250.—Public Law 107-250 is amended—

(A) in section 102(a) (116 Stat. 1589), by striking ''(21 U.S.C. 379F et seq.)'' and inserting ''(21 U.S.C. 379f et seq.)'';

(B) in section 102(b) (116 Stat. 1600)—

(i) by striking paragraph (2);

(ii) in paragraph (1), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(iii) by striking:

''(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—

''(1) IN GENERAL.—A person submitting a premarket report'' and inserting:

''(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—A person submitting a premarket report''; and

(C) in section 212(b)(2) (116 Stat. 1614), by striking '', such as phase IV trials,''.

### SEC. 3. REPORT ON BARRIERS TO AVAILABILITY OF DEVICES INTENDED FOR CHILDREN.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the barriers to the availability of devices intended for the treatment or diagnosis of diseases and conditions that affect children. The report shall include any recommendations of the Secretary of Health and Human Services for changes to existing statutory authority, regulations, or agency policy or practice to encourage the invention and development of such devices.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

#### GENERAL LEAVE

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H.R. 3493.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GREENWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3493 is a bill that I introduced with the gentlewoman from California (Ms. ESHOO), which seeks to make technical and clarifying amendments to the Medical Device User Fee and Modernization Act of 2002 (MDUFMA). That bill, which was signed into law by President Bush on October 26, 2002, made sweeping changes to the laws that govern medical device approvals to establish new programs and streamline processes to accelerate the availability of medical devices to patients. For example, MDUFMA established a user fee program that will provide substantial new resources to speed up the approval of the medical devices. It streamlined the approval of combination products such as drug-coated stents which are one of the most exciting new areas of technology. It expanded the role of third parties and outside experts to augment the FDA resources to help FDA meet its beneficial manufacturing inspection requirements; and MDUFMA also extended the use of third-party review programs for 1 year so that it expires in conjunction with other device provisions.

The legislation before us today amends the Medical Device User Fee Modernization Act to ensure that it is being implemented properly. While some of the amendments are truly technical, others clarify the intentions of Congress. For example, this legislation ensures that the user fee reductions that apply to small businesses apply for 2004 and years in the future. In addition, the legislation clarifies that as part of the third-party inspection program, companies must submit reports of inspectional findings consistent with current FDA practices.

□ 1445

H.R. 3493 clarifies which data need to be submitted for a firm to be eligible for third-party inspection.

Medical devices are some of our health care system's most remarkable innovations. The provisions in this technical and clarifying amendments bill will allow the FDA to continue to reduce review times, increase the efficiency of its operations and allow these wonderful technologies to be delivered to patients more quickly.

I want to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN) as well as the gentleman from California (Mr. WAXMAN) and each of their staffs for this legislation. This has been another outstanding example of teamwork and bipartisanship on the part of the Committee on Energy and Commerce.

Mr. Speaker, I urge a "yes" vote on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to support this legislation which is intended to, and will, help ensure that FDA's medical device user fee and third-party review programs operate as intended. The goal of these programs is to promote timely access to medical devices without compromising FDA's ability to properly evaluate both the safety and the effectiveness of those devices. Successful bipartisan negotiations produced the authorizing legislation for these programs, and it is the same with this follow-up measure today.

I commend the gentlewoman from California (Ms. ESHOO) and the gentleman from Pennsylvania (Mr. GREENWOOD) as well as the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL) and the gentleman from Florida (Mr. BILIRAKIS), the subcommittee Chair, for their leadership on this successful committee effort. Unfortunately, the need for noncontroversial technical corrections is not the only obstacle preventing the medical device user fee program from fulfilling its potential. It is important for colleagues on both sides of the aisle to be aware that continuation of the user fee program, and it is this program that enables patients to receive cutting-edge medical devices on a timely basis, the continuation of the user fee program does in fact hinge on the appropriations process.

User fees do no incremental good if they supplant, rather than supplement, Federal spending. As in the successful prescription drug user fee program, the continuation of user fees depends on sufficient annual appropriations. Last year's appropriation for medical device reviews was insufficient to sustain the medical device user fee program in an optimal way. If this year's appropriation does not address that shortfall, the user fee program will likely fold.

Hard work went into establishing this program. The existence of the program enables patients more timely access to medical devices at no additional cost to American taxpayers. We need to make sure the program does not indeed fold.

I hope the President's budget includes sufficient funding for the user fee program, and I hope we follow through by allocating sufficient dollars to keep this program alive.

Mr. Speaker, I reserve the balance of my time.

Mr. GREENWOOD. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. ESHOO), one of the architects of this bill.

Ms. ESHOO. Mr. Speaker, I thank our distinguished ranking member and my colleague, the gentleman from Pennsylvania (Mr. GREENWOOD) who, together we introduced this legislation, H.R. 3493. I appreciate always his cooperation and that of his staff. This is not the first effort where we have worked together and been successful. We are proud of that and proud of the work that has come out of our committee.

This bill makes important technical corrections. While it may seem a little dull and dry, the technical corrections really enhance the Medical Device User Fee and Modernization Act which was a very important piece of legislation which allowed major new programs that really streamline the Food and Drug Administration's medical device approval process to be actually implemented. This bipartisan bill is about making sure that patients are, one, able to safely benefit from new medical technologies and, secondly, as quickly as possible. As medical technologies become more advanced, it takes more attention and resources to ensure that these products are safe and effective.

Last year, the House overwhelmingly passed the Medical Device User Fee and Modernization Act which helps the FDA get lifesaving products to patients faster, as well as resources to the agency to assure this. Specifically under that law, and I think it is important to underscore what was in that law and why we are bolstering it, the importance of bolstering it today, the medical device industry agreed to pay fees to the FDA for every product it proposes to market. These fees will help the FDA hire additional staff, much needed, I might add, and to purchase needed equipment so that they can review the products on a timely basis.

Secondly, the resources were increased for additional inspections of manufacturing plants and facilities, a very, very important part of that legislation, as well as the creation of an Office of Combination Products to shepherd advanced products, such as devices with drug coating, through the approval process. This new administrative flexibility allows the FDA to devote its resources to the devices that patients need most.

Finally, the bill created a way to regulate what are known as reprocessed devices. Some people may have tuned into nationally televised programs where the national discovery was made that reprocessed devices were being used in hospitals unbeknownst to doctors and unbeknownst to patients. I did not like that when I heard it, and we addressed it in the bill.

The bill requires that reprocessed products undergo additional scrutiny by the FDA and that they be held to the highest standards that the FDA can apply. It also required that doctors, who are often unaware that they are using a reprocessed device, be informed about the reused device so that they can, in turn, inform their patients about the reused device.

This Technical Corrections Act is an important bill because it is ultimately, Mr. Speaker, about patients, and it will implement the Medical Device User Fee and Modernization Act as Congress fully intended.

One of the best parts of doing something like this is to work with the very able people that helped make it possible, so I want to thank the gentleman from Louisiana (Mr. TAUZIN), chairman of our full committee; the gentleman from Florida (Mr. BILIRAKIS), our distinguished subcommittee chairman; the gentleman from Michigan (Mr. DINGELL), ranking member of our full committee; the gentleman from California (Mr. WAXMAN) and certainly my colleague, who is the ranking member of the Subcommittee on Health.

I also want to thank several staff people: Pat Ronan of Chairman TAUZIN's staff; Alan Eisenberg of the office of the gentleman from Pennsylvania (Mr. GREENWOOD); John Ford of the office of the gentleman from Michigan (Mr. DINGELL); and Anne Witt of the office of the gentleman from California (Mr. WAXMAN). Without all of these good people, we would not be here today doing this. So we have come a long way, and I think we have created something that will serve our country very well.

I urge all of my colleagues to vote for this, to make it unanimous. We will then accomplish yet something else very good and important for the American people.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. GREENWOOD. Mr. Speaker, I yield myself the balance of my time.

I also would like to thank my very able staff member, Mr. Alan Eisenberg, for his tireless work on this and so many other issues.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I rise today as a supporter of H.R. 3493 which amends Federal Food, Drug, and Cosmetic Act. This legislation is necessary to clarify certain provisions relating to the Medical Device User Fee and Modernization Act of 2002. I am pleased to see that this bill enjoys broad bipartisan support in this body after it was passed by unanimous consent in the Senate. It is imperative that we continually update and rework the regulations that govern the use of our Nation's medical devices.

I would also like to recognize my distinguished colleague Representative SHERROD BROWN and affirm his view on the necessity of providing additional appropriations funding for the Medical Device User Program. In the last series of appropriations this vital program was under funded and was left with a potentially dangerous mandate. While H.R. 3493 is a timely bill, we must make sure to provide the necessary resources for all medical device programs in order to make this legislation truly effective.

Mr. ENGEL. Mr. Speaker, I rise today in support of the Medical Devices Technical Corrections Act. This bipartisan legislation makes technical corrections to the Medical Device User Fee and Modernization Act of 2002, which I was proud to cosponsor.

The Medical Device User Fee and Modernization Act has several key components that will result in a better, more efficient process in which the Food and Drug Administration works with medical device companies to review applications, inspect device plants, and ensure that reprocessed devices are used in a safe and identifiable fashion. The user fees included in the legislation are intended to provide FDA with additional resources to review new or updated device applications more quickly, but also more effectively. Every day, medical devices save or improve the lives of patients around the world and this legislation will mean that patients will have access to new and improved devices in a much timelier fashion.

Mr. Speaker, the manner in which the Energy and Commerce Committee worked to enact the original bill and the legislation before us today should be a model for future legislative efforts. Because of the truly bipartisan process, the Medical Device User Fee and Modernization Act enjoys widespread support which will work to ensure its success. I commend the medical device community and my colleagues for their efforts to improve the delivery of health care to millions of Americans.

Mr. GREENWOOD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the bill, H.R. 3493, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GREENWOOD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, FEBRUARY 4, 2004, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, February 4, 2004, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting His Excellency Jose Maria Aznar, President of the Government of Spain.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 54 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1831

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 6 o'clock and 31 minutes p.m.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 610, NASA WORKFORCE FLEXIBILITY ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida from the Committee on Rules, submitted a privileged report (Rept. No. 108–406) on the resolution (H. Res. 502) providing for consideration of the Senate bill (S. 610) to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1920, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2004

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–407) on the resolution (H. Res. 503) providing for consideration of the Senate bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, which was referred to the House Calendar and ordered to be printed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1385, by the yeas and nays; and

H.R. 3493, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote; the second will be conducted as a 5-minute vote.

## BREAST CANCER STAMP EXTENSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1385, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 1385, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 331, nays 1, not voting 100, as follows:

[Roll No. 6]

YEAS—331

Aderholt
Akin
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
Deal (GA)
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez

Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Ross
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Watt
Waxman
Weiner
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

### NAYS—1

Paul

### NOT VOTING—100

Abercrombie
Ackerman
Alexander
Bachus
Ballance
Ballenger
Bono
Boozman
Boucher
Brady (PA)
Brown, Corrine
Burr
Buyer
Calvert
Camp
Capuano
Carson (OK)
Carter
Clyburn
Costello
Culberson
Cummings
Cunningham
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeMint
Dingell
Doggett
Doolittle
Duncan
English
Fattah
Forbes
Ford
Frost
Gallegly
Gephardt
Gutknecht
Hastings (FL)
Hobson
Honda
Hunter
Hyde
Israel
Jenkins
Johnson (IL)
Jones (NC)
Kingston
Kleczka
Kucinich
Lantos
LaTourette
Leach
Lewis (CA)
Lipinski
McIntyre
Meeks (NY)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Northup
Ortiz
Owens
Payne
Pombo
Price (NC)
Reyes
Rodriguez
Rogers (KY)
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sandlin
Scott (GA)
Serrano
Slaughter
Souder
Stark
Sullivan
Tauscher
Tauzin
Tiberi
Wamp
Waters
Watson
Weldon (PA)
Wexler
Wilson (SC)
Wolf
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

☐ 1855

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3493, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the bill, H.R. 3493, as amended, on which the yeas and nays are ordered.

The Chair announces that this will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 333, nays 0, not voting 99, as follows:

[Roll No. 7]

### YEAS—333

Aderholt
Akin
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boswell
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hulshof
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Ross
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Watt
Waxman
Weiner
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

### NOT VOTING—99

Abercrombie
Ackerman
Alexander
Bachus
Ballance
Ballenger
Bono
Boozman
Boucher
Brady (PA)
Brown, Corrine
Burr
Buyer
Calvert
Camp
Capuano
Carson (OK)
Clyburn
Costello
Culberson
Cunningham
Davis, Jo Ann
DeFazio
DeGette

Delahunt
Dingell
Doggett
Doolittle
Duncan
English
Fattah
Forbes
Ford
Frost
Gallegly
Gephardt
Gutknecht
Hastings (FL)
Hobson
Honda
Houghton
Hunter
Hyde
Israel
Jenkins
Johnson (IL)
Jones (NC)
Kingston
Kleczka
Kucinich
Lantos
LaTourette
Leach
Lewis (CA)
Lipinski
McIntyre
Meeks (NY)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Northup
Ortiz
Owens
Payne
Pombo
Price (NC)
Reyes
Rodriguez
Rogers (KY)
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sandlin
Scott (GA)
Serrano
Simmons
Slaughter
Souder
Stark
Sullivan
Tauscher
Tauzin
Tiberi
Wamp
Waters
Watson
Weldon (PA)
Wexler
Wilson (SC)
Wolf
Young (FL)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

□ 1913

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBERS AS COSPONSORS OF H.R. 2682

Mrs. LOWEY. Madam Speaker, I ask unanimous consent to have the following names removed as cosponsors of H.R. 2682: Mrs. TAUSCHER, Ms. MILLENDER-MCDONALD, Mr. DEUTSCH, Mr. WALSH, and Mr. BLUMENAUER.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1915

## GOP AGENDA ON UNINSURED OF AMERICA

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, just last week in his State of the Union Address, the President brought before the House a three-point plan for helping reduce the number of uninsured Americans.

Mr. Speaker, I was very grateful to hear the President's discussion of this plan. Of course, here in this House in November this year past, as part of the Medicare Modernization Act that we passed November 22, we also included a provision for health savings accounts.

Health savings accounts, Mr. Speaker, are a program that has been near and dear to my heart for many years. My last 5 years of medical practice, I had a medical savings account, and I saw firsthand the value of being able to build that account, to build those dollars in a tax-free, tax-deferred account completely dedicated to health care needs.

The new health savings accounts will give Americans more choice in their health care. Of course, they can choose their own physician and consult with their doctor about services they need and services they can afford, but it puts the consumer, it puts the patient, back in the driver's seat and actually gives them a stake, not just in their health outcome, but how their health dollars are spent.

Mr. Speaker, I believe this is an extremely important point. I believe that putting consumers back in charge of how health care expenditures are made will be one way of reducing the cost of delivering care.

Health savings accounts will give Americans health care that is much more portable than the current employer-derived accounts. As over half of all Americans receive their health care coverage through their employer, health savings accounts become even more important because if someone loses their job, of course they lose health care coverage; but with the health savings account, that money obviously would be rolled over and would continue to be there to cover the worker or their families.

Health savings accounts promote savings and wealth generation. Currently, unfortunately, Mr. Speaker, Americans save only 2 percent of their annual income. The average in Western industrialized nations is around 10 percent. But with health savings accounts, we will promote savings and will promote wealth generation.

Mr. Speaker, I need to point out, this is wealth that can be passed on from generation to generation. It is actually owned by that individual. It is not some program that when a person dies, that program goes away.

Many health savings accounts generate a 4 percent return on investment, and with the miracle of compound interest, Mr. Speaker, that money can grow significantly over time. Of course, as the market continues to improve, some health savings accounts could generate a much higher return.

Another program that the President mentioned and actually is no stranger to this House because we passed H.R. 660 last June, but Association Health Plans, Mr. Speaker, I believe, are a powerful tool in allowing small businesses to continue to provide employer-derived insurance for their employees.

Right now, Mr. Speaker, small businesses are handicapped by high insurance prices and State mandates when shopping for health insurance. But Association Health Plans would allow bona fide business and trade associations to negotiate health care coverage rates with employers utilizing a much larger pool of employees, not just the individual small business employee pool. Removal of some State mandates, which a large majority of businesses avoid under ERISA, would assist small businesses by giving them the ability to shop for health coverage that meets the needs of their employees without the inclusion of extraneous and expensive State-mandated benefits.

Mr. Speaker, the final program that was mentioned by the President in his State of the Union address, that is actually a bill that has been introduced by our neighbor, Kay Granger, in Fort Worth, involves tax credits for the uninsured.

Tax credits are perhaps the best way and the most immediate way to help the 43 million Americans who have not been able to purchase health insurance. Fully refundable, prepaid tax credits would give low-income individuals and families immediate purchasing power in the health insurance market. Some studies estimate that there could be a 50 to 80 percent reduction in the number of uninsured Americans if the Federal Government made available a fully refundable health insurance tax credit.

Mr. Speaker, the other thing that we can do, and we have done in this House, but the other thing we can do at the Federal level to help with the problem of the uninsured is to reduce the enormous cost of the liability system, that burden that is placed on the health care delivery system in this country. I know this House has acted on that this past year, but our work is not through, and we need to encourage those Members of the other body who may be so inclined to move that legislation through their body.

## MEDICAL MALPRACTICE CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 5 minutes.

Mr. SHUSTER. Mr. Speaker, I rise tonight to report back on the last 3 weeks I spent in my district, traveling the district, visiting with the 13 hospital and medical centers that are in my district, to talk to them about the Prescription Drug and Medicare Modernization Act that we passed here in November and the President signed into law.

I would like to report they have been very pleased with what we did here in

Congress. The doctors are pleased with the reimbursement increase they are going to receive, and our hospitals are pleased with what we have done. I have a rural district, and the rural package that we put forth for these hospitals is very important to their financial well-being.

But as we talked about what we did in the bill, the discussion quickly turned to what we have not done here in Congress. In the House, we have attempted to do it three times, passed legislation to reform medical malpractice, but it has not passed in the other body, and as I talked to these CEOs, doctors and nurses, we talked about the stories in various areas of the district.

In Indiana County, for instance, the home of Jimmy Stewart, a very well-respected and beloved orthopedic surgeon, Dr. Paul Burton, left Pennsylvania for California 6 months ago due to the medical malpractice crisis in the State of Pennsylvania.

In Blair County, Pennsylvania, the largest hospital in my district, the Altoona Hospital, in 1999 they paid approximately $1 million in malpractice insurance; last year, that number jumped up to almost $3 million, and not a penny of it was used to help patients.

Pennsylvania physicians paid over $350 million in malpractice insurance premiums, which ranks them second in the Nation, nearly 10 percent of the Nation's total, despite having less than 5 percent of the Nation's physicians.

There are countless stories like these, not only in my district, but across this country. In 2002, an American Medical Association analysis found that 12 States were in crisis. That number has now reached 19, and they include Pennsylvania, New York, New Jersey, Connecticut, West Virginia, Ohio, Kentucky, North Carolina, Georgia, Florida, Mississippi, Arkansas, Missouri, Illinois, Texas, Wyoming, Nevada, Oregon and Washington. Together, these States represent almost half the population of the entire country.

America's medical liability system is broken. Jury awards are a big part of that problem. In 2002, 52 percent of all awards were for $1 million or more. Today that average is over $3.5 million. In the city of Philadelphia, juries awarded more than the entire State of California, which is outrageous. If left unrestrained, these jury awards will continue to spiral out of control.

One of the most serious consequences of the medical malpractice crisis is patients' access to care. Physicians are being forced to limit services, retire early or move to other States where medical malpractice reform has taken place.

During my tour, I met an ear, nose and throat physician who is trying to recruit another doctor for his practice. He told me that when he goes to these conferences and speaks to the residents or other physicians, as soon as they hear he is from Pennsylvania, they say, "No way." In fact, last year not a single orthopedic resident that was trained in Pennsylvania stayed in Pennsylvania to practice medicine due to the medical malpractice situation in our State.

Not just doctors and hospitals pay for this medical malpractice insurance, but all patients pay the escalating costs of this crisis. Health and Human Services estimates that medical liability costs add $60 billion to $108 billion to the total cost of health care each year. $47 billion annually to what the Federal Government pays for Medicare, Medicaid, VA and health care for Federal employees.

Costs are further increased by additional unnecessary tests and treatments that are performed by physicians practicing defensive medicine, trying to avoid being sued.

The solution to all of this is reform. The House passed, as I said, three times, medical liability reform, proposing a cap of $250,000 on noneconomic damages. The HEALTH Act, H.R. 5, of which I am a cosponsor, which we passed in the spring, would still allow for unlimited economic damages, while also establishing a reasonable limit on the pain and suffering awards.

I salute the President for bringing this to the forefront in his State of the Union message and as he traveled the country the past couple of days talking about the need for medical malpractice reform in this country. I would also urge the other body to move this important legislation, so that we can give the relief needed, the much-needed relief, to our health care system.

## JUSTICE AND EQUITY FOR MEMBERS OF THE UNITED STATES MERCHANT MARINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to ask the Congress to correct an injustice that has been inflicted upon a group of World War II veterans, the World War II United States Merchant Mariners.

World War II Merchant Mariners suffered the highest casualty rate of any of the branches of services while they delivered troops, tanks, food, airplanes, fuel and other needed supplies to every theater of the war. Compared to the large number of men and women serving in World War II, the numbers of Merchant Mariners were small, but their chance of dying during service was extremely high. Enemy forces sank over 800 ships between 1941 and 1944 alone.

Unfortunately, this group of brave men were denied their rights under the GI Bill of Rights which Congress enacted in 1945. All those who served in the Army, Navy, Marine Corps, Air Force or Coast Guard were recipients of benefits under the GI Bill. The United States Merchant Marine was not included.

Mr. Speaker, the Merchant Marine became the forgotten service. For four decades, no effort was made to recognize the contribution made by this branch of the Armed Forces. The fact that merchant seamen had borne arms during wartime in the defense of their country did not seem to matter.

No legislation to benefit merchant seamen was passed by Congress until 1988 when the Seaman Acts of 1988 finally granted them the status of veteran and a "watered down" GI Bill of Rights. Some portions of the GI Bill have never been made available to veterans of the Merchant Marine.

While it is impossible to make up for over 40 years of unpaid benefits, I propose a bill that will acknowledge the service of the veterans of the Merchant Marine and offer compensation for years and years of lost benefits. My bill, H.R. 3729, the Belated Thank You to the Merchant Mariners of World War II Act of 2004, would pay each eligible veteran a monthly benefit of $1,000. That payment would also go to their surviving spouse.

The average age of Merchant Marine veterans is now 81. Many have outlived their savings. A monthly benefit to compensate for the loss of nearly a lifetime of ineligibility for the GI Bill would be of comfort and would provide some measure of security for veterans of the Merchant Marine.

I owe a debt of gratitude to Ian Allison, Merchant Marine combat veteran, Co-Chairman of the Just Compensation Committee, for bringing to me the plight of the Merchant Mariners. To recognize Mr. Allison, his Co-Chairman, Henry Van Gemert, and the thousands of veterans of the United States Merchant Marine, I today introduce the Belated Thank You to the Merchant Mariners of World War II Act of 2004, today, January 27, 2004, the date of Mr. Allison's 84th birthday.

I urge my colleagues to join me in cosponsoring this legislation. We can never make up for the years lost, but we can fix the injustice by passing H.R. 3729 as quickly as possible.

## TRIBUTE TO MONTEREY CITY COUNCILWOMAN RUTH VREELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FARR) is recognized for 5 minutes.

Mr. FARR. Mr. Speaker, I rise tonight in these hallowed halls of Congress to pay tribute to a colleague in public service, Monterey City Councilwoman Ruth Vreeland, killed in an automobile accident on Highway 101 in southern Monterey County just this last Sunday.

What a loss. This 68-year-old woman had the energy of 100 locomotives. Involved in everything, teacher, statewide education activist, 20-year city councilwoman, statewide League of Cities activist, Democratic Party activist, mother, member of various boards. She was always there, always prepared, and always wanting to do more.

Born in Chunking, China, she grew up in Szechwan Province where her parents worked as medical missionaries. Returning to Toronto, Canada, in 1940, and moving to San Francisco where her parents taught at the University of California, Berkeley, Ruth earned a bachelor's degree in arts and education from San Francisco State University. She also met her husband there, Dick Vreeland, and then continued on to the University of San Francisco to earn a master's degree in organizational development.

In 1956, she moved to Monterey Peninsula to teach school, and was elected to the Monterey City Council with the intention of protecting the quality of life in the city of Monterey.

"This town is more than buildings and streets; first it is people," she wrote in her campaign statement. She championed the tearing down of the waterfront buildings so that people could see the Bay where California began. She replaced the buildings with parks and recreational trails, the now highly successful Window on the Bay Project.

She served in a variety of leadership positions, including the League of California Cities Board of Directors, Institute for Local Self-Government, the 20th District Parent-Teacher Association, the Monterey Bay Task Force, Quota International, Women in Municipal Government, Friends Outside of the Monterey County, and the Overall Economic Development Committee of Monterey County.

She was also a Volunteers in Action Board Member, a Monterey City Council member since 1983, an alternate in the Monterey Bay Sanctuary Advisory Council and a former president of the Association of Monterey Bay Area Governments, the Monterey Peninsula Concert Association and the Winnie the Pooh Chapter of the Children's Home Society.

□ 1930

She was involved in various organizations.

Tonight, in paying tribute, I would also like to recognize my colleague, the minority leader of the United States House of Representatives, the gentlewoman from San Francisco, California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I want to join our distinguished colleague, the gentleman from California (Mr. FARR), in paying tribute to Ruth Vreeland. I thank him, as one who admired her on behalf of so many who learned from her over the years, for my colleague's magnificent tribute to her, which I know he has not finished. I will not take a lot of time because I know he needs the time to put the full tribute into the RECORD.

As one who worked with her for over 25 years in the California Democratic Party, I know of her love of country. She was a true patriot. She loved our country. She loved its people. She loved its natural environment. She loved our civil liberties. She was a model citizen.

My daughter Christine, I know, would want to join with me, who worked with her on the platform committee, in expressing our sympathies to her family in saying that we will remember her with great affection, admiration, and respect.

I thank the distinguished gentleman from California (Mr. FARR) and thank him for his leadership in presenting the very, very excellent credentials of Ms. Vreeland to our colleagues.

Mr. FARR. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) for joining us. I know her family and all her friends and people in elected government will be so touched because she was a big admirer of the gentlewoman. My colleague led the way for women in politics.

Throughout her life, many of these organizations honored her outstanding commitment and service to our Bay community with awards. The Volunteers in Action honored her community service. The Sierra Club honored her for outstanding achievement. Planned Parenthood named her an Outstanding Woman in Politics. The Monterey Rotary named her an Outstanding Teacher. Furthermore, the Fisherman's Wharf named her the Wharf Rat of the Year in 1995. The California Democratic Party recognized her for outstanding services. J.C. Penney gave her the Golden Rule Award. And the Old Monterey Business Association recognized her for exceptional dedication. The Monterey Civic Club honored her for being a community volunteer. Finally, the Association of Monterey Bay Area Governments recognized her for 20 years of service.

As I mentioned earlier, and as you can see from this lengthy list of accomplishments, Ruth was always moving, always involved. Her friends wondered if she ever had time to sleep. She adored her family and always seemed to be on her way to visit the next child. In fact, the tragic accident that led to her death occurred as she returned from visiting one of her three daughters, Lauren, Amy and Meslissa. Among the three of them, they have seven of Ruth and Dick's grandchildren.

Ruth and Dick's home blended the elements of Ruth Vreeland's youth in China with Japanese culture that Dick Vreeland picked up in the Army.

She was also involved with various organizations including the Monterey Vista Homeowners Association, Community of Caring, League of Women Voters, American Association of University Women, California Teachers Association, Monterey Bay Teachers Association, Responsible Hospitality, California Elected Women's Association for Education and Research, Monterey Main Street Program, National Organization of Women, Old Monterey Preservation Society, Sierra Club, ACLU, State Theater Preservation Group, Monterey Civic Club, Monterey History and Art Association, American Association for Retired Persons, California Retired Teachers' Association, and the Unitarian Church.

She cooked Chinese food and raised the children to use chopsticks. A proud naturalized citizen from Canada, Vreeland also instilled civic values in her daughters. "She believed in this country because she was naturalized in it and she taught me what patriotism is," her daughter said.

Vreeland also continued to tackle the large-scale problems that had always energized her. The Sierra Club recognized her in the 1980's for fighting offshore drilling and sewage spills. She traveled to Sacramento and Washington to promote education and local government, rising to leadership roles with the Association of Monterey Bay Area Governments and the League of California Cities.

Vreeland was active in Democratic Party politics and was not afraid to bring progressive political causes to Monterey. She challenged the city in 1988 for not having enough women and minorities in management positions, and a decade later she discouraged the council from subsidizing the Boy Scouts because of its exclusionary policies toward gays.

In the months before her death, Vreeland's last big project was saving education and local government in the face of California's budget crisis, a problem epic enough to discourage even the most ardent community activist.

But not Ruth Vreeland.

America will miss her. She came to this country to do good—we are all better for it and will miss her forever.

## FOCUSING CONGRESS' ATTENTION ON THE BASIS FOR THE WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, as we begin this second session of the 108th Congress, there is a great deal of very important work that remains for us to accomplish.

Primarily, among those things that need to be done is simply this: this Congress needs to focus its attention on the basis for the war in Iraq, why we are there; why that war was carried out; and what were the basic reasons behind it.

We were told initially by the administration that there was a connection between Iraq and the attack on our country of September 11, 2001. and that there was a relationship between al Qaeda and Saddam Hussein. That has proven to be completely false.

Subsequently, this Congress was told repeatedly, even in classified briefings right here on the floor of the House of Representatives, carried out by the Secretary of Defense and others, that the reason we were going to war in Iraq was because of the fact that Iraq possessed chemical and biological weapons, so-called weapons of mass destruction. And as the President put it, Iraq constituted a deep and ongoing threat to the United States; and as Vice President CHENEY put it, Iraq constitutes an imminent threat to the United States because of these so-called weapons of mass destruction, chemical and biological weapons, which were alleged to be in Iraq in large numbers.

We have now come to learn quite clearly that that was wrong, that there were no weapons of mass destruction, no chemical or biological weapons in any significant amount held in Iraq by Saddam Hussein or by anyone else. Many of us knew that. Many of us knew that 15 months ago when this Congress voted on a resolution authorizing the administration to carry out a war in Iraq. We knew it, we said so, and we voted against that resolution.

Nevertheless, many others were taken in by what was coming out of the White House and elsewhere within the administration. And they voted for the war in Iraq, many of them, based on the belief that they were being told the truth about the possession of weapons of mass destruction by the regime of Saddam Hussein. Again, now we know very clearly that that was not the case and that the administration knew it was not the case.

Most recently we have the report from the outgoing head of the American weapons inspection team in Iraq, David Kay. David Kay has now completed his report as he retires from that position, and he has said to us very, very clearly in that report that there were no weapons of mass destruction in Iraq, no chemical or biological weapons; that the biological and chemical weapons that were there, many of them were destroyed in the first Gulf War in 1991 and the rest were discovered and destroyed by the ongoing United Nations weapons inspection program.

We also have information from the Carnegie Endowment for International Peace, which has done a very comprehensive study of the issue of so-called weapons of mass destruction in Iraq. The Carnegie Endowment for International Peace has set forth in a very detailed report that there were no weapons of mass destruction held by the Saddam Hussein regime not since the end of the first Gulf War, and shortly thereafter they were destroyed as a result of weapons inspection program, the U.N. weapons inspection program.

Again, another clear indication that the premise that was laid forth by the administration to this Congress in order to get a resolution passed authorizing the carrying out of that war was false. It was fabricated. And this Congress was misled.

That leaves us with the very serious problem of finding out why that was done and who was responsible for doing it. That is important because of the situation we currently find ourselves in in Iraq, including the situation we find ourselves in with regard to the war on terrorism.

Our attention has been diverted away from al Qaeda and away from the war on terrorism. And we find ourselves in Iraq in a war that has already cost more than 500 American lives. The lives of more than 500 American servicemen and -women have been lost. Another more than 2,500 American servicemen and -women have been seriously wounded, all on the basis of pretense.

Therefore, we must conduct a complete and thorough investigation as to what happened, and that investigation must commence immediately.

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## WE NEED MORE MILITARY END STRENGTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, last year I stood in this well and called on my colleagues to support an increase in the Nation's military end strength, the number of people in our uniformed services. I am pleased that my colleagues rose to the challenge and recognized the increased pressures that have been placed on our servicemembers. As a result, Congress last year authorized an increase in end strength of 2,400 soldiers for the Army and 300 airmen for the Air Force.

Unfortunately, this increase is just a small down payment on what the services, particularly the Army, need in order to meet today's increased operational tempo. Nearly a decade ago, Congress heard from the Army leadership about the need for an increase in end strength. The then Army Deputy Chief of Staff for Personnel, General Ted Stroup, testified before the Committee on Armed Services that the Army needed 25,000 more soldiers to meet ongoing operational needs. Our ongoing operations in Afghanistan and Iraq have only made the need for additional troops more imperative. I think we need an additional 40,000-person end strength increase in the Army alone, not to mention the other services.

Many servicemembers who were sent to Afghanistan to search for Osama bin Laden and defeat the al Qaeda went home after their tours only to be told to pack their bags because they were going to Iraq for a year. Brigades from the 10th Mountain Division and from the 101st Airborne Division were sent to Afghanistan. They returned home for a relatively short duration, and then they were sent to Iraq to prosecute Operation Iraqi Freedom. If we continue these back-to-back deployments, we will literally break the force. That is something we as a Nation can ill afford to let happen.

And now our military is about to embark on the largest troop rotation in the history of our country. I wish I could say that the replacement troops will be fresh, but the hard truth is that many of them will be returning to Iraq for consecutive tours. If we had enough people in the military, back-to-back tours in Iraq would not be necessary. It is important for everyone to understand that in the new force rotation into Iraq, National Guardsmen and Reservists will comprise about 40 percent of the force there.

We are using the National Guard and Reserve as never before, and we have to be careful not to put such strains on these citizen soldiers that they leave in droves or that recruiting suffers.

I was in Missouri recently and met with one wife of a National Guardsman now serving in Iraq. She told me when her husband returns from overseas he will be getting out of the National Guard and as many as one-third of folks in her husband's unit will be too.

This may be anecdotal evidence of what is going on in our Reserve components, but it is certainly cause for concern. The increased demands being placed upon our troops in uniform call into question the ability of our forces to meet its commitments in other parts of the world. If conflict erupted on the Korean peninsula while these brigades are in southwest Asia, our ability to respond quickly would likely be compromised.

Recently, Lieutenant General John Riggs, a senior Army officer, stated that the Army must be substantially increased to meet its global commitments. Yet the Secretary of Defense continues to maintain that the services have enough end strength already to meet their responsibilities and that the increased demands on the troops is only a spike or temporary increase. As a result, my expectation is that the President's budget will not include any permanent end strength increase but will permit only temporary overages associated with our current deployments in Iraq and Afghanistan.

The Department of Defense believes that additional servicemembers are not needed because we proved that our troops can vastly overpower an enemy with speed agility and power in war. The problem is that we are no longer in that type of war. We are rebuilding a Nation from the ground up. That kind of undertaking takes people. And right now we simply do not have enough.

There is simply no substitute for having boots on the ground. To get the job done right I am pleased that a number of my colleagues have recognized the importance of increasing end strength. A number of them have written to the President and the Secretary of Defense calling for an increase in end strength. Others like the gentlewoman from California (Mrs. TAUSCHER) have introduced legislation to this effect.

We must, we can, and we will in this Congress pass an authorization bill authorizing for appropriation additional end strength for the United States Army as well as the other services.

## FULL DISCLOSURE FOR CLAIM OF WEAPONS OF MASS DESTRUCTION BY IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me first of all associate myself with the very thoughtful message of the gentleman from Missouri (Mr. SKELTON) in terms of his very plain-talking message about our military.

☐ 1945

The gentleman from Missouri (Mr. SKELTON) and I had the pleasure of visiting a number of them most recently in Iraq and I think a strong debate on this question will be important. Many people believe that those of us who have a difference of opinion for or against the war or for or against the approach that the war took, do not have a total agreement on the necessity of strengthening the young men and women who are in our Armed Forces. So I look forward to debating this very thoughtful presentation and associate myself with his remarks and the legislative initiatives; and I thank the gentleman from Missouri (Mr. SKELTON) for his leadership.

Let me say that I also associate myself with the gentleman's remarks as it relates to the toughness, as it relates to the battle of our Reserve troops and others who have offered their service for a number of years and have been called to duty; and many of them are not able to determine whether they will be in for 6 months or for a year or 18 months or 2 years.

We certainly have the protection of their jobs, but in many instances we are still having disagreements or having to advocate for our reservists to their various employers, some of whom are concerned or unsteady about keeping the reservists' jobs for them and, therefore, certainly undermining the family unit and the ability of that reservist to provide income and support for his or her family.

I happen to be a supporter of the legislation that would allow reservists to retire at 55, just as we allow the active military to retire at 55. It seems unlikely that we would lengthen the time of service for reservists who are apt to be called into battle at any moment. We have lost lives of those who are reservists in Iraq. The numbers are mounting, and they are on the front line.

When I went to Iraq, there were many who were skilled in many other aspects other than combat or police work; and lo and behold, they were being used for service that they were not trained for. So I associate myself with those remarks and certainly support the gentleman from California (Mr. FILNER) for his efforts in support of our veterans, because we have long been overdue in the full support of our veterans who are willing to give their full measure. And as they are able to come back to our communities, the very fact that they are willing to give the ultimate sacrifice, we should make good on our promise, which is to continue to provide them with benefits on a continuous basis.

Let me also add my congratulations to the veterans hospital that is in my district. We just added the Fischer House. Congratulations to the Fischer family and thank them for their support and all the leaders in Texas that helped bring about this new Fischer House in one of the largest veterans hospitals in our State. And that is, of course, a facility for the families who have come for the long-term wounded to be able to stay at a place of comfort without, if you will, providing an unnecessary financial burden when they are already suffering from the ills of their loved one, whether they are wounded by way of their service in Iraq or suffering with other conditions.

So I am very grateful to our community leaders who helped bring the Fischer House about in my congressional district and commit myself to continue to work with them.

Mr. Speaker, I think it is important that we bring sunlight where sunlight is needed, and today and in the weeks and months to come I am going to take my place on this floor and remind this Congress of its constitutional responsibility. And, in fact, I am going to take off and challenge anyone, first, take off any discussion of a partisan hat and challenge anyone that wishes to make this a partisan issue each step of the way, because I believe that this is so devastating and so much a challenge to the constitutional integrity of this Nation.

And, more importantly, in this Congress I believe that we must shed ourselves and step away from anyone declaring this to be partisan or anyone suggesting it is partisan, because once you begin the partisan debate, I know what happens: You immediately cease any sort of true effort for the Speaker of this House to address the responsibilities of this Congress, and that is to thoroughly investigate Dr. David Kay's report that we have heard over the last few days and that of the Carnegie Institute regarding weapons of mass destruction.

Let me just say, Mr. Speaker, that I intend to call for full congressional hearings, public hearings, not just in the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committee on the Judiciary, to ensure that we review the questions that David Kay has raised the lack of evidence and intelligence for weapons of mass destruction and the representation, as I close, Mr. Speaker, to the Congress and the American people by this administration that we must go to war on that basis.

Full congressional hearings, no independent commission, full congressional hearings.

## SEARCH FOR THE TRUTH

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

Mr. HOEFFEL. Mr. Speaker, last week during the State of the Union address President Bush spoke to us about the Iraqi War and described how the Kay report, the Dr. David Kay report, indicated dozens of instances of what the President called weapons of mass destruction-related program activities.

Now, I am not sure what a weapons of mass destruction-related program activity is, but I do know what it is not. It is not a weapon of mass destruction, because we have not found weapons of mass destruction in Iraq. And, in fact, David Kay himself has said so. He has resigned his position as the United States Chief Weapons Inspector in Iraq, working for the CIA.

He has stated that in his opinion, Iraq does not have stockpiles of chemical weapons of mass destruction or biological weapons of mass destruction, that Iraq does not have nuclear weapons, and any nuclear program was rudimentary in nature, according to Dr. Kay. He feels that these stockpiles do not exist now and did not exist before we went to war with Iraq in March of 2003.

Now, this is a startling conclusion from our Chief Weapons Inspector because it is so different from what the Bush administration told us in the fall of 2002 in the run-up to the congressional vote of whether or not to give congressional authority to the President to use military authority to deal with what was described as the imminent threat to peace, to regional peace and world peace and to the United States, the imminent threat of the use of Iraqi weapons of mass destruction.

Mr. Speaker, I voted to give the President that authority based upon the representations of the administration because I wanted to disarm Saddam Hussein of those weapons of mass destruction. Now, we have finally captured Saddam Hussein, and I am glad that we have; I am glad he is out of power. I believe both Iraq and America are better off now that he is in custody. But, Mr. Speaker, we have not found those weapons of mass destruction; and we now have a report from Dr. Kay that those weapons of mass destruction did not exist and they do not exist today.

Hussein had weapons of mass destruction in the 1980s. We know that because he used them in murderous ways against his own citizens, the Kurds in northern Iraq, and he used them to murder tens of thousands of Iranian citizens. But the issue is not what he had in the 1980s. The issue is whether he had such stockpiles in 2002 and 2003. We were told with complete certainty by the President, by the Vice President, I was told with 20 other Members of the House in a briefing in the White House on October 2, 2002, by Condoleezza Rice and George Tenet that there was complete certainty that Iraq possessed these weapons of mass destruction. And based upon those representations, I voted with many of my colleagues to give the President that war authority.

Now, it is now clear that there were half-truths and deceptions from the administration as well as mistakes from the Intelligence Community. And I stand here tonight to call for an independent investigation, an independent review, of both the work product of the Intelligence Community of the United States and the work of the administration policymakers that stated with such clarity that we faced an imminent threat from Iraq's weapons of mass destruction.

Clearly the American people were misled. Clearly the Congress was misled. I was misled by the Bush administration and by the United States intelligence agencies.

The President and the Vice President continue to want the American people to believe that there was this threat and is this threat of weapons of mass destruction. The President talked about WMD-related program activities last week without clarifying what they were. The Vice President continues to insist that Iraq has weapons of mass destruction. These statements are contrary to the report of the Weapons Inspector, Dr. Kay.

I call for an independent investigation and review so that we can get to the bottom and find out the truth.

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## JOBS AND THE PRESIDENTIAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, tonight while Americans are watching the New Hampshire primary in anticipation of new leadership for our Nation, they are watching and waiting for the new budget proposals from President Bush. President Bush came to our Toledo community last week, the day after he delivered the State of the Union address right here in this Chamber.

He ran into a hornet's nest. The community college where he spoke had just announced layoffs in the workforce training field the President was there to highlight. The unemployment in Toledo had just increased to 8.4 percent. Our part of the country has been hit extremely hard by the jobless recovery. We have more than 300,000 unemployed workers in the State of Ohio, and that, of course, does not even count the workers who have given up looking.

The family-owned tool and die shops that dot the landscape of the Great Lakes region are dying. I received an e-mail last week from one of these small business owners telling me about the devastation in the tool and die sector. "I have something that most of you should be concerned about in Congress. I just counted the auction brochures I have collected since February 1, 2002, until January 22, 2004. Would you believe 629 auctions?" And those are just the ones this businessman received.

He says, "Our President thinks that everything is great and our economy is bouncing back and we will all be in the bucks this year. I have received a report that estimates 50 percent of the shops in the Detroit area will fold by the end of 2004. So how do you get this message up to Washington? I guess we need to fire up the voters and clean house this fall. Have a good day. Larry."

In his State of the Union address, President Bush failed to mention extending unemployment benefits. This is a huge issue in our part of the country. People have paid for those benefits and they do not understand why the Republicans would refuse to extend unemployment benefits. They certainly do not understand why the Republicans refuse to allow even a vote on extending unemployment benefits.

In the short term, unemployment benefits are highly stimulative for our local economy. They prevent a cratering of consumer demand, and we all know that the consumer is propping up this weak U.S. economy. In the long term, a countercyclical program for public works jobs could help a lot. Investing in our communities and putting people to work so that our deficit starts to come down makes sense.

Just replacing one city's, Toledo's, wastewater treatment system, the bill for that $400 million. Indeed, that is double the $250 million the President said he wants to spend nationwide on new job training programs. Investment in public works can put people to work. Frankly, we have people out of work now who already have the skills needed to assume a job.

□ 2000

They just do not have the jobs.

I just visited Sunoco Refining in my district. They had advertised for 10 people in that company; 2,400 people applied. That is a staggering indicator of how many people are looking for work in just one place in America.

A news article in the Grand Rapids, Michigan, paper just north of where we live announced the closure of Electrolux, a household name in this country. They make vacuum cleaners; 2,700 workers will be terminated. Their jobs are leaving for Mexico.

What kind of strange world is it when an American legend company like Electrolux that made vacuums that are bought by our own citizens, but then those jobs move to Mexico and made there by workers who make a dollar an hour but cannot afford to buy the vacuum cleaners because they are all shipped back here to the United States, what kind of sense does that make?

We have seen this system time and again. The people in Mexico who have the jobs that the people in Ohio used to do do not make enough money to buy the very products they make. Americans lose their jobs to Mexico, and they have to shop more at discount stores such as Wal-Mart that are filled with goods made by people who had the jobs that the shoppers used to have. It is really interesting. We are outsourcing that production.

So the question is, are we going to be a Nation of workers, builders and producers, or are we going to be a Nation of discount shoppers looking for that last bargain while wondering how to survive without a decent wage and without health care coverage? That is really the choice of this year's Presidential race.

Mr. Speaker, I am surely glad this is an election year. It is time for America's voters to really ring in a hopeful and really productive new year for our country.

The article I referred to earlier I will include at this point in this RECORD.

[From the Grand Rapids Press, Jan. 17 2004]

### WHATEVER IT TAKES—CITY IS DOWN BUT NOT OUT OVER ELECTROLUX

(By John Hogan, Matt VandeBunte and Julia Bauer)

The thermometer outside Greenville's Chemical Bank registered a bone-rattling 2 degrees at daybreak Friday, although morning commuters didn't need a sign to tell them of the chill.

Three miles away, pickups with cold, anxious Electrolux workers idled in snow-covered parking lots. Even though these third-shift workers punched out at 7 a.m., they waited 30 minutes to learn whether their jobs were heading 1,400 miles south, where it was a relatively balmy 51 degrees. Electrolux worker Jerry Cannon was not one of them.

The longtime Greenville resident decided he would rather sip coffee at Mike Huckleberry's restaurant a mile away.

"It's kind of hard to make yourself go to work when you know what's coming," said Cannon, a welder trying to raise four teenagers on $15.61 an hour. "I think Electroux knew Oct. 21 what they were going to do. I wish they would just have told us."

Indeed, Friday's "official" 7:30 a.m. announcement by Swedish-based Electroux that it will close Montcalm County's largest employer in 2005 was anticlimactic.

Townspeople and employees saw the handwriting on the wall—notably the corporate statement one week before that a city/state incentive package fell far short of an $81 million annual goal, the amount Electrolux said it would save by moving.

Some Electrolux workers will return to school; others hope the improving economy brings jobs. Their message? Don't cry for Greenville.

This town of 8,000 thrived on timber well before refrigerators came along, they say, and it will thrive long after refrigerator production moves to South Carolina and Mexico.

Bold? Perhaps. Mike Huckleberry calls it a homegrown confidence that Swedish executives, NAFTA and milquetoast politician's cannot derail.

I'm confident, and my fellow businessmen are all confident Greenville will survive," said Huckleberry, who opened his downtown restaurant 12 years ago.

Once you work through feelings of betrayal, or "pure corporate greed," as some workers suggest, there's confidence. It is expressed in American flags, warm greetings and handshakes in a town founded 160 years ago when New Yorkers John and Deborah Green opened a sawmill on the Flat River.

If you have any doubts, stand under the Chemical Bank sign on the south side of M–57 west of downtown, and note the stream of taillights heading to jobs in Grand Rapids.

"We're getting people willing to drive to Grand Rapids because it's only 30 miles away and they still get the benefits of small-town living," Huckleberry said.

Greenville Mayor Lloyd Walker agrees. "Greenville is not going away," he said. "We're king of the trading center for a larger area of up to 100,000 people."

Although Electrolux rejected annual incentives of $48 million—saying they were nearly $33 million short—Walker is confident the same package can draw interest from other U.S. manufacturers.

"The incentive package will be in place," Walker said.

### NUMBER CRUNCHING

Until a week ago, the Electrolux Task Force thought it had gathered nearly $7 million in annual tax incentives and $30 million in cost savings from a proposed new factory. Union leaders proposed another $31.6 million in concessions, or about $13,000 for every worker.

The package from UAW Local 137 required membership approval, which was far from guaranteed.

Final tally: $68.6 million, just $12.4 million short. Or so they thought.

But Electrolux whacked $20 million off the estimate for newplant savings, casting the total package into a $32 million hole. Filling it would have cost more than $27,000 a year per worker.

At $15 an hour, most workers earn just over $31,000, plus about $12,000 in benefits.

"Overall, our analysis of the proposed new factory would save less money annually than was anticipated in the estimate," Electrolux spokesman Tony Evans said. "Also, it would cost for more to construct and operate than was anticipated."

Huckleberry, 55, a Greenville Chamber of Commerce board member, says he believes all the work that went into the incentive package still can bear fruit. Other manufacturers have already made queries about future uses for the plant covering three city blocks on the west side of North Irving Street.

There is still caution, certainly.

In addition to the 2,700 workers who lose their jobs, more than 800 others work for area companies that send refrigerator parts to Electrolux. Among the largest is Clarion Technologies, which makes vegetable crispers.

"It's not just suppliers, it's 2,700 people who aren't coming in to have coffee," retiree Donovan Harms said over a cup at Middlebroook's Bakery and Coffee Shop in downtown Greenville. "It's going to put a real bummer on this town. We'll survive, but the town certainly won't be the same as it is now.

### MOVING ON

Area churches are mobilizing to offer counseling for Electrolux employees, and are planning a community worship service.

"We are going to do whatever it takes to heal and move on," said the Rev. Jerry Jones, pastor at First Congregational Church of Greenville. Apathy, not Electrolux, is the biggest enemy, he said. The community must pull together "with a message of hope."

As if to convince himself things will be all right, Huckleberry embraced two customers—both Electrolux workers—as they left his restaurant mid-morning Friday. "We'll make it. You guys will be OK," he said.

Many of the workers, some 60 percent who live in Montcalm County, feel the same way.

"We all built this place; my dad started here in 1966," said 47-year-old John Baker, who today marks his 26th year with Electrolux.

He married in November and a year ago bought a home in Lakeview, about 25 miles away.

"It's going to be hard for a guy like me to find a job," Baker said. "I've thought about going back to school. Hopefully it'll work out."

"I've been getting ready for this day," said 43-year-old Gordy Heminger of Belding, who plans to go into house construction. "A lot of the guys in the plant, even the older ones, are going back to school. What else can they do?"

Huckleberry is quick to point out the plant will be making refrigerators through 2005, plenty of time for the city and its workforce to make necessary adjustments.

"We've got an airport, an industrial park and homes are being built all over," he said. "This isn't going to happen tomorrow. We've got two years to figure this out."

True enough, agrees 39-year-old Shirlene Taylor, who stopped in with a friend Friday for scrambled eggs and toast.

"The people you work with are like family, but the big corporations don't care about that," said Taylor, who recently lost her job at Attwood Corp. in Lowell, a former subsidiary of Steelcase. "We'll make it. Greenville is still a wonderful town."

[From the Grand Rapids Press, Jan. 17, 2004]

## ONE BIG JOB LIES AHEAD FOR LAST TWO YEARS

(By Julia Bauer)

Electrolux workers will have plenty to do in the months until their plant closes.

Assembly of basic refrigerator models is moving out of Greenville to make way for a new Electrolux brand that will look like a built-in.

"Our South Carolina factory specializes in top-freezer refrigerators," Electrolux spokesman Tony Evans said. Both Greenville and the Anderson, S.C., plant can produce the models with the freezer on top, which can run up to 18 cubic feet.

"We've had that ability to build certain of those models in any location," he said.

Once that production moves out, Greenville employees who are all facing layoff next year will start preparing for the new line, at least for a few months. The plant is scheduled to close in 2005.

"We are about to go into manufacturing of a new product, a counter-deep refrigerator," Evans said. "The cabinet is roughly 24 inches deep, so it matches your typical countertop."

Greenville workers will cover the startup, but eventually the refrigerators will bear a "Made in Mexico" label.

Electrolux plans to spend $150 million to open a plant in Mexico.

"Ultimately, those products would migrate to the new factory," Evans said. The company is providing no specifics on the location for the Mexico plant, although officials in the border town of Ciudad Juarez say they have hosted company representatives in recent weeks.

No new employees will be needed in South Carolina, Evans said. Most of the focus will be on the move to Mexico and production of the "mass luxury" model. Electrolux has not estimated how many employees the Mexico plant will need. The plants on the border with Texas employ Mexican factory workers who earn $1.57 an hour plus benefits.

Electrolux cites the high labor costs at the union plant in Greenville, where wages are $15 an hour, plus benefits. The plant has won awards for high productivity, and its division is making a profit.

But Electrolux is seeking higher revenues with lower labor expense. The last major upgrade at Greenville, a $100 million retooling for Frigidaire's "Next Generation" line, was plagued with delays and cost overruns that added another $40 million to the final tab. The startup required more employees and more overtime, and it resulted in missed deliveries.

At the last quarter conference in October, analysts told Electrolux chief executive Hans Straberg they were concerned with the company's ability to efficiently install another new line in Greenville, then move it to Mexico.

Electrolux, based in Stockholm, Sweden, is scheduled to report its financial results for 2003 on Feb. 12.

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## MEDICARE PRESCRIPTION DRUG BILL

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, this evening I would like to talk about the

Republican Medicare prescription drug bill that was signed into law by the President last year, which I consider a huge missed opportunity on behalf of the Congress because we really needed a meaningful prescription drug bill for seniors. That is not what we received. What we received really is nothing more than an attempt to privatize Medicare and not provide a meaningful prescription drug plan for seniors.

I wanted to particularly highlight tonight the fact that on the Republican side of the aisle there now are a series of events that have occurred with regard to members of the administration. Members of this House of Representatives, who have, in my opinion, taken advantage of the situation and of their position relative to either negotiating or passing this prescription drug measure that highlight again the fact that special interests and the pharmaceutical companies and the HMOs and the insurance companies were basically out to pass a prescription drug bill that would not provide meaningful coverage; that would not lower costs; and that essentially creates a hoax on the American people that we are somehow doing something about the issue of prescription drugs for seniors.

Meanwhile, the pharmaceutical companies and, yes, even our own Members of Congress and even a member of the administration continue to benefit personally from the fact that they were involved in these negotiations and now have taken jobs or opportunities in the private sector with those same prescription drug companies with whom they worked to negotiate what was essentially a bad bill.

Before I get into some of the specifics in that regard, I just wanted to highlight again why I think this prescription drug measure was a missed opportunity and does not really do anything to help America's seniors. The bill, H.R. 1, in my opinion, simply weakens the Medicare program and falls short of meeting the prescription drug needs of seniors.

H.R. 1, as we know, provides woefully inadequate prescription drug coverage due to a giant gap in coverage in which seniors receive no assistance with costs between $2,250 and $5,100 annually. About half of all seniors will not have drug coverage for part of the year, even though they will continue to pay monthly premiums.

I would like to explain what I mean by that. The problem with the Republican bill, unlike with what the Democrats had proposed, is that the Republican bill basically makes you pay so much out of pocket for what you are getting back in your benefit that it is not even worth having; and since it is a voluntary program, I would venture to guess that when this bill finally goes into effect in a couple of years, most seniors would simply not opt for it because they have to pay out more than it is worth essentially. I have a little chart here that highlights what I mean.

For example, if a senior in the course of a year were to run up a bill of about $1,000 for their prescription drug needs, under the Republican bill, they would have to pay $857.50 for $1,000 worth of coverage. If their annual drug costs were $2,000, they would be paying about $1,107 out of pocket. If their annual drug costs were $3,000, they would be paying $1,920 out of pocket; and if their annual drug costs were $5,000, they would be paying $3,920 out of pocket. You might say to yourself who in the world would want to take advantage of a bill that forces you to pay so much out of pocket to get a very meager amount back in coverage by the Federal Government? And that is really the point.

The second thing that is so important about this Republican prescription drug measure, if you want to call it that, is that it does nothing to reduce the costs of prescription drugs. When you talk to most seniors, they will say that the biggest problem they face is the price of the actual cost of the prescription drugs. What the bill does is it prohibits Medicare from using the bargaining power of 40 million seniors to negotiate lower prices. In other words, all of the sudden, if you have a Medicare prescription drug program, you have about 40 million seniors that the Medicare administration or the Secretary of Health and Human Services can go to the drug companies and say, look, I represent 40 million seniors, I am not going to buy prescription drugs from you, pharmaceutical company, unless you reduce the price; and since I represent all these people, I can buy a lot of drugs if you give me a good price.

This is how you negotiate. We do this with the VA. We do this with the Defense Department for our United States military. But under the Republican Medicare prescription drug bill, the Federal Government, the Secretary of Health and Human Services, the Medicare administrator was specifically forbidden from doing that kind of price negotiation to reduce prices. I mean, this is an outrage, but this is the reality.

The other thing is that the Republican bill pushes seniors into private plans through either an HMO or a PPO. In other words, if they want to get the prescription drugs, they are probably going have to join an HMO in order to get any kind of benefit whatsoever, which means that they lose their choice of doctors. There are so many problems with the bill I do not want to get into all of the problems tonight because I want to kind of highlight how this relates to some of the people that were negotiating the bill and some of the people here in Congress, as well as within the Bush administration, that are benefiting from the fact that they were in charge of negotiating this very bad bill.

I wanted to also point out that the Democrats had an alternative to the Republican plan that would have actually accomplished the goal of providing a good benefit, reducing the cost of prescription drugs. And would have been immediately available as opposed to available in 2 years under the Republican proposal.

What the Democrats proposed to do was to simply follow the lead of what we do now with part B. Most seniors know that they pay a premium of about $40, $50 a month under part B of Medicare. That covers their doctors' bills, and they have a $100 deductible. They have a 20 percent co-pay, but essentially it starts with the first prescription. There is no donut hole. There is no lack of coverage, and a certain amount at a catastrophic level, the government pays all the costs. Also, under the Democratic proposal we have specifically instructed the Medicare administrator and the Secretary of Health and Human Services to negotiate price reductions to reduce the costs of the prescription drugs. Very simple. You keep your doctor. You do not have to go through the HMO. Everybody's eligible for this prescription drug plan, and you pay a premium of about $25 a month.

This is not what we got. This is not what the President signed into law. The bill that the President signed into law essentially, the Republican bill, says you are not going to get the coverage unless you go private, join an HMO or something like it. The coverage is very limited. You have to pay a tremendous amount out of pocket, the way I described; and there is actually a prohibition on the reduction or the negotiating of prices to try to bring the prices down.

You might say to yourself, why did this happen? Why is it that the Republican proposal and the one that was signed into law is so bad, and why did it not just follow what we had done traditionally with Medicare with part B, for example, with your doctor bills, the way the Democrats had proposed? The answer, in my opinion, is very simple, and that is because this bill was written by the pharmaceutical companies and by the insurance companies. The insurance companies wanted to make sure that you had to go private with an HMO or something like it in order to get the benefit, and the pharmaceutical companies wanted to make sure that there were no cost controls whatsoever in this benefit so that they would not lose money essentially from having to lower the cost of their prescription drugs.

This is what I would like to get into tonight, and I do not like to cast aspersions, but I do not think we have any choice. The irony of it is two of the key people or at least two of the key people that were involved in negotiating and working on this legislation have now or are about to either join the pharmaceutical companies and leave, in one case, Congress; or in the other case, the Medicare administrator has already left the Bush administration to join a law firm that represents the drug companies; and I just want to talk about that a little bit tonight.

This is an article from today's Washington Post that says that the chairman of the Committee on Energy and Commerce on the House side, which is my committee that I serve on, the committee that had jurisdiction over the Medicare legislation, the gentleman from Louisiana (Mr. TAUZIN), I am reading from The Washington Post today, "is close to a decision to leave Congress to head the pharmaceutical industry's trade association after turning down an offer from Hollywood to succeed Jack Valenti as the movie industry's top lobbyist, sources in Washington and California said yesterday."

Tauzin telephoned Valenti and declined the offer from the Motion Picture Association, but The Washington Post goes on to say that he "is now considering an offer from the Pharmaceutical Research and Manufacturers of America, PhRMA, the trade group that represents trade giants such as Pfizer and Merck and Company."

He chairs the House Committee on Energy and Commerce. "He was one of the principal authors of the Medicare prescription drug bill that included several provisions expected to vastly expand the market for prescription drugs . . . in addition to adding hundreds of billions of dollars for drug benefits, the law bars the Federal Government from directly bargaining down the price of drugs, a provision PhRMA pressed for."

So the bottom line is PhRMA, representing the pharmaceutical companies, comes in here, negotiates with the committee to ban any kind of cost controls, any kind of negotiated prices. Now that the Republican chairman of the committee, a nice gentleman but nonetheless the Republican chairman of the committee, is likely, according to this, to take a job at PhRMA, the pharmaceutical trade company's top representative, the head of it.

At some point, you have to say to yourself, Mr. Speaker, where does it end? Where does the special interests, in this case of the drug companies, I could probably use the same example with the HMOs and the insurance companies, where does their ability to influence legislation in what I consider a bad way because it in this case means there was no effort to negotiate prices and lower prices for seniors, where does their ability to influence what goes on here and when we have this revolving door, where they come in here and get the committee and the Congress to ban any kind of negotiated prices, and then the person who is the chairman of the committee decides maybe that he will go on to represent this trade group?

I want to use another example because I mentioned the Medicare administrator. The person who was the Medicare administrator within the Department of Health and Human Services at the time when this prescription drug bill was being debated and negotiated here in Congress, again under the Bush administration, a Republican by the name of Tom Scully, last month took a job with a law firm in an investment company that represents these pharmaceutical companies. So here we have again the top person in the Bush administration who is negotiating this bill, a bad bill, one that is not helping the senior citizens, after the bill is passed, leaves the Bush administration, the Medicare administrator position, and goes to work for a law firm that essentially represents these same pharmaceutical companies.

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Now, it was interesting because there was an article, again in The Washington Post, about a week ago, January 14, that says, "Now the White House has ordered Federal agencies to stop issuing ethics waivers that allow key officials to negotiate jobs while they are shaping policies important to potential private employers." So this was a memo that was issued by the White House Chief of Staff about a week ago saying that "Effective immediately only the White House can approve such waivers."

The problem here is that Federal law bars Presidential appointees, such as Tom Scully, who is the Medicare Administrator, from discussing possible employment with firms involved in or hoping to be involved in matters handled by those officials. So Scully was negotiating the Medicare prescription drug bill in a way that helped the pharmaceutical companies and did a disservice to the senior citizens of this country by not allowing any kind of negotiated price reductions.

There actually is Federal law that says that he cannot, while he holds that Medicare Administrator position, he cannot look for another job with a company or a law firm that is involved in those negotiations. But he can get a waiver, which was granted by the Secretary of Health and Human Services, a waiver to seek that job and talk to those companies to get a job at the same time that he is negotiating this Medicare prescription bill.

The waiver was granted. And now they are saying, well, maybe it should not have been granted by the Secretary of Health and Human Services. In the future, we will only let the White House, I guess the President himself, grant those kind of waivers.

Well, these waivers should not be allowed at all. It is outrageous, in my opinion, that the Medicare Administrator, who is negotiating and trying to come up with a prescription drug bill, is allowed to go out and seek a job at the same time with those same law firms or companies that he is now negotiating to put in a provision that would ban the ability to negotiate price reductions.

He had a waiver so that he was allowed to do it. That was given by the same administration, the Bush administration, ultimately the White House as well, so that he could go about trying to look for a job with those same law firms or companies that were trying to get him to bargain for some provisions in the bill that were to their liking.

I mean, where are we going with this whole issue of special interests and the ability of special interests to influence not only the White House and the Medicare Administrator who is working under the President, but also the Republican chairman of the committee that also has jurisdiction over this Medicare prescription drug bill? I do not know where it ends.

I just want to give one more example, which I know has already been mentioned by others, but many of us remember the night here on the floor of the House of Representatives when we were voting on this Medicare prescription drug bill; and when the vote first took place and the 15 or 17 minutes were up, when we are supposed to vote and put our cards in the machines and post our names and how we voted up on the wall here, the bill had actually lost. There was a majority against the bill. An absolute majority was against the bill, so that the bill should have been defeated.

But what the Republican leadership in the House here did, the Speaker, the majority leader, they spent the next 3 or 4 hours, I do not know how long it was, but it was at least 3 hours, twisting arms and trying to use whatever means they could to convince Republican Members to change their votes. And they actually were able to get enough to change their votes so that they switched the majority from defeating the bill to passing the bill several hours after the machines were supposed to close.

I mean, there are all kinds of examples of the kinds of arm-twisting that was taking place and the kind of special interests that were being used. The Secretary of Health and Human Services was here on the floor twisting arms. I saw him personally. But I want to give the most egregious example, which has been mentioned before. In fact, in an effort to show how much the Republican leadership is willing to go to do the bidding of the special interests, in this case the pharmaceutical industry and the insurers, this is an editorial from The Washington Post on December 30, during our congressional recess. And I am not going to read the whole thing, but I want to read part of it, because I think it is part of this whole thing, and what I need to do to expose what is going on around here.

It says, "Mr. Smith Leaves Washington," talking about the gentleman from Michigan (Mr. SMITH), a Republican. It says. "Something ugly happened to Representative NICK SMITH on the long night of the House Medicare vote last month that seems beyond dispute. With his party lacking the votes to muscle the prescription drug bill through, Mr. SMITH was subjected to intense and quite possibly criminal pressure to induce him to abandon his opposition to the Medicare bill. As Mr. SMITH related it the next day, Members and groups offered financial and political support for his son Brad, who is running for his father's seat, if only he would vote for the bill. The first offer was to give him $100,000-plus for his campaign and endorsements by national GOP leadership, Mr. SMITH elaborated a few days later. When he refused, he said he was threatened that, "Well, if you do not change your vote, then some of us are going to work to make sure your son does not get into Congress."

Again, it goes on to talk about how the House Speaker was among those importuning the gentleman from Michigan (Mr. SMITH) in the final hours of the Medicare vote. And, of course, The Washington Post goes on to say that "The Justice Department should fully investigate the matter. If Justice declines to proceed, the ethics committee must step up to the plate."

To my knowledge, neither of those things has happened. But, again, I just want to highlight this because that prescription drug bill was so important to seniors and it was such a missed opportunity to do something that would have actually been helpful to seniors as opposed to doing something that only helps the insurance companies or the pharmaceutical companies. And you just get a little flavor of what goes on here and what contributed to the fact that this bad bill passed: arm-twisting to get Members to change their votes with threats of giving money or withholding donations from candidates, and members of the administration in charge of the Medicare program being offered jobs to work for the very companies that were pharmaceutical companies and their representatives that were benefiting from the legislation; and now the possibility, and we will find out, I guess, in a few days, of the Republican chairman of the committee that had jurisdiction actually going to become the chief representative of PhRMA, the trade group for these very same pharmaceutical interests. It is a very sad day, and the consequences to America's seniors are very bad.

Just in case anybody has any doubt about why this bill is not good and what it means to the industry and what goes on around here, I just wanted to make reference to an editorial that was in The New York Times this Sunday. It says, "Patches For the Drug Program." And I am not going to read it all, Mr. Speaker, but I want to read some relevant parts because I think it sums up the problem that we face.

The New York Times says in the Sunday editorial, "In the weeks since the Medicare prescription drug bill was signed into law, the changes that need to be made in this vital legislation have become increasingly apparent. It is not likely that Congress will act in a political year, but Democrats who criticize the bill should lay markers down now on what has to change, and those amendments should be brought up as soon as possible, either before or after the election."

They go on to say in The New York Times that "Anyone who followed the rancorous congressional debate knows that the new program has a huge coverage gap, known as the doughnut hole, that exposes many beneficiaries to $3,600 in out-of-pocket costs before catastrophic coverage kicks in. That makes no sense from an insurance perspective, but was intended to keep the program's costs from getting out of control. Less well-known," and I have not even mentioned this, Mr. Speaker, "is the likelihood that the drug coverage will actually become worse with each passing year. The premiums, deductibles and out-of-pocket expenditures will all increase rapidly, tied to increases in per capita drug expenditures under Medicare. By 2013," about another 10 years, "for example, the out-of-pocket spending required before a person qualifies for catastrophic coverage will probably be $6,400 a year, well above the $3,600 required in the first year. That could be devastating for those struggling to survive on Social Security benefits."

It is so sad. I mean, what The New York Times is saying is what I talked about earlier in terms of out-of-pocket expenditures; that they are only going to get worse as time goes on. I do not think most people will even sign up for this when it goes into effect in 2 years because their out-of-pocket costs are so bad compared to what they would actually benefit. But what The New York Times is saying is that that differential is going to get even worse as time goes on.

The New York Times editorial from Sunday goes on to talk about the drug pricing that I mentioned before. They say, "Drug prices must also be controlled. Unfortunately, the most glaring fault in the bill is its failure to employ the strongest weapon for reining in drug costs. As the political price for passing the bill, congressional Republicans inserted language prohibiting the Medicare program from using its substantial market power to negotiate low prices from the drug companies. Instead, the program will rely on private insurance plans or pharmacy benefit managers to negotiate. That was a mistake. The ban on government intervention reflects the Republicans aversion to government price controls, but it is also testimony to the lobbying clout of the drug industry, a major patron of the Republican Party. Democratic leaders have introduced bills to allow Medicare to negotiate directly, but that will be a tough sell in a Republican Congress that opposes any changes before the law has had a chance to work. The AARP has now suggested that Congress should allow the government to negotiate drug prices if private efforts fail to produce big discounts."

Well, I do not have to go on. The New York Times is just confirming what I have said all along. This was nothing but a bone thrown to the pharmaceutical industry that did not want any kind of effort to negotiate lower prices; and now we see that the representatives, be they Members of the House, Republican Members, or members of the administration who were directly involved in these negotiations to make sure that there was this ban on any effort to lower prices, are now joining those same drug companies or the law firms that represent them.

The special interests just reign supreme here in the Republican-controlled Congress and in the White House. And worst of all, and this is the last thing I will mention on this subject, Mr. Speaker, I could not believe that on Saturday there was an article in The New York Times about how the Department of Health and Human Services is now stepping up efforts against drug imports. Those of us who were here back in November when we had this debate know full well that there was an effort that was successful on the part of mostly Democrats but also some Republicans to put into the Republican Medicare prescription drug bill a provision that would have allowed reimportation of drugs from Canada, if not from other countries, where the FDA has certified the production and the factory where the drugs are being produced. We actually were successful in getting language in the bill, believe it or not. I do not know how we did it, but we managed on a bipartisan basis to get language in the bill that would allow and legalize reimportation from Canada as a way of trying to reduce the prices of drugs.

We know that in Canada, unlike in the United States, they negotiate price reductions on behalf of not only seniors but all their citizens, so the prices for the prescription drugs are significantly lower. But what this Bush administration does is, after the law passes, they say that they will refuse to certify that drugs being reimported from Canada are safe and, therefore, because they will not certify that those drugs are safe, they now say that it is still illegal to reimport the drugs from Canada. What the Bush administration is now doing, what the FDA is now doing, is basically trying to prevent the reimportation of the drugs.

This is what was in The New York Times on Saturday, January 24. And, again, I just want to read some sections from it because it is unbelievable to me how far they will go to protect the pharmaceutical industry at the expense of the average senior in the United States who is trying to find some way, albeit even having to reimport the drugs from Canada, to try to reduce their drug prices, because they simply cannot afford to pay these steep prices for these prescription drugs.

This article says that "A second 'blitz' inspection by Federal drug and Customs officials of medicines imported from Canada has found that nearly all of almost 2,000 packages opened contained foreign versions of American pharmaceuticals that officials said might not be safe." And I use that, "might not be safe." They are not saying they are not safe, they are saying they might not be safe. Well, what is the basis for their saying they might not be safe? Nothing. There is absolutely nothing in the article and nothing that they did to show that in fact these reimported drugs were not safe.

In fact, in The New York Times article, it says, "Asked if the pills reviewed in the latest survey that they were inspecting were unsafe, Dr. McClellan," who is the FDA Commissioner and a Bush appointee, answered, "We just don't know because it's so hard to tell." Well, what kind of answer is that, Mr. Speaker?

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Americans are trying to get drugs reimported from Canada, and there is every reason to believe they are safe, there is no reason to believe they are not; and they are seizing all these drugs. And when the commissioner is asked if they are safe, he said we do not know because it is so hard to tell. There is nothing in this article that indicates that they have found anything that indicates that these drugs are not safe. I think they are harassing those who are trying to do the reimportation.

Mr. Speaker, Governors and mayors around the country, because they are so concerned about the cost of prescription drugs for their own citizens, for their seniors, are trying to come up with ways of providing a government program, either in the case of the mayors for their cities or Governors for their States, to reimport these drugs from Canada at a low cost. I do not have to give all of the examples here, but I think one of the States that has taken a lead on this is Illinois, which has talked about a major program to try to accomplish this goal.

But what the Bush administration says, and this is again from the New York Times, the Bush administration is hoping to use a combination of aggressive inspections and pointed political advice to persuade local and State officials to back away from the border drug trade. This is Dr. McClellan that is being paraphrased. And the State officials who are trying to set up these programs are turning their heads because they do not know what to do. They think it is ridiculous what the FDA is trying to do. This is not even a partisan issue. Some of the Governors trying to set up the programs and that are objecting to what the Bush administration is doing on the Canadian reimportation issue are Republicans.

There is one quote here from Governor Tom Pawlenty, a Republican from Minnesota; and he says that the FDA will sue somebody or throw somebody in jail over this, the pharmaceutical companies choke off supply, or the FDA comes to their senses. He is very concerned about what the administration is trying to do to stop the supply of drugs going into Minnesota, which he believes are safe.

It goes on and on and talks about all of the things that the FDA is trying to do to cut the supply; that the drug companies are sending fewer drugs to Canada and are trying to choke off the supply. Everything is being done to try to help the pharmaceutical companies not have to provide lower-cost drugs. The actions of my fellow Congressman and the Bush administration officials in this regard are just outrageous. I think it is imperative to keep speaking out against what is going on, against those Republican officials within the administration and in our case the chairman of our committee who are now taking jobs with these companies after they negotiated this legislation, this bad bill. Somehow the public has to be made aware, Mr. Speaker, of all these activities. I know that I am going to be back again on another night talking about this and have some of my colleagues on the Democratic side of the aisle join with me.

Before I close, I just wanted to move to another topic which is totally unrelated to this, but it is timely. I would like to take 5 minutes to switch to this topic that relates to foreign policy, not only to U.S. foreign policy, but also to activities at the U.N.

Tomorrow, President Bush is meeting with the Prime Minister of Turkey, and I know there are a number of things that they are going to discuss; but I would like to discuss this evening what I would like our President to do, which is to basically have President Bush exert pressure on the Turkish Government to convince the Turkish Cypriot leader, Rauf Denktash, to return to the negotiating table on Cyprus and truly work for a peace settlement over the Cyprus issue.

I was in Cyprus this summer. Some may know that Cyprus is about to join the European Union as of May 1 of this year; but Cyprus is still a divided island. The Turkish Government invaded Cyprus in 1974. They occupy about a third of the northern part of the island; and every effort that has been made over the last few years, and it really came to the point where we thought there was really a possibility last spring that there would be an agreement between the Turkish Cypriot government and the Government of the Republic of Cyprus to unify the island and have the Turkish troops leave before Cyprus joined the European Union. So far that has not happened, but I still think there is an opportunity for that to happen.

I would like to see if President Bush can put some pressure on the Turkish Prime Minister tomorrow to have him essentially exert some influence over the Turkish Cypriot government in the northern occupied part of Cyprus to come to agreement and unify the island under one government before Cyprus' accession to the European Union.

This weekend, before his trip to the United States, the Turkish Prime Minister said he would allow the United Nations to "fill in the blanks" of a settlement to the Cyprus issue. The Prime Minister also urged U.N. Secretary Kofi Annan to appoint a new Cyprus negotiator and said he would urge the Turkish Cypriot leader to go along with settlement proposals. While these words are encouraging from the Prime Minister, one has to remember they were made right before his trip to the United States. In the past, Turkish leaders have made statements showing the importance of a peace settlement; but, unfortunately, these words have not translated into action.

In fact, just days before Prime Minister Erdogan made this pledge, Denktash continued his intransigence, stating that the whole world is trying to take Cyprus away from the Turks. Denktash even joked in reference to the Turkish Government when he said, "Come, give Cyprus away to the Greek Cypriots and get over with it."

Mr. Speaker, Denktash is not just going to listen to Turkish leaders. But Denktash's comments show an uneasiness with the perception that Turkey is finally willing to agree to a settlement with the framework created by the U.N. Now would be the perfect time for Turkey to exert pressure on Denktash and his government, and this is something that President Bush should strongly urge during his meeting tomorrow.

At a time when Turkey is interested in joining the European Union, its lack of cooperation in the efforts to solve the Cyprus problem can only result in a setback for Turkey's candidacy. On

May 1. Cyprus will join the European Union. Last week, the European Enlargement Commissioner, Genter Verheugen, warned that the status quo would damage everyone, whereas a solution would be a clear win/win situation for Greece, Cyprus, Turkey, and Europe as a whole. In an article in the Financial Times, it was pointed out by the European Enlargement Commissioner that "the absence of a solution when we reach May 1 would deepen the island's division." He stressed that a settlement of the Cyprus problem does not constitute an additional criterion for Turkey's bid to join the European Union, but also questioned whether it would be likely that all 25 member states, including the Republic of Cyprus, will decide unanimously at the end of this year to start accession negotiations with Turkey as long as the island remains divided.

Again, I would stress being particularly for Turkey, which wants to join and hopes by the end of this year that there will be some movement towards its own accession to the European Union. There is really very little time for Turkey to play a role to settle the Cyprus issue. I would hope with a little pressure from President Bush tomorrow, the Turkish Prime Minister will return to Ankara and stress to Denktash like never before the importance that the Turkish Cypriot leadership put aside unreasonable and unacceptable demands and finally negotiate in good faith with the leadership of the Republic of Cyprus.

Ultimately, the victims of these shortsighted policies from Ankara and the Turkish Cypriot leadership are the people of Turkey and the Turkish Cypriot community, who will continue to be deprived of an opportunity to share in the economic, social, and other benefits of European Union membership.

Again I would say that the statements made by the Turkish Prime Minister over the weekend and the Turkish military seem to indicate that they want the Turkish Cypriot government to move ahead with the settlement that could be accomplished possibly by May 1. But we have heard this before. I think the best course is if our President Bush can really make it clear to the Turkish Prime Minister tomorrow how important this is and how timely it is that some action be taken to achieve a unified Cyprus by May 1. I know that President Bush is interested in accomplishing this, and I hope that he does put sufficient pressure on the Prime Minister of Turkey so we can see some progress.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Ms. PELOSI) for today and the balance of the week on account of official business.

Mr. FROST (at the request of Ms. PELOSI) for today on account of family matters.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for today on account of weather-related travel problems.

Mr. HONDA (at the request of Ms. PELOSI) for today and the balance of the week on account of personal reasons.

Mr. MILLER of North Carolina (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today and the balance of the week on account of official business.

Mr. REYES (at the request of Ms. PELOSI) for today and the balance of the week on account of a death in the family.

Ms. ROYBAL-ALLARD (at the request of Ms. PELOSI) for today and the balance of the week on account of personal reasons.

Ms. SLAUGHTER (at the request of Ms. PELOSI) for today on account of weather-related travel problems.

Ms. WATERS (at the request of Ms. PELOSI) for today and the balance of the week on account of weather-related travel problems.

Mrs. BONO (at the request of Mr. DELAY) for today and the balance of the week on account of personal family matters.

Mrs. MILLER of Michigan (at the request of Mr. DELAY) for today and the balance of the week on account of official business.

Mr. ROYCE (at the request of Mr. DELAY) for today and the balance of the week on account of a death in the family.

Mr. WAMP (at the request of Mr. DELAY) for today on account of his flight being canceled due to inclement weather on the east coast.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. EMANUEL, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. FARR, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BURGESS) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, January 28.

Mr. BURTON of Indiana, for 5 minutes, today and January 28.

Mr. LEWIS of Kentucky, for 5 minutes, January 28.

Mr. SHUSTER, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, January 28.

## ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 28, 2004, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6366. A letter from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department's final rule—Export Sales Reporting Requirements—received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6367. A letter from the Administrator, Rural Housing Service, Department of Agriculture, transmitting the Department's final rule—Fire and Rescue and Other Community Facilities Projects (RIN: 0575-AC53) received December 9, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6368. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Importation of Artificially Dwarfed Plants in Growing Media from the People's Republic of China [Docket No. 98-103-5] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6369. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Importation of Eucalyptus Logs, Lumber, and Wood Chips From South America [Docket No. 02-097-2] received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6370. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Rules, Policies, and Procedures for Corporate Activities; Bank Activities and Operations; Real Estate Lending and Appraisals [Docket No. 03-24] (RIN: 1557-AB97) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6371. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Electronic Filings [Docket No. 04-01] (RIN: 1557-AC13) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6372. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations [Release Nos. 33-8350; 34-48960; FR-72] received December 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6373. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Processing Requirements for Cancelled Security Certificates [Release No. 34-48931; File No. S7-18-00] (RIN: 3235-AH94) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6374. A letter from the Assistant General Counsel, Regulatory Services Division, Department of Education, transmitting the Department's final rule—Title I—Improving the Academic Achievement of the Disadvantaged (RIN: 1810-AA95) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6375. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Head Start Program (RIN: 0970-AC16) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6376. A letter from the Director, Corporate Policy and Research Dept., Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6377. A letter from the Director, Corporate Policy and Research Dept., Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure to Participants; Beneifts Payable in Terminated Single-employer Plans—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6378. A letter from the Director, Corporate Policy and Research Dept., Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6379. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (RIN: 1991-AB56) received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6380. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium [Docket No. 2002F-0220] received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6381. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects (RIN: 0925-AA) received December 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6382. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—List of Approved Spent Fuel Storage Casks: NAC-UMS Revision (RIN: 3150-AH25) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6383. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting The Department's final rule—December 2002 Wassenaar Arrangement Plenary Agreement Implementation: Categories 1, 2, 3, 4, 5, 6, and 7 of the Commerce Control List, and Reporting Requirements [Docket No. 031017263-3263-01] (RIN: 0694-AC85) received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6384. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Chemical Weapons Convention Regulations: Electronic Submission of Declarations and Reports through the Web-Data Entry System for Industry (Web-DESI) [Docket No. 0312113311-3311-01] (RIN: 0694-AC97) received January 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6385. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule—Federal Acquisition Circular 2001-18; Introduction—received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6386. A letter from the Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Bluefin Tuna Season and Size Limit Adjustments [Docket No. 031028268-3321-02; I.D. 091603F] (RIN: 0648-AR12) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6387. A letter from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting the Department's final rule—Debt Collection Improvement Act—Treasury Offset and Cross Servicing (RIN: 0570-AA52) received January 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6388. A letter from the Under Secretary and Director, USPTO, Department of Commerce, transmitting the Department's final rule—Changes to Implement the 2002 Inter Partes Reexamination and other Technical Amendments to the Patent Statute [Docket No.: 2003-P-001] (RIN: 0651-AB57) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6389. A letter from the Director, Torts Branch, Civil Division, Department of Justice, transmitting the Department's final rule—Certification and Decertification in Connection With Certain Suits Based Upon Acts or Omissions of Federal Employees and Other Persons [CIV 102F; AG Order No. 2697-2003] (RIN: 1105-AA62) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6390. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule—Use of Locomotive Horns at Highway-Rail Grade Crossings [Docket No. FRA-1999-6439, Notice No. 8] (RIN: 2130-AA71) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6391. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30399; Amdt. No. 3085] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6392. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30398; Amdt. No. 3084] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6393. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Waverly, IA [Docket No. FAA-2003-16502; Airspace Docket No. 03-ACE-86] received Decemeber 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6394. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Oskaloosa, IA [Docket No. FAA-2003-16500; Airspace Docket No. 03-ACE-84] received Decemebr 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6395. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Osceola, IA [Docket No. FAA-2003-16499; Airspace Docket No. 03-ACE-83] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6396. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Tipton, IA [Docket No. FAA-2003-16501; Airspace Docket No. 03-ACE-85] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6397. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mount Pleasant, IA [Docket No. FAA-2003-16498; Airspace Docket No. 03-ACE-82] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6398. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E4 Airspace; and Modification of Class E5 Airspace; Goodland, KS [Docket No. 2003-16079; Airspace Docket No. 03-ACE-71] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6399. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Buckhannon, WV [Docket No. FAA-2003-15229; Airspace Docket No. 03-ACE-05] received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6400. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes [Docket No. 2003-CE-28-AD; Amendment 39-13382; AD 2003-24-13] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6401. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-30F (KC10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. 2001-NM-207-AD; Amendment 39-13379; AD 2003-24-10] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6402. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 Airplanes [Docket No. 2003-NM-68-AD; Amendment 39-13380; AD 2003-24-11] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6403. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 2000-NM-150-AD; Amendment 39-13383; AD 2003-24-14] (RIN: 2120-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6404. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2003-NM-70-AD; Amendment 39-13378; AD 2003-24-09] (RIN: 1220-AA64) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6405. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Sidney, NE. [Docket No. FAA-2003-16409; Airspace Docket No. 03-ACE-78] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6406. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Plattsmouth, NE. [Docket No. FAA-2003-16408; Airspace Docket No. 03-ACE-76] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6407. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; and Modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS. [Docket No. FAA-2003-16407; Airspace Docket No. 03-ACE-75] received Janaury 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6408. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Johnson, KS. [Docket No. FAA-2003-16411; Airspace Docket No. 03-ACE-77] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6409. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class D Airspace; Hilton Head Island, SC [Docket No. FAA-2003-16359; Airspace Docket No. 03-ASO-18] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6410. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Erie, PA [Docket No. FAA-2003-16119; Airspace Docket No. 03-AEA-13] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6411. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Jamestown, NY [Docket No. FAA-2003-16120; Airspace Docket No. 03-AEA-12] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6412. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Honesdale, PA [Docket No. FAA-2003-16220; Airspace Docket No. 03-AEA-15] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6413. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Canby, MN [Docket No. FAA-2003-15877; Airspace Docket No. 03-AGL-15] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6414. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Wilmington Clinton Field, OH [Docket No. FAA-2003-15834; Airspace Docket No. 03-AGL-13] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6415. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Chicago, IL [Docket No. FAA-2003-15465; Airspace Docket No. 03-AGL-11] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6416. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30400; Amdt. No. 3086] received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6417. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Service Difficulty Reports [Docket No. FAA-2000-7952] (RIN: 2120-AI13) received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6418. A letter from the Director, Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Reasonable Charges for Medical Care or Services; 2003 Methodology Changes (RIN: 2900-AL06) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

6419. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule— Regulations Governing New Treasury Direct System—received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6420. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Request for Comments Concerning the Application of Section 162 and 263 to Tangible Property [Notice 2004-6] received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6421. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Section 165 Worthless Stock Deduction of a Subsidiary (Rev. Rul. 2003-125) received December 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6422. A letter from the Chief, Publications and Regulations Branch (Legal Processing Division), Internal Revenue Service, transmitting the Service's final rule—Arbitrage restrictions applicable to tax-exempt bonds issued by state and local governments [TD 9097] (RIN: 1545-AX22) received December 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6423. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Filing of Applications and Related Forms (Regulations No. 4 and 22) (RIN: 0960-AF52) received January 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6424. A letter from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting the Department's final rule—Medicare Programs; Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions; and Establishment of a Quality Assessment and Performance Improvement Program [CMS-1910-F] (RIN: 0938-AJ17) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

6425. A letter from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program: Hospital Outpatient Prospective Payment System Payment Reform for Calendar Year 2004 [CMS-1371-IFC] (RIN: 0938-AM96) received December 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

6426. A letter from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Medicare Prescription DrugDiscount Card (RIN: 0938-AM71) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar. as follows:

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 502. Resolution providing for consideration of the bill (S. 610) to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes (Rept. 108-406). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 503. Resolution providing for consideration of the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted (Rept. 108-407). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 3729. A bill to amend title 46, United States Code, to provide a monthly monetary benefit to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II; to the Committee on Veterans' Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 3730. A bill to amend title 10, United States Code, to provide for immediate implementation of full concurrent receipt for retired members of the Armed Forces who have a service-connected disability of both military retired pay paid by reason of their years of military service and disability compensation from the Department of Veterans Affairs paid by reason of their disability; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD (for himself, Mr. Moore, Mr. Moran of Kansas, and Mr. Pomeroy):

H.R. 3731. A bill to require the Secretary of Defense to reimburse members of the Armed Forces who participated in the Department of Defense Rest and Recuperation Leave program for travel expenses incurred by or on behalf of such members before the program was expanded to include domestic travel; to the Committee on Armed Services.

By Mr. REHBERG (for himself and Mr. Peterson of Minnesota):

H.R. 3732. A bill to amend the Agricultural Marketing Act of 1946 to repeal the recently enacted two-year delay in the implementation of the country of origin labeling requirements of such Act for certain agricultural commodities; to the Committee on Agriculture.

By Mr. RYUN of Kansas (for himself, Mr. Moran of Kansas, Mr. Moore, and Mr. Tiahrt):

H.R. 3733. A bill to designate the facility of the United States Postal Service located at 410 Huston Street in Altamont, Kansas, as the "Myron V. George Post Office"; to the Committee on Government Reform.

By Mrs. WILSON of New Mexico (for herself, Mr. Udall of New Mexico, Mr. Pearce, Mr. Sullivan, Mr. Brady of Texas, Ms. Hart, Mr. Tiberi, Mr. Issa, Mrs. Capito, Mr. Herger, Mr. Doolittle, Mr. Wicker, Mr. Fattah, Mr. Nunes, Mr. Ehlers, Mr. Ney, Mr. Hefley, Mr. Upton, Mr. Hoekstra, Mr. Franks of Arizona, Mr. Shays, Mr. Lewis of California, Mr. Tom Davis of Virginia, Ms. Pryce of Ohio, Mr. Sam Johnson of Texas, Mr. Shaw, Mrs. Biggert, Mr. Hayes, Mr. Blunt, Mr. Tauzin, Mr. Cunningham, Ms. Kaptur, Mrs. Johnson of Connecticut, Mr. Manzullo, Mr. Simpson, Mr. Rogers of Michigan, Mr. Rehberg, Mr. Miller of Florida, Mr. Boozman, Mr. Wilson of South Carolina, Mr. Platts, Mr. Akin, Mr. Bonilla, Mr. Ryan of Wisconsin, Mr. Thornberry, Mr. Hastings of Washington, Mr. Neugebauer, Mrs. Musgrave, Mr. Shimkus, Mr. Burr, Mr. Walden of Oregon, Mr. Kline, Ms. Harris, Mr. Carter, Ms. Ros-Lehtinen, Mr. Buyer, Mr. Goss, Mr. Kirk, Mr. Collins, Mr. Kingston, Mr. Whitfield, Mr. Spratt, Mr. Skelton, Mr. Frank of Massachusetts, Ms. Harman, Ms. Lofgren, Mr. Regula, Mr. Graves, Mr. Thomas, Mr. McKeon, Mr. Renzi, and Mr. Hayworth):

H.R. 3734. A bill to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building"; to the Committee on Transportation and Infrastructure.

By Mrs. MYRICK:

H. Con. Res. 350. Concurrent resolution supporting the goals and ideals of National Transparency Day, which promotes the financial transparency of charitable organizations; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. RANGEL introduced a bill (H.R. 3735) for the relief of Kadiatou Diallo, Laouratou Diallo, Ibrahima Diallo, Abdoul Diallo, Mamadou Bobo Diallo, Mamadou Pathe Diallo, Fatoumata Traore Diallo, Sankarela Diallo, and Marliatou Bah; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. Vitter.

H.R. 63: Mr. Gibbons.

H.R. 120: Mr. Vitter.

H.R. 198: Mr. Vitter.

H.R. 282: Mr. Vitter.

H.R. 380: Mr. Lewis of California.

H.R. 584: Mr. Vitter.

H.R. 716: Mrs. Napolitano.

H.R. 738: Mr. McGovern.

H.R. 742: Mr. Schrock and Mr. Van Hollen.

H.R. 785: Ms. Majette, Mr. Lampson, Mr. Ryan of Ohio, and Mr. Andrews.

H.R. 847: Mrs. McCarthy of New York.

H.R. 857: Mr. Ney.

H.R. 931: Mr. Culberson.

H.R. 1083: Mr. Olver, Ms. Schakowsky, and Mr. Weiner.

H.R. 1157: Mr. Rothman.

H.R. 1160: Mrs. Wilson of New Mexico.

H.R. 1321: Mr. Larsen of Washington.

H.R. 1385: Mr. Cardoza, Mr. Gonzalez, Mr. McCotter, Mr. Porter, and Mr. Vitter.

H.R. 1430: Ms. Lee, Mrs. Tauscher, Mr. Evans, Mr. Emanuel, and Mr. Wu.

H.R. 1434: Ms. Lee, Ms. Kilpatrick, Ms. Corrine Brown of Florida, and Ms. Waters.

H.R. 1634: Mr. Larsen of Washington.

H.R. 1653: Mr. Schrock and Mr. Sanders.

H.R. 1730: Mr. Moran of Virginia.

H.R. 1731: Ms. Watson and Mrs. McCarthy of New York.

H.R. 1919: Mr. Meeks of New York, Mr. Frank of Massachusetts, and Mr. Udall of New Mexico.

H.R. 1924: Ms. Waters.

H.R. 1930: Mr. Cummings and Mr. Payne.

H.R. 1998: Ms. Lofgren, Mr. Price of North Carolina, Mr. John, Mr. Lampson, Mr. Weiner, Ms. Kaptur, and Mr. Turner of Ohio.

H.R. 2020: Mr. Stenholm.

H.R. 2023: Mr. Walsh.

H.R. 2096: Mr. Bass, Mr. Larsen of Washington, and Mr. Vitter.

H.R. 2194: Mr. Kind.

H.R. 2233: Ms. Loretta Sanchez of California.

H.R. 2239: Mr. Delahunt.

H.R. 2246: Ms. Lofgren, Mr. Etheridge, Mr. Rahall, and Mrs. McCarthy of New York.

H.R. 2247: Mr. Farr and Mrs. McCarthy of New York.

H.R. 2256: Ms. Schakowsky.

H.R. 2260: Mr. Manzullo, Mr. Cunningham, Mr. LaHood, and Mr. Miller of North Carolina.

H.R. 2394: Mr. Costello, Mr. Pallone, Ms. Eshoo, Mr. Andrews, Mr. Kucinich, and Mr. Deutsch.

H.R. 2404: Mr. Moran of Virginia.

H.R. 2527: Ms. Jackson-Lee of Texas.

H.R. 2568: Mr. McNulty.

H.R. 2585: Mr. George Miller of California.

H.R. 2625: Mr. Meeks of New York.

H.R. 2711: Mr. Cardin.

H.R. 2719: Mr. Gibbons and Mr. Miller of Florida.

H.R. 2787: Mrs. Kelly.

H.R. 2808: Mr. DeFazio.

H.R. 2821: Mr. Reynolds, Mr. Kildee, Mr. Frost, and Mr. Moran of Virginia.

H.R. 2823: Mr. Kennedy of Minnesota and Mr. Porter.

H.R. 2839: Mr. Allen.

H.R. 2844: Mr. Berman.

H.R. 2906: Mr. Culberson.

H.R. 2934: Mr. Culberson.

H.R. 2945: Mr. Owens and Ms. Loretta Sanchez of California.

H.R. 3103: Mr. Gordon, Mr. Ehlers, Mr. McCotter, Mr. Weiner, Mr. Mario Diaz-Balart of Florida, Mr. Reynolds, Mr. Lincoln Diaz-Balart of Florida, Mr. Hoekstra, Mr. Cummings, Mr. Johnson of Illinois, Mr. Lampson, Mr. Terry, and Mrs. Napolitano.

H.R. 3104: Mr. Shays and Mr. Allen.

H.R. 3120: Mr. Kildee.

H.R. 3180: Mr. McDermott.

H.R. 3191: Mr. Deal of Georgia and Mr. Gallegly.

H.R. 3192: Mr. Cummings, Mr. Van Hollen, Ms. DeLauro, Ms. Jackson-Lee of Texas, Mr. Hoeffel, Mr. Lantos, and Mr. Schiff.

H.R. 3242: Mr. BILIRAKIS.

H.R. 3243: Mr. RYUN of Kansas, Ms. SCHAKOWSKY, Mr. SHAW, and Mr. RANGEL.

H.R. 3271: Mr. KENNEDY of Rhode Island.

H.R. 3275: Mr. INSLEE.

H.R. 3299: Mr. HALL, Mr. CUMMINGS, Ms. DELAURO, and Mr. FILNER.

H.R. 3307: Mr. SESSIONS.

H.R. 3311: Mr. KINGSTON.

H.R. 3324: Ms. LEE.

H.R. 3337: Mr. MCDERMOTT.

H.R. 3355: Mr. DAVIS of Tennessee and Mrs. NAPOLITANO.

H.R. 3360: Ms. LORETTA SANCHEZ of California.

H.R. 3361: Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. FILNER, Mr. BROWN of Ohio, Mr. PRICE of North Carolina, Ms. KAPTUR, Mr. SCHIFF, and Mr. SABO.

H.R. 3403: Mr. BISHOP of Georgia, Mr. NORWOOD, and Mr. COLLINS.

H.R. 3424: Mr. OWENS, Ms. LEE, Mr. SERRANO, Mr. MORAN of Virginia, Ms. KAPTUR, and Mr. FILNER.

H.R. 3425: Mr. DAVIS of Illinois.

H.R. 3440: Mr. MEEHAN.

H.R. 3450: Mrs. JONES of Ohio.

H.R. 3453: Mr. DAVIS of Tennessee, Mr. LAHOOD, Mr. LUCAS of Kentucky, Mr. REYNOLDS, and Mr. WAMP.

H.R. 3458: Mr. CUMMINGS, Mr. LAMPSON, Mr. TOWNS, Mr. HOEFFEL, Mr. OWENS, Ms. LEE, Mr. FROST, and Mr. SERRANO.

H.R. 3473: Mr. ISAKSON, Mrs. MCCARTHY of New York, and Mr. PETERSON of Minnesota.

H.R. 3474: Mr. GORDON, Ms. GINNY BROWN-WAITE of Florida, Mr. ISAKSON, Mr. GONZALEZ, Mr. LARSEN of Washington, Mr. LAMPSON, Mr. WHITFIELD, Mr. SANDLIN, Mrs. LOWEY, Mr. REYES, Mrs. MALONEY, Ms. JACKSON-LEE of Texas, Mr. KELLER, Mr. OLVER, Mr. ROGERS of Alabama, Mr. PAYNE, Mr. MATHESON, Mr. JOHN, Mr. DUNCAN, Mr. NORWOOD, Mr. VITTER, Mr. WILSON of South Carolina, and Ms. WATERS.

H.R. 3480: Mr. DOOLEY of California, Mr. GREEN of Wisconsin, Ms. JACKSON-LEE of Texas, Mrs. MCCARTHY of New York, Mr. RUPPERSBERGER, and Ms. SOLIS.

H.R. 3482: Mr. TERRY.

H.R. 3484: Mr. SABO.

H.R. 3513: Mr. JACKSON of Illinois.

H.R. 3574: Mr. BLUMENAUER, Mr. INSLEE, Mr. MCGOVERN, Mr. HOUGHTON, Mr. DOOLITTLE, Mr. DOOLEY of California, and Mr. CROWLEY.

H.R. 3611: Mr. BLUMENAUER and Mrs. TAUSCHER.

H.R. 3615: Mr. SANDERS.

H.R. 3618: Mr. SERRANO.

H.R. 3658: Mr. NORWOOD, Mr. DAVIS of Florida, Mr. YOUNG of Florida, Mr. TOWNS, Mr. ISAKSON, Mr. DAVIS of Illinois, Ms. ESHOO, Mr. LEACH, Mr. STARK, Mr. JOHN, Mr. KENNEDY of Rhode Island, Mr. FORD, Mr. MCNULTY, Mr. GRIJALVA, Mr. ACEVEDO-VILÁ, Ms. KAPTUR, Mr. LANTOS, Mr. UDALL of New Mexico, Mr. SNYDER, Mr. KIND, Mr. CUMMINGS, Mr. HALL, Mr. WALSH, Mr. TANNER, Mr. WEXLER, Mr. TURNER of Texas, Mr. LUCAS of Kentucky, Mr. SMITH of New Jersey, Mr. FROST, Mr. TERRY, Mr. LYNCH, Mr. STRICKLAND, Mr. PRICE of North Carolina, Mr. MOORE, Mr. SANDLIN, Mr. SCHIFF, Ms. BALDWIN, Mr. BURR, Mr. FOSSELLA, Mr. STENHOLM, Mr. LAHOOD, Mr. VAN HOLLEN, Mr. RAMSTAD, Mr. NETHERCUTT, Mrs. CHRISTENSEN, Mr. QUINN, Mr. FRANK of Massachusetts, Mr. ROTHMAN, Mr. JACKSON of Illinois, Mr. BALLANCE, Mr. MATHESON, Ms. MCCOLLUM, Mr. HULSHOF, Mr. MEEHAN, Mr. HOLDEN, Mr. WU, Mr. TAYLOR of Mississippi, Mr. HINCHEY, Mr. GEORGE MILLER of California, Mr. LINDER, Mr. KILDEE, Mr. SERRANO, Mrs. NAPOLITANO, and Mr. LANGEVIN.

H.R. 3678: Mr. WALSH, Mr. MCINTYRE, and Mr. PAUL.

H.R. 3688: Mr. GOODE.

H.R. 3690: Mr. HOUGHTON, Mr. WALSH, Mr. QUINN, Ms. SLAUGHTER, Mr. ACKERMAN, Mr. BISHOP of New York, Mr. BOEHLERT, Mr. CROWLEY, Mr. ENGEL, Mr. FOSSELLA, Mr. HINCHEY, Mr. ISRAEL, Mrs. KELLY, Mr. KING of New York, Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mrs. MALONEY, Mr. MEEKS of New York, Mr. NADLER, Mr. OWENS, Mr. RANGEL, Mr. SERRANO, Mr. SWEENEY, Mr. TOWNS, Ms. VELÁZQUEZ, and Mr. WEINER.

H.R. 3695: Mr. ANDREWS.

H.R. 3696: Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, and Mr. ETHERIDGE.

H.R. 3707: Mr. JONES of North Carolina.

H.R. 3708: Mr. WEXLER.

H.R. 3717: Mr. EHLERS, Mr. MATHESON, Mr. JONES of North Carolina, Mr. EVERETT, Mr. ROGERS of Michigan, Mrs. NORTHUP, Mr. OSBORNE, and Mr. LEWIS of Kentucky.

H. Con. Res. 78: Ms. SOLIS.

H. Con. Res. 111: Ms. MCCARTHY of Missouri.

H. Con. Res. 165: Ms. LORETTA SANCHEZ of California and Mr. RADANOVICH.

H. Con. Res. 178: Mr. BISHOP of Georgia.

H. Con. Res. 218: Ms. GINNEY BROWN-WAITE of Florida.

H. Con. Res. 247: Mr. STUPAK.

H. Con. Res. 267: Mr. KING of New York.

H. Con. Res. 276: Mr. WEXLER, Ms. KAPTUR, Ms. WOOLSEY, and Mr. OWENS.

H. Con. Res. 298: Mr. BEREUTER, Mr. CUNNINGHAM, and Mr. BEAUPREZ.

H. Con. Res. 311: Mr. FROST.

H. Con. Res. 335: Mr. POMEROY.

H. Res. 60: Mr. TURNER of Texas, Mr. ABERCROMBIE, Mr. GRIJALVA, and Ms. LORETTA SANCHEZ of California.

H. Res. 103: Mr. DUNCAN

H. Res. 133: Mr. COLE.

H. Res. 268: Mr. PAYNE and Mr. CASE.

H. Res. 302: Mrs. BLACKBURN.

H. Res. 387: Mr. UDALL of Colorado and Mr. CUMMINGS.

H. Res. 402: Mr. SIMMONS.

H. Res. 410: Mr. WEXLER.

H. Res. 446: Mr. BACHUS, Mr. BURR, Mr. CULBERSON, Mr. KENNEDY of Minnesota, Mr. GOODE, and Mr. PITTS.

H. Res. 466: Mr. FRANK of Massachusetts, Mr. EVANS, Mr. MCGOVERN, Mr. ALLEN, Mr. SCHIFF, Mrs. JONES of Ohio, Mr. KIND, and Mr. PORTER.

H. Res. 477: Ms. LOFGREN.

H. Res. 485: Mrs. NAPOLITANO and Ms. GINNY BROWN-WAITE of Florida.

H. Res. 499: Mr. SABO, Mr. STARK, Mr. COOPER, Mr. BELL, Ms. KILPATRICK, Ms. SLAUGHTER, Ms. DEGETTE, Mr. MARKEY, Ms. LEE, Mr. MCGOVERN, Mr. HINCHEY, Mr. MCDERMOTT, Mr. TOWNS, Ms. SCHAKOWSKY, Mr. ABERCROMBIE, Mr. FRANK of Massachusetts, Ms. ROYBAL-ALLARD, Mr. ETHERIDGE, Mr. ALLEN, and Mrs. MALONEY.

H. Res. 500: Mr. CASE, Mr. HAYES, and Mr. JOHNSON of Illinois.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2682: Mr. DEUTSCH, Ms. MILLENDER-MCDONALD, Mrs. TAUSCHER, Mr. WALSH, and Mr. BLUMENAUER.

# EXTENSIONS OF REMARKS

## TRIBUTE TO TOM J. DONOHOE

**HON. CHARLES H. TAYLOR**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. TAYLOR of North Carolina. Mr. Speaker, it is my honor to rise and commend one of Western North Carolina's and Buncombe County's finest citizens, the late Tom J. Donohoe, "The big man with the big heart." Tom passed away on November 6, 2001. He was a personal friend of mine for many years, and he will be sorely missed.

Born in Greenville, South Carolina, Tom's family moved to North Carolina where he graduated from Biltmore High School in 1952. As an alumnus of Biltmore High School, saving the school from destruction became a pet project of Tom's in recent years. Last June the WNC Historical Association acquired the deed, and Tom sought my help for $300,000 for the "Biltmore School Museum," which was provided in the 2002 Interior Appropriation.

After high school, Tom served in the United States Army and twelve years in the National Guard and Reserves. He was a man who loved his country, his community, and his people. Tom supported the East Asheville Youth Program for the past 47 years, giving freely of his time, materials, labor and money to this program, not for recognition but because he loved young people. Together, Tom and his wife Betty founded Asheville Electric forty years ago, building it into a thriving business, of which Tom was President, employing about 35 people.

When the new Reynolds High School was built, it was Tom Donohoe who offered to wire the school, and he drove to Kansas to get the famous "Rocket"—an Army surplus "Honest John" rocket—which he helped mount at the entrance to the school and is the school's mascot. Tom provided the lighting for the school's football and baseball stadiums.

Tom took an active part in politics in Asheville and Buncombe County. For many years he contributed to the campaigns of good men and women who ran for public office and stood as a candidate for Asheville City Council in 1989. He was well known for donning an apron and cooking at fundraisers for local candidates.

In addition to being a well-known businessman, Tom served two four-year terms on the Asheville Regional Airport Authority. During that time he served as vice-chairman, chairman of the building and grounds committee, and employee relations committee. He was also a Shriner with the Oasis Temple and a member of the Biltmore Masonic Lodge, Asheville York Rite and the Asheville Scottish Rite.

Tom married Betty Brittain 43 years ago, they reared two children: Susan Donohoe Martin of Asheville and Daniel Woron of Florida.

Tom Donohoe was a big man with an even bigger heart. WNC and Buncombe County have lost a very good friend and we will miss him. I know that my colleagues will join me in saluting this fine man and community leader.

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## IN HONOR OF LOUISIANA STATE UNIVERSITY

**HON. CHRISTOPHER JOHN**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. JOHN. Mr. Speaker, on January 4, 2004, the Louisiana State University Tiger football team, my alma mater, defeated the Oklahoma Sooners 21–14 in the Nokia Sugar Bowl, securing the Bowl Championship Series National Title. The Fighting Tigers did their State proud by bringing home the first football National Championship in 45 years. This unique honor is one that every citizen in Louisiana will certainly cherish. LSU Chancellor Mark Emmert, Coach Nick Saban, the student-athletes, cheerleaders, members of the band and fans deserve a moment of recognition for a job well done.

However, the football team has not been the university's only champions this year. The women's indoor and outdoor track teams both earned the title of "best in the Nation"; the baseball team claimed first place in the Southeastern Conference, which propelled them to yet another College World Series. I know that fans throughout the country have watched with intense excitement as the Tigers distinguished themselves on the field of play.

LSU's accomplishments have in no way been limited to athletic achievements. As one of the Nation's largest institutions of higher learning, the university continues to raise its standards and increase its funds for research. In the last fiscal year, a record-breaking $122.4 million was awarded to the school in the form of research awards and sponsored projects, establishing LSU as a significant player in the development of innovative ideas and technology. In the quest for increased technology, faculty and staff designed and developed SuperMike, one of the fastest computers on the face of the planet. This impressive machine is expected to do a myriad of important tasks from helping to develop the next generation of the Internet, TeraGrid, to modeling coastal erosion and storm damage.

In response to our country's heightened awareness to issues of national security, LSU has developed a National Center for Security and Research. The center will pull from experts in a number of LSU's departments as well as the private sector to share knowledge about the best ways to deal with national catastrophes.

While all of this has been going on, the faculty as LSU continue to be among the best in the Nation and have garnered awards too numerous to mention here. As a result, faculty pay has increased and the school has been able to retain and attract some of the country's greatest minds.

These accomplishments have translated into a rising bar for LSU students. The pool of applicants continues to increase while the standards for admission are the highest the university has ever seen. At the same time, LSU has been able to retain over 80 percent of its students and graduate more than half of its candidates. With admission requirements set to rise again in 2005, LSU will continue to offer an excellent affordable education to the young men and women who study there.

I appreciate this opportunity to recognize some of the accomplishments of this fantastic institution. As LSU continues to strive for excellence, Louisiana can be proud that the university remains a respected national force in both athletics and academics.

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## IN HONOR AND IN MEMORY OF CHIEF WARRANT OFFICER PHILIP A. JOHNSON, JR.

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. BONNER. Mr. Speaker, on Friday, January 16, the First Congressional District of Alabama and, indeed, our entire State and Nation, said goodbye to another casualty of the war in Iraq.

Army Chief Warrant Officer Philip A. Johnson, Jr., was a native of Davenport, Iowa, and a longtime resident of Mobile, Alabama. He originally joined the United States Marine Corps in 1993 and transferred to the Army in 1997, where he was serving his 6th year. He was a member of the 501st Medivac Unit attached to the 4th Infantry Division. He and his wife, Melissa Johnson, a member of the Air Force, were living in Colorado Springs, Colorado, when Philip's unit was activated and deployed to Iraq last year.

On January 8, 2004, the medical helicopter he was on crashed about 4 miles south of Fallujah, a stronghold of anti-American insurgency. U.S. military officials have confirmed that a rocket struck the helicopter before it went down. CWO Johnson and eight other soldiers died in this crash.

Philip, who lived in Mobile for several years, was a devoted husband, son, and brother. He was a committed soldier who was not only doing what he wanted to do, but doing what he loved. He truly felt he was doing the right thing. Philip had given 9 years of his life fighting for the lives of the American people. Tragically, Philip A. Johnson, Jr., became the third soldier from Alabama's First Congressional District to die in Iraq.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

According to his parents, Philip recently told them he never realized that you have to teach people to be free. His mother, Barbara Johnson, said, "He died doing what he loved; it was just a little early."

Mr. Speaker, it is only appropriate for us to pause and give thanks to God that there are still young men like Philip A. Johnson, Jr. He represented what is best about America.

I urge my colleagues to take a moment and pay tribute to Chief Warrant Officer Philip A. Johnson, Jr., and his selfless devotion to not only our country and the freedom we enjoy, but to a people who are but now in the infant stages of a new life, a new freedom in their own land.

We should also remember his wife, Melissa; his parents, Philip Johnson, Sr., and Barbara Johnson; and his two younger brothers, Matthew and Peter. May God give them the strength and courage that only He can provide to sustain them during the difficult days ahead.

It was Joseph Campbell who said, "A hero is someone who has given his or her life to something bigger than oneself." Make no mistake, Philip A. Johnson, Jr., was not only a dedicated soldier who made the ultimate sacrifice serving in the uniform of his country; but he was also a true American hero.

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## THE REVEREND DR. RALPH SEXTON, SR.

### HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. TAYLOR of North Carolina. Mr. Speaker, it is my honor to rise and commend one of Western North Carolina's and Buncombe County's finest citizens, the late Dr. Ralph Sexton, Sr. With the death of the Rev. Sexton Sr., Asheville lost one of the most energetic and effective members of its religious community. Sexton, who founded Trinity Baptist Church, died from a brain tumor. He was 84.

Sexton began preaching when he was just a teenager after being drawn into a tent revival where he gave his heart to God. He was on his way to see a movie when he physically felt something pull on his coat. "He said it really frightened him," said Jerry Payne, who served as Sexton's assistant pastor for 42 years. Sexton left the movie and ended up at the tent revival.

Not long afterwards, he began preaching. And what a preacher he was. In the early years, he preached in tents and front yards, in empty lots and driving down the street in a car outfitted with a loudspeaker. He even found himself in jail a few times when police arrested him for disturbing the peace. "He was from that old mountain cut," Payne said. "He preached in simple layman's terms."

"He was just a powerful preacher," according to his longtime friend, J. Wendell Runion, president and director of International Baptist Outreach Missions based in Asheville. Audiences were "spellbound" by him, Runion said.

In time, Sexton found a more potent way to deliver his message about Christ. His Sunday morning television program "Send the Light" first went on the air in 1960. He also preached on radio and at tent revivals. Then in 1966, Sexton founded Trinity Baptist Church. He built an auditorium for 500 people even though he had a congregation of about only 125. Trinity has since grown into one of Asheville's largest churches, with programs that support missionaries around the world and provide assistance to the victims of poverty, natural disasters and famine. Trinity's programs today include a Spanish Church, Trinity Baptist Bible College and Hearts with Hands, a nondenominational nonprofit humanitarian relief organization. Sexton served as the church's pastor until 1988, when his son, Dr. Ralph Sexton Jr., who had served for 13 years as youth pastor and evangelist, became pastor. The senior Sexton remained pastor emeritus and stayed involved despite health problems.

Sexton, who was always true to his calling, will be remembered as "a very straightforward, unashamed preacher of the Gospel," according to Asheville Citizen-Times columnist Bob Terrell, who wrote a book about him. "He was a giant among the nation's old-time religionists," Terrell said. "He helped change literally thousands of lives."

Sexton was a man of God and of the mountains who will be missed by many. His family and others who loved him can take comfort in knowing that he left a legacy through which lives will continue to be changed and enriched.

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## IN HONOR OF SOUTHERN UNIVERSITY

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. JOHN. Mr. Speaker, the Southern University football team gave Jaguar fans throughout Louisiana something to cheer about when they were recently recognized by the Sheridan poll as the 2004 Historically Black College National Champions. The football team certainly earned this distinction by completing an impressive 12–1 season that included victories in the Bayou Classic over instate rival Grambling State University and Alabama State University in the Southwestern Athletic Conference championship game. Congratulations are in order for Southern University Chancellor Edward Jackson, Coach Pete Richardson, the student-athletes, cheerleaders, members of the band and fans.

The Jaguar football team joins with a number of other Southern athletic teams that have had success. In 2002, Southern University was ranked by Sports Illustrated magazine as the 131st best Division I athletic program in the Nation, quite an accomplishment when thinking about all of the terrific athletic programs throughout the country. Seven teams, including baseball, women's basketball, bowling and softball, took SWAC titles. The university was the highest ranked Historically Black College on the Sports Illustrated list.

The Jaguars also boast one of the most dynamic marching bands in the country. A revered and cherished tradition, the band never ceases to amaze. Last year, led by Dr. Isaac Greggs, the band participated in a competition involving more than 20 other black colleges Southern emerged victorious and took first place as well as a $10,000 award.

However, athletics and extracurricular activities are just some of the many exciting things going on at Southern. The university was named yet again as one of the top 50 colleges with the best environment for African American students; and only three other public black universities were ranked above Southern. This survey proves that Southern offers an excellent, well-rounded education at an affordable price.

Some of the achievements at Southern can be attributed to the rising operating budget and funds available for campus improvements. The university is currently operating with a $180 million budget, the largest in the school's 124 years. This money will be available to run the university's five campuses spread throughout Louisiana. A significant portion of the budget had been allocated for endowed professorships which now stand at 31, but are set to increase. The university is also preparing to make drastic changes to a number of its campuses. Construction is set to begin on residential housing developments on the Baton Rouge, New Orleans and Shreveport campuses as well as improvements to the athletic facilities and off-campus housing.

These accomplishments define Southern University as one of the preeminent Historically Black Colleges in the country and a source of tremendous pride for Louisiana. From its humble beginnings in 1880, Southern has grown into a vast university system with over 15,000 students. However, the school continues to produce outstanding graduates and loyal alumni. I know that the university will proceed with confidence as a respected force in education and athletics.

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## CONGRATULATIONS TO JUDGE JOHN F. BUTLER ON THE OCCASION OF HIS RETIREMENT

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to the Honorable John F. Butler on the occasion of his retirement from the bench of the Mobile County Circuit Court. For the past 21 years, Judge Butler has served the families of the State of Alabama with compassion, dedication, and a tremendous level of commitment.

Beginning in 1971, with his appointment as referee for the juvenile court, Judge Butler has devoted his life to the well-being of young people in south Alabama. In addition to his three terms as circuit court judge, he has served 2 decades as the presiding juvenile court judge of Mobile County. Along with his duties on the bench, Judge Butler has also operated the Strickland Youth Center and was instrumental in the creation of area Boys and Girls Club programs, the Camp Martin Leadership Academy, the Girls Reaching Womanhood Thru Healing (GROWTH) program, and Pointe Academy for juvenile offenders. Without fail, Judge Butler has focused a tremendous level of energy and time on his efforts to help young men and women overcome the difficulties of their past and become focused and successful members of their community.

Along with his many professional responsibilities, Judge Butler has also served as a member of numerous statewide juvenile justice programs. This long list includes service as chairman of the Governor's Advisory Council on Youth, a term as president of the Alabama Council of Juvenile and Family Court Judges, and 8 years as a trustee to the National Council of Juvenile and Family Court Judges. His work in these areas, as well as his professional accomplishments, has also resulted in public recognition and many awards during his long years of public service.

Judge Butler is also one of America's proud veterans, having served for many years in the United States Army. Following his graduation from college, he enlisted in the Army as a private and after a period of outstanding service received a direct commission as a second lieutenant. A veteran of the war in Vietnam and the recipient of the Bronze Star and nine other medals, Judge Butler retired as a colonel from the United States Army Reserve in 1995.

Mr. Speaker, I ask my colleagues to join me today in recognizing Judge John Butler for his tremendous contributions to the citizens of the First Congressional District of Alabama. The experience and enthusiasm he brought to his job and the concern and compassion he displayed for the young people of the region are unquestioned and unparalleled. He has indeed been a genuine asset both to the circuit court and to the thousands of men, women, and children he has assisted over the past 2 decades. I am proud and honored to call him my friend.

Make no mistake, the judge's talents and experience on the bench will be sorely missed, but I am confident he will continue to remain actively involved in the life of the Mobile community for many years to come. Along with his friends and colleagues throughout Alabama, I wish to extend to Judge Butler and his family all the best now and in the future.

## IN TRIBUTE OF DOROTHY POTTER

### HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. TAYLOR of North Carolina. Mr. Speaker, it is my honor to rise and commend one of Western North Carolina's and Buncombe Counties finest citizens, the late Dorothy A. Potter. Dot, as she was fondly called by her many, many friends and acquaintances, passed away on November 8, 2003. She was a wonderful woman, who worked tirelessly for not only the Republican Party, but also to educate others about this great country's political system in general. I doubt there was ever an election that Dot did not participate in, in some shape, form or fashion.

Dorothy Belle Alexander Potter was born Feb. 24, 1920, in Charlotte, the youngest daughter of the late Robert Lester and Cynthia Welch Alexander. She was a direct descendant of Hezekiah Alexander, a signer of the Mecklenburg Declaration of Independence and a founding father of Charlotte. She was a classmate of the Rev. Dr. Billy Graham at Sharon High School and graduated in 1936. She earned a B.S. in library science from Queens College in 1940. Mr. and Mrs. Potter moved to Asheville in 1948.

Mrs. Potter was an energetic, founding member of the Buncombe County Republican Party and remained active in area politics for the majority of her life. She was vice chairman of the Buncombe County Republican Party for 16 years. Mrs. Potter served in many campaigns including the historic 1969 City Council Race, electing a Republican majority and Wayne Montgomery, M.D., as mayor, the 1972 gubernatorial race electing Jim Holshouser as the first Republican governor in North Carolina since Reconstruction and the 1980 election of Bill Hendon to the U.S. House of Representatives.

Mrs. Potter was chairman of the Governor's Western Residence Committee during Gov. Holshouser's tenure. She served as deputy Clerk of Court in Buncombe County and was a valued member of former Rep. Hendon's district office until 1983. She was also the Buncombe County Chairman for the 1992 election of President George H.W. Bush.

Mrs. Potter was a charter member of Westminster Presbyterian Church, where she was an Elder and served as a member of the Session. She was also a member of the board of directors for the preschool. She was the last living charter member of the Buncombe County Republican Women's Club and a lifetime member of the North Carolina Republican Women's Club. She was also a member of Phi Mu women's fraternity and was a member and officer of the Sky-Hy Chapter of the American Business Women's Association.

She is survived by her husband of 60 years, Lt. Col. Wesley J. Potter (ret.); daughters, Dr. Cynthia Potter Smith and husband, Durham, of Lake Wylie, S.C., and Lynda Potter Fagan and husband, Michael, of Asheville; granddaughter, Shanon Fagan of Asheville; grandson, Matthew Smith and wife, Sonya, of Clover, S.C.; and granddaughter, Erin Fagan of Washington, D.C., and Asheville.

Mrs. Potter is also survived by three great-grandchildren; a niece, Sally Pollock and a nephew, Robert Suther, both of Washington state and a great-nephew.

## IN HONOR OF WALTER COMEAUX

### HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. JOHN. Mr. Speaker, I would like to take this opportunity to extend my hearty congratulations to Walter Comeaux, a friend and colleague from my district, upon the completion of 30 years of public service. In that time, Mr. Comeaux has dutifully served the people of Lafayette Parish and exemplified what it truly means to be a servant of the people.

Mr. Comeaux has spent more than half of his life working to better the local government in Lafayette Parish. He began as a young City Council member in Broussard, Louisiana, and then as member of the Lafayette Police Jury, including 4 years as president of that body. However, his greatest political accomplishment came as the Lafayette City and Parish governments consolidated in 1996. He was elected as the first City-Parish Council President and charged with the difficult task of making the newly formed government operate smoothly. As the first chief executive of the City-Parish government, Mr. Comeaux excelled; and 4 years later his constituents returned him to office. In his 8 years as president, he made countless improvements to the parish infrastructure while working to craft an efficient and responsive local government.

At the end of his career of service, I have no doubts that Lafayette is a better place to live due in large part to his efforts. I know that he is looking forward to more time with his family and friends, but his departure will certainly be a loss. I applaud his success and appreciate the time and commitment he has given as a public officer.

## CONGRATULATIONS TO ED SWAN ON THE OCCASION OF HIS RETIREMENT FROM THE SOCIAL SECURITY ADMINISTRATION

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Mr. Ed Swan on the occasion of his retirement from the Mobile district office of the Social Security Administration. For the past 30 years, he has served the families of the State of Alabama with compassion, dedication, and a tremendous level of commitment to the men, women, and children served by the Social Security Administration.

Beginning in June 1973, with his first assignment to the Social Security office in Mobile, Alabama, Ed Swan worked for 3 decades in a succession of representative and supervisory roles in five Social Security offices throughout the State. His outstanding record as a service representative, claims representative, operations supervisor, branch manager, and management assistant in the Social Security system resulted in positive results for the many families who benefited from his efforts. Additionally, the work ethic he displayed resulted in his receiving numerous citations and awards, including a Regional Commissioner's Team Citation for his work with the Disability Claims Manager pilot program in Mobile.

Ed Swan is also one of America's proud veterans, having served in the United States Navy with distinction while assigned to Air Squadron 27 on board the aircraft carrier USS *Intrepid*.

Mr. Speaker, I ask my colleagues to join me today in recognizing Ed Swan for his tremendous contributions to the citizens of the First Congressional District of Alabama. The experience and enthusiasm he brought to his job and to the Social Security Administration will indeed be missed, but I have no doubt he will turn his talents to many other positive pursuits in the days and months to come. Ed has indeed been a genuine asset both to his agency and to the thousands of men and women he assisted over the past 3 decades, and I have been proud to call him my friend.

Along with his many friends and colleagues throughout Alabama, I wish to extend to Ed Swan; his lovely wife, Cynthia; and their children, Jason and Kellie all the best in the months and years ahead.

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## HONORING PATRICIA GARMAN AS CENTRAL FAIRFAX CHAMBER OF COMMERCE BUSINESS LEADER OF THE YEAR

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Patricia Garman as Central Fairfax Chamber of Commerce Business Leader of the Year.

Ms. Garman, known to friends and colleagues as Patt, is widely respected throughout the Fairfax business community. Honest and reliable, with business savvy, Patt has proven to be an incredibly effective businessperson. She gives every venture her all and is always ready to take on new challenges. Moreover, Patt sees every project through until completion, producing consistently impressive results.

Patt heads a team of four investment advisors at Capital Planning & Investments, Inc., her own successful, independent advisory firm. CPI offers a variety of financial solutions for local businesses and individuals, including customized investment and insurance advice on an hourly and ongoing basis.

In addition, Patt is highly involved with the Central Fairfax Chamber of Commerce. She serves on the CFCC Board of Directors and Small Business Committee, and through the CFCC, she has become treasurer of the citywide Chocolate Lovers Festival Committee.

While in these positions, Patt has had numerous notable accomplishments. For example, she created a program in which CFCC breakfast seminars would pay for themselves. Through her table-top display program, Patt personally works with CFCC members to attract and schedule sponsors for the seminars. The popularity of Patt's program has enabled it to continue in the upcoming year.

Patt also was responsible for computerizing CFCC files for easy recording, implementing an aggressive budget and achieving Not-for-Profit status. These successes are indicative of her commitment, drive and character. Patt likes to make things happen and motivates others with her infectious spirit. When she sees needs, she addresses them, rallying others around her to turn visions into reality.

All things considered, Patt's special honor truly is well deserved. Over the years, she has made a lasting impact on the CFCC and greater Fairfax business community. She is an accomplished businessperson who successfully leads others through example. I ask that my colleagues join me in applauding Patricia Garman and congratulating her on this distinguished achievement.

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## EUROPEAN UNION'S UNITED STAND AGAINST DRUG ABUSE

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. SOUDER. Mr. Speaker, I rise today to recognize and applaud the European Union for agreeing to toughen antidrug laws and urging actions to end drug tourism to the Continent.

After more than 2 years of negotiations, EU ministers reached a landmark agreement on November 27 to toughen antidrug laws and to harmonize the Continent's laws to make the bloc more efficient in the fight against illegal drugs. The laws cover all types of drug-dealing, ranging from local networks to large-scale international operations.

Under the agreed rules, offering, selling or producing drugs would be sanctioned with maximum jail terms of at least 1 to 3 years. In cases involving large-scale international drug trafficking, sanctions should be at least 5 to 10 years. Member states also agreed on a declaration stressing the importance of fighting drug tourism.

The EU's united stand against drug abuse strengthens global efforts to prevent drug abuse and to put away drug pushers and others, including terrorists, who financially benefit from destructive drug addiction.

It is disappointing that the EU agreement will allow the so-called "coffee shops" in the Netherlands, where marijuana can be legally abused, to remain open. I am, however, encouraged that the Netherlands is investigating possible approaches that would end U.S. drug tourism to Amsterdam.

Dutch Justice Minister Piet Hein Donner has stated that the Netherlands Government is considering rules under which "coffee shops" would only be allowed to sell drugs to Dutch residents as part of its obligation to dissuade tourists from going to Amsterdam for drugs. Under his proposal, only Dutch residents with identity cards would be allowed to use the cannabis cafes. This move would protect Americans visiting Amsterdam from the dangers of engaging in drug abuse. Currently, foreign tourists, including Americans, make up about 40 percent of the "coffee shop" sales in Amsterdam, according to the London Times.

I also hope that this agreement will further our international efforts to control the trafficking of ecstasy and other dangerous synthetic drugs. In recent years, traffickers have set up their illegal manufacturing operations in countries like the Netherlands in hopes of avoiding tough penalties if they are caught. This agreement should send a clear signal to the cartels that Europe and the U.S. will continue to work together to break up these international drug rings.

Furthermore, I am encouraged that the Netherlands has also agreed to increase its sanctions for the possession of small quantities of marijuana to a year from 1 month. These are important steps that I hope will eventually lead to stiffer penalties for all drug abuse.

It is increasingly clear that every nation must play a role in educating the public as to why drug abuse is harmful and in preventing drug addiction. As long as one country tolerates the production, sale or distribution of any illegal drugs, other nations, communities and families are vulnerable to the threats caused by drug abuse that is easily transported across borders.

The EU's commitment to not tolerate drug abuse and drug tourism protects not only the families and communities of Europe, but also families and communities here and elsewhere in the world.

Again, I applaud this agreement and look forward to working with these and other countries to further strengthen international drug laws and to protect children from the dangers of drug abuse and addiction.

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## HONORING COMMANDER WILLIAM "BILL" ATKINSON

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Commander William Atkinson of the Merced County Sheriff's Department. Commander Atkinson has been with the department since July 6, 1976, when he began his career as a correctional officer. He was responsible for the overall security of the Merced County Rehabilitation Center.

Commander Atkinson's work ethic was recognized, and he quickly moved up the chain of command. In 1979, he was promoted to the rank of corporal and was reassigned to the Merced County branch jail. After being assigned to the Merced County main jail in 1981, Commander Atkinson was responsible for supervising booking procedures and the health and welfare of the inmates. For 5 years, Commander Atkinson gathered statistics for a work furlough program and supervised a work-in-lieu pilot program, which required him to submit the policy and procedure to the Merced County Board of Supervisors.

Commander Atkinson continued to demonstrate his work ethic for the department and was assigned to the Main Jail Division as a facility manager in September 1995. He assumed all duties and responsibility for the division, as well as ensuring the facility was in compliance with the Board of Corrections guidelines, exceeding Health Department standards and State fire marshal inspections.

In 1999, Commander Atkinson was nominated by his peers for Officer of the Year. His years of hard work for the Merced County Sheriff's Department did not go unrecognized, and his peers selected him as their 1999 Officer of the Year. Soon after, he was promoted to sergeant and reassigned to the Sandy Mush Adult Correctional Facility as a shift supervisor, and then in May of 2001 he was promoted to senior sergeant. He displayed true dedication while supervising the Work Release/Classification Unit and was responsible for reviewing applications for eligibility for work release programs.

Finally, in November 2002, Commander Atkinson was promoted to his current rank and supervises the activities and employees of a correctional facility for the Merced County Sheriff's Department. As commander, he provides direction to subordinates and is responsible to take necessary action when alerted to emergencies or potentially dangerous situations.

Commander Atkinson will retire on January 23, 2004. I ask all of my colleagues to help me thank Commander Atkinson for his devotion and loyalty to the Merced County Sheriff's Department, the State of California, and our Nation. I am honored to call Bill my friend, and I wish him a very happy retirement.

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## IN HONOR OF JOE WATSON

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FARR. Mr. Speaker, I rise today to honor Mr. Joe Watson on being the 2004 recipient of the Monterey Peninsula NAACP Branch's highest award, The President's Award. This award is being presented to Mr. Watson for his lengthy and outstanding service, dedication and contributions the Monterey Peninsula Branch of the NAACP.

Mr. Watson was born July 21, 1944, in Wilcox County, the town of Camden, Alabama during the height of Jim Crow segregation. The degradation that African Americans underwent during that period left an indelible imprint on Joe's life, resulting in a lifetime commitment for fighting for equal rights and social justice for all people. He graduated from Camden Academy High School in 1962 and entered the Armed Forces that same year, spending one tour of duty in Vietnam.

After his tour in Vietnam, in which he was honorably discharged from the army, Mr. Watson relocated to the Monterey Peninsula, taking up residence in Seaside in 1966. While working for the Firestone Tire and Rubber Company in Salinas, Joe was elected to the executive board of the local United Rubber Workers Union, AFL–CIO, and served on that board until 1980 when the plant closed. He took his union leadership with him when changing careers to a meat cutter, becoming first a member and then the leader of the United Food and Commercial Workers Union, Local 506. As shop steward and as an executive board member of the UFCW local, Joe was instrumental in bringing a civil rights activist's approach to dealing with issues and negative actions by employers against members of his union in their respective work places. Mr. Watson was greatly admired by co-workers who saw him as an unafraid union leader who was totally committed to standing up for them and working in their interest.

During the mid-1970's, Mr. Watson became a member of the Monterey Peninsula Branch of the NAACP. Elected almost immediately to the Branch's Executive Committee, due in no small part to his union activism, Joe took over the Branch's Labor and Industry Committee. There he had the responsibility of resolving issues involving complaints of discriminatory practices in hiring, on the job treatment and terminations. Over the years, the Branch received recognition for the outstanding work Mr. Watson and that committee carried out in this area of work, including negotiating a National NAACP-sponsored "Fair Share Hiring Agreement" with the local stores owned by Albertson's, conunitting these stores to hiring, retaining and promoting minorities.

In 1994, Mr. Watson was elected as President of the Monterey Peninsula Branch of the NAACP, serving until 2000. During his tenure as President, Joe continued to lead the Branch in dealing with issues of police abuse against minorities, hate crimes on the Peninsula and continued to strengthen the ties between the Branch and organized labor in this county. Joe has laid the groundwork for the kind of activism in our branch that continues to be followed and emulated by those who have come after him. True to his tradition as an activist, Mr. Watson continues his lifelong commitment to the struggle for and protection and extension of civil, labor and equal rights and social justice, making him most deserving of this award.

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## COMMEMORATING THE BICENTENNIAL ANNIVERSARY OF JEFFERSON TOWNSHIP, MORRIS COUNTY, NEW JERSEY

### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the Bicentennial Anniversary of the Township of Jefferson, County of Morris, in my home state of New Jersey.

Beautiful Jefferson Township encompasses 42 square miles of mostly pristine forests and lakes. It is home to New Jersey's largest freshwater lake, Lake Hopatcong, among many others, and the idyllic Mahlon Dickerson Reservation in the protected New Jersey Highlands watershed region.

When Jefferson Township was founded in 1804 by separating itself from the Townships of Roxbury and Pequannock, there were quiet farms and noisy mines linked by dirt roads. In time, the railroads came and by the turn of the century, they brought "summer escapees" from the cities who treasured Jefferson's scenic beauty, many lakes and its clean, cool, country surroundings. Summer resorts and campsites flourished in the area. After World War I, automobiles appeared on Jefferson's newly paved roads bringing with it scores of summer residents. And after the second World War, young families were looking to leave the metropolitan areas and began moving westward in New Jersey to inviting municipalities like Jefferson Township.

Today, Jefferson Township is still a blossoming community with a population approaching 20,000. While the once-thriving summer resorts are gone and most summer cottages have been converted to year-round residences, many tourists still make the trek to Jefferson Township to enjoy the vast open space of the Morris County Park System, protected watersheds and recreation activities on the region's numerous lakes. Indeed, lake communities still prosper throughout the Township bringing a unique sense of community to all of those who live in them.

Jefferson Township's municipal leaders have carried on a tradition of being good stewards of the area's natural resources. Through determined efforts to preserve some of New Jersey's most precious open space, Jefferson Township has been able to balance development by being an active partner in the acquisition of hundreds of acres of parkland, woodlands and watersheds.

Mr. Speaker, for the past 200 years, Jefferson Township has been a community which has brought Morris County and New Jersey great pride. No doubt the municipality will certainly continue to do so in the years to come. I congratulate the citizens of Jefferson Township on their special anniversary year, and urge all my colleagues to join me in wishing them well.

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## HONORING BEULAH HEIGHTS FIRST PENTECOSTAL CHURCH ON THE CELEBRATION OF ITS 80TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to one of the most respected houses of worship in the city of New Haven, Beulah Heights First Pentecostal Church. This year marked the 80th anniversary of this tremendous church, throughout which time the leadership and its members have left an indelible mark on our community.

Originally called the Beulah Heights Mission, the ministry was founded in 1923 by Walter and Rosa Andrews. In its humble beginnings, the church was located in a converted storefront and boasted a modest membership. Over the years and through the changes in leadership, the ministry steadily grew and eventually found a permanent home on Orchard Street. Over the course of its history, the Beulah Heights Pentecostal Church has developed a reputation as a leader in the religious community. Through its leadership and the commitment and enthusiasm of its membership, the Beulah Heights Church has made a real difference in the lives of many.

Our churches play a vital role in our communities, providing people with a place to turn for comfort when they are most in need. By strengthening the bonds of faith, the Beulah Heights First Pentecostal Church gives its members a place to find their spiritual center and to solidify and support their values. The members of the Beulah Heights First Pentecostal Church have also given much to the city of New Haven. Throughout the years, as their membership grew, so did their commitment to the enrichment of our community, transforming neighborhoods one block at a time.

Currently headed by Bishop Theodore Brooks, a man whom I am proud to call my friend, Beulah Heights Church has taken on a great mission of neighborhood revitalization. It has erected an educational wing which is utilized by the New Haven Board of Education for its Urban Youth Elementary School for troubled youth. Founded by Bishop Brooks in 1994, its development subsidiary, Beulah Land Development Corporation, is responsible for the construction of 20 units of affordable housing and 12 units of supportive housing for senior citizens. Through these and other projects, they are bringing renewed security and stability to this neighborhood. I have every confidence that they will continue to do great things for the Dixwell neighborhood of New Haven.

In the last 8 decades, the Beulah Heights Pentecostal Church and its membership have made invaluable contributions of the city of New Haven, changing the face of our great city. I am proud to stand today and extend my very best wishes to them as they mark this milestone in their history.

Happy 80th anniversary!

## HONORING MS. DAWN KINNEY

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor a model citizen from the 18th Congressional District, Ms. Dawn Kinney. She is being honored by the Merced County Chamber of Commerce for her service as their president for the past year. I know Dawn has worked hard on their behalf, and for the betterment of local businesses in Merced County. It is my pleasure to help the County Chamber recognize a wonderful woman, and a very good friend.

Dawn was born in Albany, Georgia and was raised throughout the United States while her father served in the United States Air Force. While living in Bossier City, Louisiana, she graduated from Bossier High School, and then went on to attend Louisiana State University in Shreveport. Soon after, Dawn moved to Merced, California in March of 1975 to attend Merced College.

In May of 1978, Dawn was hired by Mr. Bob Ayers to work for Transamerica Title. Dawn had previously been employed as a legal secretary in Louisiana and California before joining Mr. Ayers and his staff. She worked hard with Mr. Ayers, and was asked to remain a part of the team after the company was purchased and renamed Transcounty Title. Currently, she is the Vice President and County Manager of Transcounty Title Company.

Since 1987, Dawn has been a member of the California Escrow Association, and was designated as a Certified Senior Escrow Officer by the Association in June of 1989. She became more involved with the Association and served as State Director of the California Escrow Association from 1995 to 1997. For her determined work ethic, she was awarded the Olga Mitchell Rookie Director of the Year Award in 1995.

Always one to take on a new challenge, Dawn participated and graduated from the Greater Merced Chamber of Commerce Leadership Merced Program in June of 1999. This is a vital, voluntary program open to business leaders in Merced County. She has been involved with the County Chamber for many years, as a member on the Board of Directors, and holding a number of vital posts such as Secretary, Vice President, and finally as their President. Dawn's son, Christopher, is a junior at Merced High School and is a Varsity swimmer.

Mr. Speaker, I ask that my colleagues help me honor Dawn today for her hard work as President of the Merced County Chamber of Commerce, and commitment to ensure Merced County has a bright and prosperous tomorrow. I am honored to call her my friend, and to recognize her for all of her accomplishments.

## HONORING PAUL AND SHARON ELERICK

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FARR. Mr. Speaker, I rise today in honor of Paul and Sharon Elerick, one of the most active and dynamic couples I have ever known. For over 30 years, the Elericks have selflessly donated their time, resources and often their home, in hopes of electing laudable candidates to represent the community of Santa Cruz. Paul and Sharon share their time with many charitable organizations and community advocacy groups, but their hearts and souls remain dedicated to supporting and promoting the Democratic Party. It is my honor to recognize them as the "Democrats of the Year" by the Santa Cruz County Democratic Central Committee.

Paul and Sharon have embodied the spirit of the Democratic Party since the beginning of their relationship in 1958. Paul's involvement with politics started when he cast his vote for President Kennedy. Since then, he has steadily risen through the ranks of the local Democratic chapters, ultimately serving a successful 5–year term as the chair of the Santa Cruz County Democratic Central Committee. Sharon began her own political activism by organizing voters for Hubert Humphrey's presidential campaign. She has also served on the executive board of the Democratic Women's Club of Santa Cruz for several years. Both Paul and Sharon deserve enormous credit for securing vital funding for important local projects as well as sustaining the successful campaigns of many of our current legislators, including myself.

Mr. Speaker, on behalf of the United States Congress, I congratulate the Elericks for being rewarded "Democrats of the Year." I would also like to express my gratitude for their commitment to the community. The fruits of their years of dedication extend far beyond political appointments and we are grateful for their extensive contributions.

## COMMEMORATING THE 130TH ANNIVERSARY OF THE MORRIS CENTER YMCA OF MORRIS COUNTY, NEW JERSEY

### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 130th Anniversary of the Morris Center YMCA, of Morris County, New Jersey.

Since January 2, 1874, the Morris Center YMCA has provided programs essential to the people of Morris County. The 172 Founding male members first gathered in four rented rooms located in the Old Post Office in Morristown. In 1889, the Board of Directors dedicated a new building that included a gymnasium, classrooms, bowling alleys and a game room. A third building was dedicated in 1913 in Morristown that included a wing exclusively for women. But by 1968, however, it became clear that a new building was needed and plans were made to begin construction.

On March 1, 1981, the grand opening of the newly completed fourth home of the Morris Center YMCA took place in Cedar Knolls. The Center featured a 25 meter swimming pool, gymnasium, track, racquetball courts, weight rooms and a fitness center. Over the years, renovations have been made to the building, bringing more programs to people of all ages in Morris County. In 2002, renovations were completed to update and expand the Y to include a larger fitness room, youth classrooms, and much more.

Caring for children has always been an important specialty of the Morris Center YMCA. In 1985, the YMCA added an in-house After-School Care program. Later in 1988, the Center opened the Y's Owl's Child Care Center which provided care to approximately 130 children each day. September 2003 celebrated the new home of the Y's Owls, now the Richard F. Blake Children's Center, which is located in a newly renovated building next to the YMCA creating a 13 acre campus. The Children's Center now accommodates over 215 preschoolers.

The Owl program received national accreditation by the National Association for the Education of Young Children. Building on the reputation of the Y's Owl Child Care Center, the Morris Center YMCA was selected to create and manage the childcare center of the Morristown Memorial Hospital and opened the Children's Corner in the Fall of 1996.

The Morris Center YMCA currently has over 400 volunteer members comprising the Board of Directors, all of its committees and program leaders. These volunteers are the heart of the Morris Center YMCA, working in all aspects of the organization. In short, the Center is people caring for people, not just buildings and equipment.

Mr. Speaker, for the past 130 years, the Morris Center YMCA has provided the citizens of Morris County with programs that benefit all those who participate. I ask that you and my colleagues join me in congratulating all past and present members of the Morris Center YMCA on this special anniversary year.

## HONORING MR. JOHN PAZIN

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. John S. Pazin. John is not only a wonderful friend to Merced, California, but to my family and I as well. The Merced County Chamber of Commerce is awarding John's business, Pazin and Myers, Inc., with the 2003 Business of the Year award, and I know this fine honor is well deserved.

Born and raised in Merced County, John has always put his family first. He married Nada in October of 1954. Since then, John has spent the last fifty years as a faithful husband, loving father, and mentor to his four children. John also makes time to spoil his eight grandchildren.

John's second love is for his country and community. In 1951, he decided to serve his country, and enlisted in the United States Army. He served in the Korean War, and for his service and courage in battle he was awarded the Bronze Star.

When John returned to the United States, he went to work on his family's dairy in Merced, California. He worked on the dairy until the early 1960's when he felt it was time to begin a new chapter in his life. He was led to a local fuel company, and began transporting fuel to customers. He worked for the company until 1963 when he was able to purchase his own fuel business.

John's company has experienced some great changes over the years. From name changes and buyouts and even structural reconfigurations, the one thing that has remained a steady fixture and pillar of strength to his company is John. He, along with Mr. Jim Myers, has developed a successful and dependable business in Merced County, Pazin and Myers, Inc. They are the model for other business owners in the area as they have learned to endure the best and worst that owning a business can offer. Their work ethic and positive attitude has made them business leaders in Merced County.

Not only is John a dedicated family man and business leader but he is passionate to make Merced County a better place to live for future generations. As past President and member of the Merced Boosters, and Past President and Member of the Merced County Chamber of Commerce, John is able to combine his business experience and his commitment to community to lead Merced into the 21st century. As a member of the Merced Elks Lodge, he was awarded their 2003 Member of the Year Award, again proving that he is an invaluable asset to our county. John was appointed by Governor Pete Wilson to serve on the 35th Agricultural Fair Board. This position allowed John to give back to the agricultural community in Merced County.

I am delighted to recognize all of John's achievements and thank him for his service to our community, the State of California, and our country. As a family man, businessman, and civic leader he truly is an example for others to follow.

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## IN MEMORY OF RUTH VREELAND

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FARR. Mr. Speaker, I rise tonight in the hallowed halls of Congress to pay tribute to a colleague in public service, Monterey City Councilwoman Ruth Vreeland, who was killed in an auto accident on Highway 101 in Southern Monterey County.

What a loss! This 68-year-old woman had the energy of one hundred locomotives. Involved in everything—teacher, statewide education activist, 20 year City Councilwoman, statewide League of Cities Activist, Democratic Party Activist, mother, member of various boards. . . . She was always there, always prepared, always wanting to do more.

Born in Chunking, China, she grew up in Szechwan province where her parents worked as medical missionaries. Returning to Toronto, Canada in 1940, and moving to San Francisco where her parents taught at the University of California-Berkeley, Ruth earned a bachelor's degree in arts and education from San Francisco State University. She also met her husband, Dick Vreeland, there and then continued on to the University of San Francisco to earn a Master's Degree in organization development.

In 1956, she moved to the Monterey Peninsula to teach school, and was elected to the Monterey City Council with the intention of protecting the quality of life in the City of Monterey. "This town is more than buildings and streets, first it is people," she wrote in her campaign statement. She championed the tearing down of waterfront buildings so that people could see the Bay where California began. She replaced buildings with parks and recreational trails, now the highly successful "Window on the Bay Project."

She served in a variety of leadership positions including the League of California Cities Board of Directors, Institute for Local Self-Government, the 20th District Parent-Teacher Association, Monterey Bay Task Force, Quota International, Women in Municipal Government; Friends Outside of the Monterey County, and the Overall Economic Development Committee of Monterey County. She was also a Volunteers in Action Board Member, a Monterey City Council member since 1983, an alternate in the Monterey Bay Sanctuary Advisory Council and a former president of the Association of Monterey Bay Area Governments (AMBAG), the Monterey Peninsula Concert Association and the Winnie the Pooh Chapter of the Children's Home Society.

She was also involved with various organizations, including the Monterey Vista Homeowners Association, Community of Caring, League of Women Voters, American Association of University Women, California Teachers Association, Monterey Bay Teachers Association, Responsible Hospitality, California Elected Women's Association for Education and Research, Monterey Main Street Program, National Organization of Women, Old Monterey Preservation Society, Sierra Club, ACLU, State Theater Preservation Group, Monterey Civic Club, Monterey History and Art Association, American Association for Retired Persons, California Retired Teachers' Association, and the Unitarian Church.

Throughout her life, many of these organizations honored her outstanding commitment and service to our Bay community with awards. The Volunteers in Action honored her community service, the Sierra Club honored her for Outstanding Achievement, Planned Parenthood named her an Outstanding Woman in Politics, and the Monterey Rotary named her an Outstanding Teacher. Furthermore, the Fisherman's Wharf named her Wharf Rat of the Year in 1995, the California Democratic Party recognized her for Outstanding Service, J.C. Penney gave her the Golden Rule Award and the Old Monterey Business Association recognized her for Exceptional Dedication. The Monterey Civic Club honored her for being a Community Volunteer and finally, the Association of Monterey Bay Area Governments recognized her for her 20 years of service.

As I mentioned earlier, and as you can see from this lengthy list of accomplishments, Ruth was always moving, always involved. Her friends wondered if she ever had time to sleep. She adored her family and always seemed to be on her way to visit a child. In fact, the tragic accident that led to her death occurred as she returned from visiting one of her three daughters, Lauren, Amy and Melissa. Between the three of them they have seven of Ruth and Dick's grandchildren.

Ruth and Dick's home blended elements of Ruth Vreeland's youth in China with the Japanese culture that Dick Vreeland picked up in the Army. She cooked Chinese food and raised the children to use chopsticks. A proud naturalized citizen from Canada, Ruth also instilled civic values in her daughters. "She believed in this country because she was naturalized in it and she taught me what patriotism is," her daughter said.

Throughout her life, Ruth tackled the large-scale problems that had always energized her. The Sierra Club recognized her in the 1980's for fighting offshore drilling and sewage spills. She traveled to Sacramento and Washington to promote education and local government, rising to leadership roles I previously mentioned with the Association of Monterey Bay Area Governments and the League of California Cities.

Ruth was active in Democratic Party politics and was not afraid to bring progressive political causes to Monterey. She challenged the city in 1988 for not having enough women and minorities in management positions, and a decade later she discouraged the council from subsidizing the Boy Scouts because of its exclusionary policies toward gays.

In the months before her death, Vreeland's last big project was saving education and local government in the face of California's budget crisis, a problem epic enough to discourage even the most ardent community activist.

But not Ruth Vreeland.

America will miss her. She came to this country to do good—we are all better for it and will miss her forever.

## HONORING MR. MIKE SALVADORI

### HON. DENNIS A. CARDOZA

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor a great friend not only to the 18th Congressional District but to my family and I, Mr. Mike Salvadori. The Merced County Chamber of Commerce is honoring him as the 2003 Ambassador of Goodwill, and I know this is a well-deserved honor.

Mike was born on December 2, 1936 in Merced County. He had the good fortune to be raised on his parent's dairy. Dairy work is not easy, and Mike quickly learned he had to work hard to be a success. Along with his brother and two sisters, the Salvadori family was taught to value and respect their neighbors and surrounding community. These two important life lessons are what have shape Mike into a caring citizen.

After attending Modesto Junior College, Mike made the decision to serve his country. He enlisted in the United States Army, and he served our Nation for 2 years. Soon after, he met his wife Jeanne and the two were married in 1960.

The Salvadori's made a home in Merced County and worked on his father's dairy where they enjoyed the experience of milking cows and riding horses together. Continuing his interest with the dairy business, Mike took a job with Berkeley Farms and the couple moved to San Jose.

After a brief stint at Berkeley Farms, the two moved back to Los Banos, California where Mike then took a job with Wonder Bread. In 1963, Mike and Jeanne bought Bi-Rite Liquor Store in Merced, California. Mike and Jeanne were dedicated to turning their new investment into a success. They stayed focused and were soon able to open a new store.

While Mike was now successfully running his own business, he became interested in real estate. Through his good friend, Lou Gonella, he was able to begin selling real estate in Merced County. Always the entrepreneur, Mike opened his own real estate office in Merced—Century 21 Salvadori Realty in 1975.

Not only is Mike a very successful business man, but he is an incredible leader in our community. Always willing to lend a helping hand to any organization or charity, he has earned himself the respect of all of his neighbors and friends. As part of the Merced County Chamber of Commerce, the Italo American Lodge, and Kiwanis, he and his family have proven their dedication to all in our community.

Mike's second passion in life is cooking. Merced residents know that if there is a large community event, they will find Mike cooking his famous pasta. Local organizations can always count on Mike to help cook for their events. He truly has a warm place in the hearts of locals who couldn't go without his services, or his wonderful meals.

Along with his wife and two sons, Michael and Paul, I am honored to recognize the dedication of Mike to our community. He is truly an example for others to follow and I am proud to call him my friend.

## INTERNATIONAL CUSTOMS DAY

### HON. PHILIP M. CRANE

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 27, 2004*

Mr. CRANE. Mr. Speaker, I rise to congratulate the U.S. Bureau of Customs and Border Protection on the 51st anniversary of International Customs Day. On January 26, 1953, the World Customs Organization, formally known as the Customs Co-operation Council, held its first meeting in Brussels, Belgium. At this meeting, the Council designated January 26 as International Customs Day in order to recognize the role that customs services around the world play in facilitating trade while protecting national borders from importations posing security threats.

Finding this balance is particularly difficult given the challenges our country currently faces. It will be important for the Bureau of Customs and Border Protection to continue to offer the world class level of trade service and facilitation that U.S. business has come to rely on while ensuring that security needs are addressed. It will also be important to maintain the revenue collection linkage with the Treasury Department that has historically been so significant.

At one time, the Bureau of Customs and Border Protection, then the Customs Service, was the sole revenue producer for the young United States. Although that role has diminished over the years, Customs collected a record $23.8 billion in revenue in fiscal year 2002. Today, Customs is still a major source of revenue for the Federal Government, returning about $8 to the taxpayer for every dollar appropriated by Congress.

For nearly 125 years, Customs funded virtually the entire government and paid for the nation's early growth and infrastructure. The territories of Louisiana, Oregon, Florida and Alaska were purchased; the National Road from Cumberland, Maryland, to Wheeling, West Virginia, was constructed; and the Transcontinental Railroad stretched from sea-to-sea. Customs collections built the nation's lighthouses, the U.S. military and naval academies, and the City of Washington, and the list goes on. In 1835, Customs revenues alone had reduced the national debt to zero.

Customs was the parent or forerunner to many other agencies. In the early days, Customs officers administered military pensions (Department of Veterans Affairs), collected import and export statistics (Bureau of Census), and supervised revenue cutters (U.S. Coast Guard). Customs also collected hospital dues to help sick and disabled seaman (Public Health Service) and established standard weights and measures (National Bureau of Standards).

During the first stages of the response to the terrorist attack on September 11th in New York and Washington, D.C., Customs quickly assumed a leading role. The international nature of the terrorist threat means that international customs cooperation has become vitally important. In January 2002, Customs initiated the Container Security Initiative (CSI), which allows Customs officials to screen containers at designated foreign seaports. In CSI's first year alone, Customs reached agreement with 15 governments to place Customs personnel at 24 ports.

The Bureau of Customs and Border Protection also works with customs officials in foreign governments through the auspices of the World Customs Organization, which speaks for 161 Customs administrations drawn from every continent and representing every stage of economic development. The United States has been a member since November 5, 1970.

WCO Members are responsible for ensuring that more than 98 percent of international trade is conducted in compliance with national legislation and international agreements. The WCO renders technical assistance in areas such as customs tariffs, valuation, nomenclature, and law enforcement. Its objective is to obtain, in the interest of international trade, the best possible degree of uniformity among the customs systems of member nations. America benefits when both exporters and importers operate in an atmosphere of simple unambiguous customs operations around the world.

I want to take this opportunity to congratulate the U.S. Bureau of Customs and Border Protection for its fine work both nationally and internationally, and I look forward to the completion of work within the World Customs Organization to further harmonize and simplify the customs rules that affect international commerce.

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## HONORING THE NORTH HAMPTON VOLUNTEER FIRE DEPARTMENT

### HON. MELISSA A. HART

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Tuesday, January 27, 2004*

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize the contribution of bravery and dedication of an outstanding unit of first responders in my area, the North Hampton Volunteer Fire Department.

The following firefighters reached important career milestones in 2003:

Adam Millstein: 500 career calls.
James Harrington: 500 career calls.
Paul Satzger: 1,000 career calls.
William Bailey III: 1,000 career calls.
Kevin Jordan: 1,500 career calls.
Richard Marsico: 1,500 career calls.
John Kuss: 2,003 career calls.
Albert Hahn: 3,000 career calls.
David Hoburg: 5,000 career calls.

The following firefighters responded to over 100 incidents of fire calls in 2003:

David Hoburg: 455 calls.
Paul Satzger: 346 calls.
Adam Millstein: 321 calls.
Richard Marisco: 307 calls.
Albert Hahn: 305 calls.
Jerry Wittmer: 298 calls.
John Kuss: 267 calls.
John Damski: 255 calls.
Richard Wauchter: 248 calls.
Vincent Conti: 240 calls.
David Primrose: 232 calls.
Chris Wise: 163 calls.
James Harrington: 156 calls.
Mary Primrose: 156 calls.

John Schwend: 146 calls.
William Bailey III: 138 calls.
Josh Rosensteel: 135 calls.
Kevin Jordan: 119 calls.
Clayton Kerrigan: 118 calls.
Drew Leahy: 107 calls.

I ask my colleagues in the U.S. House of Representatives to join me in praising these brave individuals on the commitment that they have demonstrated to their critical mission of responding to fire emergencies.

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## HONORING MR. KEITH SCHNEIDER

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. Keith Schneider for his work as President of the Building Industry Association of Central California.

As outgoing President of the Building Industry Association of Central California, it is only fitting that I take a moment to honor Mr. Schneider's life-long commitment to our community and to the building industry.

Born on November 14, 1948, Mr. Schneider's dedication to his profession has only been surpassed by his dedication to his family. Raised in Eureka, Illinois with his two sisters and parents, Mr. Schneider excelled at school. As a member of the Boy Scouts he was able to earn the merit of Eagle Scout. Mr. Schneider participated in many other activities as he played the banjo and participated in musical competitions and he was also a member of his high school track team and the debate team.

In 1966, Mr. Schneider attended Drake University in Des Moines, Iowa where he graduated with a degree in journalism. After graduation, he entered law school in Chicago in 1970. During this time, Mr. Schneider served two years in the Navy, stationed in San Diego and at the Great Lakes in Chicago.

In 1973, Mr. Schneider worked at the Civil Defense Agency in Springfield, Illinois. He met and married his wife, Carol, two years later in 1975. While in Illinois, he joined the Home Building Association.

In 1981, Mr. Schneider moved to Modesto, California where he became the Executive Officer of the Building Industry Association of Central California until 1990. In 1990, he then joined the staff of the Oakwood Builders until 1993. Mr. Schneider then accepted the position as Development Coordinator for the Diablo Grande and continues in this role by providing housing for this destination resort.

Mr. Schneider's commitment to the building industry as well as to our community is undeniable. He certainly lives up to the motto of the California Building Industry: "We're yesterday's shelter providers, today's problem solvers, tomorrow's dream builders."

It is an honor to recognize all of Mr. Schneider's achievements and to thank him for his service to our community.

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## HONORING KATHY CLONINGER

### HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mrs. EMERSON. Mr. Speaker, I rise today as co-leader of the Honorary Congressional Girl Scout Troop to honor Kathy Cloninger, the new Chief Executive Officer of Girl Scouts of the USA. Kathy is fully deserving of the mark of distinction that Girl Scouts of the USA has placed on her as new CEO. She is a proven and respected leader.

Ms. Cloninger has a wonderful, long, and highly regarded history in Girl Scouting. For decades she has been a steadfast advocate for girls. Kathy comes to Girl Scouts of the USA from Cumberland Valley Girl Scout Council in Tennessee where she served as CEO. During her tenure there, she had incredible success increasing membership, especially in under-served communities, and her innovative leadership helped to create some of the most contemporary programming in Girl Scouting. Kathy has been bestowed with many prestigious awards recognizing her for her character and her profound vision.

Most notably, Kathy is a woman with a strong sense of purpose and a commitment to advancing her vision for Girl Scouts. Her goal is to increase the organization's strength as a national, aggressive advocate for girls in this country, and I am certain she will accomplish this goal with grace and ability.

Girl Scouts of the USA is the world's preeminent organization for girls, and for 92 years it has been dedicated to empowering girls to grow strong. Over 50 million women, including myself, have been Girl Scouts. Today, the organization continues to address contemporary issues affecting girls and boasts a membership of nearly three million girls and one million volunteers. I am proud to be part of such a remarkable organization and look forward to watching Girl Scouts of the USA grow and thrive under Kathy's leadership.

Mr. Speaker, I ask you to join me in congratulating Kathy Cloninger in her new position and praise her for the exemplary work she has done and will continue to do as the new Chief Executive Officer of Girl Scouts of the USA.

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## HONORING JOHN ROUNSAVILLE

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. PICKERING. Mr. Speaker, this month begins a new year in which Congress will face new challenges and opportunities. The same is true in Mississippi where Governor Haley Barbour presented his first State of the State Address last night, after his inauguration earlier this month. A new administration requires experienced and talented individuals to shape the policy and politic of the state. Governor Barbour has one of those rising Mississippi stars in John Rounsaville. Today I make these remarks to honor John's service to me, to recognize the challenges we faced together as he now embarks on this new opportunity.

It was January 1999 when John Rounsaville first joined my team. After graduating from Calhoun City High School, he earned a degree in agribusiness and followed that with a Masters of Business Administration, both from Mississippi State University. He came to Washington, DC to work on my staff to address, among others, agricultural issues—a $4.6 billion industry in Mississippi.

He demonstrated a keen insight on the legislative process and quickly grasped the intricacies of Capitol Hill politics. Quickly, he moved from Legislative Assistant to Legislative Director, and most recently as my Deputy Chief of Staff. Over the years I grew to trust his counsel and respect his instincts as we successfully moved legislation into law, brought appropriations to Mississippi, protected our state's military facilities, and represented the needs of my constituents here in the Nation's Capital.

Now John has returned home to Mississippi and will serve as policy adviser to our new Republican governor. Our office will miss his experience, knowledge, and skills, but Mississippi will continue to benefit from his hard work to the service of our great state.

Governor Barbour has hired a good man. John mastered the practices and methods of success in Washington, but never forgot those Mississippi values taught to him by his parents. John never lost his roots, never forgot his home, and never lost sight of our goal to serve Mississippi. John's heart has always been in Mississippi and now he returns there to continue to advance smart, conservative, positive public policy.

John Rounsaville left a formative mark on the shape and operation of my office. We will miss his good nature, humor, and dedication to his work. But I thank him for his service to this office and to Mississippi.

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## HONORING CHIEF LARRY D. PLANTS

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Chief Larry D. Plants as he retires after 25 years of service as a member of the University Police Services at California State University, Stanislaus.

Born on July 1, 1952, Chief Plants has spent his life as a public servant to our community. After obtaining an Associates Degree in Police Science from Butte Junior College he went on to receive a Bachelors Degree from California State University, Stanislaus in Organizational Communication.

As a police officer with the City of Modesto Police Department and then with the City of Reno Police Department, Chief Plants earned the respect of his fellow law enforcement officers. Always a professional, he was then hired by CSU, Stanislaus as a member of the University Police where he excelled and earned the respect of students, faculty, and fellow officers. He was then promoted as Chief and Director of Public Safety. At this post, he was responsible for the Office receiving nearly $1 million in grant funds.

Not only has Chief Plants been a dedicated member of the CSU Public Safety Department but also to his profession. He is a member of the Central Sierra Police Chiefs Association and the International Association of Campus Law Enforcement. Chief Plants has also been the Past President of the Stanislaus County Peace Officers Association and served as the 2003 President of the Stanislaus County Law Enforcement Executives.

Chief Plants is an extremely dedicated member of the community. Further evidence of this commitment is his involvement in civic organizations such as the Civitan Club, Theta Chi Fraternity, and the Evangelical Free Church.

Chief Plants' career as a dedicated police officer and community leader is a testament to his character. While being Chief of his Department was his second biggest honor in life, he quotes his first biggest honor as his family.

As a fellow brother of Theta Chi Fraternity it is my honor to recognize all of Chief Plants' achievements and to congratulate him on his retirement.

## HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

SPEECH OF

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. BORDALLO. Mr. Speaker, today, in honor of Catholic Schools Week (January 25–31, 2004), I would like to recognize the contributions of Catholic schools to the academic and moral education of children in Guam and throughout our nation. Also, I would like to thank my colleague, Mr. David Vitter, for his steadfast support of Catholic education in our country and for introducing House Resolution 492, honoring Catholic Schools Week.

Guam has a long and rich history of Roman Catholicism dating back to the arrival of Ferdinand Magellan in 1521. The island eventually became an important stop along the Spanish Galleon Trade Route, eventually bringing Padre Diego Luis de San Vitores, who was on his way to the Philippines, to Guam.

Padre San Vitores would return to Guam in 1668, with a party of missionaries to bring Christianity to the people of Guam. They established a mission in the village of Hagatna which later became the site of the first Catholic Church and is now the seat of the Archdiocese of Guam. From these humble beginnings, the Roman Catholic faith has continued to grow, expanding its ministries to meet the changing needs of the faithful.

Recognizing the need for quality education rooted in the moral values of the Catholic faith, the first Bishop of Guam, Bishop Appollinaris Baumgartner invited the Religious Sisters of Mercy from North Carolina, the Stigmatine Fathers of Massachusetts, and the School Sisters of Notre Dame from Wisconsin to come to Guam where they eventually opened schools in villages throughout the island. Today, members of these Orders, as well as members of the Dominican, Franciscan, Jesuit, and Marist Orders continue to teach our children in the Catholic education system.

Guam's first Chamorro Bishop, Archbishop Felixberto Camacho Flores, made Catholic education a priority increasing the number of Catholic schools, expanding programs and improving school facilities.

Today, the Roman Catholic Archdiocese of Hagåtña remains committed to serving the people of Guam. Under the direction of the Most Reverend Anthony Sablan Apuron, OFM Cap, DD, Metropolitan Archbishop of Hagåtña, the Catholic schools on Guam have remained committed to providing a quality academic education, grounded in faith and emphasizing service to humanity.

The contributions of the Catholic school system to the people of Guam are reflected in our local leaders in the clergy, government, and private-sector who are alumni of the Catholic schools. I am confident the influence of the Catholic schools will continue to have positive benefits for the people of Guam.

I would like to recognize and commend the Catholic schools in Guam for their commitment to instilling the principles of academic knowledge and sound moral values in the daily lives of our children. Those offering a secondary curriculum include: the Notre Dame High School in Talofofo, Father Duenas Memorial School in Ta'i, and Academy of Our Lady of Guam in Hagåtña. Additionally, those offering an elementary and middle school education include: Bishop Baumgartener Memorial School in Sinajaña, Our Lady of Mount Carmel School in Agat, St. Anthony School in Tamuning, Saint Francis School in Yoña, San Vicente School in Barrigada, and Santa Barbara School in Dededo. Finally, those offering a nursery school education include: the Dominican Child Care Development Center in Sinajaña, Infant of Prague in Ta'i, Maria Artero in Hagåtña, and Mercy Heights in Tamuning.

Finally, I want to recognize all the students, parents, teachers and administrators of Catholic schools in Guam and across the nation for their significant contributions to our society, both inside and outside of the classroom.

## HONORING THE 75TH ANNIVERSARY OF THE HOMER PITTARD CAMPUS SCHOOL

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. GORDON. Mr. Speaker, I rise today to recognize the 75th anniversary of the Homer Pittard Campus School in my hometown of Murfreesboro, Tennessee. In that span of time, the elementary school has helped train some of the finest educators and brightest students our country has to offer.

Created by an act of the Tennessee General Assembly, the Campus School has allowed education majors from Middle Tennessee State University to craft and hone their teaching skills under the watchful, experienced eyes of the university's clinical instructors. As a result, the children who have attended the Campus School have received an exceptional education.

As a laboratory, the school provides a hands-on, real-life environment to train teachers. And as an elementary school, it provides an opportunity for children to learn from innovative techniques and enthusiastic teachers. Fittingly, the school takes its name from a dedicated, respected educator who poured so much into his community.

As the Homer Pittard Campus School celebrates its 75th anniversary, I commend the people who had the vision to make this school possible. Murfreesboro's citizens have benefitted tremendously from having such a school in the community. I hope the school's next 75 years will be as rewarding and successful as its first.

## RECOGNIZING THE PACIFIC GAS AND ELECTRIC ENERGY TRAINING CENTER

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to recognize the Energy Training Center, which was established by Pacific Gas and Electric in 1978 to help California's low-income residents cope with rising utility costs, thus becoming the first utility company to offer energy education to members of the community.

Mr. Speaker, more than 46,000 people have been trained in the principles of energy efficiency, including employees from local community service agencies, private contractors, education specialists, and builders. Also, the Energy Training Center has provided training to employees of Pacific Gas and Electric Smarter Energy Line, which has assisted well over three million customer calls.

The Energy Training Center's innovative teaching techniques utilize hands-on experience. This has helped students perform more than two million energy surveys for single-family households and conduct site surveys on common-use areas serving more than one million multi-family units. All of this hard work has created more energy efficient households, and has conserved over 264 million kWh and over 34 million therms of energy, which has prevented more than 276 million pounds of carbon dioxide from polluting our environment.

Our community has greatly benefited from the Energy Training Center over the years, not only regarding energy conservation, but also from partnerships with local agencies. Throughout its years of operation, the Energy Training Center has made successful partnerships with the California Conservation Crops, California Energy Commission, and San Joaquin Delta College.

Mr. Speaker, on behalf of all my colleagues, I send my congratulations on the Energy Training Center's 25th Anniversary, and for setting a fine example of cooperation between private enterprise and the people it serves.

## IN RECOGNITION OF THE LIFE OF EARL McCANDLESS

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### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. FILNER. Mr. Speaker, Colonel Earl McCandless lived in Solana Beach, California, near my Congressional District—and he and his family have been longtime friends of mine. Earl McCandless died last December 8, 2003, and I think his passing should be noted by the House of Representatives. He was a true Korean War hero, as well as being a musical genius who entertained Presidents and captains of industry at the Bohemian Grove in Northern California.

Mr. Speaker, I submit for inclusion in the RECORD at this time a wonderful outline of his life, as written in his obituary in the Daily Oklahoman, Oklahoma's largest daily newspaper.

> Earl R. "Mac" McCandless, accomplished pianist, retired Army Colonel and former military aide to Presidents Dwight Eisenhower and John F. Kennedy, died Monday (12/8) of cancer in San Diego. He was 78. Before entering elementary school, McCandless discovered he had a gift for music. Without ever taking a lesson, he taught himself piano and organ, a talent that would later pay his way through his studies at UCLA and land him a job in his 20s playing background music on Art Linkletter's "House Party."
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> He enlisted in the Army right after graduating from Hobart High School (Hobart, Oklahoma) in 1943, served briefly in Guam and remained in the Army Reserve after his discharge in 1946. McCandless had just begun what seemed a promising career in music on Linkletter's show, when he was called up again to serve in the Korean War, in the Army Medical Service Corps. During his service there he was awarded a Silver Star and a Bronze Star. After another discharge and another call back, this time to Germany in 1953, McCandless decided to make the Army his career.
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> He earned a Masters' degree in hospital administration, and at one point in his career oversaw CHAMPUS, the Army's medical insurance program. As a handsome, unmarried young officer stationed in Washington, DC, he was offered the off-hours job of serving as a military social aide to President Eisenhower. The task involved attending State dinners and other formal White House functions, giving discreet protocol instructions to guests, escorting single women through receiving lines and whispering names of guests in the President's ear. He continued the social staffing duties through the administration of President Kennedy. He was a staunchly liberal Democrat who diplomatically avoided political discussions with many in his mostly conservative circle of friends, offering a drink or a "tune" to change the subject.
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> Col. McCandless retired from the Army in 1976 and settled in Solana Beach, where his small condominium overlooking the Pacific Ocean was dominated by a grand piano and his wall-to-wall collection of music on albums and tapes. Though devoted to his Army career, music was always a strong avocation. He enlivened hundreds of parties and events with his piano playing, and in his later years wrote, arranged and played two full musical productions for the Bohemian Club in Northern California.
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> He is survived by his brothers Jack McCandless of Denver, John McCandless of Oklahoma City, Bob McCandless of Washington, DC, and sisters-in-law Betty and Anne McCandless of Oklahoma City. Services will be private. Memorials can be made to the McCandless Fund, in memory of Earl and his mother, Leah, c/o Oklahoma University College of Fine Arts, 540 Parrington Oval, Rm. 122, Norman, Oklahoma, 73019. Checks should be made payable to the OU Foundation.

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## HONORING PHILIP HOROWITZ FOR HIS OUTSTANDING CONTRIBUTIONS TO THE COMMUNITY

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### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Ms. DELAURO. Mr. Speaker, it is with great pleasure but a heavy heart that I rise today to pay tribute to the life of one of the outstanding members of our community, Philip Horowitz. Philip was 80 years old when he passed away last month, and in that time he left an indelible mark on the city of New Haven.

Emigrating from Russia, Philip's father, William, and his uncle, Jack, came to New Haven in 1913 and began selling fabric from a pushcart on Grand Avenue. With hard work, dedication and a dream, they opened a storefront nearby, and later, Horowitz Bros. moved to its home. In later years, Philip, his brother, Leonard, and their cousin, Arthur, took over the family business.

I have often said that small businesses are the backbone of our Nation's economy. Through the years, Horowitz Bros. has been a fixture in downtown New Haven, outlasting a number of large department stores as well as smaller, family-owned businesses which have gradually disappeared. For the last 90 years, Horowitz Bros. has been a valued treasure in the city of New Haven, a testament to the American dream and to the invaluable place small business has in a community.

Horowitz Bros. holds a special place in the hearts of employees and customers alike. I have fond memories of going with my mother to pick out fabrics for the dresses she would make for me as a child. While waiting for my mother to choose her fabrics, you could always find me rearranging the many spools of thread, a habit which I am sure caused some chaos, but was always met with a good-natured smile. It is not an exaggeration to say that Philip was the very heart and soul of the store. His dedication, compassion and generosity is well known to all who had the opportunity to meet him. Philip was often characterized as a good man, a friend to all. His warmth, kindness and gentle spirit touched the lives of so many, and it is in that way that he will always be remembered.

I am proud to stand today to honor Philip Horowitz and all that he meant to the New Haven community. I would like to extend my deepest sympathies to his wife, Hilda, his brother, Leonard, and his entire family. New Haven has lost a true community treasure in Philip Horowitz; however, I know that his memory will continue to live in the hearts and minds of all who knew him.

## HONORING DALE BUTLER

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### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Dale Butler for 30 years of dedicated service to the Stanislaus County Chief Executive Office. On Friday, January 30th, he will be commended at an event held in his honor in Modesto, California.

Dale was raised in the Westside of Stanislaus County and was employed as a migrant farm worker. He served as a Personnel Specialist in the United States Navy for 4 years beginning in 1962. In 1967, he worked as the Production Control Scheduler for Riverbank Army Ammunition Plant. Mr. Butler later went to California State University, Stanislaus, to be the Tutorial Supervisor under the Educational Opportunity Program. In 1971, he received his Bachelor of Arts degree in Political Science from California State University, Stanislaus.

Dale began his career with the Stanislaus County Chief Executive Office in 1971 and held numerous positions in the Personnel Department. At present, he holds the Deputy Executive Officer position and oversees the Purchasing, Central Services, and Fleet Services Divisions.

Mr. Butler is an active member in a vast number of professional as well as community associations. He currently holds membership in the Central California Chapter of International Personnel Management Association, the California Association of Public Purchasing Officers, the National Association of Purchasing Managers for Central California, and the Institute for Supply Management. Dale's community activities involve being president of the Stanislaus County Fair Board and being associated with Stanislaus County's Latino Community Round Table, the Hispanic Leadership Council, the Mabuhay Club and the Modesto Bee's Hispanic Advisory Council.

The awards and accomplishments achieved by Mr. Butler have been great in number and prestigious in status. He was given a Special Recognition Award for Promoting Equal Rights by the Stanislaus County Board of Supervisors, an Outstanding Latino of the Year Award by his Latino Community Round Table, and a Humanitarian of the Year Award by the California Association of Physically Handicapped, Inc. He is co-owner of Hispanic Enterprises, LLC, a multiservice Hispanic-Owned Business, and has graduated from the Intergovernmental Management Training Program and the Leadership Modesto Program. His fluency in Spanish and dedication to the community add to the success he has achieved over the years.

Mr. Speaker, I rise today to honor Dale Butler upon his retirement from the Stanislaus County Chief Executive Office. I invite my colleagues to join me in wishing Dale a fulfilling retirement.

## PROSPECTS FOR PEACE IN THE SUDAN

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### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. TOWNS. Mr. Speaker, as you are keenly aware, the road to peace for the people of Sudan has been long and perilous. Last July, I spoke on the floor about the prospects for peace in the Sudan and the progress that was being made in negotiations between the Government of Sudan and the Sudan People's Liberation Movement/Army. I am gratified to report that agreement has now been reached on the issue of wealth-sharing; and just this past weekend, issues were resolved with regard to the Nuba Mountain and Southern Blue Nile regions, two of the three disputed areas between the parties. My understanding is that an agreement on the disputed areas will be signed as soon as resolution can be reached on the third disputed area, Abyei.

Mr. Speaker, we remain optimistic that these recent events will soon lead to an historic accord on a Framework Agreement, which will, at last, bring an end to the 20-year war in Sudan and bring peace and social stability to all the people of Sudan.

Mr. Speaker, peace is near in the Sudan.

I would like to recognize the commitment of President Bashir and the Khartoum government and that of SPLM/A and Mr. Garang in their tireless efforts to make this historic moment possible. I would also like to recognize the continuing commitment of this administration to achieving peace in the Sudan and that of Special Envoy John Danforth for his role as a catalyst for the peace process.

Mr. Speaker, I call on my distinguished colleagues to join me in celebrating this historic milestone and in praying that a peace agreement will soon be reached. We should look forward to the day when peace is at hand, when U.S. sanctions can be lifted and Sudan removed from the State Department's State Sponsors of Terrorists list and given the opportunity to receive the benefits of American ingenuity, technology and investment for their sustained growth and economic prosperity.

## THE FLORIDA CONFERENCE OF BLACK STATE LEGISLATORS

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### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. MEEK of Florida. Mr. Speaker, I rise to honor a versatile and committed group of elected officials in Miami-Dade County who are members of the Florida Conference of Black State Legislators (FCBSL). On Thursday, January 29, 2004, they will be spearheading the 2004 Miami Regional Issues Conference, beginning with a town hall meeting on the "High Stakes of the Florida Comprehensive Achievement Test (FCAT)" to be held at Miami Edison Middle School.

Joining them are parents and community leaders, school administrators and teachers, as well as elected and appointed officials from Miami-Dade County and the State of Florida. This conference comes at an opportune time when there is a need to foster greater knowledge and involvement regarding government and politics among residents of our various neighborhoods.

In its most vivid history, the Florida Conference of Black State Legislators was incorporated in 1982 upon the election of nine prominent African Americans to the Florida House of Representatives. Indeed, the life of each of these legislators, and those that have followed, has become legendary and about as close to the impossible dream as I have witnessed.

These preeminent leaders will spearhead this 2-day conference, which will cover crucial issues such as Affordable Access to Health Care, Juvenile and Criminal Justice, Telecommunications, Hip Hop and Politics, Front Porch Florida, and Florida's Pari Mutuels. The Florida Caucus leads a critical gathering of concerned citizens, as well as the virtues of responsible and competent public servants who aspire to expound their unwavering positions on equal educational opportunities for minorities, the controversial incongruence of the Florida Comprehensive Assessment Test (FCAT), along with their unconditional passion for justice, equal rights, and educational opportunity for all.

In a special manner, ever since I have known the members of the Miami Black Caucus delegation, these leaders have always been at the forefront of ensuring equal participation in the shared duties and responsibilities on the part of Miami-Dade County's citizenry. At the same time, their forceful advocacy for adhering to the tenets of equal treatment under the law not only in the halls of academia, but also in every segment of our State government agencies has become legendary. In fact, countless others have been touched by their genuine commitment to public service, especially to minorities who could least fend for themselves.

The legislators forming the Miami Regional Issues Conference Committee truly exemplify a unique and responsive leadership whose courageous vision and wisdom appeal to the critical issues impacting our community and the entire State of Florida.

I would like to extend my personal invitation to all those interested in our State government to enable them to seize the opportunity to renew and enhance their commitment to our common well-being as we prepare to meet the many challenges of our times. I honor these distinguished colleagues and fellow public servants of mine.

## REMEMBERING THE MAYOR OF PONCE, PUERTO RICO, RAFAEL "CHURUMBA" CORDERO SANTIAGO

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### HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. ACEVEDO-VILÁ. Mr. Speaker, this past weekend the people of Puerto Rico have lost a great man. Rafael Cordero Santiago, mayor of the Municipality of Ponce for the last 16 years, unexpectedly passed away Saturday morning at the age of 61. "Churumba," as he was fondly known to everyone back home, was a pillar of strength in the Popular Democratic Party. He was an accomplished politician, a hardworking administrator, and a true and honest patriot. His unwavering commitment and dedication to his country, his party, and his beloved city of Ponce are testaments to his extraordinary character.

Born in Ponce in 1942, Cordero Santiago dedicated the majority of his life to public service. After obtaining a bachelor's degree in political science, economics, and social science from the Catholic University of Puerto Rico in Ponce, he began his public career in the Department of Commerce of the Commonwealth of Puerto Rico in 1964. From there, he moved on to serve as a special assistant to then-president of the Puerto Rican senate, Rafael Hernandez Colon, followed by terms as auxiliary Secretary of Domestic Commerce in the Department of Commerce of the Commonwealth of Puerto Rico and as administrator of the Right to Employment Administration. In 1988 he was elected mayor of Ponce, a position that he proudly occupied until his death.

His work in Ponce spanned almost 2 decades and is marked by great improvement and progress in the region, as evidenced by the city's economic and social growth. His most recent achievement was the approval of the Plan de Ordenacion Territorial de Ponce, which gives the city ample funding for infrastructure projects, including the Port of the Americas. I worked closely with the mayor in support of Port of the Americas, which will bring a state-of-the-art transshipment facility to Ponce that will provide for lasting job growth and economic development. Upon completion, the Port of the Americas will become the leading port in the Caribbean.

He is survived by his wife, Madeleine Velasco, and his twin daughters, Solange Marie and Mara Bianca. His years of hard work and dedication to his family, his country, and his city will live on in his unforgettable legacy. Please join me in honoring this exemplary Puerto Rican's life and supporting his family in their time of sorrow.

## HONORING JEAN SCHULZ

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### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Jean Schulz, who is stepping down as the National Board President of Canine Companions for Independence after 15 years of dedicated service.

Jean Schulz has been committed to developing and enhancing the services that CCI provides, and with her leadership, CCI places twice as many dogs with people with disabilities as they did when she took over as president. The Jean and Charles Schulz Campus, which serves as the National Headquarters and Northwest Regional Center of Canine Companions for Independence, was built due to the efforts of Ms. Schulz and her late husband, Charles M. Schulz, creator of the Peanuts comic strip.

In 1997, Jean and Charles M. Schulz were instrumental in creating the Charles M. Schulz Museum and Research Center designed to preserve and educate people about Charles M. Schulz, the Peanutes comic strip and its characters. Ms. Schulz remains an active member on the board of directors of the museum.

Dedicated to various environmental, educational and human service organizations over the years, the Schulzes donated $5 million to Sonoma State University to build the Jean and Charles Schulz Information Center that houses a state-of-the-art library, computer labs and an art gallery. This facility has become a hub of student activity.

Ms. Schulz's combination of leadership and commitment to her community has earned her many awards and honors. She received a Key to the City from the Santa Rosa City Council, was the recipient of a Leadership Award from the Santa Rosa Chamber of Commerce and received an Honorary Doctorate of Humane Letters from the Sonoma State University.

Mr. Speaker, I am proud to recognize Jean Schulz for her many contributions to Canine Companions for Independence and the entire community.

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## CONGRATULATING KATHY CLONINGER, NEW CHIEF EXECUTIVE OFFICER FOR THE GIRL SCOUTS OF AMERICA

### HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. COOPER. Mr. Speaker, I have the privilege today of honoring Kathy Cloninger, the new Chief Executive Officer for the Girl Scouts of America.

Ms. Cloninger is a native of Nashville, Tennessee in my district. She has been a longtime advocate for the Girl Scouts and has an accomplished history in not-for-profit leadership. Before her recent appointment to the post of CEO, Ms. Cloninger served as the head of the Girl Scout Council of Cumberland Valley in Nashville. During her tenure there, Girl Scout membership in our region rose to more than 25,000 girls—an increase of nearly 40 percent. She was also responsible for creating an outreach program that tripled the number of African American Girl Scouts, increased the participation of Hispanic girls, and brought more than 1,000 girls in public housing into the program.

In Nashville, Ms. Cloninger also helped to found the Association of Non-Profit Executives and has served on the boards of numerous organizations, including the Center for Non-Profit Management, Leadership Nashville, and the United Way of Metropolitan Nashville. She has also held top-level positions at the Kellogg Foundation and the YWCA.

With more than 3.7 million current members, the Girl Scouts have been a cherished American institution for the past 90 years. The qualities of leadership, values and social conscience that the Girl Scouts instill in their members have served as guideposts for many generations of girls and young women, including in my own family. I am proud to say that my wife, Martha, and my daughter, Mary, have been Girl Scouts members and continue to be supporters of this fine organization.

I have every confidence that Ms. Cloninger will continue her excellent leadership of the Girl Scouts on the national level. In our present times, it is now more important than ever to maintain organizations and programs that provide positive leadership and encouragement for our nation's young people. In light of her proven record and her devotion to the ideals of the Girl Scouts, I have no doubt that Kathy Cloninger will prove to be an excellent role model and leader to guide our young girls into the 21st century.

On behalf of the people of the fifth district of Tennessee and your hometown, Nashville, I am proud to extend to Ms. Cloninger my warmest wishes and congratulations.

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## INDIA'S REPUBLIC DAY, JANUARY 26, 2004

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. PALLONE. Mr. Speaker, I would like to pay tribute to one of the most important dates on the calendar for the people of India, as well as for the people of Indian descent who have settled in the United States and around the world. January 26th is Republic Day, an occasion that inspires pride and patriotism for the people of India.

On January 26, 1950, India became a Republic, devoted to the principles of democracy and secularism. At that time, Dr. Rajendra Prasad was elected as the nation's first president. Since then, despite the challenges of sustaining economic development and promoting tolerance and cooperation amongst its many ethnic, religious and linguistic communities, India has stuck to the path of free and fair elections, a multi-party political system and the orderly transfer of power from one government to its successor.

On that special day in 1950, India adopted its Constitution. It should be noted that India derived key aspects of her Constitution, particularly its statement of Fundamental Rights, from our own Bill Of Rights. On the eve of Republic Day several years ago, India's President K.R. Narayanan stated in his address to the nation: "Let us remember, it is under the flexible and spacious provisions of our Constitution, that democracy has flourished during the last fifty years and that India has achieved an unprecedented unity and cohesion as a nation and made remarkable progress in the social and economic fields."

India and the United States both proclaimed their independence from British colonial rule. The Indian independence movement under the leadership of Mahatma Gandhi had strong moral support from American intellectuals, political leaders and journalists. Just last weekend, we paid tribute to one of our greatest American leaders, the Rev. Martin Luther King, Jr. Dr. King derived many of his ideas of non-violent resistance to injustice from the teachings and the actions of Mahatma Gandhi.

As the world's two largest democracies, the United States and India have a natural relationship, based on their shared values of diversity, democracy and prosperity. These two countries have steadily grown closer for the past ten years, and most recently, the United States' campaign to fight global terrorism has brought the two countries even closer.

Following the tragic events of September 11, 2001 India was one of the first countries to come forward to the United States with an offer of full assistance and cooperation in this new global fight against terrorism. India has sadly been afflicted with terrorism from Pakistani-based terrorist groups throughout the last 15 years, and since September 11th, there have been terrorist attacks against India on a near daily basis. It is only natural that these two countries are united in the global fight against terrorism, as well as on many other fronts.

Lastly, I want to note that throughout the South Asian region, India stands alone as a pillar of democracy, stability and growth. I join both Indians in India and over 1.8 million Indians living here in the United States in celebrating India's Republic Day.

# SENATE—*Wednesday, January 28, 2004*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

Eternal Spirit, who has set our noisy years in the heart of Your eternity, under the shadow of Your wings, we find gladness and peace. Thank You for Your watchful care over body and soul alike.

Lord, You have kept our eyes from tears and brought us solace in seasons of grief. Thank You for keeping our feet from falling, or if we fell, you refused to forsake us. You have forgiven our sins and healed our diseases.

Today, give all who labor for liberty Your wisdom. Help us to embrace the right priorities. Remind us that a person's success and greatness cannot keep him or her from death. Teach us, therefore, to sacrifice for those things that will live beyond our years. Use us to tell others about Your greatness. And, Lord, bless our military people who are in harm's way.

We pray this in Your righteous Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. McCONNELL. Mr. President, today the Senate will again resume debate on H.R. 3108, the pension rate bill. Under the agreement reached yesterday, there will be 40 minutes of debate prior to disposing of the Kyl amendment No. 2236 regarding the general funding waiver. That amendment may not require a rollcall vote; therefore, we may be able to proceed to a vote on passage of the legislation prior to noon today.

In addition to completing the pension rate bill, the majority leader will be discussing with the Democratic leadership the possibility of a vote on a district judge nomination that has been available on the Executive Calendar. Therefore, additional votes may occur today and we will alert Members when that vote is confirmed.

For the remainder of the week, both sides of the aisle will be conducting retreats. Because of these important policy conferences, the Senate will be in pro forma session tomorrow, and we will be out of session on Friday. The leader will have more to say on next week's schedule at the close of business today.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I hope we can complete our work on the pension bill today. We have been on it now for, I think, 6 days. We have been getting good cooperation on both sides of the aisle. I don't see any reason why before we conclude our work this afternoon we cannot finish this bill. I appreciate very much the report of the assistant majority leader this morning.

## HONORING OUR ARMED FORCES

### NATIONAL GUARDSMAN KENNETH HENDRICKSON

Mr. DASCHLE. Mr. President, over the weekend, east of Fallujah, Iraq, a roadside bomb exploded, taking the life of SSG Kenneth Hendrickson, a member of the National Guard 957th Multi-Role Bridge Company.

SSG Hendrickson is from Bismarck, ND, where he lived with his wife and son and near his mother Adeline. His father, Lyle Hendrickson, is now a Pennington County commissioner in South Dakota.

Staff Sergeant Hendrickson was only 4 weeks away from returning home. Shortly before the attack that would take his life, his parents were told not to send anymore letters or care packages because he would be heading home before any other mail could reach him in Iraq.

Staff Sergeant Hendrickson served his country with courage. Every American owes him and the entire Hendrickson family a debt of thanks for his service, as well as his sacrifice. His death reminds us that nearly 150,000 of our sons and daughters still face danger in Iraq and Afghanistan, and that fathers, mothers, husbands, wives, and children still wait anxiously for their loved ones' safe return.

It reminds us, too, that more than 500 American soldiers have been lost since the Iraqi war began and about 3,000 have been wounded.

The families of South Dakota have borne a particularly heavy toll during this war. South Dakota has a higher proportion of its citizens serving the Guard in Iraq than any other State in the country right now.

There is nothing we can do to fully repay the men and women for their service. But in thanks for their commitment to our protection, we must commit ourselves to their protection as well. Our first responsibility is to give them every tool and technological advantage available to help them do their jobs and return home safely.

Regrettably, we have received numerous reports that the Defense Department is not doing all it can with regard to protecting our troops. From the very first deployments, we were told members of the South Dakota Guard and Army Reserve were not equipped with the most effective body armor that should be standard issue. Soldiers from other States have suffered similar supply shortcomings.

We attempted to address this issue in the supplemental appropriations and the regular 2004 Defense appropriations bill with an extra $420 million specifically to ensure that every soldier facing fire had the best body armor money can buy.

The DOD promised us the problem would be solved by the beginning of December. As it became clear they would miss this deadline, we were then told it would be solved this January. However, today, 10 months after the start of the conflict in Iraq, we continue to hear reports that Guard and Reserve personnel, as well as others, lack top-of-the-line body armor and other vital equipment.

In a few days, another 800 South Dakota Guard soldiers will be sent to Iraq to begin a year-long deployment. They have volunteered to face danger on our behalf. We owe them and the families they leave behind every effort to protect them from harm. Our obligation to stand by Guard members and Reservists cannot and should not end once they return home.

Increasingly, Guard members are facing the same bullets as full-time soldiers. We owe them the same commitment to their health and well-being. That means giving them access to the same health care that full-time soldiers currently enjoy.

Recent studies indicate now one-fifth of National Guard and Reserve members lack health care when they come home. Last year, thanks in part to a bipartisan coalition of Senators, we established a 1-year program to provide a significant number of our Reservists and their families access to TRICARE, the military health care system, when they are not on duty. Today, that same bipartisan coalition will introduce legislation to make that coverage permanent.

Our bill would improve the readiness of our force and enhance the ability of the military to recruit and retain a new generation of soldiers. This legislation is important because these troops are performing a greater share of the fighting than at any other time in decades.

By May, 40 percent of the more than 100,000 U.S. troops in Iraq will be Guard members or Reservists. Yet as we depend more heavily on their service, we are receiving troubling signs of discontent and instability.

A recent internal survey showed the rate of those Reservists who decide not to reenlist could double in just a few years. Just last week, LTG James R. Helmly, head of the Army Reserves, said:

> This is the first extended-duration war our Nation has fought with an all-volunteer force. We must be sensitive to that, and we must apply proactive, preventive measures to prevent a recruiting-retention crisis.

Unless this recruiting/retention crisis is addressed, those losses could severely undermine unit readiness and erode America's national security.

Over the weekend, America lost another hero in Iraq with the death of SGT Kenneth Hendrickson. His death serves to remind us of the service and sacrifice of our men and women in uniform and what they do for their country. Their commitment to us is beyond question. It is time we demonstrated real commitment to them and their families as well.

Our Guard and Reserve members have not failed us. We must not fail them. We must support our troops, not really with words but with action.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield for a question.

### JUDICIAL NOMINATIONS

Mr. REID. I see on the announcement of the schedule for this afternoon that there is an agreement that we will vote on another Federal judge. It is my understanding this will be the 170th judge we have approved in the Senate, and with President Bush having given an interim appointment for 1 year to Judge Pickering, the numbers are now 170 approved by the Senate during the term of President Bush and only 4 who have not gotten approval.

Does the Senator agree that those are the numbers?

Mr. DASCHLE. Mr. President, the Senator from Nevada, the distinguish assistant Democratic leader, is right. That record exceeds the record of any predecessor in this period of time. Obviously, the Bush administration has 1 year left before the end of its term. So there is little doubt that they will probably continue to set records with regard to the confirmation of judges.

I might add, this is a time when the Democrats were, at least for a period of time, actually in the majority. They have had good cooperation. The four who have not been confirmed have not been confirmed for good reason. Again, we will address the issue of greater numbers and more cooperation this afternoon, as the Senator suggests, with the confirmation of yet another judge.

Mr. REID. If the Senator will yield for one final question, for those out there who are saying we are turning down President Bush's judicial nominations, the facts are that we have approved 170 who are now or shortly will be sitting as judges in the Federal system—they have been approved by the Senate—and we have turned down 4. The number then is 170 approved, 4 turned down. Those are pretty good numbers; does the Senator agree?

Mr. DASCHLE. The Senator is correct. That would be a pretty remarkable record if this were the sports world, the business world, or the academic world. I was just reminded that 100 of the 170 who were confirmed were confirmed under a Democratic-controlled Senate. So I think we can look back with great satisfaction.

I know there are some who argue we have not been tough enough, we have not been aggressive enough. But I think, as we have said on many occasions, where we agree with the President, we will support him. Where we disagree, we have no recourse but to continue to raise these reservations and objections, especially with regard to lifetime appointments to the Federal bench. I thank the Senator from Nevada for raising the issue.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

## PENSION FUNDING EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3108, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

Pending:

Grassley amendment No. 2233, of a perfecting nature.

Kyl amendment No. 2236 (to amendment No. 2233), to restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver.

The PRESIDING OFFICER. Under the previous order, prior to a vote in relationship to amendment No. 2236, there will be 30 minutes equally divided between the chairman and ranking member or their designees, with the initial 10 minutes under the control of the Senator from Arizona, Mr. KYL.

The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I yield myself 5 minutes of the manager's time on this bill.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. COLEMAN. I thank the Chair.

Mr. President, Minnesota is home to Northwest Airlines as well as Ispat Inland Steel Mining Company. I rise today in support of the pension legislation before us and to urge my fellow colleagues to vote for this bill today.

Let me be clear. This legislation is about protecting American workers and their pension benefits. We are discussing this today because of the long arm of September 11 that continues to swipe through the economic landscape and affect the hard-working people of this country.

On January 1, 2000, airline workers' pension plans were over 100 percent funded and business was good for their companies. This, of course, changed dramatically in the days following September 11, and the economy is now beginning to show signs of life again.

The airline industry, because of its cyclical nature, always reacts strongly to the economy. This, coupled with the rise in costs because of new security measures, a dropoff in passengers, and Eisenhower administration interest rates, has made it difficult, if not impossible, for airlines to keep their pensions fully funded.

With regard to steel, Ispat Inland Mining Company is a key component of one of the largest operating integrated steel manufacturers in the Nation and a highly productive mine in my State. Ispat Inland Mining Company and its parent company employ close to 7,000 people who have had the benefit of a defined pension plan since 1936. While funding of this plan has often exceeded 100 percent of the total obligations, funding levels have never fallen below 90 percent of the obligation until 2003. I think all my colleagues are aware of the impact that the economy and foreign imports have had on the steel industry in the last couple of years.

The problem for these companies is the deficit reduction contribution, DRC, which requires companies to close the underfunded gap on an accelerated basis. This results in materially higher pension contributions during periods of economic decline. So what sounds like tough medicine turns out to be poison—poison—for the airline and steel workers. A major risk is that the accelerated deficit reduction contributions could force the airlines and steel companies to seek chapter 11 protection, force them into bankruptcy. Companies, such as Northwest, that are coming back could be forced into bankruptcy by this required accelerated payment.

Unfortunately, I think many understand that in chapter 11 bankruptcy the most likely outcome is the termination of pension plans and the transfer of unfunded liabilities to the PBGC. In effect, we would be destroying the very pension plans that Congress is seeking to preserve.

We must take immediate action to ensure that pension plan termination is a phrase that never enters the corporate boardroom. People who have invested their lives in a company should not have to live in fear that they will be left out in the cold when they retire.

This legislation represents a commonsense approach to help solve the problem. We are providing temporary 2-year relief from some of the cashflow requirements of the DRC, and during this period it is important to understand that companies are still going to make their normal required pension contributions. Pension benefits being accrued by active workers will continue to be funded during this temporary period and lessen any potential risk to the PBGC. I reiterate that the relief is for a portion of the deficit reduction contribution payment, not the regular pension payment. Pension payments are going to be made.

I am also extremely pleased that my amendment to include iron ore in the definition of steel was included in the managers' amendment. Minnesota is the largest producer of iron ore and taconite in the United States. These products are essential for integrated steel companies. Advances in technology have found a use for a lower grade iron ore called taconite. Taconite is crushed, processed into hard, marble-size pellets, and shipped to steel mills. The taconite pellets are melted in blast furnaces and then blown with oxygen to make steel. As a result, a healthy steel industry means a more viable taconite industry and more jobs for this economy.

The AFL–CIO, the Airline Pilots Association, and the International Association of Machine and Aerospace Workers support this legislation.

With this bill, we are not letting businesses off the hook but we are taking the appropriate steps to provide retirement security for constituents across this Nation.

Again, I urge my colleagues to support this bipartisan legislation that will help restore long-term health to American businesses and protect the retirement money for millions of American workers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition to comment about an amendment which I have offered on behalf of U.S. Airways. It is an amendment which provides that the pension plan would be reinstated. It had been required to fund it within a 5-year period. The amendment would allow up to 30 years. It would actually save the Pension Benefit Guaranty Corporation money.

The complexity had arisen as to whether this amendment was relevant. As the CONGRESSIONAL RECORD will show, I spoke about the amendment on Monday explaining what the amendment sought to do and detailing the history as to what had happened with a bill offered by Senator SANTORUM and myself last January 9, and in the hearing of the subcommittee which I chair on January 14.

I had a series of conversations with the Parliamentarian as to whether the amendment was relevant. I sought unanimous consent on Monday to set aside the pending second-degree amendment and an objection was raised. Then a little after 4 yesterday afternoon, I consulted with the Parliamentarian, who had not yet reached a decision, and suggested that my staffer confer with the Deputy Parliamentarian, which was done yesterday afternoon.

I was surprised to find a unanimous consent agreement entered into which precluded the amendment. I have a call in to the chairman of the Finance Committee, Senator GRASSLEY. If possible, I ask if he would come to the floor so we can discuss this matter. The issue was also presented to Senator KENNEDY. If possible, I ask that he come to the floor. We are operating under a very tight time constraint with the agreement now calling for a vote on the pending amendment by about 11:40, and then votes sequencing to final passage.

As a matter of basic fairness, I think we are entitled to have a vote. I am not unaware of the fact that there will be a later pension bill, but this matter is of great importance to my constituents. The U.S. Airways pilots, under the revised plan, sought to have their pensions reduced to about 25 percent when it was not possible to reinstate the earlier plan with an extension of up to 30 years. I think they are entitled to a vote, and we will be back on this matter if we are not able to get a vote today.

When the Parliamentarian is under active consideration and the Senator from Pennsylvania, myself, is pursuing the matter, it seems to me as a matter of basic fairness we ought not to be foreclosed. So I intend to go to the Finance Committee now to talk to Senator GRASSLEY to see if we can get a resolution by the Finance Committee, but that is the essence of the situation.

To repeat, I think we are entitled to a vote. For the record, I know Senator REID is prepared to object, but I ask unanimous consent that I be permitted to offer this amendment with a 10-minute time agreement which will not delay the final passage of the bill.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Reserving the right to object, we have objections from the majority and minority now on the Finance Committee and also from the majority on the HELP Committee. So based upon that, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. SPECTER. I understand the reasons of the Senator from Nevada. As I said, I am going to be on my way to the Finance Committee to see if I can get a change of decision by the Finance Committee so we can offer this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 2263

Mr. SPECTER. Mr. President, there have been a series of discussions, and we have worked out an accommodation to permit me to introduce the amendment on behalf of US Airways pilots. We will handle the vote on a division vote so that there is at least a semblance of what has occurred.

At this point, I ask unanimous consent I be permitted to call up amendment No. 2263 and that there be a division vote and I be permitted to speak under this unanimous consent request for up to 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2263.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the restoration of certain plans terminating in 2003)

At the appropriate place, insert:

**SEC. . RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.**

(a) IN GENERAL.—The provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of the Internal Revenue Code of 1986 and section 302(d)(1)(A)(i) of the Employee Retirement Income Security Act of 1974 with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(l) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

Mr. SPECTER. Mr. President, this amendment would do justice to the US Airways pilots who have been very unfairly treated by what has happened to the pension with US Airways.

The airline has had great problems, as have all the airlines, following 9/11. They have been in bankruptcy and have been restructuring their operation. There have been tremendous concessions made by employees of US Airways and the pilots pension was abrogated.

On January 9, 2003, Senator SANTORUM and I introduced S. 119, which would have allowed the US Airways pension plan to have up to 30 years to meet its obligations instead of the 5-year period. The requirement of the 5-year period made it impossible for the pension plan to be continued. My Subcommittee on Labor, Health and Human Services and Education held a hearing on January 14, 2003, and explored the options.

The PBGC declined to honor the request of the US Airways pilots. We have now offered an amendment, which is now pending, which would grant up to 30 years for the pension plan to be funded. We call for a reinstatement of the earlier plan. In the interim, US Airways has offered an additional benefit and we would agree to an offset of that against the amendment which we are now offering.

How much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. I reserve the remainder of my time until I hear the arguments in opposition to the amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. Is the Senate in a quorum call?

The PRESIDING OFFICER. No.

Mr. REID. I suggest to my friend from Pennsylvania it appears as if there will be no one speaking in opposition of the argument. It has been argued several times before. We should move on. We have people who are calling both cloakrooms because of the prearranged vote 20 minutes ago. They have schedules—some downtown, some up here—and I wonder if the Senator could move forward on his final remarks.

Mr. SPECTER. Mr. President, I offer one additional argument; that is, if the amendment of the Senator from Iowa, Mr. GRASSLEY, had been adopted in a timely way, US Airways would have been able to meet its pension obligations. We intend to revisit this on the pension bill which will be coming up at a later time. I have no illusions about the likelihood of success today.

However, US Airways pilots have been unfairly treated. When the plan was changed, they got about 25 percent on the dollar. When US Airways would have an obligation to fund the plan, but for a 30-year period, it would save money for the Pension Benefit Guaranty Corporation and they would not have to make payments. So it would be a win-win situation at all times.

That concludes my argument. I am ready for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The Senator has requested a division vote. All those Senators in favor of the amendment will rise and stand until counted.

All those opposed will rise and stand until counted.

On a division, the amendment was rejected.

Mr. REID. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 2236

Mr. REID. Mr. President, any time we have is yielded back.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. REID. Mr. President, if the Presiding Officer would yield, we have a unanimous consent request.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, as in executive session, I ask unanimous consent that following the vote on passage of the pension rate bill today, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: calendar No. 425, the nomination of Gary L. Sharpe to be a U.S. District Judge for the Northern District of New York.

I further ask unanimous consent that the Senate proceed to a vote on the confirmation of the nomination; further, that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session. I further ask consent that there be 4 minutes equally divided between the chairman and ranking member before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

### AMENDMENT NO. 2236

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2236) was rejected.

Mr. DURBIN. Mr. President, I rise in support of the Grassley-Baucus-Gregg-Kennedy amendment. I commend the Finance and HELP Committees for working together in a bipartisan effort to secure the pensions of almost 45 million workers.

This legislation is vital to preserving defined benefit pension plans, which provide retirees with a monthly benefit that is secured by the Pension Benefit Guaranty Corporation. Nearly 35 million workers and retirees are covered by single employer plans, and an additional 9.7 million are covered by multiemployer plans. In all, one in five workers participates in a defined benefit plan.

Unfortunately, these defined benefit pension plans are facing several challenges due to the following "perfect storm" of economic conditions: the downturn in the stock market was the longest since the Great Depression; the 30-year Treasury bond interest rates have been at historically low levels; and the weak economy has made it even more difficult for companies to make payments and pay the excise taxes as currently required by law.

As a result of these circumstances, many pension plans are under-funded, and this legislation would help companies weather this storm. There are three main components of this legislation. The first is a 2-year replacement of the 30-year Treasury bond rate used to calculate employers' contributions to pension plans with a corporate bond rate. The second is partial, temporary relief from deficit reduction contributions. The third is relief for multiemployer plans, which often aid low-wage workers, as well as workers in short-term or seasonal employment.

I support all three of these provisions and would like to speak in particular about the need for deficit reduction contribution relief. This relief would aid companies that had well-funded pension plans as recently as 2000, but, due to the current economic storm, need assistance now. The assistance we are providing is temporary—only for 2 years—and partial. It would allow troubled industries, such as airlines and steel, to regain their financial footing by providing relief of up to 80 percent in 2004 and up to 60 percent in 2005.

I understand that there are concerns regarding liability to the PBGC. If a company we are providing relief to now is forced to terminate its pension later, PBGC would takeover the pension, and the liability would be increased by the amount of DRC relief that the company had received. However, this does not take into consideration that if we do not provide companies with DRC relief now, they may be unable to pay their DRC surcharges and therefore will be more likely to have their pensions involuntarily terminated in the first place.

Furthermore, the DRC provision in the Pension Funding Equity Act would ensure that no plan will lose ground. Companies that receive DRC relief would be required to contribute at least the amount necessary to fund the expected increase in current liability that results from benefits that have accrued during the year.

Finally, I know that several Cabinet Secretaries have expressed their opposition to DRC relief. However, the White House, in its Statement of Administration Policy, also has acknowledged that "The DRC is part of a flawed system of funding rules that should be reviewed and reformed." Although the White House would prefer to address DRC changes in the context of broader pension reform, we must provide aid to these companies and their workers now. For example, United Airlines, based in my home State of Illinois, would benefit from the DRC relief in this legislation, and as a result, the pensions of the almost 130,000 participants in United's pension plans, including over 22,000 participants in Illinois, would be more secure.

Overall, the Grassley-Baucus-Gregg-Kennedy amendment will provide necessary relief for the 45 million workers who participate in our single and multi-employer pension plans. I urge my colleagues to join me in preserving the future of these defined benefit pension plans and supporting this important legislation.

### AMENDMENT NO. 2233

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2233), as amended, was agreed to.

### MULTIEMPLOYER RELIEF

Mr. BAUCUS. This amendment provides short-term relief for multiemployer pension plans that are struggling to cope with unprecedented losses on their equity investments in the first few years of this decade. The temporary funding relief would help plans deal with the investment losses they suffered through 2002, by letting them postpone amortization of the portion of those losses that would otherwise be recognized for funding purposes in any two of the plan years beginning after June 30, 2002 and before July 1, 2006.

Mr. GREGG. That is correct. The proposed relief would permit a short-term postponement of the losses that count toward the required funding in any two of the plan years beginning after June 30, 2002 and before July 1, 2006. The relief may be taken for no more than 2 years.

Mr. KENNEDY. Yes. For funding purposes, most multiemployer plans recognize investment losses gradually over a period of years. So, part of a plan's investment losses incurred in 2000, for example, would first be recognized under the funding rules in the 2001 plan year. The portion of those losses that show up in the funding requirements during the relief period would be eligible for the relief.

Mr. GRASSLEY. As this discussion demonstrates, the focus of the relief is on the portion of the loss that would be recognized for any of the plan years for which the relief is available. That is what the language means when it refers to losses "for the plan year."

### AMENDMENT NO. 2233

Mr. BAUCUS. This amendment specifically addresses the problems faced by the steel and airline industry. However, I also have concerns about other types of companies. Some of these companies should be allowed to access the DRC relief that is in this bill. I believe my colleagues share my concerns, and that is why we have included an application process in this amendment.

Mr. GREGG. That is correct. We have included the application process in this amendment so that other types of companies will also be allowed to access the DRC relief in this bill. This application process should allow other employers to receive relief, just like the steel and airline companies.

Mr. KENNEDY. This application process is a fundamental piece of the amendment. It would not be fair to exclude all other employers from the DRC relief. There are many companies in other industries that really need this relief, and we have provided access though the application process.

Mr. GRASSLEY. We have all agreed on the importance of this piece of the amendment, and we all understand that it is not intended to be window dressing. We expect that Treasury will adhere to the legislative intent in crafting this proposal, and implement the application process in a way that allows other employers to receive real relief, much like the steel and industry industries will receive.

Ms. SNOWE. I share my colleagues' concern, particularly with respect to how this application process would apply to small businesses. It is very important that other companies have access to this relief. The application process must provide a means of bringing relief to small companies.

Mr. JEFFORDS. Mr. President, today, I am pleased to see that the Senate is taking action on the Pension Equity Act of 2003.

As many of my colleagues are aware, the pension discount rate relief initiative, enacted in 2001, expired last month. Passage of H.R. 3108 will provide a resolution to this very serious issue. This bill replaces the outdated 30-year Treasury bill rate with a rate based on a composite of investment grade long-term corporate bonds. Failure to act on this bill will cause the statutory rate that pension plans must use to calculate their assets and liabilities to return to the old 30-year rate. Companies with pension plans will shortly have to begin making large contributions to their plans in the year to come.

An amendment to H.R. 3108 will provide relief from the deficit reduction contribution, DRC, requirements that certain plans are now facing. Under the current pension funding rules, companies that offer defined benefit pension plans are required to make additional contributions to those plans when they are less than 90 percent funded. A pension plan's funding level is determined by comparing the plan's current assets to its promised benefits and then calculated as to whether the two will match up by the time the promised benefits are due.

The recent drop in the stock market, low interest rates, and generous pension benefits agreed to in better times have caused many defined benefit pension plans to fall well beneath the 90 percent threshold. As a result, many companies are being required to make substantial contributions at the time they can least afford them. The Finance Committee reported bill, which I support, included fair DRC relief.

While I support these provisions related to pensions, I am disappointed that this body has not worked to enact further reforms. Two months ago, I, along with Senators SNOWE and HATCH, introduced S. 1912, the Retirement Account Portability Act of 2003. In brief, this bill will make a number of improvements in the retirement savings system to help families preserve retirement assets. It will, for example, enhance the portability of retirement savings by expanding rollover options in traditional IRAs, Roth IRAs, and SIMPLE Plans. The bill also clarifies that when employees are permitted to make after-tax contributions to retirement plans, those after-tax amounts may be rolled over into other retirement plans eligible to receive such rollovers. This clarification will make it easier for workers to move all elements of their 401(k) or 403(b) savings when they change jobs and move between the private sector and the tax-exempt sector.

In addition, the bill builds on defined contribution plan reforms enacted in 2001 by requiring a shortened vesting schedule for employer nonelective contributions, such as profit-sharing contributions, to defined contribution plans. As a result, employer contributions will become employee property more quickly, helping workers to build more meaningful retirement benefits. This new vesting schedule corresponds to rules for 401(k) matching contributions enacted in 2001.

The bill also helps preserve retirement savings by allowing plans to designate default IRAs or annuity contracts to which employee rollovers may be directed. Employers should be more willing to establish default IRA and annuity rollover options as a result, making it easier for employees to keep savings in the retirement system when they change jobs.

For workers who leave a job without claiming their retirement benefits, the bill improves on the automatic rollover provisions enacted in 2001, by allowing certain small distributions from retirement plans to be sent to the Pension Benefit Guaranty Corporation, PBGC, ensuring that participants are ultimately reunited with their earned benefits. The bill also expands the scope of the PBGC's successful Missing Participants Program that matches workers with lost pension benefits.

The Retirement Account Portability Act of 2003 will benefit employees of State and local governments, including teachers, through a number of this bill's technical corrections that will facilitate the purchase of service credits in public pension programs, allowing State and local employees to more easily attain a full pension in the jurisdiction where they conclude their career. The bill also contains provisions that will clarify eligibility rights of certain State and local employees who participate in a section 457 deferred compensation plan.

As this body moves to pass H.R. 3108 today, I thank Senators GRASSLEY and BAUCUS for their hard work on this legislation. I also thank Senators GREGG and KENNEDY for their contributions to this initiative. I look forward to working with my distinguished chairmen and ranking members of the HELP and Finance Committees in moving S. 1912 and other measures that will proactively improve the mechanisms we use for pension and retirement plans.

Mrs. BOXER. Mr. President, we need to ensure that the retirement benefits

Americans have been promised are secure. The bipartisan Pension Funding Equity Act of 2003 is a first step toward improving retirement security for Americans, and I support it.

As you know, the legislation will help stabilize the traditional pension plans known as defined benefit plans that cover almost 45 million Americans. These plans are in trouble because historically low interest rates and the last few years of decline in the stock market have combined to leave them underfunded.

To help stabilize these plans, the Pension Funding Equity Act provides temporary contribution relief for both single-employer plans and multi-employer plans. Of the 45 million working Americans participating in defined benefit pension plans, 35 million of them are covered by single-employer plans and 9.7 million are covered by multi-employer plans. Defined benefit plans promise workers a monthly retirement benefit that these 45 million workers are counting on. It would be tragic if these funds went bankrupt—or if employers gave them up.

Of the millions of workers participating in defined benefit pension plans, 40 percent are in construction, 30 percent are in retail and service industries, and 10 percent are in trucking services. These workers are the backbone of our labor force, and the first step toward ensuring their retirement security depends on passage of this legislation.

I urge my colleagues to support the Pension Funding Equity Act of 2003.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 9, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—86

Akaka
Alexander
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Voinovich
Warner
Wyden

NAYS—9

Chafee
Ensign
Fitzgerald
Inhofe
Kyl
McCain
Nickles
Sessions
Thomas

NOT VOTING—5

Baucus
Chambliss
Edwards
Kerry
Lieberman

The bill (H.R. 3108), as amended, was passed, as follows:

H.R. 3108

*Resolved*, That the bill from the House of Representatives (H.R. 3108) entitled "An Act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.", do pass with the following amendment:

Page 2, line 3, strike out all after "**SECTION**" and insert:

***1. SHORT TITLE.***

*This Act may be cited as the "Pension Stability Act".*

***SEC. 2. TEMPORARY REPLACEMENT OF INTEREST RATE ON 30-YEAR TREASURY SECURITIES WITH INTEREST RATE ON CONSERVATIVELY INVESTED LONG-TERM CORPORATE BONDS.***

*(a) INTERNAL REVENUE CODE OF 1986.—*

*(1) DETERMINATION OF PERMISSIBLE RANGE.—*

*(A) IN GENERAL.—Section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—*

*(i) in subclause (I), by inserting "or (III)" after "subclause (II)";*

*(ii) by redesignating subclause (II) as subclause (III);*

*(iii) by inserting after subclause (I) the following new subclause:*

*"(II) SPECIAL RULE FOR 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for purposes of this paragraph. Such rates shall reflect the rates of interest on amounts invested conservatively in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more."; and*

*(iv) in subclause (III), as so redesignated—*

*(I) by inserting "or (II)" after "subclause (I)" the first place it appears; and*

*(II) by striking "subclause (I)" the second place it appears and inserting "such subclause".*

*(2) DETERMINATION OF CURRENT LIABILITY.—Section 412(l)(7)(C)(i) of such Code is amended by adding at the end the following new subclause:*

*"(IV) SPECIAL RULE FOR 2004 AND 2005. For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".*

*(3) CONFORMING AMENDMENT.—Section 412(m)(7) of such Code is amended to read as follows:*

*"(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).".*

*(4) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by inserting ", except that in the case of plan years beginning in 2004 or 2005, '5.5 percent' shall be substituted for '5 percent' in clause (i)" before the period at the end.*

*(5) ELECTION TO DISREGARD MODIFICATION FOR DEDUCTION PURPOSES.—Section 404(a)(1) of such Code is amended by adding at the end the following new subparagraph:*

*"(F) ELECTION TO DISREGARD MODIFIED INTEREST RATE.—An employer may elect to disregard subsections (b)(5)(B)(ii)(II) and (l)(7)(C)(i) of section 412 solely for purposes of determining the interest rate used in calculating the maximum amount of the deduction allowable under this section for contributions to a plan to which such subsections apply."*

*(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—*

*(1) DETERMINATION OF PERMISSIBLE RANGE.—*

*(A) IN GENERAL.—Section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)) is amended—*

*(i) in subclause (I), by inserting "or (III)" after "subclause (II)";*

*(ii) by redesignating subclause (II) as subclause (III);*

*(iii) by inserting after subclause (I) the following new subclause:*

*"(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) during the 4-year period ending on the last day before the beginning of the plan year."; and*

*(iv) in subclause (III), as so redesignated—*

*(I) by inserting "or (II)" after "subclause (I)" the first place it appears; and*

*(II) by striking "subclause (I)" the second place it appears and inserting "such subclause".*

*(2) DETERMINATION OF CURRENT LIABILITY.—Section 302(d)(7)(C)(i) of such Act (29 U.S.C.*

1082(d)(7)(C)(i)) is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".

(3) CONFORMING AMENDMENT.—Section 302(e)(7) of such Act (29 U.S.C. 1082(e)(7)) is amended to read as follows:

"(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 as the specified percentage determined under subsection (d)(7)(C)(i)(II).".

(4) PBGC.—Section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended by adding at the end the following new subclause:

"(V) In the case of plan years beginning in 2004 or 2005, the annual yield taken into account under subclause (II) shall be the annual yield computed by using the conservative long-term corporate bond rate (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) for the month preceding the month in which the plan year begins."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the Internal Revenue Code of 1986, and subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such date.

(3) TRANSITION RULE FOR SECTION 415 LIMITATION.—In the case of any participant or beneficiary receiving a distribution after December 31, 2003 and before January 1, 2005, the amount payable under any form of benefit subject to section 417(b)(3) of the Internal Revenue Code of 1986 and subject to adjustment under section 415(b)(2)(B) of such Code shall not, solely by reason of the amendment made by subsection (a)(4), be less than the amount that would have been so payable had the amount payable been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 1, 2004.

**SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.**

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or the mining or processing of iron ore or beneficiated iron ore products, or

"(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

"(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

"(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

"(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may prescribe."

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

"(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

"(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

"(I) a commercial passenger airline,

"(II) primarily engaged in the production or manufacture of a steel mill product, or the mining or processing of iron ore or beneficiated iron ore products, or

"(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

"(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

"(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary of the Treasury may prescribe) to be treated as an applicable employer for purposes of this paragraph.

"(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary of the Treasury determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made *under this paragraph with respect to more than 2 plan years.*

*"(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—*

*"(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.*

*"(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—*

*"(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and*

*"(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.*

*"(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—*

*"(I) the information described in clause (ii)(I),*

*"(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and*

*"(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.*

*"(F) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe."*

*(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan .*

*(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting "or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary" after "101(e)(2)".*

**SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.**

*(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:*

*"(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—*

*"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan.*

*"(2) INFORMATION CONTAINED IN NOTICES.—*

*"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.*

*"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—*

*"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B)) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);*

*"(ii) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;*

*"(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and*

*"(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.*

*"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.*

*"(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.*

*"(4) FORM AND MANNER.—Any notice under paragraph (1)—*

*"(A) shall be provided in a form and manner prescribed in regulations of the Secretary,*

*"(B) shall be written in a manner so as to be understood by the average plan participant, and*

*"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided."*

*(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 104(d)".*

*(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act, issue regulations (including a model notice) necessary to implement the amendments made by this section.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.*

**SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.**

*(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—*

*(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:*

*"(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—*

*"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and*

*"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).*

*Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.*

*"(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—*

*"(I) the funded current liability percentage (as defined in subsection (d)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,*

*"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or*

*"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).*

*"(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.*

*"(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.*

*"(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.*

*"(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.*

*"(vii) An election under this subparagraph shall be made at such time and in such manner as the Secretary, after consultation with the Secretary of the Treasury, may prescribe."*

*(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:*

*"(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi)."*

*(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—*

*(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:*

"(F) AMORTIZATION HIATUS.—

"(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

"(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

"(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

"(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

"(I) the funded current liability percentage (as defined in subsection (l)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

"(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

"(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

"(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

"(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

"(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

"(vi) ELECTION.—An election under this subparagraph shall be made at such time and in such manner as the Secretary of Labor, after consultation with the Secretary, may prescribe."

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

"(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).".

### SEC. 6. 2-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

(a) IN GENERAL.—Section 769(c) of the Retirement Protection Act of 1994, as added by section 1508 of the Taxpayer Relief Act of 1997, is amended—

(1) by inserting "except as provided in paragraph (3)," before "the transition rules", and

(2) by adding at the end the following:

"(3) SPECIAL RULES.—In the case of plan years beginning in 2004 and 2005, the following transition rules shall apply in lieu of the transition rules described in paragraph (2):

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

"(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

"(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

### SEC. 7. PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.

(a) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following new subsection:

"(f) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

"(1) IN GENERAL.—If—

"(A) a plan sponsor of a plan determines that—

"(i) a complete or partial withdrawal of an employer has occurred, or

"(ii) an employer is liable for withdrawal liability payments with respect to the complete or partial withdrawal of an employer from the plan,

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of a transaction that occurred before January 1, 1999, was to evade or avoid withdrawal liability under this subtitle, and

"(C) such transaction occurred at least 5 years before the date of the complete or partial withdrawal,

then the special rules under paragraph (2) shall be used in applying subsections (a) and (d) of this section and section 4219(c) to the employer.

"(2) SPECIAL RULES.—

"(A) DETERMINATION.—Notwithstanding subsection (a)(3)—

"(i) a determination by the plan sponsor under paragraph (1)(B) shall not be presumed to be correct, and

"(ii) the plan sponsor shall have the burden to establish, by a preponderance of the evidence, the elements of the claim under section 4212(c) that a principal purpose of the transaction was to evade or avoid withdrawal liability under this subtitle.

Nothing in this subparagraph shall affect the burden of establishing any other element of a claim for withdrawal liability under this subtitle.

"(B) PROCEDURE.—Notwithstanding subsection (d) and section 4219(c), if an employer contests the plan sponsor's determination under paragraph (1) through an arbitration proceeding pursuant to subsection (a), or through a claim brought in a court of competent jurisdiction, the employer shall not be obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(b)(1)) after October 31, 2003.

### SEC. 8. SENSE OF THE SENATE ON STATUS OF PRIVATE PENSION PLANS.

(a) FINDINGS.—Congress makes the following findings:–

(1) The private pension system is integral to the retirement security of Americans, along with individual savings and Social Security.

(2) The Pension Benefit Guaranty Corporation (PBGC) is responsible for insuring the nation's private pension system, and currently insures the pensions of 34,500,000 participants in 29,500 single-employer plans, and 9,700,000 participants in more than 1,600 multiemployer plans.

(3) The PBGC announced on January 15, 2004, that it suffered a net loss in fiscal year 2003 of $7,600,000,000 for single-employer pension plans, bringing the PBGC's deficit to $11,200,000,000. This deficit is the PBGC's worst on record, three times larger than the $3,600,000,000 deficit experienced in fiscal year 2002.

(4) The PBGC also announced that the separate insurance program for multiemployer pension plans sustained a net loss of $419,000,000 in fiscal year 2003, resulting in a fiscal year-end deficit of $261,000,000. The 2003 multiemployer plan deficit is the first deficit in more than 20 years and is the largest deficit on record.

(5) The PBGC estimates that the total underfunding in multiemployer pension plans is roughly $100,000,000,000 and in single-employer plans is approximately $400,000,000,000. This underfunding is due in part to the recent decline in the stock market and low interest rates, but is also due to demographic changes. For example, in 1980, there were four active workers for every one retiree in a multiemployer plan, but in 2002, there was only one active worker for every one retiree.

(6) This pension plan underfunding is concentrated in mature and often-declining industries, where plan liabilities will come due sooner.

(7) Neither the Senate Committee on Finance nor the Senate Committee on Health, Education, Labor and Pensions (HELP), the committees of jurisdiction over pension matters, has held hearings this Congress nor reported legislation addressing the funding of multiemployer pension plans;

(8) The Senate is concerned about the current funding status of the private pension system, both single and multi-employer plans;

(9) The Senate is concerned about the potential liabilities facing the PBGC and, as a result, the potential burdens facing healthy pension plans and taxpayers;

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance and the Committee on Health, Education, Labor and Pensions should conduct hearings on the status of the multiemployer pension plans, and should work in consultation with the Departments of Labor and Treasury on permanent measures to strengthen the integrity of the private pension system in order to protect the benefits of current and future pension plan beneficiaries.

### SEC. 9. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) of the

*Internal Revenue Code of 1986 (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".*

*(b) AMENDMENTS OF ERISA.—*

*(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".*

*(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".*

*(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—*

*(A) by striking "January 1, 2006" and inserting "January 1, 2014", and*

*(B) by striking "Tax Relief Extension Act of 1999" and inserting "Pension Stability Act".*

### SEC. 10. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

*(a) IN GENERAL.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:*

*"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—*

*"(i) the gross receipts for the taxable year do not exceed $600,000, and*

*"(ii) more than 50 percent of such gross receipts consist of premiums.".*

*(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.*

*(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "exceed $350,000 but".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.*

### SEC. 11. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

*(a) IN GENERAL.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*"(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.*

### SEC. 12. FUNDS FOR REBUILDING FISH STOCKS.

*Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated appropriations Act, 2004) is repealed.*

Mr. LEVIN. I move to reconsider the vote.

Mr. NELSON of Florida. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, before we proceed to the next vote, I do want to make a couple quick comments regarding the schedule.

First, I am very pleased with the bipartisan vote on the passage of the pension bill. I congratulate the managers.

At this point, the regular order would be for the Senate to request a conference with the House to reconcile the differences in the Senate bill and the House bill. I understand from the Democratic leadership that they have an objection to appointing conferees at this time. I hope we can work this out. This is an important piece of legislation that we need to address and clearly need to conference this matter with the House.

Having said that, I will continue to talk with the Democratic leader in an effort to proceed with the regular order on appointing conferees.

For the schedule, the next vote, which will occur shortly, will be the last vote of the week. On Monday, we will proceed to consideration of the highway bill. We will have a vote on Monday, and I expect that vote to be in relation to a judicial nomination. We will be announcing later in the day the timing of that vote.

Mr. KENNEDY. Mr. President, as we conclude our debate on this bill, I thank all of my colleagues for the fruitful debate we have had on these issues, which are vitally important to America's workers and their families.

I thank Senator FRIST and Senator DASCHLE for their leadership in ensuring that this bill was passed quickly. I also thank my colleagues, Senator GRASSLEY, Senator BAUCUS, and Senator GREGG for working with me to develop this moderate, bipartisan measure to protect our Nation's pension plans. And I thank the following staff members for all of the work they have done on this bill: Rohit Kumar, counsel and policy adviser to Majority Leader FRIST; Chuck Marr, economic policy adviser to Minority Leader DASCHLE; David Thompson, labor and pensions policy director for Senator GREGG; Diann Howland, pension policy adviser to Senator GRASSLEY; and Judy Miller, professional staff member for Senator BAUCUS. I particularly thank my own staff—Holly Fechner, chief labor counsel; Portia Wu, labor and pensions counsel; and Kathleen Wildman, labor policy office staff assistant—for all of their hard work on this issue.

Defined benefit pension plans provide certainty and security for workers and retirees. I believe that we can—and we must—do more to protect the security of America's workers and retirees. Americans who have worked hard and played by the rules deserve to enjoy their old age, to retire without having to worry whether they have enough money to pay for their prescription drugs, to pay for electricity, or even to pay for food.

There are many challenges facing our pension system. Our Nation's pension participation rate is the lowest it has been in over a decade. Part-time and low-wage workers continue to lag behind other workers in pension coverage.

We must improve our pension system so that all workers can have a pension. We must increase pension portability for workers—who may have many jobs over a lifetime—without sacrificing security. We must ensure that companies adequately fund their pension plans. We must encourage companies to put more money into their pension plans when times are good, instead of only penalizing them when times are bad.

By passing this bipartisan legislation, we are taking a much-needed first step to stabilize our pension plans.

This legislation has three critical components to help defined benefit pension plans. First, it temporarily replaces the 30-year Treasury bond rate used to calculate employers' required contributions to pension plans with a corporate bond rate. This will stabilize our Nation's defined benefit pension plans and enable them to continue to provide the benefits they have promised.

Second, it provides for additional deficit reduction contribution relief to companies that had well-funded pension plans in the past and need extra assistance now. This relief will help protect the pensions and jobs of workers in these industries.

Finally, the bill includes important relief for multiemployer plans, which fill major needs in our pension system. Multiemployer plans provide pensions to many low-wage workers, as well as short-term and seasonal workers who might not otherwise be able to earn a pension.

I thank all of my colleagues for the support they have given to this bill. This is an important first step, but it is only a first step. I hope my colleagues will join with me in the future to improve and expand our defined benefit system, so that we can ensure that all Americans receive the secure retirement they deserve.

Mr. ROCKEFELLER. Mr. President, I am very pleased that the Senate has just passed the Pension Stability Act by an overwhelming margin. I spoke yesterday on behalf of the legislation, because I understand how important these changes are to the employers who offer defined benefit pension plans and to the employees who are counting on those pension benefits. I would like to just add a few words today to encourage the House of Representatives to quickly approve the bill, as amended by the Senate, and get this legislation to President Bush at the earliest possible date.

The pension reforms provided in this bill are urgently needed. Many large companies have contacted me to stress how important it is that Congress act to update the interest rate used in calculating pension liabilities. Continuing to require employers to use the outdated 30-year Treasury rate would jeopardize pension plans for millions of workers. I have also met with several executives from our Nation's airlines. The temporary relief from deficit reduction contributions provided by this bill is critically important to our struggling airline industry.

As a result of both September 11 and the slow economy during the last few years, our Nation's airlines have dealt with extremely difficult business conditions. The industry has already laid off more than 200,000 people, and many airlines are struggling either to emerge from bankruptcy or to avoid having to file for bankruptcy. By providing airlines some breathing room when it comes to pension payments, we can protect workers' benefits that might otherwise be cancelled and protect workers' jobs that might otherwise be cut. Ultimately, this bill is an effort to do what we can to take care of workers who have already seen involuntary furloughs, seen their wages reduced, and seen their pensions cut. In my judgment, preserving the benefits and rights of workers who make our industries strong is crucial to strengthening our economy.

This bill will help employers to honor their commitments to their employees, many of whom have already sacrificed so much for their companies. I am very pleased that by a vote of 86 to 9, my Senate colleagues approved this bill. I hope that the House will listen to the clear message that we sent today. For the sake of employers and their employees, Congress and the President must enact these pension reforms now.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today the Senate passed critical pension funding reform legislation that will protect millions of American workers from losing their defined benefit pension plans. Although only a temporary solution, the Pension Funding Equity Act is essential to prevent companies from having to freeze or terminate their defined benefit pension plans because of outdated rules that determine how their pension plan liabilities are calculated.

Defined benefit pension plans are an essential component of retirement security for over half of America's working men and women. Unfortunately, trends show a decline in the use of defined benefit pension plans, with only one quarter as many companies providing defined benefit plans today as did 20 years ago. Since 2003, 3.3 million Americans having lost their pension coverage. The volatility in the stock market in the last few years—in which Americans lost billions in retirement assets—leaves little doubt that we must do more to reverse the decline in the use of defined benefit pension plans and expand the retirement security of defined benefit pension plans to more Americans. The Pension Funding Equity Act is an important step towards addressing this challenge.

In the last 3 years, companies that provide defined benefit pension plans to their employees have come under extreme financial stress due to the sluggish economy and changes in the interest rate that determines their pension plan liability. The Pension Funding Equity Act of 2003 provides much needed relief to help these companies maintain retirement benefits for their employees as the country works towards economic recovery. This legislation provides a temporary 2-year period of funding relief by updating the interest rate that companies must use when calculating the liabilities of their pension plans. A more accurate mix of long-term corporate bond rates will replace the now defunct 30-year Treasury rate in the calculation of pension plan liabilities.

In addition to protecting the defined benefit plans of American workers, the Pension Funding Equity Act is expected to provide $16 billion in additional savings to companies, which will facilitate job creation by freeing up funds for additional wages and hiring.

I applaud the passage of the Pension Funding Equity Act and look forward to working with my colleagues in crafting a long-term solution to improve and expand our pension system.•

## EXECUTIVE SESSION

## NOMINATION OF GARY L. SHARPE TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of Gary L. Sharpe to be United States District Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Gary L. Sharpe, of New York, to be United States District Judge for the Northern District of New York.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. HATCH. Madam President, I rise today in support of our nominee to the U.S. District Court of the Northern District of New York, Gary L. Sharpe.

Judge Sharpe graduated magna cum laude from Buffalo University in 1971 where he was a member of Phi Beta Kappa. Three years later, he graduated from Cornell Law School.

Judge Sharpe had a distinguished legal career prior to his appointment as a Federal magistrate judge for the Northern District of New York in 1997. He had been an Assistant Broome County District Attorney in Binghamton, a special assistant New York Attorney General in Syracuse, a supervisory Assistant U.S. Attorney, and the interim U.S. Attorney for the Northern District of New York.

Judge Sharpe is also a Vietnam veteran, having served our country in both the U.S. Army and Navy.

Judge Sharpe has a wealth of experience that will serve him well on the Federal bench. I am very confident that he will make an excellent Federal judge. I commend President Bush for nominating him, and I urge my colleagues to join me in supporting his nomination.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, last week I shared with the Senate several disappointing developments regarding judicial nominations: the Pickering recess appointment, the renomination of Claude Allen, and the pilfering of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats today cooperate in the confirmation of another nominee. We do so without the kinds of delays and obstruction that Republicans employed when President Clinton's judicial nominees were being obstructed and Republican Senators complained about his recess appointments as an affront to the Constitution and the Senate.

The first nominations issue I would like to discuss is the recess appointment of Judge Pickering. Just a few days ago on January 16, President Bush made his most cynical and divisive appointment to date when he bypassed the Senate and unilaterally installed Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit. That appointment is without the consent of the Senate and is a particular affront to the many individuals and membership organizations representing African Americans in the Fifth Circuit who have strongly opposed this nomination.

With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in American history. Through these nominees, President Bush is dividing the American people and undermining the fairness and independence of the Federal judiciary on which all Americans depend.

After fair hearings and open debate, the Senate Judiciary Committee rejected the Pickering nomination in 2002. Originally nominated in 2001 by President Bush, this nominee's record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Judge Pickering's nomination was rejected for this promotion by the Committee in 2002 because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances. Nonetheless, the President sent back his nomination to the Senate last year, the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

The renomination of Charles Pickering lay dormant for most of last year while Republicans reportedly planned further hearings. Judge Pickering himself said that several hearings on his nomination were scheduled and cancelled over the last year by Republicans. Then, without any additional information or hearings, Republicans decided to forego any pretense at proceeding in regular order. Instead, they placed the name of Judge Pickering on the committee's markup agenda and pushed his nomination through with their one-vote majority. The committee had been told since last January that a new hearing would be held before a vote on this nomination, but that turned out to be an empty promise.

Why was the Pickering nomination moved ahead of other well-qualified candidates late last fall? Why was the Senate required to expend valuable time rehashing arguments about a controversial nomination that has already been rejected? The timing was arranged by Republicans to coincide with the gubernatorial election in Mississippi. Like so much about this President's actions with respect to the federal courts, partisan Republican politics seemed to be the governing consideration. Indeed, as the President's own former Secretary of the Treasury points out from personal experience, politics governs more than just Federal judicial nominations in the Bush administration.

Charles Pickering was a nominee rejected by the Judiciary Committee on the merits—a nominee who has a record that does not qualify him for this promotion, who injects his personal views into judicial opinions, and who has made highly questionable ethical judgments. The nominee's supporters, including some Republican Senators, have chosen to imply that Democrats opposed the nominee because of his religion or region. That is untrue and offensive. These smears have been as ugly as they are wrong. Yet the political calculation has been made to ignore the facts, to seek to pin unflattering characterizations on Democrats for partisan purposes and to count on cynicism and misinformation to rule the day. With elections coming up this fall, partisan Republicans are apparently returning to that page of their partisan political playbook.

Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a presidential appointment to the federal bench.

In an editorial following the recess appointment, The Washington Post had it right when it summarized Judge Pickering's record as a Federal trial judge as "undistinguished and downright disturbing." As the paper noted: "The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection." Instead we see another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts. The New York Times also editorialized on this subject and it, too, was correct when it pointed out that this end-run around the advice and consent authority of the Senate is "absolutely the wrong choice for one of the nation's most sensitive courts."

Civil rights supporters who so strenuously opposed this nominee were understandably offended that the President chose this action the day after his controversial visit to the grave of Dr. Martin Luther King Jr. As the Nation was entering the weekend set aside to honor Dr. King and all for which he strived, this President made one of the most insensitive and divisive appointments of his Administration.

So many civil rights groups and individuals committed to supporting civil rights in this country have spoken out in opposition to the elevation of Judge Pickering that their views should have been respected by the President. Contrary to the false assertion made by The Wall Street Journal editorial page, the NAACP of Mississippi did not support Judge Pickering's nomination. Instead, every single branch of the Mississippi State Chapter of the NAACP voted to oppose this nomination—not just once, but three times. When Mr. PICKERING was nominated to the District Court in 1990, the NAACP of Mississippi opposed him, and when he was nominated to the Fifth Circuit in 2001 and, again, in 2003, the NAACP of Mississippi opposed him. They have written letter after letter expressing their opposition. That opposition was shared by the NAACP, the Southern Christian Leadership Conference, the Magnolia Bar Association, the Mississippi Legislative Black Caucus, the Mississippi Black Caucus of Local Elected Officials, Representative Bennie G. Thompson and many others. Perhaps The Wall Street Journal confused the Mississippi NAACP with the Mississippi Association of Trial Lawyers, which is an organization that did support the Pickering nomination.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

The second disappointing development is the renomination of Claude Allen as a nominee to the Fourth Circuit. Last week, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee, someone of the caliber of sitting U.S. District Court Judges Andre Davis or Roger Titus, two Maryland lawyers whose involvement in the State's legal system and devotion to their local community is clear. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary.

The additional disappointment we face is the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the committee. As revealed by the chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and on to people outside the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct, and possible criminal laws. We do not yet know the full extent of these violations. But we need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to recover and be able to resume our work in a spirit of cooperation and mutual respect that is so necessary to make progress.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. One way to measure that cooperation and the progress we have made possible is to examine the Chief Justice's annual report on the Federal judiciary. Over the last couple of years, Justice Rehnquist has been "pleased to report" our progress on filling judicial vacancies. This is in sharp contrast to the criticism he justifiably made of the shadowy and unprincipled Republican obstruction of consideration of President Clinton's nominees. In 1996, the final year of President Clinton's first term, the Republican-led Senate confirmed only 17 judicial nominees all year and not a single nominee to the circuit courts. At the end of 1996, the Republican Senate majority returned to the President almost twice as many nominations as were confirmed.

By contrast, with the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of September 11 and their aftermath, the Senate has already confirmed 169 of President Bush's nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly four years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1995.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 that Republicans controlled the Senate during the Clinton Presidency years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit court judges confirmed during all of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this Administration continues down the path of confrontation. While there have been difficult and controversial nominees whom we have opposed as we exercise our constitutional duty of advice and consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years, I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

Today, the chairman held another hearing on another circuit court nominee. That hearing is another demonstration of how untrue the rhetoric is that is so often bandied about by Republican partisans that Democrats are obstructing the confirmations of this President's judicial nominees. The reality is that we have cooperated to an extraordinary extent, especially when contrasted with Republican treatment of President Clinton's judicial nominees.

Today's hearing was the second in the last 2 weeks for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are considered in a presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority. In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, here we are, before the end of the first month of 2004, and we have already held hearings for two circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be half done for the entire year.

Moreover, that we are proceeding to confirm Judge Sharpe today is another example of Democratic cooperation in the wake of the President's recess appointment of Charles Pickering. This temporary appointment can be distinguished from President Clinton's recess appointment of Judge Roger Gregory to the Fourth Circuit in December 2000 in many ways, including from the manner in which Republican Senators reacted to President Clinton's recess appointments by shutting down the confirmation process.

Roger Gregory had been denied a Judiciary Committee hearing even though he had the bipartisan support of both of his home State Senators—Democratic Senator Chuck Robb and Republican Senator John Warner. By contrast, Judge Pickering participated in hearings and an extensive record was developed on which his nomination was opposed in the Judiciary Committee and in the Senate on the merits on the basis of his record as a district court judge. Roger Gregory's nomination was never allowed to be considered by the Judiciary Committee. By contrast, Judge Pickering's nomination was fully and fairly debated in 2002 and rejected by the Judiciary Committee. Indeed, Judge Pickering's renomination was the first time a President had resent a judicial nomination to the Senate after the Judiciary Committee had voted on and rejected that judicial nomination. Likewise, Judge Pickering's temporary appointment is the first after rejection by the Judiciary Committee and after the Senate has debated a judicial nomination and withheld its consent.

Moreover, Roger Gregory's recess appointment fit squarely in the tradition of Presidents exercising such authority in order to expand civil rights and to bring diversity to the courts. Four of the five first African American appellate judges were recess-appointed to their first article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbottom in 1964. Unlike these nominees and the public purposes served, Judge Pickering was opposed by civil rights groups, including all chapters of the Mississippi NAACP, the Southern Christian Leadership Conference, and by the Magnolia Bar Association. Rather than bring people together and move the country forward, this President's recess appointment is another source of division.

The Senate reaction to the recess appointments of President Clinton and President Bush has also differed dramatically. When President Clinton used his recess appointment power to appoint James Hormel Ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had "shown contempt for Congress and the Constitution" and declared that he would place "holds on every single Presidential nomination," which Republicans did in obstruction of President Clinton's nominees. Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November 10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would "put holds for the remaining of the term of your Presidency on all of the judicial nominees."

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE spoke out on the Senate floor denouncing five of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of the administration. That led to more delays and to the need for a vote on a motion to proceed to override the Republican objections.

When President Clinton appointed Judge Gregory, Senator INHOFE called it "outrageously inappropriate for any president to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate." Judge Gregory was eventually confirmed after his renomination in 2001 with near unanimity. There was only one negative vote. Senator LOTT cast that vote and his spokesman said his opposition was done to underscore his stance that "any appointment of federal judges during a recess should be opposed." Ironically, Senator LOTT is now one of Judge Pickering's strongest supporters.

As far as I know, no Senate Democrats were consulted by this President before he made his divisive appointment of Judge Pickering. It was only after President Bush appointed Charles Pickering to the bench that I learned about the appointment. Despite that, Senate Democrats are today participating in making sure the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton made recess appointments. In fact, already this week, less than 2 weeks after President Bush appointed Judge Pickering and a number of other executive branch officials, we have joined in confirming 18 Presidential nominees by unanimous consent. Today we proceed to confirm a judicial nominee in spite of the President's recent actions and those of Senate Republicans.

The nomination of Judge Gary Sharpe has the support of both his home State Senators, both of whom are Democratic Senators. The Democratic Senators who serve on the Judiciary Committee all supported this nomination when it was reported favorably to the Senate in October last year. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Judge Sharpe and his family on his confirmation. He is the 170th judge confirmed by the Senate and will be the 171st appointed by President Bush.

I yield to the senior Senator from New York and his colleague so they can have the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I will speak for 1 minute and then I will yield 1 minute to my colleague, Senator CLINTON.

Mr. SCHUMER. Madam President, I am pleased to rise today in support of Gary Sharpe's nomination to be a judge in the Northern District of New York.

Before I discuss Judge Sharpe's impressive qualifications, I wish to make one point to my colleagues.

If my math is right, when Judge Sharpe is confirmed today—and I expect he will be confirmed unanimously because, as my colleagues will see, he is an example of the nominees we get when the process works right—he will be the 170th judicial nominee of President Bush's we will have confirmed.

I note that at the outset because to hear the hue and cry from some on the other side, one would think that we were roadblocking every nominee who comes before us. With this confirmation, the numbers stand at 170 to 5.

That's a record for which the Buffalo Bills and Buffalo Sabres would kill. When you win over 97 percent of the time, you are doing pretty darn well.

I won't belabor the point, but it's important to note that this process can work and that it frequently does. The process works when we work together to choose nominees who are excellent, moderate, and diverse—the three criteria I use when evaluating judicial nominees. And Judge Sharpe easily clears that bar.

For the past 6 years, Judge Sharpe has served with distinction as a United States Magistrate Judge for the Northern District of New York. Before taking the bench, he spent his professional career working as one of the best prosecutors Northern New York has ever seen. He spent nearly a decade in state court as a prosecutor from Broome County.

He then went over to Federal court where he was an assistant United States attorney before becoming the U.S. attorney for the Northern District.

Judge Sharpe is a graduate of two fine New York schools, the University of Buffalo which he graduated magna cum laude and Phi Beta Kappa—and Cornell Law. After graduating college, but before heading to law school, Judge Sharpe served in the U.S. Armed Forces as a member of the Naval Reserve. He is also a Vietnam veteran, having served there in the Army from 1966 to 1968.

We have talked to lawyers in the Northern District and they simply rave about Judge Sharpe. One judge upstate said, "He's the best lawyer I've ever known." That's pretty high praise.

I congratulate Judge Sharpe and his wife, Lorraine, on this tremendous honor and achievement. I know Chief Judge Scullin is anxious to have him and that Judge Sharpe is going to be a great addition to the Northern District bench.

Again, Madam President, overall, we are at 170 nominees to 5. We have blocked 5. That is not too many, and those are the most egregious ones.

Second, in New York, we have worked this out. When the administration wants to play ball with Senators, they can fill the bench. In New York, we will have no more vacancies because we have agreed. They have chosen nominees who are conservative but not out of the mainstream, and we have gone along.

Third, Judge Sharpe clearly is an excellent nominee. He is not just average; he is not just above average; he is at the very top. We talked with lawyers in the Northern District. They say: He is the best lawyer I have ever known.

He is moderate. He deserves to be on the bench. I fully support his nomination and urge my colleagues to do as well.

The PRESIDING OFFICER. The junior Senator from New York.

Mrs. CLINTON. Madam President, I rise in very strong support of the nomination of Magistrate Judge Gary Lawrence Sharpe who has been nominated to the United States District Court for the Northern District of New York.

Judge Sharpe has more than 20 years of experience as a prosecutor. From 1974 to 1981, he served as an assistant district attorney and senior assistant district attorney for Broome County. After serving for a year as a special assistant New York attorney general, in 1982 he became an assistant U.S. attorney for the Northern District of New York. He served in that office until 1997, when he was appointed a U.S. magistrate judge for the Northern District of New York.

Even with all of his prior prosecutorial responsibilities, Judge Sharpe made time to serve as a member of the Broome County Prisoner Rehabilitation Board, PROBE, the Onondaga County Substance Abuse Commission, and the Onondaga County Youth Court. More recently, he worked with the Department of Probation to develop the High Impact Incarceration Program, HIIP, a program for defendants who have substance abuse problems and who might be candidates for release.

Judge Sharpe's years of service as a magistrate judge have provided him with even more experience, which will serve him well as a U.S. district court judge. Without question, Judge Sharpe has the intellect, judicial demeanor, and commitment to justice to serve the Northern District of New York as a district court judge with distinction.

I ask all of my colleagues to support this nomination.

I commend my colleague, Senator SCHUMER, for the important role he has played on the Judiciary Committee. I second his comment that in New York we have worked together with the administration to nominate and confirm judges who will be a real credit, not only to the bench but to this administration and to our country. Magistrate Judge Gary Lawrence Sharpe is at the top of that list.

In addition to all of his qualifications, he has also found time as a prosecutor to serve in capacities to assist with prisoner rehabilitation, to work with youth, and to work with people who are in the grips of substance abuse to try to bring down the impact of incarceration.

I think he will not only serve with distinction in New York but demonstrate clearly that this is the kind of conservative Republican nominee whom we could be unanimously confirming. I commend him to the Senate.

I thank the Chair.

The PRESIDING OFFICER. All time has expired. The question is, Will the Senate advise and consent to the nomination of Gary L. Sharpe, of New York, to be United States District Judge for the Northern District of New York?

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY), would vote "yea."

The PRESIDING OFFICER (Mr. HAGEL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 6 Ex.]

YEAS—95

Akaka
Alexander
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—5

Baucus
Chambliss
Edwards
Kerry
Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the confirmation of the nomination.

## LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the Senate will return to legislative session.

## MORNING BUSINESS

Mr. COLEMAN. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST—S. 1691

Mr. FEINGOLD. Mr. President, I want to speak today about S. 1691, the Wartime Treatment Study Act. During World War II, the United States fought a courageous battle against the spread of Nazism and fascism. Nazi Germany was engaged in the horrific persecution and genocide of Jews. By the end of the war, 6 million Jews had perished at the hands of Nazi Germany.

The Allied victory in the Second World War was an American triumph, a triumph for freedom, justice, and human rights. The courage displayed by so many Americans, of all ethnic origins, should be a source of great pride for all Americans. But we should not let that justifiable pride in our Nation's triumph blind us to the treatment of some Americans by their own government.

Sadly, as so many brave Americans fought against enemies in Europe and the Pacific, the U.S. Government was in some cases curtailing the freedom of some of its own people here, at home. While, it is, of course, the right of every Nation to protect itself during wartime, the U.S. Government can and should respect the basic freedoms that so many Americans have given their lives to defend. Of course, war tests our principles and our values. And as our Nation's recent experience has shown, it is during times of war and conflict, when our fears are high and our principles are tested most, that we must be even more vigilant to guard against violations of the Constitution.

Many Americans are aware of the fact that, during World War II, under the authority of Executive Order 9066, our Government forced more than 100,000 ethnic Japanese from their homes into internment camps. Japanese Americans were forced to leave their homes, their livelihoods, and their communities. They were held behind barbed wire and military guard by their own government.

Through the work of the Commission on Wartime Relocation and Internment of Civilians created by Congress in 1980, this unfortunate episode in our history finally received the official acknowledgement and condemnation it deserved. Under the Civil Liberties Act of 1988, people of Japanese ancestry who were subjected to relocation or internment later received an apology and reparations on behalf of the people of the United States.

While I commend Congress and our Nation for finally recognizing and apologizing for the mistreatment of Japanese Americans during World War II, our work in this area is not done. We should also acknowledge the mistreatment experienced by many German Americans, Italian Americans, and European Latin Americans, as well as Jewish refugees.

Most Americans are probably unaware that during World War II, the U.S. Government designated more than 600,000 Italian-born and 300,000 German-born U.S. resident aliens and their families as "enemy aliens."

Approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians or other European Americans living in America were taken from their homes and placed in internment camps. Some even remained interned for up to 3 years after the war ended. Unknown numbers of German Americans, Italian Americans, and other Europeans Americans had their property confiscated or their travel restricted, or lived under curfews.

S. 1691 would not grant reparations to victims. It would simply create a commission to review the facts and circumstances of the U.S. Government's treatment of German Americans, Italian Americans and other European Americans during World War II.

A second commission created by this bill would review the treatment by the U.S. Government of Jewish refugees who were fleeing Nazi persecution and genocide. German and Austrian Jews applied for visas, but the United States severely limited their entry due to strict immigration policies, policies that many believe were motivated by fear that our enemies would send spies under the guise of refugees and by the unfortunate anti-foreigner and anti-Semitic attitudes that were, sadly, all too common at that time.

It is time for the country to review the facts and determine how our restrictive immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany. The United States turned away thousands of refugees, delivering many to their deaths at the hands of the Nazi regime.

As I mentioned earlier, there has been a measure of justice for Japanese Americans who were denied their liberty and property. It is now time for the U.S. Government to complete an accounting of this period in our Nation's history.

Let me repeat that the bill I have introduced, along with Senator GRASSLEY, does not call for reparations. All it does is ensure that the public has a full accounting of what happened. I believe that is the right and, yes, the patriotic thing to do. It is patriotic to ensure that the Government owns up to its mistakes. We should be very proud of our victory over Nazism, as I certainly am. But we should not let that pride cause us to overlook what happened to some Americans and refugees during World War II. I urge my colleagues to join me in supporting the Wartime Treatment Study Act.

The Judiciary Committee has reported this bill favorably. It has been cleared by my Democratic colleagues. Unfortunately, someone on the other side of the aisle has placed a hold on the bill. This anonymous person or persons are unwilling to identify themselves or to explain the reasons for the hold. I think some Republican colleagues have been trying to figure out for me what the problems is. Frankly, I find it hard to imagine why someone would object to a fairly straight-forward, non-controversial bill such as this. So, Mr. President, I will try again.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 309, S. 1691, a bill to establish commission, to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish Refugees during World War II, that the bill be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM of South Carolina. Mr. President, reserving the right to object, I have been informed that our leadership is working on a method for this proposal to move forward. I admire what the Senator is doing on a personal basis. With that understanding, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FEINGOLD. Mr. President, I know the Senator from South Carolina was a supporter of this legislation in committee, and he is doing what he must do in representing that side of the aisle.

I am disappointed that there is an objection to moving this bill. The Judiciary Committee has now reported this bill favorably to the floor on two occasions—last Congress and again this Congress. I would like to know what their concerns are. So far, we have never heard a substantive objection. There is a secret hold being used here. That is unfortunate. This bill is long overdue. It is not controversial. In fact, I specifically was promised by the chairman of the Judiciary Committee late in the 106th Congress, when I was hoping the issue of German Americans would be linked to a bill going through Congress on Italian Americans. I was assured this was not controversial and this would be taken care of. Nonetheless, this has occurred. There is no reason the Senate should not take up and consider this bill without further delay.

Again, had the representative of the majority stayed, I would have asked whether there was a time when they would expect to be ready for action. I will find other ways to ask the other side to work with me to pass the bill. I took the comments of the Senator from South Carolina in good faith that he has spoken to the leadership and that they are willing to work with us. I hope we can sit down and work this out as soon as possible to ensure that the U.S. Government accounts for what happened so many years ago.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

## THE CAROLINA PANTHERS

Mrs. DOLE. Mr. President, when Jerry Richardson founded the Carolina Panthers 9 years ago, he said his goal was to be in a Super Bowl within 10 years. After upsetting the Philadelphia Eagles recently, this dream has become a reality. But the dream is not over, of course. There is one more hurdle the Panthers must clear.

Today I salute Jerry, Coach John Fox, and the Panthers players for giving North Carolinians a season with a fairy tale ending. When Coach Fox arrived in 2002, the Carolina Panthers were 1 and 15. This turnaround has been nothing short of miraculous, and it is not just the fact that the Panthers have made it to the Super Bowl but how they got to Houston.

The Panthers are called the "Cardiac Cats" because 10 of their victories have been achieved by 6 points or less, and they have won 4 of their 5 overtime games this season.

All over the State, "Go Panthers" signs adorn buses, mailboxes, and cars, and those black and blue jerseys have become the fashion craze of the day. Even Coach Fox had to comment on the groundswell of fan support after about 10,000 of them—10,000, Mr. President—showed up on a blustery day as the team left for Houston. "It makes you proud," he said.

Charlotte Observer columnist Danny Romine Powell wrote recently:

> A team has transformed a city into Mount Olympus. We're eating ambrosia with the gods.

How true, indeed. I want the Panthers to know that this Senator is coming to Houston, and I can't wait to watch the "Cardiac Cats" shock the world with a victory. In fact, I have challenged my friend and colleague, Senator TED KENNEDY, to a friendly wager. I am putting up our famous North Carolina barbecue against his New England clam chowder.

I love something that Coach Fox tells his team each week. He says:

> We will define ourselves. No one else is going to do that for us.

It is a motto that stands true for all of North Carolina. Earlier this week, late night host David Letterman cracked:

> Who knew Carolina had a team.

I daresay that after Sunday the world will know.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMERICA'S INTELLIGENCE-GATHERING APPARATUS

Mr. DORGAN. Mr. President, this morning and part of this afternoon Mr. David Kay who was the top U.S. weapons inspector in Iraq until he resigned last week testified before the Armed Services Committee.

Mr. Kay has been interviewed extensively on media programs, including the "Today" show, and interviewed by Reuters, and others, so I have read a substantial amount of what he has said. And I listened today to his testimony, at least in part, before the Senate Armed Services Committee.

The debate that has gone on, and I suspect the debate that will ensue from his testimony today, will perhaps be a debate about whether the right decision was made when this country decided to embark on this mission in Iraq with United States troops, which has resulted in the elimination and removal of Saddam Hussein as President of that country. In many ways, I think that is not the most relevant debate to have at this moment. I think the debate to have at this moment is on what the implications of what Mr. Kay has said to us are for the safety and the security of this country, and what its implications are for the ability of this country to understand where dangers exist around the rest of the world, and where our national security is at stake.

Let me see if I can paraphrase some of what Mr. Kay has said. He told the Armed Services Committee that the failure to turn up weapons of mass destruction in Iraq has exposed weaknesses in America's intelligence-gathering apparatus.

Is there a time in which our intelligence-gathering apparatus has been more important to this country than this particular time?

In the shadow of 9/11/2001, with the prospect of terrorists wanting again to commit an act of terror in this country, we are required to accept the judgment of our intelligence community: the best intelligence we have available to us that this is a threat or that is a threat. Now Mr. Kay says that what we believed about Iraq's weapons was almost all wrong. And I certainly include myself here. And he says the intelligence community has failed, quote, unquote, the President.

Well, look, if the intelligence community has failed—and it seems clearly to have failed in a significant way—then it has failed not only the President of the United States, it has failed this Senate, and it has failed the people of the United States.

I, and all of my colleagues, have sat in the Intelligence Committee room here in the Senate. That very special room, which is designed for top secret briefings, is a room in which all of us have had top secret briefing after top secret briefing from CIA, from Condoleezza Rice, the National Security Adviser, and from others. In that room, eyeball to eyeball with our intelligence community, we have been told certain things that they believe to be true with respect to a threat—the threat from Iraq, the threat of weapons of mass destruction, and others.

If, in fact, there is a failure—and it appears to me that there is a failure; the top weapons inspector says there is a failure—if that failure exists—and it does—then it is a failure not just for the President of the United States, it is a failure for this country and for this Senate.

All of us, then, had been told, face to face by our intelligence community, what they expected to be the case in Iraq, and it turns out not to be the case.

Now, do people have a right to be wrong? Yes, they do. But we spend billions and billions and billions of dollars on intelligence, and if this country—in the aftermath of the terrorist attacks of 9/11, and confronting the prospect of future terrorist attacks—does not have an intelligence community that gives us great confidence, then we are in trouble.

I would think the President, and certainly this Congress, should demand to know what happened. We ought to seek answers. There has to be accountability. Where does the buck stop?

If, in fact, we have had a failure of our intelligence community—again, not my words, the words of Mr. David Kay, the top weapons inspector; words he uttered today before the Armed Services Committee, words he uttered in interview after interview—if there is, in fact, a failure, then we ought to demand immediately to understand: What was the failure? How did it occur? Whose responsibility was it? And, most importantly, how do we fix it on an urgent basis?

Let me read some of the quotes. I will not read the quotes from today's hearing because I do not have them all, although I was able to listen to much of the hearing.

But this is from Mr. Kay's appearance on the "Today" show, which I watched with great interest. He was asked on the "Today" show about the presentation before the United Nations of Secretary of State Colin Powell. As you know, we received top secret briefings, and then we received briefings in other venues from the Vice President, from Condoleezza Rice, and others in the administration. Following those briefings, the Secretary of State made a lengthy presentation to the United Nations, and he set out chapter and verse, including pictures and charts, of the threat that existed.

I want to read to you the question that was asked:

> Almost a year ago Secretary of State Colin Powell addressed the United Nations. Here's what he had to say.

Then they showed a tape of Secretary Powell at the U.N. saying, "[Our] conservative estimate [is] that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agents." The interviewer then asked Mr. Kay: "Is that conservative or is it just plain wrong?"

Mr. Kay responds: No, I think that was the estimate based on information and intelligence before the war. It turns out to be wrong, just wrong.

Next question: So what was the problem with the intelligence? Why were we so wrong?

Mr. Kay said: Well, don't forget, Iraq is not the only place we have been wrong recently. We have been wrong about Iran. We have been wrong about Libya's program. We clearly need a renovation of our ability to collect intelligence.

The question was asked: Here is what you said to Tom Brokaw: "Clearly the intelligence we went to war on was inaccurate, wrong. We need to understand why that was. If anyone was abused by the intelligence, it was the President of the United States rather than the other way around."

My point is simple: If anyone was abused in this country by bad intelligence, by inaccurate intelligence, it is not just the President, it is Members of the Senate who sat eyeball to eyeball with our intelligence officers and with those who run our intelligence community who told us what they believed to be the case, which turns out now not to be accurate. The American people were failed. The Senate was failed. To use another word Mr. Kay used, the President was failed.

So why is it the case that we don't see someone standing on the tallest stump saying: There is something wrong here. We need to get to the bottom of it, and now. This country's security depends on it.

Today somewhere someone is assessing intelligence picked up over telephone lines or computer transmittals or any number of ways to evaluate what is happening with terrorist cells. Where might they be planning to attack us. What might the attack be when they attempt to enter this country once again and kill Americans. Well, that same intelligence community that has been so wrong, according to Mr. Kay—and I think now according to most Members of the Senate who would assess that—are they the ones still analyzing this?

My question is where is the accountability? I think the President and the Congress ought to join together in a common bond and common interest to demand how this happened. There isn't any question that we ought to have a completely independent commission evaluating and studying and investigating this right now. There ought to be an independent investigation right now. I hope finally the Congress will do that.

Second, I believe next week, Mr. Tenet, Condoleezza Rice ought to be invited to the intelligence room and all 100 Senators ought to hear their response to this proposition that the intelligence community has failed us. This isn't a politician speaking. This is a top weapons inspector who just came from Iraq. This is Mr. Kay.

I remember when Mr. Kay was appointed with great fanfare. This is a straight shooter, a tough guy, no nonsense. He went to Iraq. He came back, and he finally quit. He said there weren't weapons of mass destruction. The intelligence was bad. The intelligence community failed this President. He forgot to say, failed this Congress and failed the American people.

I am telling you, whether it is tomorrow or next week or next month, this country's security and safety rest on good intelligence. If we have questions about an intelligence community that Mr. Kay says has failed us and if we don't, with great urgency, rush to find out what happened with an independent evaluation, shame on us.

This isn't about politics. It is about the safety of America. It is about being effective in the fight against terrorism. It is about having an intelligence community that works, that gets it right, and that doesn't fail this President or this Congress or this country.

I hope Senator FRIST and Democratic leader DASCHLE will ask Mr. Tenet to come to room 407 and address all 100 Senators and answer all of the questions of the Senators that stem from this testimony of the top weapons inspector who has said our intelligence community failed us. We ought to do that, and we ought to do it now. Days, weeks, or months should not go by without us having answers to this question. It is easy to be critical. It is much more difficult to be constructive. It is not being critical for Mr. Kay, the top weapons inspector appointed by President George W. Bush, to come to this Congress and tell the truth. When he tells the truth, we have a responsibility to follow that truth wherever it leads.

There are some here who don't want to do that. They are worried about politics. It doesn't matter who is President. We have an intelligence community on which we spend a great deal of money. In fact, the amount is classified information. The American people should trust me when I say we spend a substantial amount of money on intelligence. The security and safety of this country and the American people rests on our ability to make sure that money is spent wisely in an intelligence community that gets it right and provides good information to this country. We cannot any longer decide this is business as usual, one more hearing, one more set of questions that remains unanswered.

Saddam Hussein is gone, and the world is better for it. Saddam Hussein was a bad guy. We opened up football-field-sized graves in Iraq with tens of thousands of skeletons of people murdered by this regime. That is a fact. Saddam Hussein crawled into a rat hole. That says a lot about him. He is now in jail, soon to be on trial, perhaps soon to meet with the ultimate penalty. This is not about Saddam Hussein. This discussion is about whether this country is able to protect itself from a terrorist attack a month from now or a year from now. Do we have an intelligence community that gets it right? Mr. Kay seems to say no. That community has failed us. He says they have not just failed in Iraq, they have gotten it wrong in Libya and Iran. We need a renovation of our ability to collect intelligence.

Incidentally, Mr. Kay, former top weapons inspector of this President, said this morning he favors an independent commission to take a look at and investigate the failure of the intelligence community. I hope we will move with great haste to embrace that recommendation. It is not just his recommendation. Senator DASCHLE and others have made that same recommendation in the Senate.

We need to move with great urgency. This is about the safety and security of our country.

My colleague from Florida is on the floor and wishes to speak to an issue. Time is short. We have an urgent requirement to pursue this issue. I call on Senator FRIST next week to give all of us here in the Senate the opportunity to hear and question Mr. Tenet, head of the CIA, as well as Condoleezza Rice, National Security Adviser. We should have that opportunity because they, in top secret briefings, gave us information. They represented the intelligence, the community of intelligence and the assessment of the intelligence community prior to going to war in Iraq.

That assessment is what Mr. Kay refers to when he says there was a failure. The assessment that apparently was accepted—perhaps embraced, certainly embraced—by the Secretary of State when he went to New York and made his presentation to the United Nations was a failure of intelligence. I think the Secretary of State would want these answers. The President certainly needs these answers. He should demand it this afternoon. The Senate deserves these answers next week at the very latest.

I call on Senator FRIST to convene a meeting next week of the 100 Senators in our Intelligence Committee room so we can question and hear from the head of the CIA and the head of the National Security Council, Mr. Tenet and Ms. Rice. Mr. Tenet and Ms. Rice ought to present themselves, and we should begin this process of finding out what happened. Why did it happen. Who is accountable, and where does the buck stop.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Florida is recognized.

## NEW INFORMATION ON IRAQ'S POSSESSION OF WEAPONS OF MASS DESTRUCTION

Mr. NELSON of Florida. Mr. President. I express my appreciation to the Senator from North Dakota for the case that he has made, which has been very disturbing to us as two Senators, because the information we have received over the last several days causes us not only to scratch our heads but to shake our heads—that the intelligence we received in the secure rooms of this Capitol complex was either so faulty that we are in a considerable degree of vulnerability, that we are not getting accurate information upon which to defend this country, or that the information that was presented to us was faulty not because of the sources of that information and the analysis but there was some suggestion of coloring that information to reach a certain conclusion.

I think this is far beyond Republicans and Democrats. This is about defense of the homeland. This is about America. Just because this has come up in January of an election year, with Dr. Kay coming forth and telling us today in the Armed Services Committee that he concluded this last November, then it is sure time for us to get some answers for the protection of this country and its people.

I want to take this occasion to inform the Senate of specific information that I was given, which turns out not to be true. I was one of 77 Senators who voted for the resolution in October of 2002 to authorize the expenditure of funds for the President to engage in an attack on Iraq. I voted for it. I want to tell you some specific information that I received that had a great deal of bearing on my conclusion to vote for that resolution. There were other factors, but this information was very convincing to me that there was an imminent peril to the interests of the United States.

I, along with nearly every Senator in this Chamber, in that secure room of this Capitol complex, was not only told there were weapons of mass destruction—specifically chemical and biological—but I was looked at straight in the face and told that Saddam Hussein had the means of delivering those biological and chemical weapons of mass destruction by unmanned drones, called UAVs, unmanned aerial vehicles. Further, I was looked at straight in the face and told that UAVs could be launched from ships off the Atlantic coast to attack eastern seaboard cities of the United States.

Is it any wonder that I concluded there was an imminent peril to the United States? The first public disclosure of that information occurred perhaps a couple of weeks later, when the information was told to us. It was prior to the vote on the resolution and it was in a highly classified setting in a secure room. But the first public disclosure of that information was when the President addressed the Nation on TV. He said that Saddam Hussein possessed UAVs.

Later, the Secretary of State, Colin Powell, in his presentation to the United Nations, in a very dramatic and effective presentation, expanded that and suggested the possibility that UAVs could be launched against the homeland, having been transported out of Iraq. The information was made public, but it was made public after we had already voted on the resolution, and at the time there was nothing to contradict that.

We now know, after the fact and on the basis of Dr. Kay's testimony today in the Senate Armed Services Committee, that the information was false; and not only that there were not weapons of mass destruction—chemical and biological—but there was no fleet of UAVs, unmanned aerial vehicles, nor was there any capability of putting UAVs on ships and transporting them to the Atlantic coast and launching them at U.S. cities on the eastern seaboard.

I am upset that the degree of specificity I was given a year and a half ago, prior to my vote, was not only inaccurate; it was patently false. I want some further explanations.

Now, what I have found after the fact—and I presented this to Dr. Kay this morning in the Senate Armed Services Committee—is there was a vigorous dispute within the intelligence community as to what the CIA had concluded was accurate about those UAVs and about their ability to be used elsewhere outside of Iraq. Not only was it in vigorous dispute, there was an outright denial that the information was accurate. That was all within the intelligence community.

But I didn't find that out before my vote. I wasn't told that. I wasn't told that there was a vigorous debate going on as to whether or not that was accurate information. I was given that information as if it were fact, and any reasonable person then would logically conclude that the interests of the United States and its people were in immediate jeopardy and peril. That has turned out not to be true.

We need some answers, and I saw the ranking member of the Armed Services Committee ask the chairman for a further investigation into this matter. I heard the chairman say: I will take it under consideration.

I hope that is a positive sign and not a negative sign. We need to get to the bottom of this for the protection of our country. It is too bad this is coming up in the year 2004, which happens to coincide with the Presidential election, because people are going to immediately say this is partisan politics.

The fact is, this is the politics of the protection of our country, and we need some answers. I don't want to be voting on war resolutions in the future based on information that is patently false when everybody is telling me, looking me eyeball to eyeball, that it is true.

I am hoping, as the Senator from North Dakota has suggested, that we have a convening of the appropriate intelligence officials in the secure room and that members of the intelligence community, as well as members of the administration, will come and explain, in addition to what Dr. Kay has explained on the public record—which is revealing enough in itself—what, in fact, happened and how we are going to correct the process and the analysis of information so that we never have this kind of miscalculation and misinformation again.

Either the intelligence community's self-examination, its analysis was hugely faulty, or there were the hints at taking information and coloring it, called stacking the news and coming out with a conclusion that was wanted. I think we have to find out what happened.

It is not a question of whether or not Saddam Hussein ought to be gone. Thank goodness he is gone. That probably had a very salutary effect on the United States in that part of the world, that the United States will back up its intentions with force. But when the United States makes decisions about a preemptive war, a war now that has claimed the lives of over 500 American men and women, then we have to have a much higher standard of accuracy of the information upon which we make the judgments to send America's finest on to the battlefield.

I can tell you about all the soldiers from Florida who are now laid to rest. There are plenty of reasons I am raising these questions, but if for no other reason than to raise the questions for the mamas and the daddies and the spouses and the children of those soldiers. That is plenty justification enough. But the justification is much greater, and that is the justification of making sure we can protect ourselves in the future.

In a war against terrorists, our defense is only going to be as good as the information we receive to stop the terrorists. We had a colossal failure of intelligence on September 11, 2 years ago. We can't afford that kind of failure again. Yet we have just found out that when we were given the reasons for going to war, that was faulty intelligence. America can't afford too many more of these, for the protection of ourselves and our loved ones.

This is something of considerable concern to me personally. I know it is of considerable concern to the rest of the Senate. I hope the majority leader of this Senate, Senator FRIST, is going to listen to those of us in this Chamber who say that this request has nothing to do with politics. Let's get to the bottom of what is the truth and how we make sure that information in the future is true.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IMMIGRATION POLICY

Mr. CORNYN. Mr. President, I rise to say a few words about our Nation's immigration policy.

Early this month, I applauded President Bush by talking about his principles which he believes ought to be embodied in comprehensive immigration reform. The President spoke courageously and forthrightly, and I urge Congress to heed the President's call.

We must acknowledge the truth. We need to be honest. The fact is, we have done far too little to repair a system that calls out—indeed, a system that cries out—for reform. Our homeland security demands an accounting of the identities of an estimated 8 to 10 million individuals currently living illegally in the United States, including their reason for being here and allowing an informed judgment on whether they pose a danger to us. For those who are deportable criminals, that judgment must be swift and sure.

The truth is the vast majority of undocumented immigrants in this country are not here as drug dealers, violent criminals, or terrorists. Rather, they are here doing the best they can to work hard so they can provide for their families. We can no longer deny the sheer number of undocumented individuals or the extent of our economy's dependence on the labor that they provide, nor can we ignore the horrible costs that many of these individuals pay when it comes to human smuggling.

In the wake of 9/11, much of the increased enforcement effort that we have made in terms of our border security has succeeded in blocking off the easiest transit points along our border, but that only means they resort to more remote and dangerous areas to cross, and sometimes with deadly results.

These individuals are also relying more on human smugglers, known as coyotes. Hundreds of undocumented individuals have died in the past 2 years. An immigration policy that ignores the reality of human suffering and death cannot be tolerated in a humane society.

For too long, the political extremists have dominated the debate about immigration. There are those who say they want to build a wall around our country, and others, on the other end of the spectrum, who cry for unconditional, complete amnesty. But both of these extremist proposals are unrealistic, and they leave many problems unanswered. What America needs instead is a comprehensive and fundamentally strong immigration system that bridges the gap between our economic and security needs. I believe a comprehensive, commonsense guest worker program is a critical first step toward fixing our immigration policies and adapting to modern realities. That is why last summer I introduced the Border Security and Immigration Reform Act of 2003. I urge my colleagues to educate themselves about the contents of this bill and to recognize that we must act to bring our broken immigration system into the 21st century.

Here are the key elements of my proposal. We need immigration reform. I believe we need an immigration system that will put homeland security first. Any reform of our immigration laws must be able to distinguish between the benign and the dangerous. Our law enforcement resources, limited as they are, must be able to be focused and dedicated to hunting down the real threats to our Nation, whether they are the smugglers, the drug dealers, or the terrorists, not simply those who are merely looking for a better life for themselves and their loved ones.

Currently, the whereabouts of 80,000 criminal alien absconders, aliens who have been convicted of a felony and ordered deported, is simply unknown to our Government. They vanished and we don't know where they are. They are running free within our borders.

In addition, we don't know the whereabouts of hundreds of thousands of other undocumented aliens who are under final orders of deportation. They simply have no other appeal, they are under final orders to leave, and they simply, again, melted into America.

This must change. Our immigration authorities must be given not only adequate funding and resources but adequate priorities as well. They must be allowed to spend more time on those who are a threat to us and not just those who come here to perform work that Americans by and large will not perform. Ignoring the problem—something we have done for some time now—won't solve any of our border security or immigration problems, and it will not make our Nation any more secure. Identifying, detaining, and deporting real threats to our Nation and our families will.

Second, my bill will help bring millions of current undocumented immigrants out of the shadows and under the rule of law and onto the tax rolls. Under my proposal, guest workers will no longer fear the authorities but, rather, will come to see the law as an ally and not as an enemy. This, in turn, will help protect immigrants from exploitation and violence and help end the death dealing of human smugglers. We must bring these workers out into the open, out of the shadows, out of the cash economy, and onto the tax rolls, which I believe will ultimately help restore respect for the rule of law.

Third, our immigration system must give a real incentive for undocumented workers who come to this country to work on a temporary basis. It must give them a real incentive to ultimately return to their home country. I believe my proposal is unique in this respect—something we call "work and return." My proposal gives undocumented immigrants a real reason to come out of the shadows, to work within the law, to be accounted for, and then to return to their homes and their families in their home country, with the pay and the skills they acquire as guest workers in the United States.

In my recent visit with government leaders in Mexico City, I was repeatedly told that Mexico wants, indeed Mexico needs for its young, energetic risk takers and hard workers ultimately to come back home, and particularly to come back home with the capital and savings and the skills that they acquire when they work in the United States. They need these people to come back to their home country and to buy a house, to start a business, so that these small business owners, these potential entrepreneurs, can help strengthen the middle class in countries like Mexico. But our current immigration policy fails to give undocumented immigrants any real incentive to make a return to their home country.

Of course, I have mentioned Mexico, but this would hold true for many other countries that would also be covered by this program.

The fact is, there will be no end to illegal immigration across our southern border without economic recovery south of the border. Those of us in America cannot afford for our southern border to remain a one-way street.

Guest workers should, yes, be allowed to come out of the shadows and register for a program that will allow them to transit back and forth across the border in a way that they do not have to turn their lives and their fortunes over to coyotes and human smugglers. But ultimately real reform would make sure that these guest workers, after working here temporarily in the United States, must return to their country of origin.

President Bush called us to this task in his State of the Union speech just a couple of weeks ago now. I believe we in Congress have a duty to confront this challenge. We should hide our head in the sand no longer. We cannot, in my view, simply ignore the fact that there are literally hundreds of thousands of people under final orders of deportation. There are 80,000 criminal alien absconders currently loose in this country, and our law enforcement authorities simply don't know where they are. But as for those who are not a threat, those who want nothing more than the opportunity to work temporarily and return to their homes with the savings and the skills they need in order to have a better life in their home country, I believe we must move these temporary workers out of the shadows. We must at the same time ensure the security of our borders. We must restore respect for our law, and we must bring our broken immigration system into the 21st century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In 1999, a 37-year-old man was the target of a brutal anti-gay attack on a cruise ship off the California coast. The victim was assaulted in a hallway of the ship by two other passengers who called him a "faggot" several times. He sustained injuries including a broken nose, three skull fractures around his eyes, chipped teeth and multiple contusions.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ENFORCING U.S. IMMIGRATION LAWS

Mr. LEAHY. Mr. President, we all agree that among the things we learned from the September 11 attacks was that we need to do a much better job of enforcing our immigration laws. While no system is foolproof, we should at least make it as difficult as possible to evade our border controls and enter this country illegally.

In doing so we must also be sure that we protect the rights and dignity of innocent travelers, to ensure that those who have every right to come to this country are able to do so with a minimum of delay and difficulty. We must also ensure that we do not betray our historic commitment to asylum, a dedication to provide refuge to those who flee oppression.

Since September 11, we have thwarted some illegal immigrants, although we do not know how many of them, if any, sought to come here to commit acts of terrorism. But we have also read about instances where innocent people were swept up by our border patrol agencies, and subjected to unnecessary and humiliating treatment.

These abuses not only damage the individual, but they damage our image around the world. As a result, people who would otherwise travel to the United States, as tourists, students, or for business, are deciding against coming out of fear that because of their race, or ethnicity, or nationality, or just because of the chance of a mistake, they might be mistreated or imprisoned.

Today I want to call attention to two cases. The first case involves Ms. Antje

Croton, a German citizen married to an American school teacher from Brooklyn, whose ordeal was described in the January 21, 2004 edition of the New York Times.

Ms. Croton encountered a nightmarish immigration fiasco as she and her infant daughter tried to re-enter the United States after spending the holidays in Germany. The New York Times called Ms. Croton's ordeal "Kafkaesque." There is no better word for it.

Concerned that her travel permit had expired in July, Ms. Croton visited a Department of Homeland Security, DHS, office in New York City before leaving the country for Germany on December 9, 2003. After talking to officials there, she was assured that her permit was valid through April 2004. Believing her documents were in order, Ms. Croton left for Germany.

Upon her return, Ms. Croton was told by an immigration official at the airport in New York that her travel permit had expired, and that she could not enter the country. With her infant daughter, Ms. Croton was interrogated until 2 a.m. and told she was to be put on the next plane back to Germany, all without informing her husband, who was waiting in the terminal.

At one point, Ms. Croton and her daughter were taken to a room where a dozen individuals, including some who were suspected of transporting drugs and illegal firearms, were being held. After several more hours of back and forth, immigration officials finally gave Ms. Croton the option of leaving the airport if she bought a return ticket that left for Germany within 30 days.

Ms. Croton and her husband spent the next 30 days negotiating layers of byzantine immigration rules and regulations in an effort to resolve her case before she was forced to depart. Even with the help of elected officials and immigration lawyers, the couple was getting nowhere. It was only after an inquiry from a New York Times reporter that the DHS began to pay attention.

The second case involves Sonam, a 30-year-old Buddhist nun whose plight was recounted in the January 27, 2004 edition of the Washington Post. Sonam, who goes by only one name, was detained at Dulles International Airport last August after arriving from Nepal.

After her father was arrested and tortured, Sonam fled from her native Tibet, controlled by China, to Nepal 3 years ago. She reached Nepal by walking for 8 days across mountainous territory. She then fled Nepal last summer, after the government there began returning Tibetan refugees to China, where they face prison and torture.

Sonam was granted asylum by a United States immigration judge last November, but the DHS immediately appealed the ruling and refused to release Sonam from custody during the pendency of the appeal. As a result, she may spend years in a local jail outside Richmond where she has been detained. In this jail, she is housed among common criminals and is unable to communicate with anyone because she does not know English.

The DHS defends its punitive policies toward asylum seekers on the grounds that it is concerned that terrorists may manipulate the asylum process. It strains belief to imagine that the DHS believes that a nun from Tibet with no knowledge of English or history of violence, whom a U.S. Government official has found deserving of asylum, is a potential terrorist.

Even Asa Hutchinson, the DHS Undersecretary for Border and Transportation Security, told the Post that "[e]ven a well-balanced policy can get out of kilter on an individual case because someone has exercised poor judgment." It is clearly the case here that someone at DHS is exercising poor judgment, and Secretary Ridge or Undersecretary Hutchinson should do something to rectify this injustice.

There is no question that securing our borders from international terrorists, criminals, and illegal immigrants is one of the most important responsibilities of the Federal Government. We are more aware of this today than ever before.

But this does not give DHS a license to act in a bureaucratic and heavy-handed manner, which is precisely how it appears they behaved in these cases.

Border security involves striking a balance. Instead of wasting time and resources scaring and harassing a German woman and her baby or a Tibetan nun, who pose no threat to the security of the United States, DHS should be focused on stopping real terrorists and criminals. Moreover, in the Croton case, an immigration official told Ms. Croton that her paperwork was in order before she left the United States.

Thanks to the New York Times and others, the Croton case may be headed for a happy ending. But this is an instance where the victim spoke English, is married to an American, and is a citizen of a nation that is a close ally of the United States.

What if this had involved someone who spoke little or no English? What if the person in question were not married to an American citizen? What if the media and elected officials had not been aware of it, and had not gotten involved? I suspect the individual would have been deported, even though their only offense was listening to the advice of an immigration official.

Meanwhile, the outcome of the Sonam case remains unclear, and unless the DHS acts, she can expect to spend most if not all of 2004 behind bars.

There are probably dozens, if not hundreds of other cases, of would-be immigrants and asylum seekers that do not have happy endings that we do not know about. Even one case like this is too many. Immigrants are responsible for the diversity of cultures, ideas, and practices that make up our society. We have an important responsibility to help those attempting to come to this Nation legally.

Equally important, we have an interest in treating immigrants fairly and with respect. Poor treatment of legal immigrants squanders goodwill that the United States spends billions of dollars each year—through foreign aid, international exchanges, and public diplomacy programs—to cultivate.

To be sure, we want our DHS officials to do their jobs effectively. We have to make sure that people entering this Nation are doing so legally, and are not a threat to the United States. But, we also have to make sure that DHS officials act in a fair and professional manner.

I hope that the DHS is reviewing what went wrong in these cases, and taking whatever steps are necessary to prevent it from happening again. I ask unanimous consent that the New York Times and Washington Post articles be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 21, 2004]

### Trip Home From Europe Becomes Kafkaesque Ordeal

(By Nina Bernstein)

A German woman married to a Brooklyn schoolteacher had been told that she had all her papers in order when she took a quick trip to show off her infant daughter to her parents in Germany.

But her return home in late December turned surreal and terrifying when Homeland Security officials at Kennedy Airport rejected her travel documents, confiscated her passport, then detained her and the 3-month-old overnight in a room with shackled drug suspects. They let her go only after ordering her to leave the country no later than tomorrow.

After a month of desperate efforts by her American husband, their lawyers and legislators, late yesterday a spokeswoman for the Homeland Security Department said that the woman, Antje Croton, 36, would be granted a last-minute reprieve. But Mrs. Croton said she had received no written notification. "I'm in a nightmare," she said as she packed yesterday afternoon, having abandoned hope of straightening out the problem. "I feel like I'm in the wrong movie."

Her husband, Christopher Croton, said the couple was not convinced their ordeal was over. "The experience has been like trying to open a door to a room that does not exist," Mr. Croton said. "That's the irony here. My German-born wife has to come here to experience this wall of, just The State."

He pointed out that other foreigners with fewer resources have been caught in the same kind of bureaucratic confusion ever since the Immigration and Naturalization Service was absorbed by the Department of Homeland Security last year.

Mrs. Croton has lived in Park Slope for five years, and her application for a green card has been pending for nearly two. When her sister urged her to visit Germany, she wanted to take no chances. So in October, she said, she asked immigration officials at 26 Federal Plaza about getting a new travel permit.

According to her account, an immigration official, C.E. Herndandez, insisted that her old permit was still valid, though it had a July expiration date, because it bore a stamp saying "April 2004." Reassured, Mrs. Croton departed on Dec. 9. "I did everything by the rules," Mrs. Croton said.

But on Dec. 22, when she returned to Kennedy Airport at 9 p.m., exhausted after a 10-hour trip alone with her baby daughter, Clara, front-line border security officers barred her way. They said the immigration official had been wrong: the July 2003 expiration, not the April 2004 stamp, applied, and she could not enter the United States.

They interrogated her until 2 a.m., she said, as she wept, tried to nurse her baby and pleaded with officials to call her husband, who was waiting without word in the terminal.

Mrs. Croton, who has worked for an ad agency in Hamburg and as a journalist in New York, and who recently started her own Internet business as a handbag designer, said she was astonished that the official questioning her had to struggle to enter her replies in an archaic computer, hunting and pecking and calling for help to save the document file.

"Then this man says, 'We are going to put you on the next plane going back home.'"

"I said, 'This is my home,'" recalled Mrs. Croton, who has lived in the same apartment with her husband since before they were married in 2001.

She was then taken from the airport's terminal 1 to terminal 4, she said, to a fluorescent-lit room where a dozen detainees included a man who had been carrying an illegal gun and several suspected drug couriers in shackles.

"I couldn't even spell my name anymore," Mrs. Croton said. "Nobody who hasn't had a little infant and traveled on a long-distance flight can understand. I said, 'I need to lie down. I'm shivering, I'm exhausted, I'm nursing.'" But she said an officer retorted: "Stop crying. There were other people here with kids, and it's not going to get you anywhere."

The most humane response, Mrs. Croton added, came from the low-level worker who had driven her from one terminal to the other. Learning that the mother had no diapers left for her baby, the driver returned with three toddler-sized disposable diapers, the only ones she could find.

In the morning, a supervisor told Mrs. Croton that she had to board a plane to Germany, but she refused, fearing for her health and the baby's. She was then offered another option: to buy a ticket for a flight to Germany leaving within 30 days, with no guarantee she could ever return.

The couple hoped to straighten out the mess before her forced departure, but the red tape seemed impervious. Two weeks ago, the couple went back to see Ms. Hernandez at Federal Plaza, and she again told Mrs. Croton that her travel document was still valid until April.

When told what had happened at the airport, other officials said that without Mrs. Croton's confiscated passport and file, their hands were tied. They were at an impasse until an inquiry by a reporter for The New York Times to Janet Rapaport, a spokeswoman for the Border Security section of Homeland Security.

That resulted in a flurry of activity. Ms. Rapaport said yesterday that a decision had been reached by Susan T. Mitchell, director of New York field operations for Customs Enforcement and Border Security, based on a review of Mrs. Croton's file. Mrs. Croton would be allowed to stay and pursue her green card application. "I guess for humanitarian reasons," Ms. Rapaport said.

"I want to believe it," Mrs. Croton said. "But they tell me I can stay, and then I stay, and then what if they tell me I'm a real lawbreaker?"

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[From Washingtonpost.com, Jan. 27, 2004]

## GRANTED ASYLUM, NUN HELD IN VA. JAIL

### TIBETAN ENTANGLED IN POST-9/11 CAUTION

(By David Cho)

HOPEWELL, VA.—Sonam always feared her devotion to Buddhism would land her behind bars in her native China. As it turns out, she is serving a long term in jail—not in East Asia but in central Virginia.

The 30-year-old Buddhist nun, who grew up in a Tibetan village near the foot of Mount Everest, fled to the United States in August after family members had been tortured and friends jailed for their faith, she said. But when she arrived at Dulles International Airport and requested asylum, federal immigration officials detained her and placed her in the local jail in this small city outside Richmond.

Sonam, who is known by that one name, has been here ever since except for a brief visit in November to a court room in Arlington where a federal immigration judge granted her asylum. But even as she was hugging her attorney in celebration, the lawyer from the Department of Homeland Security announced that she was appealing the case.

Sonam was then shackled and returned to her cell, where she waits for their next court date, which is likely to be in the fall at the earliest, her attorney said.

Sonam is among thousands of asylum seekers who have fled persecution in their homelands only to be jailed in the United States, a new report by the New York-based Lawyers Committee for Human Rights shows.

By law, the Department of Homeland Security detains all asylum seekers who arrive without proper documents. But since the Sept. 11, 2001, terrorist attacks, federal immigration officials have also been denying parole to those immigrants and appealing rulings in their favor, a practice that can keep them locked up for years, according to the report, which monitored the department's activities for a year and details scores of cases, including Sonam's.

Homeland Security officials deny they are trying to keep asylum seekers behind bars, although they acknowledge that long incarcerations occur. They say they are reviewing their practices in responses to the report and are tallying statistics on how many asylum seekers have been detained, refused parole or seen their cases appealed.

"Even a well-balanced policy can get out of kilter on an individual case because someone has exercised poor judgment," said Asa Hutchinson, the Homeland Security Department's undersecretary for border and transportation security.

At the same time, he and others say their is concern that a terrorist could slip into the country under the guise of an asylum request.

"People who come here may have no legitimate [reason]. They are here for economic reasons or for criminal reasons and have been trained to assert asylum," Hutchinson said.

"That requires us to be careful and . . . sometimes it makes people more skeptical of asylum cases than they should be."

Last week, during an interview at the Riverside Regional Jail, Sonam spoke of her journey to the United States that began with a desperate, eight-day walk to Nepal across snow-capped mountains and ended with her first ride on an airplane, which frightened her so much she couldn't look out the window.

Sonam Singeri, a Tibetan working for Radio Free Asia who has befriended Sonam, was at the interview to translate. As soon as Sonam walked into the visitors' room and saw Singeri, she collapsed into her arms and sobbed uncontrollably.

"It's so lonely. It's so hard. Why is this happening?" she cried out, Singeri said.

Sonam told a story of flight and fear. She said her father has been jailed in Tibet and tortured with electric shock. She described hiding from police patrols as she made her way across the Himalaya Mountains to Nepal, where she lived for three years.

But even there, she said, she worried about her safety. In May, the Nepalese government began to round up Tibetan refugees and send them back to China, where they were sure to face prison and torture, she said.

Even after asylum seekers such as Sonam have convinced immigration judges that they are bona fide and pose no threat, Homeland Security lawyers continue to press appeals in many cases, the Lawyers Committee for Human Rights report says.

"They are indefinitely detaining asylum seekers who have already been granted relief, who present no risk, who have often been tortured in their home countries," said Archi Pyati, who works in the lawyers committee's asylum program.

"We are sending a message that in the United States . . . we don't hope that asylum seekers find their way here because if they do they will find themselves in a very difficult situation and in prolonged detention."

Immigrants seeking asylum in this country must prove not only their identities but also that they are in danger in their native countries.

Sonam's case was appealed because she did not have enough documentation to back up her story, according to a brief filed by Homeland Security attorney Deborah Todd. The fact that Sonam lived in Nepal for three years indicated that she could have safely stayed there and did not need to come to the United States, Todd argued in her appeal.

Asked to comment, a spokesman for Homeland Security said the department does not talk about ongoing cases.

Sonam said she had no way to get identity documents in Nepal because the government does not recognize refugees from China. She feared that she would be deported to China along with other Tibetans who were being sent back at the time. So she sought a way to get to the United States.

Using the money she had made as a seamstress before she joined her monastery in Nepal, Sonam booked a flight through Calcutta to Dulles.

After she was jailed in Virginia, her attorney, who has taken the case pro bono, twice asked the Department of Homeland Security to release her from detention, arguing that Sonam poses no danger. But immigration officials denied both requests without much explanation, according to Sonam's attorney.

The hardest part of Sonam's life these days is that she cannot speak or understand the language of the inmates or guards. (She is also illiterate in her native Tibetan tongue.) She has not been able to have a conversation with anyone since her hearing in November and wept as she recounted her seemingly endless days of silence and isolation in jail.

"I live in a prison but always in my mind. I hold onto a picture of His Holiness [the Dalai Lama] in my heart," she said. "This prison has become my monastery."

An hour into the interview, a guard tapped the window of the visitors' room. It was time to go.

Sonam shed a few more tears. It might be months before her next conversation. She hugged Singeri again and then followed the guard back to her part of the jail where she does not speak, cannot understand anyone and where she waits in her prison within a prison.

## DAVID KAY INTERVIEW

Mr. VOINOVICH. Mr. President, during the past several days, there has been a great deal of discussion regarding comments made by David Kay, who until just recently led our search for weapons of mass destruction in Iraq.

There are some who have said that statements made by Mr. Kay indicate that there was no reason to take military action to address the threat posed by Saddam Hussein. I believe this is, at best, a misunderstanding of his statements. Mr. Kay clearly believes that removing Saddam Hussein from power was the right thing to do.

It is in this context that I would like to take this opportunity to share with my colleagues an interview that Mr. Kay gave yesterday morning, in which he outlines his thoughts on the dangers presented by Saddam Hussein.

When asked whether it was prudent to go to war, Mr. Kay responded:

> I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

I believe it is helpful to review his comments in their entirety, and as such, I ask unanimous consent that the following interview be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the NBC Today Show, Jan. 27, 2004]

Anchor: Matt Lauer

David Kay, former head of Iraq survey group, discusses searching for weapons of mass destruction in Iraq.

MATT LAUER, co-host. The Bush administration now says it needs more to determine if Iraq had weapons of mass destruction; this after retired U.S. weapons inspector David Kay concluded that Saddam Hussein had no such weapons.

David Kay, good morning. Good to have you here.

Mr. DAVID KAY (Former Head Of Iraq Survey Group). Good morning, Matt.

LAUER. There are some people who say you spent eight months scouring the country of Iraq for stockpiles of weapons of mass destruction, chemical, biological, nuclear, and because you didn't find them, they make a blanket statement. And that is there US administration misled the American people building a case for war. Is that a fair statement?

Mr. KAY. I think it's not fair, and it also trivializes what we did find and the problem we face. The problem we face is that before the war not only the US administration and US intelligence, but the French, British, Germans, the UN, all thought Saddam had weapons of mass destruction. Not discovering them tells us we've got a more fundamental problem.

LAUER. But if you didn't find stockpiles of chemical, biological or nucear weapons, does that mean they never existed, or does it mean they may have been moved out of Iraq prior to the war?

Mr. KAY. Well, we've certainly dealt with the possibility of moving, and we did that by trying to look to see if there was any signs of their actual production in the period after '98. And we really haven't found that. I think they were—there's a little evidence that large weapon stockpiles were moved. A lot of other stuff may well have been moved.

LAUER. So when you heard reports leading up to the war, and it's a—unclear where the—where the source of these reports came from, but that Iraqi troops had been given chemical and biological weapons. And they were prepared to use them against advancing US forces. And they could deploy them within 45 minutes, untrue in your opinion?

Mr. KAY. There's no evidence that they are true at this point in time.

LAUER. Let me play you a clip from the president's State of the Union address a year ago.

President George W. Bush (from file footage): "Year after year, Saddam Hussein has gone to elaborate lengths, spent enormous sums, taken great risks to build and keep weapons of mass destruction."

LAUER. In technical terms, was that an inaccurate statement?

Mr. KAY. Inaccurate in terms of the reality we found on the ground now. I think it was an accurate statement, given the intelligence the president and others were begin given then.

LAUER. But also accurate in your opinion because in truth Saddam Hussein did spend enormous amounts of money to develop chemical and biological weapons, but according to your report he just didn't get what he paid for.

Mr. KAY. Well, that was in part the—true. There are a tremendous amount of con—corruption there and lying that went on there. Saddam spent huge efforts at these weapons programs, no doubt about that.

LAUER. So when you say lying, his scientists, or people were coming to him saying, "I can develop chemical and biological weapons for you for the right amount of money." They were taking the money, in your opinion, and not delivering?

Mr. KAY. And not delivering, and reporting back successes that they were not having. That was quite common down there.

LAUER. So when you spoke to Iraqi scientists, what did they tell you about the active weapons program in the year leading up to the war?

Mr. KAY. They describe from 1998 on a Iraq that was descending into the utter inability to do anything organized. Corruption was there. They couldn't get the equipment. Money was wasted. People weren't really concerned about working, they were concerned about money.

LAUER. But the intent was there?

Mr. KAY. Absolutely. And the intent at the top, of Saddam to acquire those weapons and to continue to attempt to acquire those was absolutely there.

LAUER. Almost a year ago Secretary of State Colin Powell addressed the United Nations. Here's what he had to say.

Secretary of State Colin Powell (from file footage): "Conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent."

LAUER. Conservative, or just plain wrong?

Mr. KAY. No, I think that was the estimate based on information and intelligence before the war. It turns out to be wrong.

LAUER. So what—what was the problem with the intelligence? Why were we so wrong?

Mr. KAY. Well, Matt, I think that is the challenge now. And I think the tendency to say, "Well, it must have been pressure from the White House is absolutely wrong." In some ways I wish it had been pressure. It would be easier to solve the problem. We now have to look—and people forget, Iraq is not the only place we've been wrong recently. We've been wrong about Iran, and we've been wrong about Libya's program there. We clearly need a renovation of our ability to collect intelligence.

LAUER. Here's what you said to Tom Brokaw. "Clearly the intelligence that we went to war on was inaccurate, wrong. We need to understand why that was." But you went on to say, "I think if anyone was abused by the intelligence, it was the president of the United States, rather than the other way around."

Mr. KAY. That's abso—absolutely my belief. I think, in fact, the president and all of us were reacting on the basis of an intelligence product that painted a picture of Iraq that turned out not to be accurate once we got on the ground.

LAUER. You find—you found that in—in 2000 and 2001 Saddam Hussein did actively try to develop and start a nuclear program?

Mr. KAY. He was putting more money into his nuclear program. He was pushing ahead his long-range missile program as hard as he could. Look, the man had the intent to acquire these weapons. He invested huge amounts of money in them. The fact is, he wasn't successful.

LAUER. In terms of the missile program alone, you feel that it's obvious and—and undisputable that he violated UN resolutions by developing weapons, missiles, that had a range outside of those UN resolutions?

Mr. KAY. Absolutely, Matt. We—we have collected dozens of examples of where he lied to the UN, violated Resolution 1441, and was in material breach.

LAUER. So based on the information that you have, David, not what we had prior to the war, but you have, in your opinion, was it prudent to go to war? Was there an imminent threat?

Mr. KAY. I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

LAUER. Do—do you feel that—you know, you've come out and started saying these things in the last couple of days, do you feel your words are being misused and misinterpreted in the political atmosphere that exists today?

Mr. KAY. I think there is a tendency, at this time to say, "Got you!" and try to do politics. It think this is national security, and far more important than momentary political gain. I hope that's now what's happening.

LAUER. If you spend eight months looking and didn't find anything, Dick Cheney says, "In time we could probably find it." You still think we should continue to search?

Mr. KAY. Absolutely. I think the inspection should continue because among things we don't know enough about are the foreign countries that helped the Iraqis throughout this period to acquire the missiles, to develop the nukes, to develop the chemical and biological. We need that for no other reason. And sure, we should keep looking.

LAUER. And as we move forward and we look at countries like Iran, which you brought up, and North Korea, how well suited do you think we are by our intelligence in those areas at this date?

Mr. KAY. I think based on the evidence we have now, we are not as suited as well as we need to be. And I think that is the challenge, not the political 'Gotcha!' contest.

LAUER. David Kay.

David, good to have you here.

Mr. KAY. Good to be here.

## SUSAN BOARDMAN RUSS

Mr. LEAHY. Mr. President, I often come to this floor to thank various staff for their long, tireless and often anonymous work on behalf of the U.S. Senate and the 100 Senators who serve here. But it is not often that I come down here to acknowledge a public servant who has made such an incredible contribution to this institution and our shared State of Vermont.

Today, I would like to honor the 25 years of service of Susan Boardman Russ, who has served Senator JEFFORDS and the people of Vermont with extraordinary distinction.

Vermont is a small place. I have known Susan most of her life. Her father delivered two of my three children.

Over the years, I have watched her grow with a mixture of awe and admiration. Susan is brilliant, articulate, and has always kept her eyes focused on what is best for Vermont.

Senator JEFFORDS is to be commended for recognizing her talent early on and for keeping her in the fold this long. While Susan has moved with her husband and beautiful daughter to Houston, TX, I know she will always be a Vermonter at heart.

Recently, one of Vermont's finest journalists, Christopher Graff, wrote a beautiful tribute to Susan. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SUSAN RUSS STEPS DOWN AS JEFFORDS' CHIEF OF STAFF

(By Christopher Graff)

MONTPELIER, VT. (AP)—Susan Boardman Russ was 14 years old, handing out campaign literature at the old Seaway Shopping Center in South Burlington for her Uncle Bob Boardman, who was running for the state Senate from Chittenden County.

The year was 1968.

Her school friend, Kathleen McGreevy, was handing out flyers for her uncle, Jim Jeffords, who was running for attorney general.

"My uncle was Democrat and hers was a Republican, but that did not matter much to two 14-year-olds," says Russ.

"Soon, we were efficiently sharing the load. To everyone I handed a Democratic Bob Boardman flyer I also handed a Republican Jim Jeffords flyer and she did the same."

Both Boardman and Jeffords were winners that year, their two nieces began a lifelong friendship and Russ' life became intertwined with Jeffords' political career.

In 1972 she worked during the summer on Jeffords' unsuccessful bid for governor and on "the night of his primary defeat I swore I would NEVER participate in another election," she says. "I was 18 and heartbroken."

That loss, though, was a minor setback for Jeffords, who went on to win the state's lone seat in the U.S. House in 1974 and moved to the U.S. Senate in 1988. Every step of the way Susan Russ has been there, starting as his front office manager in 1978, then four years later as his administrative assistant in the House office and finally as chief of staff of his Senate office.

Now, 35 years after she handed out her first Jeffords' flyer and 25 years after she went to work in Washington, Russ is leaving.

"It's been a perfect relationship," says Jeffords, adding that the two of them were a "great combination."

"Her ability to understand me, her common sense and her instincts to keep us out of trouble have been remarkable," he says.

The accolades come from all corners: Sen. Patrick Leahy, D-Vt., calls Russ "a Vermont treasure. For 25 years she has devoted her life to working for Senator Jeffords to make the lives of Vermonters better." In the small world department, Leahy noted that Russ' father delivered two of Leahy's children.

Sen. Harry Reid, D-Nev., the No. 2 Senate Democratic leader, also has high praise for Russ, whom he first met through Russ' husband, Jack, who served as sergeant at arms in the House when Reid and Jeffords served there. Reid says Susan Russ was especially "politically savvy" in a job that required it.

"Chief of staff is a unique position because you need to have that political savvy, plus you have to a good manager of people, you have to recognize talent, and you can't be afraid to tell the senator when you think he or she is wrong," says Reid.

"I believe I have been blessed with having the best job imaginable and the most interesting job tolerable," says Russ. "I have had a front row seat to some of the most challenging moments in Washington for the past two and a half decades."

When Jeffords first went to Washington he was a little-known congressman from a tiny state who was a member of the minority party. Today he is one of the best-known senators in the world, achieving celebrity status with his decision in 2001 to abandon the GOP and become an independent, a decision prompted by opposition to the politicies of President George W. Bush.

Russ says at the time she opposed Jeffords' decision although she knew that "Jim was clearly miserable.

"It was not because of any long held political or philosophical beliefs that I resisted Jim switching," she says, but that Jeffords had a long history with the Republican members and leadership. "We knew the GOP family—who to trust—who not to trust.

"It is my nature to try to keep things smooth, no rocking the boat. This would surely rock the boat.

"With nearly three years since the decision behind me, I do realize that for Jim, it was the only decision he could have made."

Asked to pick her favorite legislative experiences, she says there have been too many to do so, but mentions the 1985 Farm Bill with its whole herd buyout from among the House experiences and the several victories with the dairy compact from among the Senate years.

"Each time, no one really believed it was possible but Jim refused to throw in the towel," she says.

Luke Albee, Leahy's chief of staff, gives Russ credit for extension of the compact. "She was focused and tenacious and she said to us every day when we were exhausted and dispirited, 'This is going to happen because it has to happen.' "

Russ has no hesitation in what she treasures the most from her decades in Washington: How Jeffords stood by her and her husband when Jack Russ, then the House sergeant at arms, was swept up in a federal probe into how congressmen misused the House bank.

"It would have been understandable for Jim the politician to try and distance himself from the House Bank Scandal," she says. "By 1994, when Jim was facing a difficult reelection race, Jack had come to represent the 'scandal' in a very public way. Jim never hestitated in his support." Russ says the tone of Washington and the intensity of the battle have changed dramatically since 1978.

"Members of different parties used to have intense battles over issues on the floor of the House or Senate and when it was over go out and have dinner together. They never went into each other's districts to help challengers. There was a general sense of camaraderie that does not exist anymore between members of the two parties."

Russ is moving to Texas to be closer to her husband's family. She has formed her own firm to advise businesses and non profits on the ways of government. She hopes the move will allow her to keep a hand in government but allow her more time to spend with her family.

Russ leaves Washington painfully aware that "politics is not a game for the meek," but more importantly, "I learned when all is said and done, you have to live with yourself and your decisions, so you better do what you think is right and let the chips fall where they may."

## SAUDI ACCOUNTABILITY ACT

Mr. FEINGOLD. Mr. President, I rise to comment on S. 1888, the Saudi Arabia Accountability Act of 2003, introduced by Senator SPECTER. I commend my colleague for his leadership on this issue. Combating terrorism is our highest national security priority at this time, and I have long had concerns regarding Saudi support for terrorist groups. While the administration has stated that the Government of Saudi Arabia has recently increased its cooperation with the United States, and while I do believe that last week's joint U.S.-Saudi announcement regarding Al-Haramain branches in Pakistan, Indonesia, Kenya and Tanzania is a positive step, it remains evident that the Saudi Government has often turned a blind eye to many activities that foster terrorism and, in some cases, Saudi leadership appears to have supported terrorism directly. This bill serves to exert pressure on Saudi Arabia to increase its counterterrorism efforts or to face limited sanctions. Cutting the links between terrorist organizations and their sponsoring governments is one of the most crucial tasks in the fight against terrorism, and I support the goals of this legislation.

However, the legislation raises other concerns that must be carefully considered by Congress. I am concerned that the legislation demonstrates the degree to which we, as policymakers, wear blinders in our relationship with Saudi Arabia. The legislation expresses dissatisfaction with the Government of Saudi Arabia solely for their lack of cooperation on the global war on terrorism. But Congress must not fail to mention the government's repression of women, grand-scale corruption, widescale detentions, and restrictions on freedom of expression and assembly. I fear that these omissions risk sending the wrong message about U.S. foreign policy priorities to the Middle East and other areas of the world. U.S. foreign policy objectives of promoting human rights and democracy must not be neglected while combating terrorism. These do not have to be contradictory goals. Even as we urge the Saudi Government to act more decisively and consistently against terrorism, we must ensure that the U.S. does not inadvertently encourage repression of desperately needed reforms in Saudi Arabia. Only by addressing both sets of issues can we achieve a future in which the U.S. relationship with Saudi Arabia stands on a firm footing.

The national security implications of failing to speak out bluntly about Saudi support for terrorism prompted me to cosponsor S. 1888. However, I hope that the Senate Foreign Relations Committee will take the opportunity to address some of these issues I have raised.

## THE INTERNATIONAL FUND FOR IRELAND

Mr. LEAHY. Mr. President, I see the Senator from Maryland on the floor, an important member of the Foreign Operations Subcommittee, and I am under the impression that she would like to discuss an issue concerning the International Fund for Ireland, IFI, with Senator MCCONNELL and myself.

Ms. MIKULSKI. I thank the Senator, who, like me, is a strong supporter of the International Fund for Ireland. As the Senator from Vermont knows, peace and reconciliation efforts in Northern Ireland, under the Good Friday Agreement, will be assisted by efforts to build community institutions that promote tolerance and cooperation at the local level. I very much appreciate IFI's investment in these types of programs in Northern Ireland and the border counties of Ireland. I want to particularly commend IFI for the grant awarded to the Community Foundation for Northern Ireland, formerly the Northern Ireland Voluntary Trust. I would urge IFI, where appropriate, to increase its investment in these community-building efforts, as they are an important complement to IFI's economic development efforts.

Mr. LEAHY. I thank the Senator from Maryland. I also believe that IFI should consider increasing its support for these types of programs.

Mr. MCCONNELL. I agree with what the Senators from Maryland and Vermont have said concerning IFI and the Community Foundation for Northern Ireland.

## RECOGNIZING PAUL M. IGASAKI, FORMER VICE CHAIR, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. DURBIN. Mr. President, I recognize Paul Igasaki, a Chicago native, for his contributions to the important work of advancing our civil rights. Mr. Igasaki has dedicated his entire professional career to ensuring justice for the powerless in our society who are often neglected and ignored.

In his most recent years of public service as a commissioner, vice chair, and acting chair of the U.S. Equal Employment Opportunity Commission, EEOC, Mr. Igasaki not only enforced laws that helped prevent employment discrimination practices, he himself broke the glass ceiling as the first Asian American appointed to the high office.

Mr. Igasaki was successful in reducing overwhelming case backlog that was impairing the effective functioning of the agency. His recommendations led to the development of the National Enforcement Plan and the Priority Charge Handling Program, which have reduced the EEOC case inventory by over 70 percent. These structural changes have allowed the agency to focus on more serious cases where the EEOC's involvement can make a difference to the lives of American workers.

Similarly, Mr. Igasaki cochaired an EEOC task force that recommended focused litigation strategy, placement of attorneys in area offices, and greater cooperation between attorneys and investigators in agency, which have led to increased law enforcement effectiveness of the agency.

One of his most notable accomplishments during his term on the EEOC was his role in guiding the settlement of the Mitsubishi Motors of America case—the largest case involving sexual harassment at the workplace. His success with this case was influential in moving the Japanese government to implement gender discrimination and sexual harassment enforcement laws for their own country.

In the aftermath of the September 11th terrorist attacks, Mr. Igasaki brought valuable perspectives from his personal experiences as a Japanese American to the EEOC's efforts to combat unfair backlash and scapegoating of Arab Americans, South Asian Americans, Muslim or Sikh Americans and others who were wrongly targeted by hate and discrimination.

Mr. Igasaki mother's family owned a small truck farm near San Diego. Like thousands of other Japanese Americans, Mr. Igasaki's grandparents had been in the United States for almost a half century, and like most immigrants they were proud and loyal Americans. Yet, following the devastating attacks at Pearl Harbor, Mr. Igasaki's family was subject to harassment around town and at school. One day, the FBI showed up at their home, and without warning, warrant or explanation, they took his grandfather into custody. His family would not know where he was, what his condition was or why he had been taken for several months. They relied on community rumor, knowing that other Japanese Americans had been arrested for no apparent reason.

When our government issued the relocation orders for Japanese Americans, Mr. Igasaki's family had two weeks to give up the farm and nearly all of their property. Only in the horse stall that the family shared in the relocation center at Santa Anita Racetrack did they find out that Mr. Igasaki's grandfather was arrested because he was the secretary of the local Celery Growers Association and because he had taken some notes of their meetings in Japanese. Their family eventually reunited when they were sent to a more permanent camp in Arizona where they were held for the duration of World War II.

Having experienced the pain and injustice of such treatment based on no reason other than their ethnic ancestry. Mr. Igasaki's became a passionate voice of conscience in the months following the September 11th attacks. His voice comforted all Americans who faced discrimination at the workplace because of their ancestry or appearance, and the work of the EEOC was that much more important because of Mr. Igasaki's presence.

His voice has also been an important one in the development of the national Asian American civil rights movement. Mr. Igasaki has served as the Washington, DC, representative of the Japanese American Citizens League, executive director of the Asian Law Caucus, and executive director of the City of Chicago's Commission on Asian American Affairs.

A more detailed list of Mr. Igasaki's accomplishments is described in a resolution that the national board of the

Japanese American Citizens League recently adopted. I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION IN APPRECIATION OF AND COMMENDING PAUL M. IGASAKI FOR HIS SERVICE ON THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Whereas, Paul M. Igasaki served our nation on the Equal Employment Opportunity Commission (EEOC) with distinction for eight years from 1994 to 2002;

Whereas, Mr. Igasaki was initially nominated by President Clinton and confirmed by the United States Senate in 1994, served as Acting Chairman from January to October 1998 and was confirmed for a second term as Vice Chair on October 21, 1998;

Whereas, Mr. Igasaki was the first Asian Pacific American to serve in these positions at the EEOC;

Whereas, Mr. Igasaki was the architect of the EEOC's strategy for handling job discrimination charges more efficiently which resulted in the prosecution of egregious cases of discrimination and a reduction in charge inventory by more than 50%;

Whereas, Mr. Igasaki sought support for and the approval of the EEOC's historic FY 1999 budget increase for this important but under-funded agency;

Whereas, Mr. Igasaki endeavored to ensure equal employment opportunities through his work as a Commissioner at the EEOC as well as by promoting diversity in hiring at all levels of the agency—in the Washington, DC headquarters and in the regional offices;

Whereas, Mr. Igasaki's outreach to historically underserved communities and his understanding of the harm of ethnic profiling made him an invaluable resource at the EEOC, promoting an environment which allowed those affected by employment discrimination in the aftermath of the horrific attacks on 9/11 to report their cases;

Whereas, Mr. Igasaki was recommended for another term at the EEOC by Senate Democratic Leader Tom Daschle in May 2002;

Whereas, despite Mr. Igasaki's notable achievements and years of dedicated service as a committed and competent public servant at the EEOC, the White House declined to nominate him for another term;

Whereas, failing to be renominated, Mr. Igasaki's term expired, and he left the EEOC at the end of 2002;

Whereas, Mr. Igasaki has a long and distinguished track-record of working on important civil rights issues through such organizations as the Asian Law Caucus, the City of Chicago's Human Relations Commission, the Chicago Commission on Asian American Affairs and the American Bar Association;

Whereas, Mr. Igasaki has also been a longtime member of the JACL, having served as the President of the Chicago chapter and as the Washington, DC Representative where he worked on the Civil Rights Act, immigration reform and was a crucial voice in implementing the Civil Liberties Act of 1988 and the Office of Redress Administration;

Whereas, Mr. Igasaki has always maintained a staunch commitment to and involvement in the Asian Pacific American community and the issues facing our community;

Whereas, Mr. Igasaki has received numerous professional and personal accolades for his achievements;

Therefore be it resolved that the National Board of the Japanese American Citizens League (JACL) on behalf of the entire organization highly commends Paul M. Igasaki for his years of dedicated service at the Equal Employment Opportunity Commission and extends our deepest gratitude to him for his work on behalf of all Americans to combat discrimination in the workplace;

Be it further resolved that the Japanese American Citizens League recognizes and appreciates the considerable contributions made by Paul M. Igasaki as an advocate for civil rights and role model for the Asian Pacific American community;

Be it further resolved that the Japanese American Citizens League thanks Paul M. Igasaki for his tireless efforts to promote and defend civil rights, civil liberties and equality before the law.

Mr. DURBIN. I urge my colleagues to join me in recognizing the important achievements of Mr. Paul Igasaki, and wishing him well in his future efforts to advance civil rights of all Americans.

## ADDITIONAL STATEMENTS

### HAROLD "TUBBY" RAYMOND'S INDUCTION INTO COLLEGE FOOTBALL HALL OF FAME

• Mr. CARPER. Mr. President, I rise today in recognition of Harold Raymond upon his induction into the College Football Hall of Fame. After 36 seasons as the University of Delaware's head football coach and 48 years in the Blue Hen program, he has earned a reputation for talent, dedication, and loyalty. Known to friends and colleagues as "Tubby," he is a man with a kind heart, diverse interests and great abilities. Tubby embodies the best of the State of Delaware, the University of Delaware, and the institution of coaching.

In a coaching career that has spanned 10 United States presidencies, Tubby led the Blue Hens to three national championships, 16 NCAA playoffs and 14 Lambert Cups. He is one of nine college football athletes to win 300 games and one of just four who accomplished that feat at one institution. He also led his team to three national championships. In his charge, the Blue Hens won more than 50 percent of Delaware's 575 all-time victories in 100 seasons of intercollegiate competition. He retired with a breathtaking record of 300–118–3.

Raymond, a native of Flint, MI, was a quarterback and linebacker at the University of Michigan. It was there, playing for Coach Fritz Crisler, that Raymond learned the Wing-T offense, which he later implemented at Delaware. He has written five books on the subject, as well as producing several instructional videos.

Tubby began coaching in 1949 as an assistant football coach at University High in Ann Arbor, MI. In 1950, he earned a degree in education from the University of Michigan and became head coach at University High.

In 1954, Tubby arrived in the First State, serving as both football backfield coach and head baseball coach for the University of Delaware. In 1966, he took the reins from Dave Nelson as UD's head football coach. Since then, his teams have produced 32 winning seasons.

Over the years, Raymond had offers to coach at Syracuse, Maryland, Arizona, Iowa and Army. Marv Levy twice tried to hire him, once when Levy was coaching at the University of California and again when he was with the Kansas City Chiefs. But Raymond was content to stay with what he calls his "family" at Delaware.

On August 29, 2002, his "family" paid tribute to him when they celebrated Tubby Raymond Day. Completing the eventful night game in style, the Fightin' Blue Hens, under the direction of new head coach K.C. Keeler, defeated NCAA Division I-AA powerhouse Georgia Southern 22–19 before an electrified crown of over 19,000. At halftime in the game, with the Hens holding a 14–6 lead, the Delaware Stadium playing field was formally named Tubby Raymond Field. Less than 16 months later, the Blue Hen team that Tubby helped to recruit and then turned over to his successor K.C. Keeler went on to defeat Colgate 40–0 in the finals of the NCAA's Division I-AA football playoffs, making the Blue Hens national champions for 2003.

Tubby epitomizes the University's emphasis on developing student-athletes, too. Throughout his tenure, he encouraged his players to succeed in the classroom as well as on the football field. He will tell you that he is as fiercely proud of those who succeed in careers off the gridiron as he is in those who succeed in the NFL.

Tubby's legacy will never be forgotten by those he touched, the players he coached, and the students he inspired. On behalf of all of them and those of us who call Delaware home, I want to thank him for his leadership, congratulate him on a remarkable coaching career and wish him and his family only the very best in all that lies ahead for him and for them.•

### TRIBUTE TO JIM WOLFE

• Mr. BIDEN. Mr. President, I rise today to honor a true business leader and long-time friend in my State of Delaware, Jim Wolfe. Many of us in public office talk about creating good-paying jobs and fighting for the middle class. Jim Wolfe has lived those goals throughout his professional career.

For the past 11 years, Jim Wolfe has led the Chrysler, now the DiamlerChrysler Automobile Assembly Plant in Newark, DE. Tomorrow, he is hanging up his hat as plant manager to take the helm as president and CEO of the 2,800-member Delaware State Chamber of Commerce.

As plant manager of Delaware's DiamlerChrysler plant, which is home to the popular, award-winning Dodge Durango, Jim orchestrated a dozen overhauls of the facility to retool it for new car models. More significantly, he oversaw the re-training of thousands of workers to upgrade their skills.

The DiamlerChrysler plant in Delaware is one of only a few U.S. auto facilities remaining on the East Coast. It is an economic engine in Delaware, employing more than 2,300 people and contributing $363 million annually to our State's economy. The financial domino effect goes even further: one auto worker creates another 1.6 jobs in other industries, such as transportation, retail services, and labor.

Jim Wolfe is no stranger to the Delaware State Chamber of Commerce. For the past year he has served as Chairman of the Chamber's independent Board of Directors. He is a long-time member of the Chamber's Board of Directors and Executive Committee, as well as serving as Chairman of the Delaware Manufacturing Association.

On a personal note, Jim has been a great and trusted friend and advisor to me for many years. I have visited with him and his workers at the Newark DiamlerChrysler Plant more times than I can count, and he always gave it to me straight. When the facility was in jeopardy of closing in the early 1990s, he counseled me on how to help save this manufacturing gem for our State, which we accomplished.

Jim is a 40-year employee of Chrysler. We stole him from his native Michigan, but he and his wife Laura are now part of the Delaware family.

Jim's stature in the business community has been earned and is well-deserved. He will bring a hands-on knowledge of the business world to his new position directing the Chamber's many affiliates, including the Manufacturing Association, the Delaware Retail Council, The Public Policy Institute, and the Small Business Alliance.

DiamlerChrysler's loss is truly the Delaware State Chamber of Commerce's gain. But we all win because we'll continue to benefit from Jim's affable personality, skilled business acumen and foresight as a community leader in Delaware.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT OF PRESIDENTIAL DETERMINATION 2003-39 RELATIVE TO CLASSIFIED INFORMATION CONCERNING THE AIR FORCE'S OPERATING LOCATION NEAR GROOM LAKE, NEVADA—PM 60

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

*To the Congress of the United States:*

Consistent with section 6001(a) of the Resource Conservation and Recovery Act (RCRA) (the "Act"), as amended, 42 U.S.C. 6961(a) notification is hereby given that on September 16, 2003, I issued Presidential Determination 2003-39 (copy enclosed) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination 2003-39 exempted the United States Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons. Information concerning activities at the operating location near Groom Lake has been properly determined to be classified, and its disclosure would be harmful to national security. Continued protection of this information is, therefore, in the paramount interest of the United States.

The determination was not intended to imply that, in the absence of a Presidential exemption, RCRA or any other provision of law permits or requires the disclosure of classified information to unauthorized persons. The determination also was not intended to limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake except those provisions, if any, that might require the disclosure of classified information.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 28, 2004.*

## STATEMENT OF JUSTIFICATION RELATIVE TO THE AUSTRALIA GROUP CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION REGIME—PM 61

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

Consistent with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, I hereby certify pursuant to Condition 7(C)(i), Effectiveness of the Australia Group, that:

Australia Group members continue to maintain equally effective or more comprehensive controls over the export of: toxic chemicals and their precursors; dual-use processing equipment; human, animal, and plant pathogens and toxins with potential biological weapons applications; and dual-use biological equipment, as that afforded by the Australia Group as of April 25, 1997; and

The Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of April 25, 1997.

The factors underlying this certification are described in the enclosed statement of justification.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 28, 2004.*

## MESSAGE FROM THE HOUSE

At 12:45 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1385. An act to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issued a special postage stamp to benefit breast cancer research.

H.R. 3493. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 610. An act to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

The message further announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002), amended by Division P of the Consolidated Appropriations Resolution, 2003, and the order of the House of December 8, 2003, the Speaker reappoints the following Member on the part of the House of Representatives to the United States-China Economic and

Security Review Commission: Ms. June Teufel Dreyer of Coral Gables, Florida, for a term to expire December 31, 2005.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1385. An act to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research; to the Committee on Governmental Affairs.

H.R. 3493. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nominations beginning Brigadier General Roger P. Lempke and ending Colonel James P. Toscano, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Air Force nomination of Col. James E. Hearon.

Air Force nomination of Maj. Gen. Thomas L. Baptiste.

Air Force nomination of Maj. Gen. Donald J. Wetekam.

Navy nomination of Capt. Ann D. Gilbride.

Navy nominations beginning Capt. Jon W. Byless, Jr. and ending Capt. William H. Payne, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2003.

Navy nomination of Rear Adm. (lh) Fenton F. Priest III.

Navy nomination of Rear Adm. (lh) Paul E. Sullivan.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning Paul V. Bennett and ending Victoria G. Zamarripa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 26, 2003.

Air Force nominations beginning Nelson * Arroyo and ending Paul D. * Sutter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning James J. * Baldock IV and ending Brian K. * Wyrick, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning Kimberly L. * Arnao and ending James M. Winner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning David H. * Adams, Jr. and ending James A. * Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning Laurie A. Abney and ending Deedra L. * Zabokrtsky, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning John T. Aalborg, Jr. and ending William A. Zutt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Army nominations beginning Stephen G. Beardsley III and ending Patrick O. Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 17, 2003.

Army nominations beginning John R. Angelloz, Jr. and ending Michael C. McDaniel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Army nomination of James R. Ward.

Army nomination of Michael K. Vaughan.

Army nominations beginning David S. Feigin and ending John E. Hartmann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Joseph L. Craver and ending William Hann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nomination of Carol Ann Mitchell.

Army nominations beginning Carol A. Bossone and ending Curtis M. Klages, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Daniel G. Rendeiro and ending Diane K. Patterson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Michael T. Endres and ending James A. Chervoni, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Navy nominations beginning Tab E Austin and ending Sabrina M Stedman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Navy nominations beginning Albert A. Alarcon and ending Jeffrey W. Winters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 21, 2003.

Navy nominations beginning Craig L. Abraham and ending Sarah L. Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 2034. To establish 3 memorials to the Space Shuttle Columbia in the State of Texas; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DEWINE, Mrs. CLINTON, Ms. MURKOWSKI, Mr. ALLEN, Mr. SMITH, Ms. LANDRIEU, Mr. REID, Mr. LAUTENBERG, Mr. PRYOR, Mr. KERRY, Ms. CANTWELL, Mrs. LINCOLN, Mr. AKAKA, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mrs. MURRAY, Mr. DORGAN, Mr. JOHNSON, Mr. BINGAMAN, Mr. DAYTON, Mr. KENNEDY, Ms. MIKULSKI, and Mr. NELSON of Nebraska):

S. 2035. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN:

S. 2036. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2037. A bill to transfer administrative jurisdiction of a parcel of real property comprising a portion of the Defense Supply Center in Columbus, Ohio, and for other purposes; to the Committee on Armed Services.

By Mr. BAYH (for himself, Mr. CRAIG, Ms. LANDRIEU, and Mr. DURBIN):

S. 2038. A bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2039. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto; to the Committee on Armed Services.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CRAIG, Ms. STABENOW, Mr. SCHUMER, Mr. JEFFORDS, Mr. SPECTER, Mrs. CLINTON, Mrs. BOXER, Ms. COLLINS, Mr. CRAPO, Mr. DAYTON, Ms. SNOWE, Mr. DOMENICI, Mr. COLEMAN, Mr. LEAHY, and Mrs. FEINSTEIN):

S. Res. 293. A resolution expressing the sense of the Senate that the President and United States Trade Representative should ensure that any future free trade agreements do not harm the dairy industry of the United States; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. ALLEN , Mr. AKAKA, Mr. PRYOR, Mr. KERRY, Mr. NELSON of Nebraska, Mr. DODD, Mr. DAYTON, Ms.

MIKULSKI, Mr. GRASSLEY, and Mr. COCHRAN):

S. Res. 294. A resolution designating January 2004 as "National Mentoring Month"; to the Committee on the Judiciary.

By Mr. SMITH (for himself, Mr. BIDEN, and Mr. ALLEN):

S. Con. Res. 87. A concurrent resolution welcoming the Prime Minister of Turkey to the United States; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1108

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1108, a bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1189

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1189, a bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001.

S. 1335

At the request of Mr. GRAHAM of Florida, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1345

At the request of Mrs. MURRAY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1345, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1484

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1484, a bill to require a report on Federal Government use of commercial and other databases for national security, intelligence, and law enforcement purposes, and for other purposes.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1588, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 2034. To establish 3 memorials to the Space Shuttle Columbia in the State of Texas; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, today in honor of the memory and sacrifice of seven astronauts whose lives were tragically cut short one year ago in the destruction of the Space Shuttle Columbia, I bring to the floor a bill to authorize the construction of several memorials in communities that were severely effected by the event.

This bill authorizes $5 million to be used in communities along the Space Shuttle Columbia Recovery Corridor: specifically, Lufkin, Hemphill, and Nacogdoches, TX. Each of these communities have started work with NASA to memorialize the disaster and the indomitable spirit of adventure and courage, the spirit that defies complacency and accepts challenge, the spirit that each of these astronauts, and each of these communities showed.

This spirit of adventure turned space travel from dreams to a reality. It is this spirit of challenge which fueled the courage and ambition of seven men and women into the sky on January 6, 2003. It is also this same spirit that drives these communities to permanently commemorate the high price we sometimes pay for reaching new horizons.

Hemphill, TX, where the nose cone of the Shuttle was found, is also where the remains of the crew were recovered. The VFW post in Hemphill fed thousands of volunteers for weeks without so much as a complaint or a dime. The men and women of Hemphill did not take their task lightly, but rather with a solemn grace and dignity.

The greatest amount of debris came down in the populated areas of Nacogdoches, TX. Backyards and streets were littered with debris, permanently altering the community. The citizens of Nacogdoches pulled together and focused on the recovery, working day and night with NASA until the job was complete. A spirit of courage overran the community of Nacogdoches and their sacrifice should never be forgotten.

The population of Lufkin, TX doubled overnight as the retrieval effort started. The people of Lufkin opened their doors and hearts to thousands and made their civic center NASA's Columbia retrival command center. From combing the streets and fields for debris to making home cooked meals for the recovery workers, the people of Lufkin mustered around the Columbia tragedy.

In recent years, America has borne too much tragedy and experienced too much grief, but our collective loss still sears our souls and the pain is never easy to bear. Today, just one year after they vanished into the deep blue skies of Texas, we pause to remember and honor Rick Husband, Kalpana Chawla, Laurel Clark, Ilan Roman, William McCool, David Brown, and Michael Anderson.

And though the families' losses cannot be diminished, their pain and grief is shared around the world and our prayers are with them. This bill will memorialize their sacrifice and will honor the courageous spirit of the communities effected. Their sacrifices will never be forgotten.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2034

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Columbia Space Shuttle Memorials Act of 2004".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MEMORIAL.—The term "memorial" means each of the memorials to the Space Shuttle Columbia established by section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

**SEC. 3. MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.**

(a) ESTABLISHMENT.—There are established as units of the National Park System 3 memorials to the Space Shuttle Columbia to be located on the 3 parcels of land in the State described in subsection (b) on which large debris from the Space Shuttle Columbia was recovered.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of E. Hospital Street and N. Fredonia Street, Nacogdoches, Texas;

(2) the parcel of land owned by Temple Inland Inc., located 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas; and

(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas.

(c) ADMINISTRATION.—The memorials shall be administered by the Secretary.

(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas related to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act $5,000,000 for fiscal year 2004, to remain available until expended.

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By Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DEWINE, Mrs. CLINTON, Ms. MURKOWSKI, Mr. ALLEN, Mr. SMITH, Ms. LANDRIEU, Mr. REID, Mr. LAUTENBERG, Mr. PRYOR, Mr. KERRY, Ms. CANTWELL, Mrs. LINCOLN, Mr. AKAKA, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mrs. MURRAY, Mr. DORGAN, Mr. JOHNSON, Mr. BINGAMAN, Mr. DAYTON, Mr. KENNEDY, Ms. MIKULSKI, and Mr. NELSON of Nebraska):

S. 2035. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

Mr. SMITH. Mr. President, I rise today to join my colleagues in cosponsoring the National Guard and Reserves Reform Act for the 21st Century.

I am proud of Oregon's citizen-soldiers, and I firmly believe we need the Guard and Reserves more today than we have in decades. Forces of the United States National Guard and Reserves make essential and effective contributions to Operation Iraqi Freedom and other ongoing military operations. Oregon units have been on the vanguard of these operations.

While our dependence on the reserves has increased, their basic pay and benefits structure remained largely unchanged until last year. Through a strong bipartisan effort Congress passed a bill to extend TRICARE benefits to National Guard and Reservists. We need to assure our military that as we continue to support their readiness capabilities, we remember the personal well-being of Oregonians in uniform as well as that of their families.

This bill will improve the medical readiness of our Reserve and Guard forces, increase recruiting and retention, and offer faster and less cumbersome mobilizations. Healthier citizen-soldiers make our military more effective. As we continue the war on terror, we need a healthy and motivated fighting force. This legislation will work toward that end.

The Guard and Reserves in my State have selflessly responded to the call of our country, and we cannot forget that part-time soldiers have full-time health needs. In order to ensure our citizen-soldiers are healthy when they are needed, I urge my Congressional colleagues to pass this bill to continue health care coverage to our Reservists and Guardsmen.

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By Mrs. FEINSTEIN:

S. 2036. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Jose Buendia Balderas, Alicia Aranda De Buendia and Ana Laura Buendia Aranda, Mexican nationals who live in the Fresno area of California.

I have decided to introduce legislation on their behalf because I believe this family is deserving of an exception.

Firstly, an immigration judge has granted the family relief, only to have that decision overturned by the Board of Immigration Appeals. Immigration Judge Polly A. Webber heard that Jose Buendia and his wife, Alicia Aranda de Buendia, should be granted cancellations of removal under the Immigration and Nationality Act. In her decision, Immigration Judge Webber stated that she felt that the Buendias 9-year-old son would face exceptional and extremely unusual hardship if the family was deported from the United States.

The immigration judge's decision was based on testimony taken from Jose and Alicia Buendia, as well as Alicia Buendia's sister, who is a lawful permanent resident. The immigration judge found that if the Buendia's son "wanted to go to school in Mexico past sixth grade, he would have major obstacles in being able to do so, which the Court can only take as extreme hardship in terms of 2-hour transportation that may or may not be available, separation from parents, perhaps having to live in a strange environment with strange people, moving away from his relatives in the United States . . . being subjected to substandard health care, economic instability, and poor living conditions."

Unfortunately, the Board of Immigration Appeals overturned the immigration judge's decision. In a one paragraph decision the Board of Immigration Appeals concluded "that the respondent failed to establish the required hardship to his United States citizen son, who was age 9 at the time of the hearing." That one sentence was the basis for overturning an immigration judge's decision.

Secondly, Mr. Buendia attempted to legalize his immigration status but was not successful due to an unscrupulous lawyer and a misinterpretation by the Immigration and Naturalization Service concerning applicants eligibility to apply for legalization under the 1986 amnesty law.

Because Mr. Buendia has been in this country for so long, he qualified for legalization pursuant to the Immigration and Reform Control Act of 1986. Unfortunately his legalization application was never acted upon.

One reason it was not acted upon is because his attorney, Jose Velez, was convicted of fraudulently submitting legalization and Special Agricultural Worker applications. Because of the criminal conviction, all of Mr. Velez's applications were suspect. Although Mr Buendia's application under the legalization program was found not to contain any fraudulent documentation associated, here began his problems.

Mr. Buendia's legalization application was flagged under Operation Desert Deception, a large-scale investigation which targeted providers of fraudulent applicants and documentation under the legalization and Special Agricultural Workers program. Dozens of people, including INS officers, were convicted of legalization fraud, bribery or tax evasion. At the time of filing Mr. Buendia's application with the Immigration and Naturalization Service the attorney, Jose Velez, was under investigation.

Although Mr. Buendia qualified for legalization because he arrived in the United States prior to January 1, 1982 he was not able to attend his interview in 1990 due to the investigation into his attorney.

Thirdly, it took the Immigration and Naturalization Service nearly 7 years to make a finding concerning his case. He was originally scheduled to be interviewed in June of 1990 on his application for legalization. The official Memo to File by the Immigration and Naturalization Service determining Mr. Buendia's application contained no fraudulent information was not posted until January 1997.

Fourthly, in the intervening years another problem arose. An interpretation by the Immigration and Naturalization Service as to the application of the law to legalization cases such as Mr. Buendia's. Because Mr. Buendia departed the United States in 1987 to marry his wife in Mexico, the Immigration and Naturalization Service stated he was no longer eligible for legalization when it again reviewed his application in 1997. This issue was litigated in CSS v. Meese and Mr. Buendia was a class member in this lawsuit. Unfortunately this lawsuit provide unhelpful to Mr. Buendia because the end result of the litigation was a much more limited class of eligible applicants.

Finally, and of substantial importance, this family has been here for 17 years and built a life here. The Buendias own property, are hard workers, are community minded and have two children in school—one of whom is a U.S. citizen.

Mr. Buendia is a valued employee of Bone Construction. He has been employed by this cement company for the past 5 years. He has proven himself, rising to become a lead foreman. His employer, Timothy Bone, says Mr. Buendia is a "reliable, hardworking and conscientious" employee.

Mr. Buendia has an exemplary work history. From 1981 to 1989 he worked for Ascension Hernandez as a landscaper in League City, TX. Thereafter he moved to Las Vegas, NV where he continued to work in landscaping. In 1990 he and his family settled in Reedly, CA where he began working in construction. Knowing nothing about construction, having a background in landscaping, Mr. Buendia was disciplined and persistent in his training and is now a lead foreman for a cement construction company. Mr. Buendia is such a hard worker that he even has his own cement company, which he works on weekends.

Alicia Buendia, Jose Buendia's wife, works as a seasonal fruit packer. Cliff Peters, the owner of Wildwood Orchards where Alicia Buendia worked during the 2003 season, says she is "a hard worker, dependable, and consistently did a good job." He added that work would be available to her on an ongoing seasonal basis. Mrs. Buendia has worked as a seasonal fruit packer for several years.

Their daughter, Ana Laura, is in the 10th grade at Reedley High School where she has earned a 4.0 GPA which shows she is a highly motivated student. An important consideration in this case is that Ana Laura was brought to the United States by her parents when she was only 2 years old. Ana Laura, who will be 16 years old this year, has known no other country than the United States. She believes she is an American. But now she is told she must return to Mexico, a country she has never lived in.

The Buendia's son, Jose, who was born in the United States, is in 8th grade. Like his sister, this is the only country he knows.

Ana Laura and Jose's elementary school principal speaks highly of not only the children but the Buendias. This even though the children are now in high school. Mary Ann Carousso, principal, says in an e-mail to my office, "I can tell you that I have rarely met 2 more active, concerned, supportive parents than Alica [sic] and Jose Buendia! . . . I don't think they ever missed a parent club meeting." Principal Carousso also says that "Both Jose and Alicia continued to help at our school for several years after their youngest child had graduated . . . Jose, Sr. frequently hauled chairs across a dark parking lot at 9:00 p.m. at night following a parent club meeting . . . He often talked about what parents should be doing to help the school out so that excess money didn't have to be spent on simple construction projects. Alicia is a mom who just never says no to requests for help." With that type of endorsement it seems to me we should be thankful to have such involved parents in our communities.

This family has embraced the American dream, and I believe they should be allowed to continue to live in this country. If this legislation is approved, the Buendias will be able to continue to make significant contributions to their community and the United States. It is my hope that Congress passes this private legislation.

I ask unanimous consent numerous letters of support our office has received from members of the Reedley community be printed in the RECORD.

There being no objection, material was ordered to be printed in the RECORD, as follows:

BONE CONSTRUCTION, INC.,
*Fresno, CA, December 16, 2003.*

Senator DIANNE FEINSTEIN,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

Thank you for responding to Jose and Alicia Buenda's tragic story. Simply, in my judgment the Immigration and Naturalization Service has run amok in regards to Jose's persistent effort to properly be granted citizenship. And, consequently, he and Alicia are being treated outrageously unjust and ordered to be deported from Bakersfield on December 31, 2003 for no legitimate reason, leaving behind their two children without parental guidance and financial support. Personally, I am embarrassed by "the system's" total disregard for the Buenda family and failure to recognize their "rights" and exemplary citizenship. The Buenda's story is a tragedy and someone should be held responsible.

Jose has been employed with Bone Construction Inc., for the past four years. He is a gentleman and model employee who has earned the position of lead foreman. He and his family enjoy our benefit package of health insurance and a retirement plan. He possesses a valid social security number, work visa and driver's license. And he has requested the appropriate withholding taxes. Simply, he is self directed and a leader in our organization with a very promising future.

Your response is urgently being anticipated. Jose has turned to me for counsel. He is obviously terrified by the order of deportation and does not know what to do in regards to compliance. For sure, he does not want to be a fugitive. We are working feverishly to find a compassionate ear and immediate assistance. We are praying for a Christmas miracle.

Respectfully,

TIMOTHY F. BONE.

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WILDWOOD ORCHARDS,
*January 9, 2004.*

Re Alicia A. Buendia.

To Whom It May Concern: Alicia Buendia worked in the Wildwood Orchards packing shed during the 2003 season. She earned approximately $10.00 per hour packing fresh fruit on a piecework basis.

She was a hard worker, dependable, and consistently did a good job. Work would be available to her on an ongoing seasonal basis.

Sincerely,

CLIFF PETERS,
*Owner.*

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From: Mary Ann Carousso <carousso-m@kingscanyonusd.k12.ca.us>
To: <shelly abajian@feinstein.senate.gov>
Date: Tuesday, January 6, 2004
Subject: Jose & Alicia Buendia

Good morning, Shelly.

First, here is the information you wanted on the children.

(1) Ana "Laura" Buendia, Grade 10, Reedley High School (John Campbell, principal).

Biology with Tony Rocella

Drama 2 with Erin Bray
French 2 with Gail Hutchinson
PE with Pablo Saenz
Tutorial with Pablo Saenz
Video Prod. with Noe Camacho
English with Jennifer Moore
Geometry with James Rudometkin

Jose "Alex" Buendia, Grade 8, Grant Middle School, (Bill Wachtel, principal).

Homeroom with Lynn Mann
Science with Eric Thiessen
Algebra with Lee Bull
Reading/Writing with Jean Crawford
PE with Rick Furlong
Computer with Kristie Bartlett
Academic Skills with Monica Benner

Secondly, I promised to give you some notes on the conversation we had last night. Both Laura and Alex attended elementary school here at Jefferson School, where I am the principal. I can tell you that I have rarely met 2 more active, concerned, supportive parents than Alicia and Jose Buendia! As a new principal, I appreciated the eagerness that Jose and Alicia demonstrated in stepping up to any matter of parental involvement! Neither of them let the language barrier stand in the way of their VERY ACTIVE involvement at our school. I don't think they ever missed a parent club meeting. Alicia was at school several days a week volunteering for whatever project I needed help on. She attended district level meetings as our parent representative for several years. Both Jose and Alicia continued to help at our school for several years after their youngest child had graduated. (I used to tease them about having more children so I could keep them at Jefferson forever!) Jose, Sr. frequently hauled chairs across a dark parking lot at 9:00 p.m. at night following a parent club meeting that had to be held at our neighboring school. He often talked about what parents should be doing to help the school out so that excess money didn't have to be spent on simple construction projects. Alicia is a mom who just never says no to requests for her help. Both Ana (Laura) and Jose, Jr. (Alex) were good students at Jefferson, whose teachers were always delighted to see their names on their rosters at the beginning of the year. I can't help but feel that, if anything, these 2 extraordinary parents are being punished for simply being too honest. I want VERY MUCH to help them. I have appreciated TREMENDOUSLY the work of Senator Feinstein's office in assisting these great folks. My letter of support is included in the Buendia packet. Please let me know how I can rally support for these amazing people. I owe them that at the very least, for their extraordinary friendship to Jefferson Elementary School.

Sincerely,

MARY ANN CAROUSSO.

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S. 2036

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR JOSE BUENDIA BALDERAS, ALICIA ARANDA DE BUENDIA, AND ANA LAURA BUENDIA ARANDA.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda enter the United States before the filing deadline specified in subsection (c), Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

'(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(e) of that Act.

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By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2037. A bill to transfer administrative jurisdiction of a parcel of real property comprising a portion of the Defense Supply Center in Columbus, Ohio, and for other purposes; to the Committee on Armed Services.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2037

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TRANSFER OF ADMINISTRATIVE JURISDICTION, DEFENSE SUPPLY CENTER, COLUMBUS, OHIO.**

(a) TRANSFER REQUIRED.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 20 acres and comprising a portion of the Defense Supply Center in Columbus, Ohio.

(b) USE OF THE REAL PROPERTY.—The Secretary of Veterans Affairs shall use the real property as the site for the construction of a new outpatient clinic for the provision of medical services to veterans.

(c) ENVIRONMENTAL ASSESSMENT OF REAL PROPERTY.—

(1) ASSESSMENT.—Prior to the transfer of the real property under subsection (a), the Secretary of the Army shall conduct an environmental assessment of such property to document all reasonably ascertainable information that exists on the environmental condition of such property.

(2) COSTS.—Any costs incurred in conducting the assessment under paragraph (1), including any costs associated with any actions undertaken to bring such property into compliance with any Federal, State, or local environmental laws or regulations, shall be borne by the Secretary of the Army.

(d) DESCRIPTION OF REAL PROPERTY.—

(1) SURVEY REQUIRED.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Army.

(2) COST.—The cost of the survey carried out under paragraph (1) shall be borne by the Secretary of Veterans Affairs.

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By Mr. WYDEN (for himself and Mr. SMITH):

S. 2039. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto; to the Committee on Armed Services.

Mr. WYDEN. Mr. President, I am pleased to be joined by Senator SMITH in introducing a bill to waive all statutory time limitations so that Colonel Rex T. Barber, of Terrebonne, OR may be posthumously awarded a Medal of Honor.

Colonel Rex T. Barber was a World War II fighter pilot who risked his life to shoot down Admiral Isoroku Yamamoto, the Commander in Chief of the Combined Japanese Fleet and architect of the attack on Pearl Harbor.

Our bill not only waives the statutory time limitations applying to the Medal of Honor, but also requests that the President posthumously award the medal to this deserving man.

On April 18, 1943, Barber, then a first lieutenant in the 399th Fighter Squadron of the South Pacific Air Forces, Army Air Corps, undertook a top secret mission to shoot down Yamamoto. Barber successfully attacked a bomber transporting Yamamoto despite heavy counterattacks by Japanese fighters escorting the admiral. Upon return to base, Barber found more than 100 holes in his aircraft. Admiral Yamamoto's plane crashed in flames, killing Yamamoto and his crew.

This brave exploit of Colonel Barber is well-documented, and I look forward to working with my colleagues in the Oregon delegation, the Congress, and ultimately the President, to see that his bravery is formally recognized.

I ask unanimous consent that the text to the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2039

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO REX T. BARBER FOR VALOR DURING WORLD WAR II.**

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations in section 3744 of title 10, United States Code, or any other time limitation applicable with respect to the awarding of certain medals to persons who served in the Air Force, the President is authorized and requested to award the Medal of Honor posthumously under section 3741 of that title to Colonel (retired) Rex T. Barber, United States Air Force, of Terrebonne, Oregon, for the acts of valor referred to in subsection (b).

(b) ACTION DESCRIBED.—The acts of valor referred to in subsection (a) are the conspicuous acts of gallantry and intrepidity of Rex T. Barber at the risk of his life and beyond the call of duty on April 18, 1943, while serving as a first lieutenant in the 339th Fighter Squadron of the South Pacific Air Forces, Army Air Corps, in successfully attacking and shooting down the enemy bomber aircraft transporting Admiral Isoroku Yamamoto, the Commander in Chief of the Combined Japanese Fleet and architect of Japan's attack on Pearl Harbor.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 293—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT AND UNITED STATES TRADE REPRESENTATIVE SHOULD ENSURE THAT ANY FUTURE FREE TRADE AGREEMENTS DO NOT HARM THE DAIRY INDUSTRY OF THE UNITED STATES

Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CRAIG, Ms. STABENOW, Mr. SCHUMER, Mr. JEFFORDS, Mr. SPECTER, Mrs. CLINTON, Mrs. BOXER, Ms. COLLINS, Mr. CRAPO, Mr. DAYTON, Ms. SNOWE, Mr. DOMENICI, Mr. COLEMAN, Mr. LEAHY, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 293

Whereas the United States is home to thousands of dairy producers, with dairy farmers in every State;

Whereas, as of the date of this resolution, the United States and the Australia are negotiating the development of a free trade agreement;

Whereas these negotiations could have dire consequences for several of the agricultural industries of the United States, including the dairy industry;

Whereas improper treatment of dairy in the United States-Australia Free Trade Agreement could concentrate the exporting focus of Australia largely on the United States; and

Whereas significantly increasing access to the dairy markets of the United States for Australian imports would greatly undermine milk prices, thwarting Federal efforts to support dairy producers and their families: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President and the United States Trade Representative should exercise great caution in negotiating and drafting the trading terms that would apply to the dairy industry under the proposed United States-Australia Free Trade Agreement.

Mr. FEINGOLD. Mr. President, as many of my colleagues know, Wisconsin's dairy industry is one of the largest industries in the State, generating billions of dollars for the State's economy. With an estimated impact of $18.5 billion, milk sustains over 16,000 farm families and nearly 200,000 jobs in the State. With thousands of dairy farms and hundreds of dairy processors, the industry is vital to creating and sustaining good jobs in Wisconsin. These numbers do not capture the full import of the dairy industry, however. In Wisconsin, dairy is more than an issue of dollars and cents—it is part of our heritage that every Wisconsinite takes pride in.

America's Dairyland is already threatened by bad trade agreements, but one of the worst for dairy farmers is currently in the works. U.S. negotiators are trying to wrap up a trade agreement with Australia, which is expected to include new terms of trade for agricultural commodities. Any agreement with Australia, and any subsequent agreement with New Zealand, could have a very negative impact on Wisconsin's dairy industry.

The administration has contemplated changes to our trade laws that would lay open our markets to dairy and other farm products from Australia and possibly New Zealand. Australian and New Zealand milk producers are among the many who have been using a trade loophole on milk protein concentrates to undercut our domestic dairy prices, a loophole that I am working to close. Further imports from Australia can only push U.S. milk prices lower.

This proposal comes at a time when dairy farmers are just beginning to think about a recovery from the low milk prices of the past few years. The impact of this agreement on the Nation's dairy industry, and Wisconsin in particular, will be significant. According to the National Milk Producers Federation, the flood of imports from Australia that would follow from a trade agreement could cost this country nearly one-quarter of our dairy farms. Wisconsin has been losing dairy farms at an alarming rate, and we certainly cannot afford a trade agreement that hastens that change.

I have opposed the efforts of the U.S. Trade Representative to pursue this agreement given its negative consequences for Wisconsin. I have clearly stated my position, and the position reiterated to me by dairy farmers across the State, to Ambassador Zoellick. Joined by 30 of my State colleagues, I have called upon President Bush to respond to the concerns of Americans regarding the negotiations on a free trade agreement with Australia. Today, along with several of my of my colleagues—Senators KOHL, CRAIG, STABENOW, SCHUMER, JEFFORDS, SPECTER, CLINTON, BOXER, COLLINS, DAYTON, CRAPO, DOMENICI, and SNOWE. I am submitting a resolution reiterating the fact that we must ensure that our dairy industry, especially dairy producers, will not suffer undue hardships if this agreement is put in place.

If the U.S. gives Australia significantly increased access to our dairy market, this will greatly undermine milk prices, thwarting federal efforts to support dairy producers and their families. Estimates suggest that an agreement with Australia would cost this country more than 150,000 jobs that depend on a healthy U.S. dairy sector. Wisconsin's communities area at great risk, and I call on all my colleagues to join me in working to protect the country's dairy industry from an unfair trade agreement with Australia.

Mr. KOHL. Mr. President, I join my colleague from Wisconsin in support of this resolution. I remain deeply concerned about the direction the President's negotiators are headed in the U.S.-Australia Free Trade negotiations.

I know there are lots of moving parts to this or any trade negotiation. But if recent reports are correct the U.S./Australia negotiations seem to be boiling down to a handful of critical issues—among them are dairy and drugs. Australia is angling for more access to our dairy markets. The Bush Administration, on behalf of pharmaceutical manufacturers, is pushing for greater access to Australia's Pharmaceutical Benefits Scheme.

I suspect I know who wins if the Bush administration has to make a trade-off between the interests of dairy farmers and huge pharmaceutical corporations. The Bush administration demonstrated remarkable loyalty to pharmaceutical manufacturers during debate on the Medicare bill. I suspect those loyalties are alive and well and fear they may trump the interests of thousands of dairy producers and processors across the country.

Out of an abundance of caution, I will reserve judgment on the final package until we have something more concrete to review. But the President's negotiators should be on notice that we will be closely following these negotiations to assure that dairymen's concerns are given every consideration.

### SENATE RESOLUTION 294—DESIGNATING JANUARY 2004 AS "NATIONAL MENTORING MONTH"

Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. ALLEN, Mr. AKAKA, Mr. PRYOR, Mr. KERRY, Mr. NELSON of Nebraska, Mr. DODD, Mr. DAYTON, Ms. MIKULSKI, Mr. GRASSLEY, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 294

Whereas mentoring is a strategy for motivating and helping young people succeed in life, by bringing them together in structured and trusting relationships with caring adults who provide guidance, support, and encouragement;

Whereas mentoring offers a supportive environment in which young people can grow, expand their vision, learn necessary skills, and achieve a future that the young people never thought possible;

Whereas a growing body of research shows that mentoring benefits young people in numerous ways, through improvements in school performance and attendance, self-confidence, attitudes and relationships with adults, and motivation to reach their potential;

Whereas mentoring is an adaptable, flexible approach that can be tailored to focus on helping young people with academics, social skills, career preparation, or leadership development;

Whereas over 15,000,000 young people in this Nation still need mentors, falling into a "mentoring gap";

Whereas mentoring relies principally on volunteer mentors, so mentoring programs must recruit even more volunteers in order to expand their program to help more young people;

Whereas, in an effort to begin closing the mentoring gap, this year Congress has significantly increased Federal grant funding for local mentoring organizations to $100,000,000;

Whereas the recipients of these grants and other entities carrying out mentoring programs all across the country will need an influx of volunteers to meet the growing demand for mentoring;

Whereas nonprofit groups and leading media companies have joined together to designate January 2004 as National Mentoring Month to recruit more mentors for young people; and

Whereas the month-long celebration of mentoring will encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement: Now, therefore, be it

*Resolved*, That the Senate—

(1)(A) designates the month of January 2004 as "National Mentoring Month"; and

(B) requests that the President issue a proclamation calling on the people of the United States and interested groups to observe the month with appropriate ceremonies and activities that promote awareness of and volunteer involvement with mentoring;

(2) praises individuals who are already giving their time to mentor young people; and

(3) supports efforts to recruit more adults as mentors, in an effort to close the Nation's mentoring gap.

Mr. McCAIN. Mr. President, I am pleased to join with Senator KENNEDY in introducing a resolution designating January 2004 as "National Mentoring Month."

We all agree that young people need a supportive environment based on structured and trusting relationships with adults. Mentors play a significant role in many young peoples' lives by sharing their experiences and providing the support and encouragement that children need in order to grow into responsible, caring adults. Mentors often are the key to helping a young person achieve the type of future they might never have thought possible.

A growing body of research has shown the tremendous benefits of mentoring. Children with mentors are shown to improve in school performance and attendance; they are more self-confident; they have good social skills; and above all else, they're motivated to reach their full potential. Mentoring works. Unfortunately, a severe shortage of volunteers has left over 15 million young people without mentors.

National Mentoring Month highlights the needs and goals of mentoring in this country. This month, non-profit organizations, schools, businesses, faith communities, and government agencies will join together to encourage adults to serve as mentors for our young people. Programs must be expanded to recruit more volunteers to help fill the mentoring gap. Mentoring has successfully helped many children in this country and we must work together to expand such valuable programs.

## SENATE CONCURRENT RESOLUTION 87—WELCOMING THE PRIME MINISTER OF TURKEY TO THE UNITED STATES

Mr. SMITH (for himself, Mr. BIDEN, and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 87

Whereas for more than 50 years a strategic partnership has existed between the United States and Turkey that has been of enormous political, economic, cultural, and strategic benefit to both countries;

Whereas the United States and Turkey share common ideals and a clear vision for the 21st century, where freedom and democracy are the foundations for peace, prosperity, and progress;

Whereas the Government of Turkey has demonstrated its unequivocal support for the war against terrorism throughout the world, and has called for the international community to unite against this threat;

Whereas Turkey commanded the International Security Assistance Force (ISAF) in Afghanistan from June 2002 to February 2003 and provided humanitarian and medical assistance in Afghanistan and in Iraq;

Whereas in October 2003 Turkey became the first predominantly Muslim state to authorize sending peacekeepers to Iraq when the Turkish Parliament voted to approve a deployment of 10,000 troops;

Whereas the people of Turkey also have been victims of international attacks on November 15, 2003, and November 20, 2003;

Whereas the Government of Turkey immediately condemned the terrorist attacks in the strongest possible terms, detained the perpetrators, and quickly brought them to justice.

Whereas the terrorist attacks in Turkey brought the United States and Turkey closer together, in spite of the terrorists' motive of driving the two countries apart;

Whereas the Government of Turkey has made its bases in Incirlik available as a transit point for United States troops returning to the United States from Iraq;

Whereas Prime Minister Erdoğan supports a renewed effort by the United Nations to reunify the divided country of Cyprus;

Whereas the United States supports Turkey's bid for membership in the European Union;

Whereas Turkey and Israel, the only democracies in the Middle East, established diplomatic relations in 1949, and have a multi-faceted and thriving relationship; and

Whereas Turkish Prime Minister Erdoğan brings a strong message from the Turkish people that Turkey will continue to support the United States campaign against international terrorism as well as United States efforts to rebuild and bring democracy and stability to Afghanistan and Iraq: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) offers its warmest welcome to Prime Minister Recep Tayyip Erdoğan upon his visit to the United States from January 26 through 31, 2004;

(2) asks Prime Minister Erdoğan to communicate the continuing support of Congress and of the people of the United States to the people of Turkey;

(3) recognizes that the visit of Prime Minister Erdoğan to the United States is a significant step toward broadening and deepening the strategic partnership, friendship and cooperation between the United States and Turkey;

(4) acknowledges Prime Minister Erdoğan's support for renewed negotiations in Cyprus; and

(5) thanks Prime Minister Erdoğan and the people and government of Turkey for—

(A) assuming command of the International Security Assistance Force in Kabul, Afghanistan from June 2002 to February 2003;

(B) providing humanitarian and medical assistance in Afghanistan and in Iraq; and

(C) their willingness to contribute to international peace, stability, and prosperity, especially in the greater Middle East region.

Mr. SMITH. Mr. President, I rise today to submit a resolution welcoming the Turkish Prime Minister Recep Tayyip Erdoğan to the United States. Prime Minister Erdoğan is visiting this week for important meetings with President Bush and other senior Administration officials to discuss significant issues that affect both of our countries. I am pleased that my colleagues Senator BIDEN and Senator ALLEN have joined me in offering this resolution at this time.

Prime Minister Erdoğan represents a country of great importance to the United States, one with whom we have a shared history of fighting Soviet aggression as partners in NATO, and one with whom we are joined in fighting terrorism today. Turkey has shown its willingness to support American objectives in Afghanistan—where it commanded the International Security Assistance Force for seven months, and where its soldiers continue to serve side-by-side with American troops and in post-war Iraq, where it has authorized sending peacekeeping troops and has contributed humanitarian supplies for the Iraqi people.

Furthermore, Turkey shares our democratic values and love of freedom. These ideals have brought enormous benefits to its people and serve as an excellent example for its neighbors that secular Islam and democracy can coexist peacefully and constructively.

I am confident that the visit of Prime Minister Erdoğan will further cement the strategic partnership between Turkey and the United States. I welcome him to the United States.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, February 4, at 2:30 p.m. in room SAD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; and S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing should send two copies of their testimony to the Committee of Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 28, 2004, at 11:00 a.m., in open session to receive testimony on efforts to determine the status of Iraqi weapons of mass destruction and related programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 28, 2004, at 4:00 p.m., in open session to consider the following Nominations: Francis J. Harvey to be Assistant Secretary of Defense for Networks and Information Integration; Lawrence, T. Dirita to be Assistant Secretary of Defense for Public Affairs; and William A. Chatfield to be Director of Selective Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President: I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, January 28, 2004, at 9:30 am on NASA'S Future Space Mission, in SR. 253.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 28, 2003 at 10:30 a.m. to hold a hearing on Pakistan & India: Steps Toward Rapprochement.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on What's Driving Health Care Costs and the Uninsured? during the session of the Senate on Wednesday, January 28, 2004 at 10:30 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, January 28, 2004, at 10:00 a.m. on "Judicial Nominations," in the Dirksen Senate Office Building Room 226.

*Witness List*

Panel I: Senators.

Panel II: Franklin S. Van Antwerpen to be United States Circuit Judge for the Third Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 536 through 543, and all nominations on the Secretary's desk.

For the information of Members, these are military promotions reported today by the Armed Services Committee.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

### AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

*To be major general*

Brigadier General Roger P Lempke, 1663
Brigadier General Albert P Richards, Jr, 7550
Brigadier General Albert H Wilkening, 1471

*To be brigadier general*

Colonel Terry L Butler, 3060
Colonel John A Caputo, 8283
Colonel Richard H Clevenger, 3395
Colonel Michael D Dubie, 9845
Colonel Jerald L Engelman, 2506
Colonel William H Etter, 7521
Colonel Edward R Flora, 6867
Colonel Rufus L Forrest, Jr, 4375
Colonel Richard M Green, 5413
Colonel Terry P Heggemeier, 5899
Colonel Vergel L Lattimore, 6016
Colonel Duane J Lodrige, 8683
Colonel Maria A Morgan, 8913
Colonel James K Robinson, 7562
Colonel Michael J Shira, 1194
Colonel James P Toscano, 9542

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. James E. Hearon, 7278

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Thomas L. Baptiste, 1125

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Donald J. Wetekam, 0322

### NAVY

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Ann D. Gilbride, 3120

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Jon W. Bayless, Jr., 0539
Capt. Jay A. Deloach, 5045
Capt. Edward NMN Masso, 5959
Capt. William H. Payne, 6466

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) Fenton F. Priest, III, 5684

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral*

Rear Adm. (lh) Paul E. Sullivan, 4158

### NOMINATIONS PLACED ON THE SECRETARY'S DESK

#### AIR FORCE

PN460 Air Force nominations (13) beginning Paul V. Bennett, and ending Victoria G. Zamarripa, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003.

PN906 Air Force nominations (17) beginning Nelson * Arroyo, and ending Paul D. * Sutter, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN907 Air Force nominations (38) beginning James J. * Baldock, IV, and ending Brian K. * Wyrick, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN908 Air Force nominations (75) beginning Kimberly L. * Arnao, and ending James M. Winner, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN909 Air Force nominations (118) beginning David H. * Adams, Jr., and ending James A. * Young, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN910 Air Force nominations (92) beginning Laurie A. Abney, and ending Deedra L. * Zabokrtsky, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN911 Air Force nominations (1875) beginning John T. Aalborg, Jr., and ending William A. Zutt, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

#### ARMY

PN1128 Army nominations (30) beginning Stephen G. Beardsley, III, and ending Patrick O. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1149 Army nominations (2) beginning John R. Angelloz, Jr., and ending Michael C. McDaniel, which nominations were received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1150 Army nominations of James R. Ward, which was received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1165 Army nomination of Michael K. Vaughan, which was received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1177 Army nominations (11) beginning David S. Feigin, and ending John E. Hartmann, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1178 Army nominations (2) beginning Joseph L. Craver, and ending William Hann, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1179 Army nomination of Carol Ann Mitchell, which was received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1180 Army nominations (4) beginning Carol A. Bossone, and ending Curtis M. Klages, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1182 Army nominations (23) beginning Daniel G. Rendeiro, and ending Diane K. Patterson, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1183 Army nominations (11) beginning Michael T. Endres, and ending James A. Chervoni, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

#### NAVY

PN1151 Navy nominations (2299) beginning Tab E. Austin, and ending Sabrina M. Stedman, which nominations were received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1167 Navy nominations (29) beginning Albert A. Alarcon, and ending Jeffrey W. Winters, which nominations were received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1184 Navy nominations (92) beginning Craig I. Abraham, and ending Sarah L. Wright, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## UNANIMOUS CONSENT REQUEST—S. 1072

Mr. FRIST. Mr. President, I have been in discussions with a number of Senators regarding next week's schedule. We had previously stated that it would be our intention to begin consideration of the highway bill on Monday.

I had hoped we could start with opening statements on the bill on Monday and limit Monday to debate only to allow the Finance Committee to complete their work on their section of the highway bill. Unfortunately, we were unable to reach a consent to begin; therefore, it will be necessary that I file cloture on a motion to proceed.

Having said that, I now ask unanimous consent that at 2 p.m. on Monday, February 2, the Senate proceed to the consideration of Calendar No. 426, S. 1072, the highway bill.

Mr. REID. Mr. President, on behalf of Senator GRAHAM of Florida, I object.

The PRESIDING OFFICER. The objection is heard.

## SAFE TRANSPORTATION EQUITY ACT OF 2003—MOTION TO PROCEED

### CLOTURE MOTION

Mr. FRIST. With that objection, I now move to proceed to the consideration of S. 1072, and I send a cloture motion to the desk on the motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, transit programs, and for other purposes:

> Bill Frist, James M. Inhofe, John Cornyn, Susan Collins, Craig Thomas, Pat Roberts, Conrad Burns, Thad Cochran, Norm Coleman, Richard Shelby, Mike Crapo, Robert F. Bennett, George V. Voinovich, Ted Stevens, Lamar Alexander, Lindsey O. Graham.

Mr. FRIST. I now ask consent that the mandatory quorum be waived and that the vote on the motion to invoke cloture occur at 5:45 on Monday, February 2.

Mr. REID. Mr. President, reserving the right to object, let me just say that I am disappointed we are not going to move forward on the bill Monday. That is very valuable time. We are not going to have a lot of time to finish this bill. This is a bipartisan bill. This is my fourth highway bill, third or fourth highway bill, and this is a most fair bill. We have every State that will get at least 95 percent of the money they pay in. Every State gets an increase of what they have gotten in the last bill. It is fair.

In the past, some States did extremely well and some States did poorly. Take the States of California and Texas, for example. At the end of this bill they will get 95 percent of the money they pay in. That is very costly. Therefore, that being the case, and it certainly seems fair to me that they should get 95 percent of what they pay in, their 5 percent that they are not getting pays for a lot of the States that do not have many people. These are bridge States. They still have the interstate going through them and there is a lot for maintenance.

The bill is far from perfect. We have done the best we can to try to make it a better bill than those in the past. We need to get to it. This is an extremely important bill. This is not a bill for the Democrats or a bill for the Republicans. It is a bill that will allow the construction to go forward on highways and transit for the next 5 or 6 years.

The reason that is important, we can come back and do a 1-year bill like we did last year. But there is no way—and the Presiding Officer was a Governor of a very large and important State—there is no ability to plan with a 1-year program.

I hope we can get this done. It is important to every State in the Union. I know some people are not happy with what is in the bill. We have done the best we can; if everyone wants their dollars back, we cannot. We will find a lot of States that will not be very happy. If we want everyone to get the average, there is no average.

We are happy to work with every State and are doing better than we had done in the bill. But the allocation will not be changed. It was done with a computer. The information was fed into the computer. It would be extremely difficult to start all over again and come up with a new allocation, especially in a timeframe when we will have to work on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I very much appreciate the comments by the assistant Democratic leader. It is absolutely critical we get to this bill. I suspect this cloture vote on Monday will be overwhelming, probably 95 to 5 or 98 to 2 or 99 to 1. Maybe everybody will vote for it. But what it does, from a scheduling standpoint, on a bill that deserves debate, as good a bill as it is—and it is the most fair bill it could possibly be, as we have just heard it described—there is going to be debate. I think both the assistant Democratic leader and myself, and the leadership on both sides of the aisle, have agreed to bring this bill to the floor at the earliest possible date.

I am disappointed because I literally said 3 months ago we were going to go to the highway bill on Monday, and that we were going to spend the appropriate amount of time on it, that people would be able to debate and amend it as necessary. A few people, for whatever reason—maybe some good reasons—are going to set us back. It sets the overall agenda of the Senate back. And what, in effect, it does is it causes us to lose a day when we were going to have debate only. We were not going to have amendments on Monday but, in effect, we lose the opportunity to start on a very important bill.

I mention that now because it is early in the second session of this Congress, and we have to have cooperation. I plead with our Members to have cooperation so we can do what this body does best, and that is to debate, bring bills to the floor and debate them, and vote them up, vote them down, defeat them, pass them. It is inevitable we will get there.

People are going to watch what the vote is going to be Monday night. It will be overwhelming. And I am not pointing just my finger at the person who objected because he is really speaking for, probably, a couple other people as well, but we have to proceed with this bill. It is an important bill.

Leadership on both sides of the aisle has said that we are going to spend an appropriate amount of time on this bill. So people have some idea, it could be a week, and it could be as long as 2 weeks, but we have to get to the bill. Then we can bring amendments up and debate them.

Mr. REID. Will the distinguished leader yield?

Mr. FRIST. I am happy to yield.

Mr. REID. I will make a suggestion. After the vote is completed, it will be approximately—let's see, what time are we going to vote?

Mr. FRIST. At 5:45.

Mr. REID. So starting at 6:15 on Monday maybe the two subcommittee leaders and the two full committee leaders could begin their statements, and then we could go right to the meat of the bill on Tuesday. I would certainly recommend we try to get Senators INHOFE, JEFFORDS, BOND, and REID to get their statements out of the way Monday night, and then go to the bill Tuesday. That way we will not have lost any time except a little time of the staff.

Mr. FRIST. Mr. President, I think we should encourage that proposal. Again, the whole purpose is to get the bill to the floor, and to debate it and appropriately amend it and do what we all want to do to support appropriately the infrastructure that is very much the foundation upon which our economy works day in and day out.

## ORDERS FOR THURSDAY, JANUARY 29, 2004 AND MONDAY, FEBRUARY 2, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m., Thursday, January 29, for a pro forma session only; provided that the Senate then immediately stand in adjournment until 1 p.m., Monday, February 2. I further ask consent that on Monday, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business with the time until 2 p.m. equally divided between the two leaders or their designees, with Senator GRAHAM of Florida controlling the minority time; provided that at 2 p.m. the Senate resume consideration of the motion to proceed to the consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Tomorrow morning, the Senate will convene a pro forma session. No business will be transacted during Thursday's session. The Senate will then reconvene on Monday, February 2 at 1 p.m. At 2 p.m. we will resume debate on the motion to proceed. Under the order, the Senate will vote on invoking cloture on the motion to proceed to the highway bill at 5:45 p.m. Monday. If cloture is invoked, we will stay on that motion until it is disposed of. I encourage Members to come to the floor on Monday to begin their opening statements on the highway legislation.

## ADJOURNMENT UNTIL THURSDAY, JANUARY 29, 2004, AT 11 A.M.

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:42 p.m., adjourned until Thursday, January 29, 2004, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 28, 2004:

### EXPORT-IMPORT BANK OF THE UNITED STATES

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, VICE APRIL H. FOLEY.

### DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE WILLIAM D. HANSEN, RESIGNED.

### DEPARTMENT OF VETERANS AFFAIRS

PAMELA M. IOVINO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS), VICE GORDON H. MANSFIELD.

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MATTHEW T. ASHE JR., 7551
MARIAELENA AUGUSTIN, 3698
ROBERT A. BALLARD, 3912
BRADLEY A. BARKER, 2533
PAMELA G. BARNES, 3835
MARK L. BATCHELOR, 2879
ROSS P. BERTUCCI, 2466
WILLIAM M. BLACK JR., 0884
STEVEN L. BOGGS, 6683
CALVIN F. BOLES IV, 4614
MARK J. BOURDON, 0789
MARK A. BOWEN, 5920
DAVID E. BRASUELL, 9630
TIMOTHY M. BRUTON, 2366
SHELIA F. BRYANTTUCKER, 0785
AYDIN D. BUDAK, 1358
MILES A. BURDINE, 4698
FREDERICK C. BURK, 7027
PAUL V. BURKE, 1755
DOUGLAS D. BURPEE, 8339
MICHAEL M. BUSH, 7697
JEFFRY S. BUTTER, 4021
PERRY L. BUXO, 1228
JUSTIN P. CARLITTI, 6300
RAYMOND A. CELESTE JR., 4865
PETER F. CIESLA, 4156
DAVID J. CLEMENT, 9218
JOSEPH M. CODEGA, 8801
FRANS J. COETZEE, 7238
JAMES T. COLE, 8501
FRANK J. CORTE JR., 0013
PHILIP M. CROSSWAIT, 1739
EDWARD D. DANIEL, 6963
BRIAN E. DELAHAUT, 2507
THOMAS F. DIETRICH, 5024
ANSELM J. DYER, 9174
ANTHONY FERNANDEZ III, 2873
WILLIAM A. FOX III, 3687
VAL T. FRANKLIN, 1707
JEFFREY W. FREEMAN, 7717
TIMOTHY G. FROEBE, 8516
NANCY R. GADZALA, 9250
JAMES C. GARMAN, 4494
TIMOTHY R. GAUGHRAN, 6628
WILLIAM P. GOGGINS JR., 2083
ERIK GRABOWSKY, 5209
MARK C. GRAHAM, 1185
OLIVER M. GRANT, 8233

SUZANNE M. HANNI, 9336
DONALD J. HARD, 2306
JAMES S. HARTSELL, 3118
WILLIAM E. HATTON, 7434
JINCY L. HAYES, 8233
MARCELINO HERNANDEZ, 0292
LOUIS HERRERA JR., 8432
TODD J. HIXSON, 0886
JEFFREY M. HORIGAN, 7795
NEIL J. HORNUNG, 2608
JOHN D. HORRES, 5802
FRANK W. IRELAND, 3585
ALLEN D. JOHNSON, 5577
MICHAEL JOHNSON, 4696
RICHARD T. JOHNSON, 9112
WADE M. JOHNSON, 3902
WILLIAM KANE, 9185
WILLIAM E. KAUFER JR., 2992
PATRICK C. KELLEY, 7475
WARREN C. KELLIS, 7841
ROBERT A. KNIEF, 8217
KAVIN G. KOWIS, 6414
CARL R. LAMMERS, 0860
MICHAEL D. LENTZ, 3849
DOUGLAS C. LINDEN, 9404
BRIAN J. LOUF, 5212
KARL E. LUNDBERG, 7589
ROGER R. MACHUT, 7308
MARK M. MANCINI II, 8069
PETER MARTINO, 7506
ERNEST A. MATACOTTA, 3224
CHARLES J. MAY II, 8902
JOHN F. MCCABE IV, 1543
KEVIN J. MCCARTHY, 4499
MICHAEL F. MCCARTHY, 7239
LINDA L. MCGOWAN, 3889
DAVID M. MCMILLER, 6630
STEVEN L. MERRILL, 2733
CLARK W. METZ, 9928
JOSE A. MICHEL, 3870
BRUCE A. MILTON, 4290
ROBERT A. MONTGOMERY, 8287
JEFFREY J. MORSCH, 4190
ALVIN S. MOSHER, 8417
EDWARD V. NAKAS, 1637
BORISFRANK A. NAZAROFF, 5004
CHARLES R. NICHOLS, 2753
MARK A. OLSON, 2099
JAMES A. PAVLIK, 4455
RICHARD P. PERKINS, 8614
LORIE M. PESONEN, 6323
JAMES L. PILLOW, 8273
ANTHONY E. POLETTI, 3024
JEFFREY A. PORTER, 9890
DAVID W. PRAFKA, 9253
GREGORY J. RASSEL, 5100
SCOTT E. RESKE, 0075
RONALD H. RIVES, 8284
WILLIAM L. RODGERS, 1025
DAVID C. ROSSBERG, 5368
STEVEN M. RUBIN, 8916
RAYMOND E. RUHLMANN III, 9717
RANDOL D. RULE, 9334
DAVID R. SAHM, 2638
MARK W. SAMOLINE, 0784
DONALD W. SAMPSON, 7017
MARK A. SCHULTE, 9039
WARD E. SCOTT, 9805
GLEN R. SMITH, 3991
LUTHER B. SMITH III, 8008
GARY M. SPRUILL, 1581
JAMES R. SWEENEY II, 5332
MARK T. TABERT, 9299
PHILLIP E. TAGGART, 2647
WILLIAM E. UNDERWOOD IV, 6065
MICHAEL D. VISCONAGE, 2064
JEFFREY D. VOLD, 4226
RONALD J. WALRATH, 0487
PETER L. WANG, 3181
STEPHEN P. WARD, 0890
PHILIP G. WASIELEWSKI, 4446
WILLIAM R. WATSON, 1523
DAVID T. WATTERS, 5502
ALAN B. WILL, 2532
SHERYL G. WILLIAMS, 0127
DONALD C. WILSON, 1385
CLAYTON T. WRIGHT, 3225
EDDIE D. YOUNG, 0566
JASON D. YOUNG, 8167

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

*To be lieutenant commander*

GLENN M. SULMASY, 8582

### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. DOUGLAS M. PIERCE, 9562

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LINDSEY O. GRAHAM, 4284

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DONALD L. BUEGE, 3586
JOHN A. CAPARISOS, 0601
RANDY M. CUEVAS, 1826
TYLER S. GUY, 3742
ISAMU MATSUMOTO, 4857
KENNETH G. TOWNSEND, 3765
SAMUEL R. WEINSTEIN, 3748

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

ALAN C. DICKERSON, 1689
ROBERT F. FEREK, 4493
VINCENT P. FLORYSHAK, 1019
CATHERINE KEY, 5503
JEFFREY G. LIGHT, 7113
ELEONORE PAUNOVICH, 1057
CAMILLE PHILLIPS, 9934

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

WALTER F. BURGHARDT JR., 4634
ALBERTA E. BURLEIGH, 4166
DEBBIE L. DOBSON, 7639
JOSEPH F. GRASSO, 3298
JEFFREY P. HILOVSKY, 1899
JOSEPH F. LONGOFONO, 0014
WILLIAM B. MARTIN, 8170
RICKY K. MARTINEZ, 4689
WILLIAM H. MCALISTER, 4949
CHRISTOPHER L. TAYLOR, 5444
RICHARD M. WALTERS, 7108
PHILLIP Y. YOSHIMURA, 4616

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MONICA M. ALLISONCERUTI, 7878
WENDY E. BRYANT, 5033
JAMES T. FORREST, 9901
RAYMOND J. HARDY JR., 5924
JOHN R. HART, 5461
THOMAS M. HAYES III, 5508
ALISA W. JAMES, 8870
PATRICIA A. KERNS, 0608
STEVEN D. LINDSEY, 6518
MICHAEL R. LUND, 2668
CHARLES R. MANNIX JR., 5048
GEORGE F. MAY, 0534
LISA T. MILLER, 6125
ANN M. MITTERMEYER, 5270
DIXIE A. MORROW, 4676
SAMUEL C. MULLIN III, 1027
THERESA A. NEGRON, 4631
MARTIN C. OBRIEN, 0441
GREGORY G. PARROTT, 6411
DANIEL V. PETERSON, 5725
JAMES R. THOMAS JR., 1609
MARK J. YOST, 4511

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

PATRICIA S. ANGELILAMB, 2293
LINDA K. ARNSDORF, 1153
CHRISTINE E. BADER, 6056
CHRISTINE M. BUCHER, 4765
MARY M. CAPPARELLI, 0911
TERRELL A. CUNNINGHAM, 3385
DEBORAH A. DANNEMEYER, 9588
DEBORAH J. DODSON, 2823
EDWINA DORSEY, 0561
MARGARET A. DRAGANAC, 6894
SANDRA L. FINNESSY, 0230
CHRISTINE A. GRYGLIK, 4364
SUSAN H. KADECHKA, 6514
NANCY K. KERSH, 9464
SUSAN M. KNOX, 3444
LYNN A. MCDANIELS, 5999
KENNETH L. MCNEELY, 4968
CONNIE S. MILLER, 0018
KAREN A. NAGAFUCHI, 1281
THERESA A. OSBURN, 2399
DONNA A. RAJOTTE, 5075
MARYGENE RYAN, 5328
SHARON J. THOMAS, 8027
SUSAN K. WALTON, 6141
KATHLEEN L. ZYGOWICZ, 9715

### IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

EDWARD M. WILLIS, 7204

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

ANDREW T FINK, 1620
PAUL K FLETCHER, 6663
JEFFREY P HOLDER, 8926
THOMAS D JAGUSCH, 3485
DAVID W LANDERSMAN, 2726
RONALD L MASON, 3523
PATRICK J MCCARTHY, 9197
JOHN A NICHOLSON, 4230
OLLEN R RICHEY, 5001
JASON C SEAL, 1662
GUY A STRATTON, 7405
NICK TRUJILLO, 2272

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MICHAEL A. ALDAY, 1964
GNANAMANI ARUL, 5599
JOEL S. BOGNER, 7196
JOSEPH L. DAVIS, 8078
SANDRA D. DICKERSON, 5097
PAUL S. DWAN, 1041
JOHN A. ELLIS, 4134
JAMES W. GUYER, 1165
AIMEE L. HAWLEY, 0024
MARK D. HOPKINS, 4610
MICHAEL F. KELLEY, 6476
RAY L. KUNDEL, 2117
JOHN P. LENIHAN JR., 2835
JAMES M. MCGREEVY, 8986
JAMES E. MILLER, 9161
SUSAN E. NORTHRUP, 1691
VIANMAR G. PASCUAL, 2003
DANIEL Z. PECK, 5287
DANGTUAN PHAM, 9233
ROBERT L. SAUNDERS JR., 4005
DAVID J. SNELL, 3184

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

CURTIS S AMES, 6024
WILLIAM M ANDERSON, 5132
ANTHONY ARDOVINO, 3125
CHESTER A ARNOLD, 0251
JORGE ASCUNCE, 6490
ERIC D BARTCH, 2094
BRIAN D BEAUDREAULT, 2091
JEFFERY A BOWDEN, 9104
JAMES J BUCKLEY, 5662
JOHN W BULLARD JR., 4828
ROBERT S BURAN, 9082
JOHN M BURT, 5196
MICHAEL F CAMPBELL, 3829
HERMAN S CLARDY III, 7597
ROBERT E CLAY, 2691
ROBERT E CLAYPOOL, 1309
DAVID L CLOSE, 8865
TIMOTHY L CLUBB, 2855
THOMAS J CONNALLY, 1503
VINCE E CRUZ, 1696
SCOTT A DALKE, 1369
PAUL L DAMREN, 8934
GARY M DENNING, 8358
THEODORE E DEVLIN, 8497
JAMES M DOCHERTY, 7336
DEREK J DONOVAN, 1206
CHARLES S DUNSTON, 4391
KENNETH D ENZOR, 8366
JOHN R EWERS JR., 3758
WILLIAM M FAULKNER, 5811
JOHN J FITZGERALD JR., 8460
RICHARD P FLATAU JR., 9658
CLYDE FRAZIER JR., 0972
LARRY FULWILER, 4264
THOMAS M GASKILL, 3054
WILLIAM GILLESPIE, 9929
JAMES D GRACE, 6389
PAUL E GREENWOOD, 1089
MURRAY T GUPTILL JR., 1864
JOHN W GUTHRIE, 0428
EDWARD G HACKETT, 2704
DANIEL C HAHNE, 5755
NICHOLAS J HALL, 0998
WADE C HALL, 5431
BEN D HANCOCK, 6549
STEVEN M HANSCOM, 5833
STUART C HARRIS, 5576
ROBERT F HEDELUND, 6035
ROBERT S HELLMAN, 8768
STEPHEN K HEYWOOD, 1446
CHRISTOPHER E HOLZWORTH, 7413
JAMES D HOOKS, 9271

JONATHAN P HULL, 2642
ALVAH E INGERSOLL III, 5424
CHESTER E JOLLEY, 9152
JOSEPH JUDGE, 0095
JOHN C KENNEDY, 4899
SCOTT E KERCHNER, 5273
JOHN A KOENIG, 9729
ROBERT W LANHAM, 9827
GEORGE A LEMBRICK, 7074
CLARKE R LETHIN, 3846
GROVER C LEWIS III, 0787
WILLIAM K LIETZAU, 7994
KENNETH X LISSNER, 9172
KEVIN T MCCUTCHEON, 6435
JOHN E MITCHELL JR., 1431
WILLIAM P MIZERAK, 9743
ROYAL P MORTENSON, 7350
PAUL J OLEARY JR., 9922
CHRISTOPHER S OWENS, 6379
CARL T PARKER, 6379
PATRICK S PENN, 7219
JEFFERY M PETERSON, 8480
LOUIS J PULEO, 7440
LEE B RAGLAND, 3197
JOHN T RAHM, 0267
EDDIE S RAY, 0057
JAMES E REILLY III, 3013
SHAUGNESSY A REYNOLDS, 8667
ROBERT D RICE, 0370
MICHAEL A ROCCO, 1781
RITCHIE L RODEBAUGH, 7348
ERIC L ROLAF, 1392
JOHN RUPP, 5379
PAUL K RUPP, 2402
LAURA J SAMPSEL, 6588
RODMAN D SANSONE, 8273
JEFFERY A SATTERFIELD, 6320
PAUL K SCHREIBER, 2388
JAMES B SEATON III, 3169
RICHARD L SIMCOCK II, 4856
JOHN W SIMMONS, 2252
STEVEN S SIMPSON, 2385
ROBERT O SINCLAIR, 5330
DAVID A SMITH, 5097
EDWARD J SMITH, 9868
GERALD L SMITH, 2479
KEVIN L SMITH, 2414
PHILIP E SMITH, 5107
JAMES H SORG JR., 2829
DAVID L SPASOJEVICH, 6530
KEVIN P SPILLERS, 8729
PAUL J STENGER, 8178
JOHN E STONE, 0695
GREGG A STURDEVANT, 8614
RORY E TALKINGTON, 4836
DARRELL L THACKER JR., 7913
JAMES P VANETTEN JR., 0451
PETER M WARKER, 0109
WILLIAM E WETZELBERGER, 3291
JOSEPH H WHEELER III, 3820
BRUCE A WHITE, 3737
DAVID H WILKINSON, 3035
CLYDE M WOLTMAN JR., 8968
EDWARD YARNELL, 7873
GUY A YEAGER, 2889
GEORGE L YOUNG III, 1098
STEVEN M ZOTTI, 8126

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ALPHONSO R. JACKSON, OF TEXAS, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MELQUIADES RAFAEL MARTINEZ, RESIGNED.

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# CONFIRMATIONS

Executive nominations confirmed by the Senate January 28, 2004:

## THE JUDICIARY

GARY L. SHARPE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.

## IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIGADIER GENERAL ROGER P LEMPKE
BRIGADIER GENERAL ALBERT P RICHARDS, JR.
BRIGADIER GENERAL ALBERT H WILKENING

### *To be brigadier general*

COLONEL TERRY L BUTLER
COLONEL JOHN A CAPUTO
COLONEL RICHARD H CLEVENGER
COLONEL MICHAEL D DUBIE
COLONEL JERALD L ENGELMAN
COLONEL WILLIAM H ETTER
COLONEL EDWARD R FLORA
COLONEL RUFUS L FORREST, JR.
COLONEL RICHARD M GREEN
COLONEL TERRY P HEGGEMEIER
COLONEL VERGEL L LATTIMORE
COLONEL DUANE J LODRIGE
COLONEL MARIA A MORGAN
COLONEL JAMES K ROBINSON
COLONEL MICHAEL J SHIRA
COLONEL JAMES P TOSCANO

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be brigadier general*

COL. JAMES E. HEARON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

MAJ. GEN. THOMAS L. BAPTISTE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

MAJ. GEN. DONALD J. WETEKAM

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be rear admiral (lower half)*

CAPT. ANN D. GILBRIDE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be rear admiral (lower half)*

CAPT. JON W. BAYLESS, JR.
CAPT. JAY A. DELOACH
CAPT. EDWARD NMN MASSO
CAPT. WILLIAM H. PAYNE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be rear admiral*

REAR ADM. (LH) FENTON F. PRIEST III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

### *To be rear admiral*

REAR ADM. (LH) PAUL E. SULLIVAN

AIR FORCE NOMINATIONS BEGINNING PAUL V. BENNETT AND ENDING VICTORIA G. ZAMARRIPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

AIR FORCE NOMINATIONS BEGINNING NELSON * ARROYO AND ENDING PAUL D. * SUTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING JAMES J. * BALDOCK IV AND ENDING BRIAN K. * WYRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING KIMBERLY L. * ARNAO AND ENDING JAMES M. WINNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING DAVID H. * ADAMS, JR. AND ENDING JAMES A. * YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING LAURIE A. ABNEY AND ENDING DEEDRA L. * ZABOKRTSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING JOHN T. AALBORG, JR. AND ENDING WILLIAM A. ZUTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003

ARMY NOMINATIONS BEGINNING STEPHEN G. BEARDSLEY III AND ENDING PATRICK O. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2003.

ARMY NOMINATIONS BEGINNING JOHN R. ANGELLOZ, JR. AND ENDING MICHAEL C. MCDANIEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 20, 2003.

ARMY NOMINATION OF JAMES R. WARD.

ARMY NOMINATION OF MICHAEL K. VAUGHAN.

ARMY NOMINATIONS BEGINNING DAVID S FEIGIN AND ENDING JOHN E HARTMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING JOSEPH L. CRAVER AND ENDING WILLIAM HANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATION OF CAROL ANN MITCHELL.

ARMY NOMINATIONS BEGINNING CAROL A. BOSSONE AND ENDING CURTIS M. KLAGES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING DANIEL G RENDEIRO AND ENDING DIANE K PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING MICHAEL T ENDRES AND ENDING JAMES A CHERVONI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

NAVY NOMINATIONS BEGINNING TAB E AUSTIN AND ENDING SABRINA M STEDMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 20, 2003.

NAVY NOMINATIONS BEGINNING ALBERT A. ALARCON AND ENDING JEFFREY W. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 21, 2003.

NAVY NOMINATIONS BEGINNING CRAIG L ABRAHAM AND ENDING SARAH L WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

# HOUSE OF REPRESENTATIVES—*Wednesday, January 28, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. TERRY).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 28, 2004.*

I hereby appoint the Honorable LEE TERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Gracious Lord, You are the source of strength for the faith-filled. You are the source of courage to those in need. You are the source of hope to all who place their trust in You.

Bless the Members of the House of Representatives as they face a schedule of ongoing challenges and opportunities in this 108th Congress. Give them hearts readily moved by the concerns of those who come to them in need. Grant to them also a broad vision that will embrace national interests so that they may raise the hopes of people for a better world in which to establish their homes and raise their children.

To You be the honor, glory, and power now and forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kansas (Mr. TIAHRT) come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## CONGRATULATING THE BUTLER COUNTY COMMUNITY COLLEGE GRIZZLIES

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I rise today to recognize the Butler County Community College Grizzlies for winning the National Junior College Athletic Association Championship in football.

On December 6, the Grizzlies, from El Dorado, Kansas, wrapped up an undefeated season with a 14–10 victory over Dixie State in the Dixie Rotary Bowl to win the Junior College National Championship for the third time in the last 6 years.

Butler County trailed the Dixie State Rebels 10–6 at halftime. However, the Grizzlies started the third quarter with a 14-play scoring drive, capped by a touchdown by the First Team All-American quarterback, Chad Wilmott. They went on to the 14–10 victory. That touchdown drive changed the momentum of the game.

I would like to commend the players, coaching staff, and the administration of Butler County for establishing the Grizzlies as a powerhouse in junior college football. A record of 12 wins and zero losses speaks volumes about the character and determination of the coaches and student athletes at Butler County. A team that produced four All-Americans and the Coach of the Year truly exemplifies the hard work and dedication that is synonymous with south central Kansas. I congratulate and thank the Butler County Grizzlies for an unforgettable season.

## FROM SURPLUS TO DEFICIT

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, the House Committee on the Budget had a hearing yesterday with the Congressional Budget Office. So it was about numbers, and normally numbers are boring and benign, but this laid out a nightmare scenario.

When President Bush took office, the Clinton administration, in concert with the Congressional Budget Office, estimated that there would be a surplus over the next 10 years of $5.6 trillion. We now have an estimate for the next 10 years not of a surplus but of a cumulative deficit of $4.8 trillion. What a fiscal reversal! Over $10 trillion.

I suppose we do not have to worry much about it because it is really going to be heaped on the backs of our children and grandchildren. We will retire on Medicare and Social Security before we will have to pay this number off.

For this fiscal year the Clinton administration had us in line to have a surplus of $400 billion. We now will have a deficit of $477 billion.

Getting rid of Saddam Hussein was a good thing to do. Tax cuts are always a popular thing to do. But somebody, someday is going to have to pay the piper. And I guess we've decided that somebody should be our kids after we retire. This is unfair. It is immoral, and it is irresponsible for this party to be such willing partners to this injustice.

## DEFICIT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, budget projections can be wrong. They often are. But I am also particularly concerned about the CBO report that forecast a several-trillion dollar deficit over the next 10 years. That is the highest level as a percentage of GDP since World War II.

To be clear, this deficit is driven by spending. We did what we had to do to protect our homeland and give our troops the support they need in the war on terror. But we also spent a lot more in other nondefense areas; and when we add increased government spending to an economic slowdown and the 9–11 attacks, we get deficits. There is no way around it.

Fortunately, the tax relief passed by this Congress and signed by the President has stimulated our economy. Now we have to turn our attention to getting government spending under control. We need to tighten our belts a little around here and do the right thing. We should freeze spending and balance the budget as early as we can. We need to get to work to cut the deficit, cut spending, and balance the budget.

## BRING OUR BUDGET IN BALANCE WITH OUR PRIORITIES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, in today's number reporting a deficit $500 billion, a historic number, it goes to prove that we cannot fight three wars with three tax cuts, having now produced a record deficit in the economy.

And what we need now is a balanced budget that is in balance with our priorities. Not all government spending is

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

good, and not all tax cuts lead to the same economic benefit. We need a strategy and an agenda that brings our budget into balance with our priorities, where we can make sure that Americans can afford the education and the health care for their children that they need as well as make sure that we have the security and the investments in our defense that we need. And as we lay out our agenda and understand where we are as a country and the priorities, I think that today's deficit proves that while the economy is supposedly growing, the deficit should be going down, not going up. And the reason it is going up is because we neither have a strategy nor the priorities that are correct for this country and for the future of our country. So we must once again dedicate ourselves to the principle of bringing the budget into balance, in balance with our priorities.

## TIME TO PUT OUR FISCAL HOUSE IN ORDER

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the time has come for Congress to put our fiscal house in order.

This week the Congressional Budget Office released its economic and budget projections showing budget deficits over the next decade including nearly $500 billion for fiscal year 2004.

The American people know about the deficits. The American people also, however, know that this President inherited a recession, experienced and bravely led us through a national emergency and has led America into the war on terror; and these have all taken their toll. Having mostly, however, cleared these historic challenges, I believe that in the coming budget debate, the Republican majority must again demonstrate its commitment to fiscal discipline and limited government. The time has come for Congress to put our fiscal house in order again. We must resist the siren call to raise taxes, which our Democrat friends will bring to this floor again and again; put our fiscal house in order by holding the line on spending, renewing our commitment to limited government and fiscal discipline, which are true Republican values of the majority.

## CONGRATULATING THE CAROLINA PANTHERS

(Mr. WATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT. Mr. Speaker, today I rise to congratulate our Carolina Panthers on going to the Super Bowl. I want to congratulate the owner, Jerry Richardson, and the other owners, Coach Fox, and the members of the team for their outstanding job they have done during the course of this year and cheer them on to victory in the Super Bowl.

It is amazing how something like this can bring a community together even in the face of adverse economy and job loss and deficits. This has been a rallying point for our community, and I applaud the Carolina Panthers and wish them well as they go on to the Super Bowl in Houston this weekend.

## JOB GROWTH

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, to counter my friend, not in the area of football but on the issue of jobs, we all know that the economy is growing; but we continue to hear this argument that we are slow in the area of job growth.

We have seen the report yesterday of a dramatic increase in consumer confidence, the highest levels since mid-2002. Obviously, productivity is at unprecedented levels. Investment is higher. Fifty percent of the American people are members of the investment class. And the market is over 10,600.

So the interesting thing for us to note is that as we look at this job creation issue, it is important for us to observe that what we have regularly found is that the Department of Labor's payroll survey is the one that has been reporting not tremendous job growth. We must look at the household survey, which has shown that there have been 1.9 million new jobs created during this administration since November of 2001. It is important that while this rhetoric of jobless recovery is constantly put out there, the household survey takes into consideration something that the payroll survey does not, and that is the self-employed, those who are creating jobs in the private sector on their own. So it is important for us to responsibly look at these numbers, Mr. Speaker.

## URGING SUPPORT FOR H.R. 2166, PUBLIC SAFETY EX-OFFENDER SELF-SUFFICIENCY ACT OF 2003

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I listened with great interest last week as the President gave his State of the Union address and was quite pleased at one point when he mentioned the need to establish programs for ex-offenders, for people returning home after having been incarcerated. And I could not agree with him more.

So I urge my colleagues to get on board with me and support H.R. 2166, my Public Safety Ex-Offender Self-Sufficiency Act, which is designed to build 100,000 units of SRO-type housing for these individuals over a 5-year period.

If we really want to help people returning home from prison, let us start by giving them a place to stay.

## RECOGNIZING JAY KISLAK

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize Jay Kislak, an outstanding member of the South Florida community.

Jay is the chairman of the Jay I. Kislak Foundation, which is engaged in a collection of rare books, manuscripts, maps, and indigenous art of the Americas.

Through his foundation, Jay has worked to ensure that present and future generations will have a deeper understanding of our glorious past.

As a testament to his expansive knowledge and appreciation for art, Jay was appointed by President Bush to be chairman of the Cultural Property Advisory Committee, a group tasked with directing the government's efforts to protect antiquities around the world.

I ask my colleagues to join me in recognizing Jay Kislak for his profound contribution to the cultural enrichment of our community and our Nation.

## BENEFITS OF PRESCRIPTION DRUG BENEFIT PLAN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, if you go into almost any group of 30 to 40 people and ask how many of you have someone in your family who has to take three or four pills a day, each and every day for the rest of their lives in order to stay active and stay comfortable and stay healthy, probably 70 percent of the hands in the room would go up, because that is the reality in 2004. If we wind back the clock to 1965 and ask that question, not many people would raise their hands, because we did not have the miracle pills then that we do now.

In 1965, when we started Medicare, we could not foresee this pharmaceutical revolution that we have now. That is why this Congress, under the leadership of George Bush, has put in a prescription drug benefit program in our Medicare reform package.

The plan works like this: This April, all seniors will get a 25 percent discount card that can be used in any pharmacy. Just walk in, a 25 percent savings. Then in the year 2006 you will get about a 50 percent cost reduction on your prescription drugs, on average.

Keep in mind, this is a voluntary program. It is not the greatest thing in the world, but it certainly is a huge step forward, and I think seniors will really enjoy this benefit. I am glad the President took this leadership.

## PROVIDING FOR CONSIDERATION OF S. 610, NASA FLEXIBILITY ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

### H. RES. 502

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 610) to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Science and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 520 is an open rule that provides for the consideration of S. 610, the NASA Workforce Flexibility Act of 2003. The rule provides for 1 hour of debate, with 40 minutes equally divided and controlled by the chairman and ranking member of the Committee on Science, and 20 minutes equally divided between the chairman and ranking member of the Committee on Government Reform. The rule also provides one motion to recommit, with or without instructions.

Mr. Speaker, following the extraordinarily tragic Shuttle *Columbia* disaster, it was imperative that the United States take a deep look at its space program. The Columbia Accident Investigation Board and NASA continue to address needed safety concerns, but I think we must take steps to further innovation and scientific research, find new frontiers and unveil endless possibilities.

I believe NASA has undergone a positive transformation in recent weeks. With the stunning successes of the Mars rovers and President Bush announcing new long-term goals for manned space exploration, our national desire to comprehend the nature of our solar system and our universe has been reinvigorated. The underlying legislation provides NASA additional tools to recruit, train and keep the most talented scientists and engineers.

The legislation authorizes NASA to offer needed incentives to valued current and prospective employees, the same as most major corporations and research institutions would offer to compete. When the United States goes to space, Mr. Speaker, we need the brightest and the best in the industry to work to make our dreams of exploration a reality. As such, this legislation authorizes recruitment, relocation and retention bonuses as an incentive to NASA employees; term appointments to our most valued scientific minds; and the ability for Administrator O'Keefe to provide pay increases to those in critical positions and with superior qualifications. These are essential additions necessary for NASA to succeed in its newest missions.

Furthermore, the underlying legislation, Mr. Speaker, authorizes $10 million to begin a Science and Technology Scholarship Program. This funding is an important step for promoting the sciences in our high schools and colleges, while allowing less advantaged students a potential for higher studies.

Our superiority in science and the technologies, without any doubt, has declined since President Kennedy began our Nation on a path to the moon in 1961. It is our responsibility to ensure that when those highly trained NASA scientists retire, some of whom have participated in the entire history of our space program, that they know their replacements will be the best and the brightest from any background that this country has to offer.

I would like to quote Christa McAuliffe, a teacher, astronaut and American hero tragically lost in the explosion of the *Challenger* Space Shuttle. She said, "Space is for everybody. It's not just for a few people in science or math, or for a select group of astronauts. That's our new frontier out there, and it is everybody's business to know about space."

I believe that the underlying legislation, Mr. Speaker, will help NASA to continue our passionate exploration of the unknown. And we bring this legislation forward, Mr. Speaker, under an open rule. Any Member can bring forth to this House for the consideration of all of its membership any idea that Members may have. It is an open and a fair rule.

I would like to thank the gentleman from New York (Chairman BOEHLERT) and Senator VOINOVICH for their support on this issue. I urge Members to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from Florida, Mr. LINCOLN DIAZ-BALART, for yielding me time.

Mr. Speaker, I am pleased to rise in support of the NASA Workforce Flexibility Act of 2003, as well as the rule providing for its consideration. As the majority member of the committee previously mentioned, the underlying legislation will provide NASA with greater personnel management flexibilities to provide bonuses, hiring and other management tools in order to enhance the agency's ability to recruit and retain qualified employees.

I have always been a friend and supporter of NASA and the U.S. program. I, like so many other Americans, have relished in the Earth-shaking rumbling of powerful shuttle engines launched from the Kennedy Space Center. The instant illumination of the night sky still sends a rush of excitement throughout the United States. Children and adults alike dream of the day when they will have an opportunity to see our Earth from beyond its atmosphere.

The U.S. space program has done so much for Americans, not just inspiring and educating us on space exploration, but constantly improving our quality of life. The returns on those investments are accrued all around us. Technologies of NASA's space program have had and continue to have a profound effect on the U.S. and its people. Many products utilized in our homes and workplaces and used for health, fitness and recreation are the direct result of space technology spin-offs.

It is important for Congress to be aware of the issues facing NASA when it comes to hiring and retaining the best and brightest minds of the scientific community. NASA's workforce differs significantly from other Federal agencies in that more than 60 percent of its makeup is scientists and engineers. These statistics place NASA in a difficult position as the number of graduates in the physical sciences, both under- and post-graduate, continues to decrease.

The NASA Workforce Flexibility Act allows NASA to suit up and engage in the fierce competition with the private sector for the most qualified candidates, thus allowing it to become more competitive in recruiting and retaining the kind of workforce NASA will need in the 21st century.

But while NASA suits up, so must Congress. We must provide guidance to this important Federal agency to ensure that it is recruiting and signing up the most qualified candidates from all colleges, universities and the private sector.

Our colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), offered an amendment to the underlying bill in committee that would have reinstated the Minority University and Research Programs as a division after NASA demoted it to program status. The amendment was, unfortunately, defeated. While I have been told that this program has not been stripped of any of its abilities to carry out its mission, I certainly hope that the defeat of this amendment is not the beginning of a striptease.

NASA scholarship opportunities should be equally distributed among institutions of higher education, including minority-serving institutions. Programs such as the one the gentlewoman from Texas (Ms. JACKSON-LEE) sought to reinstate provide the necessary outreach needed to bring the most qualified and diverse candidates to the table.

Mr. Speaker, despite the progress that has been made, it is critical that we continue to move forward in diversifying the workplace. Lags have been particularly visible for minorities in the math and physical sciences. Democrats stand united and prepared to work with the majority to further ensure that Federal agencies, NASA included, are held accountable for their recruiting and hiring practices. Agencies must not only make good-faith efforts to recruit, employ, train, promote and retain members of underrepresented groups, but they must also show us results.

Mr. Speaker, I too want to thank the members of the Committee on Science, in particular the gentleman from New York (Chairman BOEHLERT) and the ranking member, the gentleman from Tennessee (Mr. GORDON), for their incredible work. I also want to thank the members of the Committee on Government Reform, particularly the gentleman from Virginia (Chairman Tom Davis) and the ranking member, the gentleman from California (Mr. WAXMAN), for all of their good work.

As I mentioned previously, I support the underlying legislation and I will not oppose the rule. I urge my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, reiterating my support for the underlying legislation as well as the rule, I ask my colleagues to support both.

Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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□ 1035

## RECESS

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 36 minutes a.m.), the House stood in recess subject to the call of the Chair.

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□ 1055

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LINCOLN DIAZ-BALART) at 10 o'clock and 55 minutes a.m.

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## NASA FLEXIBILITY ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 502 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 610.

□ 1056

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 610) to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, with Mr. ISAKSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes; and the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of S. 610 and I urge my colleagues to approve it and send it to the White House for the President's signature.

This measure is a top priority of the entire administration, especially, of course, of the NASA Administrator. We have taken more than long enough to turn the bill into law.

The need for this bill, it seems to me, is beyond dispute. Events of the past year have highlighted NASA's need to attract and retain the best workforce imaginable, and yet NASA is on the brink of losing the talent that it already has.

Within just 5 years, 5 years, fully one-quarter of NASA's workforce will be eligible to retire. It is no wonder that the General Accounting Office has repeatedly cited strengthening human capital as one of NASA's top management challenges. We must stem the tide of the brain drain. S. 610 is a targeted, carefully crafted, moderate approach to giving NASA additional tools to meet that challenge. The bill does not make any radical departures from current law. Rather, it modifies and expands existing workforce authorities so that NASA can compete with the private sector in the labor market. That is just common sense.

Will changes in civil service laws solve all of NASA's workforce problems? Of course not. But NASA will not be better prepared to recruit and retain the workforce it needs if it is competing with one hand tied behind its back, as it is with current law.

This bill began as a proposal from NASA. We went over that proposal with a fine tooth comb, accepted some provisions, rejected others, and modified many more to clarify and target the new authority.

As a result of those negotiations and additional work in the other body, we have finally ended up with the noncontroversial product that is before us today. A bill eagerly awaited by the administration, a bill that faces no opposition from organized labor, a bill that passed the Senate by unanimous consent.

□ 1100

In short, this is a bill that will make a real difference to NASA and the work we charge it to do without taking any untested approaches or crossing any ideological trip wires.

I should note that the bill before us is nearly identical to my original bill, H.R. 1085, as reported by the House Committee on Science almost 6 months ago.

The most significant difference between the two measures is that S. 610 no longer includes a provision that would have increased the number of employees who could participate in a personnel demonstration project. We are trying to minimize the number of people that can be in a pilot project. If we do not limit the number, we end up having a universal project. NASA was never able to give us any sense of how it would use the requested new authority, and I have no regrets that it has not remained in the bill.

I probably should also point out that we never included in H.R. 1085 authority the administration sought to allow private sector employees to work as government employees for a set period of time. This reverse Intergovernmental Personnel Act program seemed destined to confuse further the line between contract and government workers that already bedevils NASA.

The result of these kinds of decisions, once again, is that we have before us a bill that is not the least bit controversial, but is no less significant for that. It took a lot of work to get us to this point, but it will be worth it.

I want to thank the gentleman from Virginia (Chairman TOM DAVIS) and the rest of the Committee on Government Reform for working so closely with us on this measure. The gentleman from Virginia (Mr. TOM DAVIS) had his own NASA provision as a part of a larger workforce bill, H.R. 1836.

I also want to thank the gentleman from Tennessee (Mr. GORDON), our new ranking member, for getting us off to such an amicable start. It has been a pleasure to work with the gentleman from Tennessee (Mr. GORDON) all these years, and I welcome him to this position of new responsibility and authority and am confident he will serve us all well in this post and will carry on the tradition that we have established in the Committee on Science of working across the aisle, working together to sort out things, to minimize our differences and maximize the opportunities we have to address real problems and deal with them responsibly.

The gentleman from Tennessee (Mr. GORDON) was willing to look at this bill afresh in light of the work we had done with the Senate and events that had transpired since our markup. As a result, we are coming to the floor as a team. Not everyone in this Chamber would have been willing to do that, and I greatly appreciate it.

I also want to thank the gentleman from California (Mr. ROHRABACHER), the chairman of our Subcommittee on Space and Aeronautics, who contributed important scholarship provisions to the bill, and to welcome the gentleman from Texas (Mr. LAMPSON), the new ranking member of the subcommittee, my friend and colleague.

Mr. Chairman, as I have mentioned, this bill is ready for the President's signature. I urge my colleagues to oppose any amendments that might arise and to give this bill the overwhelming support it deserves and that NASA so needs.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, let me thank the gentleman from New York (Mr. BOEHLERT), my chairman, for his kind remarks; and let me concur in that our committee has a long tradition of working in a bipartisan manner. I cannot think of anyone that I would rather work with than our chairman, and I look forward to continuing that progress for our country.

Mr. Chairman, the NASA workforce is a critical national asset. We need to ensure that its strength is maintained if NASA is to undertake all the challenging activities envisioned for it in the coming decades. NASA's workforce is a highly skilled workforce. They truly are rocket scientists.

Yet the NASA workforce is under stress. Those stresses include infrastructure that is aging and in need of repair and upgrading, diversion of resources from existing tasks to provide money for proposed new initiatives, and outsourcing and privatization agendas that call into question the agency's commitment to careers at NASA. Last year, I would have added another item to that list, namely, a lack of long-term goals for the agency.

However, President Bush has now proposed an initiative to go back to the Moon and then at some point in the future send humans to Mars. I have long supported the idea that the space program needs some clear and compelling long-term goals. So I welcome the President's decision to propose an initiative. Of course, setting goals is an important first step, but we will still need to assess whether or not the President's plan to achieve these goals is viable. We will have a better idea of that once the fiscal year 2005 budget request is released next week and once NASA provides more information on specifics of the initiative.

Clearly, it will not send a good signal to NASA's workforce if the new initiative winds up being paid for by cannibalizing other important NASA activities. It will not be fair to the NASA workforce if they are tasked with a set of challenging and ambitious goals and a budget that is inadequate to achieve those goals.

Turning to S. 610, the NASA Flexibility Act of 2003, I believe that it is an improvement over the legislation considered by the Committee on Science last year. It modifies or eliminates a number of provisions that I and other Members have found objectionable; and at the same time, we should not lull ourselves into believing that this bill will solve all of NASA's workforce problems. For example, S. 610 includes a number of enhanced recruitment and retention bonuses. Yet I have been troubled by the indications from NASA's own data that NASA may not be using its existing authorities to the fullest extent due to competing budgetary pressures at the various centers, pressures that may well be increased.

Apparently my concerns are shared by NASA's inspector general. He has initiated an investigation into the extent to which NASA is making use of its existing workforce authorities. I look forward to hearing the results of that investigation.

With respect to the space shuttle, under the President's plan, the civil servants and contract personnel supporting the shuttle program will see their jobs disappear over the next 6 years. The best of those employees are not going to wait around for the inevitable. That fact puts the onus on NASA's management to ensure that the critical skills needed to fly the shuttle safely will be retained over the entire period. I certainly hope that NASA has a credible shuttle workforce retention plan ready to go. If not, NASA's management needs to put one in place as soon as possible if we are to avoid a hemorrhaging of critical skills from the shuttle program.

Finally, I remain concerned that S. 610 is a bill focused solely on the NASA workforce. However, the leadership of NASA has argued strongly that they need this legislation to maintain a strong workforce. As a result of that and as a result of the gentleman from New York (Chairman BOEHLERT) graciously accepting some improvements to the bill, I will support passage of S. 610 today; and I will be watching over the coming years to make sure that NASA's performance on workforce issues matches its stated intentions.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), the distinguished chairman of the Subcommittee on Space and Aeronautics.

Mr. ROHRABACHER. Mr. Chairman, I rise in support of S. 610, the NASA Flexibility Act of 2003. NASA engineers, scientists, and technicians have been the space agency's true pioneers. These talented men and women dedicated to pushing the technological envelope are credited with opening new vistas of progress for all of humankind. We must look at them as a valuable, valuable asset.

With the recent announcement of our President, NASA's workforce will again be looked upon to extend the reach of our capabilities, to extend our reach to the Moon and then farther on into the heavens. Let us hope that the can-do spirit of the past will be reawakened in NASA as a result of the President's visionary goals-setting coupled with what I consider to be a very pragmatic strategy as set forward by the President.

Let us hope the young people throughout America will hear the

President's words and are excited and activated by this new goal-setting by the President of the United States and thus by the executive branch of the United States Government.

As we begin a new chapter in America's space experience, we are doing our job on the legislative end. S. 610 will help ensure that talented and creative people continue to commit their time and services to America's space effort so we can achieve the goals that I just referred to.

An aging workforce today threatens the future of our civil space program. In response to this impending crisis, this legislation calls for remedies aimed at helping NASA become more flexible in recruiting, retaining, and restructuring its workforce to address the agency's critical needs. For example, major provisions of the bill authorize NASA to provide greater pay and bonuses to individuals critical to the goals, missions, and objectives of the agency, as well as to authorize and set up a scholarship for a service program in which NASA can pay a student's tuition in exchange for accepting employment at NASA upon graduation; and I am particularly proud of that provision.

The gentleman from New York's (Chairman BOEHLERT) continuing leadership and all of his hard work have been making this reform possible; and given the administration's new vision for NASA, there is no better time for us to be tackling this workforce problem. I thank the chairman; I thank the ranking member; I thank the people on both sides of the aisle. We have worked on this in a bipartisan spirit, and this will give us the ability to accomplish great things in the future for our country.

Mr. GORDON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. LAMPSON), the new ranking member of the Subcommittee on Space and Aeronautics.

Mr. LAMPSON. Mr. Chairman, I thank the gentleman from Tennessee (Mr. GORDON), the ranking member, and want to commend him on his ascension to being ranking member on the Committee on Science and thank him not only for what he is going to be doing as ranking member but for the great work the gentleman has done on the committee along the way.

It is a pleasure also to work with the gentleman from New York (Chairman BOEHLERT) and the gentleman from California (Mr. ROHRABACHER), the chairman of the Subcommittee on Space and Aeronautics, as well; and I look forward to that.

Mr. Chairman, I rise in support of S. 610; and even though it does not address all of the important issues facing the NASA workforce, including those outlined by the gentleman from Tennessee (Mr. GORDON) earlier, it is the only NASA workforce bill that we are likely to get out of this Congress this year, and as such, I intend to support it.

When a House version of this workforce legislation was marked up by the Committee on Science last year, I objected to the lack of any challenging goals for NASA's human space flight program. I offered an amendment to establish some specific goals. Unfortunately, my amendment was defeated on a party-line vote. I thought that was a mistake, and now it appears that President Bush agrees with me; and he has announced this ambitious, long-term exploration initiative that mirrors my amendment in earlier legislation that I had introduced; and I am very pleased to see that happen.

The challenge, however, will be in turning those goals into a reality in a manner that does not damage NASA's other important programs or take away from our commitments to those members of society who do indeed need our help.

Mr. Chairman, NASA's management has said that they need this workforce legislation. I am prepared to support it because I deeply care about the hardworking, dedicated men and women who work at NASA and especially at the Johnson Space Center, and I want to do whatever might help them achieve their full potential. Yet simply increasing the size of the bonuses available to NASA employees is not a cure-all, especially if NASA is not making full use of its existing bonus authority, a possibility that is being investigated, as we speak, by NASA's inspector general.

I do not believe that NASA's best and brightest are motivated primarily by money anyway. Rather, I think it is the chance to work on cutting-edge research and development and to attempt the near impossible that attracts them to NASA, and that is what is going to keep them there.

I remember a year or so ago getting up and leaving our table at the committee hearing and going out into the audience and sitting with about 20 or 25 college students and asking them, when we were talking about financial benefits that would supposedly motivate them to go to work for NASA, what it was that they wanted to see, and the response was destination goals: it will give me an opportunity to live my dream, give me an opportunity to go work on something that will make a difference to society.

That is also why I was so upset a few years ago when the NASA leadership decided to cancel the X-38 crew return vehicle project. The X-38/CRV was an exciting example of NASA employees coming up with an innovative, low-cost way of meeting an important space station requirement, and they were working hard to turn it into a reality. Yet it was cancelled just as it was nearing completion, and I might add, at a greater cost than it would have taken to complete it. The dedicated NASA team that had worked on that project was broken up and dispersed.

So where are we now? It appears that after several years of false starts on a more expensive project for the X-38/CRV, NASA leadership has now decided to pay the Russians to provide the same capability, create jobs in Russia.

I sponsored legislation to allow the United States to use the Soyuz after the *Columbia* tragedy, to give more flexibility to the administration.

☐ 1115

The Congress is going to have to revisit the Iran Nonproliferation Act if we are going to rely on Soyuz, as the administration wants, to get us to and from the Space Station after the Shuttle is retired in 2010.

So whatever we may think of the wisdom of sending U.S. taxpayer dollars to Russia, it certainly does not strike me as being the way to reward innovation by the NASA workforce. Quite the contrary.

I intend to take a close look at NASA's plans for the Space Station and the Space Shuttle as we review the fiscal 2005 budget request over the coming months. We owe it to the NASA workforce to ask the tough questions. We need to ensure that they are being given sensible plans to implement, as well as the tools to carry them out. In the meantime, I think that S. 610 represents an improvement over legislation that we considered earlier, and I am prepared to support it.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. EHLERS), a very valued member of the Committee on Science.

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today I rise in strong support of S. 610, the NASA Flexibility Act. The Committee on Science chairman, the gentleman from New York (Mr. BOEHLERT), and the Committee on Government Reform chairman, the gentleman from Virginia (Mr. TOM DAVIS) are to be commended for working closely with our colleagues in the other body, as well as with NASA and NASA's unions, in crafting the moderate, targeted and careful package of civil service modifications that resulted in S. 610.

All proposals from NASA, its unions, the House and Senate were considered, refined, debated and discussed in a series of hearings in both the House and Senate committees. Differences were debated openly and in a straightforward manner. These measures were carefully crafted after a year and a half of thorough deliberation. This has been an arduous process, but the outcome is an excellent piece of legislation with S. 610.

The real winner from all this hard work that went into this legislation will be the scientists and engineers at NASA. NASA is having a difficult time recruiting and retaining the best and the brightest workforce, as many NASA employees from the Apollo era have retired; and unfortunately, the bright, prospective, new talent we need in the agency is instead sometimes attracted to jobs paying more than the government can provide.

NASA does many amazing things, as the Mars exploration rovers have demonstrated, but the agency also faces a number of challenges in addressing the recommendations of the Columbia Accident Investigation Board report. S. 610 will help to revitalize the agency, and I ask all Members to support this bill.

Let me also mention another important aspect of this issue. We cannot do good science without good scientists, and we cannot do good engineering without good engineers. In our Nation, unfortunately, the engineering enrollments have been declining for 20 years, in a steady, slow decline. We are having problems in this Nation with getting good, bright engineers and scientists to do the work we need, not only at NASA but elsewhere.

I am very pleased that the President recognized this important factor in his State of the Union speech when he mentioned the need to improve math and science education in this Nation. Today, over half of the graduate students in science and engineering in our Nation are from other countries. Our students are not competing well on graduate student admissions. And when we trace it back, it is because they were not excited about science by the time they finished the K–12 system, even though many are excited going into it. We must address that problem.

We have addressed it to the best of our ability through math-science partnerships in the National Science Foundation and in the Department of Education. We must continue to support that, plus we also have to provide the resources for our Nation's teachers and our education system to provide the education that our future scientists and engineers need.

I believe a combination of improving our K–12 system plus this bill will be a great asset not only for NASA but also for our Nation in the years ahead.

Mr. GORDON. Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for years we have been sounding the alarm that the Federal Government faces grave danger when it comes to losing highly specialized employees. NASA is certainly no exception. In fact, it leads the pack. Fifteen percent of NASA's workforce is currently eligible to retire. A quarter of the agency will be eligible to retire over the next 5 years. Scientists and engineers over 60 outnumber those under 30 by nearly three to one. The potential loss of institutional knowledge is staggering.

Why are we in the midst of a human capital crisis? When it comes to the kind of very smart, very well-educated, highly specialized people who work in our space program? It is largely because we are competing directly with the higher-paying private sector firms. But it is also because when it comes to the civil service, preserving traditions has become a tradition unto itself, and I think it is time to change that tradition.

NASA, as well as the country as a whole, scored a major victory this month by safely landing two unmanned rovers on the face of Mars. In order to make sure that NASA's successes such as this outweigh its failures, we need to provide NASA with as much flexibility as possible in order to recruit and retain the best and the brightest that this country has to offer for our space program.

The simple fact is that NASA's personnel policies are dated and are holding the agency back. The modernization that this bipartisan legislation promises marks a significant step in the right direction for NASA, for the government, for science and for taxpayers.

It has been over a year since NASA Administrator Sean O'Keefe first came to Capitol Hill requesting these much-needed personnel flexibilities. And while I wish we could have responded sooner, I am pleased to be here today to see the legislation finally making its way through the process.

The Committee on Government Reform, which I chair, marked up similar legislation last May, and the House Committee on Science marked up the legislation last July. I want to thank my friend and colleague, the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT) for his tremendous efforts in moving this important legislation forward, as well as the subcommittee chairman, the gentleman from California (Mr. ROHRABACHER), and the ranking minority members as well; and I look forward to working with them in the future to improve workforce flexibilities available to NASA, as well as to other Federal agencies that work to expand the frontier of science.

One of the difficulties we have in recruiting employees today for NASA and other agencies, is that when they go to a job fair and they talk to a college recruiter, by the time they go back and go through all the rules and regulations in hiring, sometimes background checks, it is months before they can put an offer on the table. In the meantime, the private sector is up there with hiring bonuses, and they are up there with an offer on the table immediately with a job guarantee. We cannot compete in that kind of environment.

I know some of my friends on the Committee on Science on the other side of the aisle are concerned about paying bonuses, but this is commonplace in the private sector with which we are competing. We are talking about some of the brightest people in the world, scientists, engineers, literally rocket scientists that we want running our space program. We do not want to go second tier with people who are salaried and getting bogged down making sometimes one-tenth of what they could make in the private sector. It does not work that way.

So I support this legislation, and I am proud to see it moving forward.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in July 2001, the Office of Personnel Management updated its report entitled Human Resources Flexibilities and Authorities in the Federal Government. The report states that the government as a single employer remains sound public policy. Consequently, it is important to retain government-wide approaches, authorities, entitlements, and requirements in several areas, including collective bargaining, merit system principles, due process protections related to adverse actions and, among other things, veterans preference in employment and retention.

If, as the report states, government as a single employer is sound public policy, the overly broad and hastily developed human resources authorities granted to the Department of Homeland Security, the Department of Defense, and now the National Aeronautics and Space Administration, NASA, are simply not the best sound public policy.

That is not to say that the current civil service system is not in need of reform. It is. Members of Congress, their staffs and stakeholders have worked diligently to improve agency-specific reform proposals as they speed to enactment, but that is not the way to create a fair and equitable civil service. Congress, the Office of Personnel Management and Federal employee groups should be concentrating our efforts on government-wide reforms rather than agency-by-agency requests.

The bill being considered today is no exception. Although S. 610 has been greatly improved since its initial introduction, it serves only to further fragment the civil service. I applaud the fact that the bill includes a provision that mandates that NASA's Administrator submit a plan for OPM approval detailing the workforce needs of NASA, how NASA intends to use new workforce flexibilities to meet those needs, and how the agency has utilized existing flexibilities.

NASA is also required to submit a workforce plan to Congress and provide it to all employees at least 60 days before exercising any of the flexibilities in the plan. These are very prudent steps for Congress to require NASA to take. However, they are steps that should have been taken before granting NASA the authority.

Mr. Chairman, I would urge that the Subcommittee on Civil Service and Agency Organization of the Committee on Government Reform exercise its authority over NASA and other agencies that have received new human capital flexibilities. If nothing else, we can examine how effective these agencies are in implementing these new flexibilities before granting them to other agencies.

There has been a great deal of effort to reach bipartisan agreement on this legislation. I commend the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS), and the ranking member, the gentleman from California (Mr. WAXMAN), for the leadership and civility that they have displayed. So I am going to vote in favor of this legislation and further urge that we continue to take a good, hard look at the implementation of these flexibilities before granting them to other agencies on an individual-by-individual agency request. I still believe that agency-wide reform throughout the entire government is the best approach.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to conclude my remarks by thanking our very capable staff of the Committee on Science on our side, David Goldston and Chris Shank, and this was the last bill worked on by our deceased former counsel, Mr. Barry Berringer, who always gave so much, such great value added to the committee with his outstanding work.

We cannot function in this Congress without the commitment, the ability and the hard work of dedicated professional staff, and we are blessed in the Committee on Science. But we are not the only ones. All across Capitol Hill, the people and the background are there every single day working hard to prepare us to deal responsibly in shaping public policy.

So I want to conclude my remarks by thanking the staff for their outstanding work.

Mr. Chairman, I submit for the RECORD letters to and from myself and the Chairman of the Committee on Government Reform regarding the appointment of conferees on this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
*Washington, DC, January 27, 2004.*

Hon. SHERWOOD L. BOEHLERT,
*Chairman, Committee on Science, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for working with me in developing the H.R. 1085, the NASA Flexibility Act of 2003. As you know, the Committee on Government Reform reported the bill, H.R. 1836, the Civil Service and National Security Personnel Improvement Act. Included in that Act was Title III, Subtitle B, National Aeronautics and Space Administration. The House is scheduled to consider S. 610, the Senate companion to H.R. 1085 tomorrow. Although S. 610 has been held at the Speaker's desk it is my understanding that the bill would have been referred to the Committees on Science and on Government Reform.

I support moving this important legislation forward expeditiously; however, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's or the Committee on Science's jurisdictional interest and prerogatives on this bill or any other similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar bill be considered in a conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during floor consideration of S. 610. Thank you for your assistance and cooperation in this matter.

Sincerely,

TOM DAVIS,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
*Washington, DC, January 27, 2004.*

Hon. TOM DAVIS,
*Chairman, Committee on Government Reform, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 1085, the NASA Flexibility Act of 2003, and S. 610, the Senate's companion bill. As you know, the House will consider S. 610 on the floor tomorrow.

It is also my understanding that had S. 610 not been held at the Speaker's desk, it would have been referred to the Committee on Science and to the Committee on Government Reform. I agree that by agreeing to have the bill held at the desk, the Committee on Science and the Committee on Government Reform have not adversely affected their respective jurisdictional interests or their prerogatives in this bill or similar legislation.

I would be happy to support your request for conferees on this bill or similar legislation should a conference with the Senate become necessary.

Thank you for your consideration and attention to this bill.

Sincerely,

SHERWOOD BOEHLERT,
*Chairman.*

Mr. Chairman, I yield back the balance of my time.

☐ 1130

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, I want to thank the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. BOEHLERT) for bringing forth a better bill, and also thank the gentleman from Texas (Mr. LAMPSON) for improving the bill and for the gentleman's accession as the ranking member on the Subcommittee on Space and Aeronautics and let the gentleman know he could not possibly find a better partner than the gentleman from California (Mr. ROHRABACHER) as the chairman of their subcommittee.

Again, I thank the gentleman from New York (Chairman BOEHLERT) for helping us make this a better bill. I want to say to our Members that I intend to support this bill and recommend that they support it in final passage.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I am pleased to be here today to speak in favor of S. 610, the NASA Flexibility Act of 2003.

Since its creation in 1958, NASA has been the foremost symbol of American ingenuity, daring and accomplishment. Its talented employees have helped us explore new worlds and peek into distant galaxies. Time and again, NASA has shaped our Nation's future.

But in one respect, NASA is still stuck in the past. This bill will help us transform NASA's personnel system into a modern, flexible and responsive system, one that is absolutely necessary for a 21st Century workforce.

This legislation gives NASA powerful tools to win the recruitment and retention battles it faces everyday. Just last year, NASA Administrator Sean O'Keefe described the agency's personnel situation as "alarming," given that 1 out of every 4 of the agency's scientists and engineers is eligible to retire, and that those above the age of 60 outnumber those below the age of 30 by a nearly 3-to-1 ratio. NASA faces a potential "brain drain"—and that is not a scenario we can allow to happen.

By authorizing higher pay for certain exceptional employees, offering more vacation time to mid-career hires, and allowing for recruitment, retention and relocation bonuses, S. 610 addresses these concerns.

And this legislation has been created to address some of the concerns of employees, too. In exchange for these flexibilities, NASA is required to submit a written plan to the Office of Personnel Management stating the workforce needs of NASA, how NASA will use increased workforce flexibilities to meet those needs, and how NASA has used existing flexibilities. A workforce plan must also be submitted to Congress and to all employees at least 60 days before exercising any part of the plan. Prior to submitting a plan to Congress, however, a proposed plan must be provided to employee representatives and NASA is required to give their recommendations "full and fair consideration."

These are provisions that I had pushed for in the House version of this bill, H.R. 1085, and I am pleased that they will be included in the final version that is poised to become law.

Mr. Chairman, I urge passage of S. 610.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is with mild apprehension that I rise today in support of S. 610, the NASA Flexibility Act. My vote today is not really an endorsement of this bill. Instead it is a vote of confidence for the people at NASA, and a demonstration of my heart-felt desire to work together in a bipartisan fashion here in Congress, with the Administrator at NASA, and with the administration, to help NASA achieve the greatness of which it is capable.

NASA is at a turning point. The past two decades have seen drastic cuts in the NASA budgets and the NASA workforce. Its mission has been unambitious, and its programs have seemed to drift. We have lost two space shuttles and 14 brave astronauts. But today, there is unprecedented hope for the future. Two rovers on the surface of Mars are beaming back data that could help us unlock some of the greatest mysteries of our universe. They have captured the imaginations of the American people, with over 30 million people logging on to the NASA website in the last weeks. The President has launched a dialog that could lead to a bold new mission for NASA, to go back to the Moon, then on to Mars, and beyond. The excitement in my district of Houston is palpable.

If we start this new phase on the right foot, there is nothing that NASA, driven by the American spirit, cannot accomplish. But if we stumble, we could set back human space exploration for generations. That would be tragic for our scientists, our society, and our economy.

When the Workforce Flexibility bill first came to us in the Science Committee, I was absolutely against it. It gave too much latitude to the Administrator to tinker with the loyal NASA workforce through huge demonstration projects. It allowed big bonuses for political appointees—and I don't hear anyone arguing that there is a critical need for more political appointees in this town. After some intense bipartisan work in the Science Committee, and with help from the unions, and with some strong leadership from Senator HOLLINGS, the most egregious parts of the bill have been removed.

But the most important reason I was against the bill before us in Fall, is that I felt it was irresponsible to give the Administrator of NASA the flexibility to move faster—when we had no idea where he was going. We were hearing that they needed the ability to bring in key personnel, but they couldn't tell us what project those people were going to work on, because NASA was severely lacking in vision and mission. This is why I and many other of our colleagues supported Congressman NICK LAMPSON's Space Exploration Act of 2003, which would have set a series of bold, yet attainable goals for NASA. I am pleased that the President has heard our call, and has put forth his plan for the future of the manned-space mission of NASA.

We are far from finalizing that plan, but there has been a surge of momentum and enthusiasm, and I hope we capitalize on it. The bold new mission will take creativity at every level of NASA. That is why I am lending my voice in support of this workforce bill. But I am still concerned. I hope this and future NASA administrators are judicious in their use of this new "flexibility." My district is a stone's-throw from Johnson Space Center, and I consider the people there my friends and neighbors. They come to Houston out of a noble sense of purpose, to do something extraordinary and be a part of something unlike anything else in the history of this planet.

Sure, bonuses and travel expenses like those authorized in this bill can make it a bit more comfortable for those in government jobs—but that is not what will keep the best people at NASA. They want a sense of purpose—and that will come from a bold mission. They want a sense of community—and that will come from stability and fairness in the workplace. They want to feel that they are making a difference—and that will come from changing the culture at NASA so that bright thoughtful people are heard and respected. And they want to feel safe—and that will come from making safety a priority and not an afterthought as it has been in the past.

To make NASA all it should be, we will all need to work together. I will do my part, and by supporting this bill I am giving the Administrator the tools he says he needs to do his. But, I will be following closely as the future of NASA unfolds. Today we are hearing a new level of interest and commitment from the administration. However, as we have seen with education, and homeland security, and HIV/AIDS—often the words are not backed up by adequate funding and political capital. I hope that will not be the case with NASA.

This act creates scholarship for work programs that will help get the best young people to choose NASA for their careers. I hope various retention bonuses will enable the Administrator to encourage top people to stay through the transition that will occur over the next decade as we move from the space shuttle and the space station, into the work beyond. For example, we must harvest the talents of the fabulous space shuttle team in Houston, and not risk letting them run to private industry while Congress or the administration sits on its hands.

It should be an exciting year for NASA, and space enthusiasts around the world. I hope this act will help drive NASA to greatness. I support it and urge my colleagues to do the same.

Mr. GORDON. Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of S. 610 is as follows:

S. 610

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "NASA Flexibility Act of 2003".

**SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PERSONNEL.**

(a) IN GENERAL.—Subparagraph (A) of section 203(c)(2) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(2)(A)) is amended by striking "the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended," and inserting "the rate of basic pay payable for level III of the Executive Schedule,".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

**SEC. 3. WORKFORCE AUTHORITIES.**

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by inserting after chapter 97, as added by section 841(a)(2) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2229), the following:

**"CHAPTER 98—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

"Sec.
"9801. Definitions.
"9802. Planning, notification, and reporting requirements.
"9803. Restrictions.
"9804. Recruitment, redesignation, and relocation bonuses.
"9805. Retention bonuses.
"9806. Term appointments.
"9807. Pay authority for critical positions.
"9808. Assignments of intergovernmental personnel.
"9809. Science and technology scholarship program.
"9810. Distinguished scholar appointment authority.
"9811. Travel and transportation expenses of certain new appointees
"9812. Annual leave enhancements.
"9813. Limited appointments to Senior Executive Service positions.
"9814. Qualifications pay.
"9815. Reporting requirement.

**"§9801. Definitions**

"For purposes of this chapter—

"(1) the term 'Administration' means the National Aeronautics and Space Administration;

"(2) the term 'Administrator' means the Administrator of the National Aeronautics and Space Administration;

"(3) the term 'critical need' means a specific and important safety, management, engineering, science, research, or operations requirement of the Administration's mission that the Administration is unable to fulfill because the Administration lacks the appropriate employees because—

"(A) of the inability to fill positions; or

"(B) employees do not possess the requisite skills;

"(4) the term 'employee' means an individual employed in or under the Administration;

"(5) the term 'workforce plan' means the plan required under section 9802(a);

"(6) the term 'appropriate committees of Congress' means—

"(A) the Committees on Government Reform, Science, and Appropriations of the House of Representatives; and

"(B) the Committees on Governmental Affairs, Commerce, Science, and Transportation, and Appropriations of the Senate;

"(7) the term 'redesignation bonus' means a bonus under section 9804 paid to an individual described in subsection (a)(2) thereof;

"(8) the term 'supervisor' has the meaning given such term by section 7103(a)(10); and

"(9) the term 'management official' has the meaning given such term by section 7103(a)(11).

**"§9802. Planning, notification, and reporting requirements**

"(a) Not later than 90 days before exercising any of the workforce authorities made available under this chapter, the Administrator shall submit a written plan to the appropriate committees of Congress. Such plan shall be approved by the Office of Personnel Management.

"(b) A workforce plan shall include a description of—

“(1) each critical need of the Administration and the criteria used in the identification of that need;

“(2)(A) the functions, approximate number, and classes or other categories of positions or employees that—

“(i) address critical needs; and

“(ii) would be eligible for each authority proposed to be exercised under this chapter; and

“(B) how the exercise of those authorities with respect to the eligible positions or employees involved would address each critical need identified under paragraph (1);

“(3)(A) any critical need identified under paragraph (1) which would not be addressed by the authorities made available under this chapter; and

“(B) the reasons why those needs would not be so addressed;

“(4) the specific criteria to be used in determining which individuals may receive the benefits described under sections 9804 and 9805 (including the criteria for granting bonuses in the absence of a critical need), and how the level of those benefits will be determined;

“(5) the safeguards or other measures that will be applied to ensure that this chapter is carried out in a manner consistent with merit system principles;

“(6) the means by which employees will be afforded the notification required under subsections (c) and (d)(1)(B);

“(7) the methods that will be used to determine if the authorities exercised under this chapter have successfully addressed each critical need identified under paragraph (1);

“(8)(A) the recruitment methods used by the Administration before the enactment of this chapter to recruit highly qualified individuals; and

“(B) the changes the Administration will implement after the enactment of this chapter in order to improve its recruitment of highly qualified individuals, including how it intends to use—

“(i) nongovernmental recruitment or placement agencies; and

“(ii) Internet technologies; and

“(9) any workforce-related reforms required to resolve the findings and recommendations of the Columbia Accident Investigation Board, the extent to which those recommendations were accepted, and, if necessary, the reasons why any of those recommendations were not accepted.

“(c) Not later than 60 days before first exercising any of the workforce authorities made available under this chapter, the Administrator shall provide to all employees the workforce plan and any additional information which the Administrator considers appropriate.

“(d)(1)(A) The Administrator may from time to time modify the workforce plan. Any modification to the workforce plan shall be submitted to the Office of Personnel Management for approval by the Office before the modification may be implemented.

“(B) Not later than 60 days before implementing any such modifications, the Administrator shall provide an appropriately modified plan to all employees of the Administration and to the appropriate committees of Congress.

“(2) Any reference in this chapter or any other provision of law to the workforce plan shall be considered to include any modification made in accordance with this subsection.

“(e) Before submitting any written plan under subsection (a) (or modification under subsection (d)) to the Office of Personnel Management, the Administrator shall—

“(1) provide to each employee representative representing any employees who might be affected by such plan (or modification) a copy of the proposed plan (or modification);

“(2) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposed plan (or modification); and

“(3) give any recommendations received from any such representatives under paragraph (2) full and fair consideration in deciding whether or how to proceed with respect to the proposed plan (or modification).

“(f) None of the workforce authorities made available under this chapter may be exercised in a manner inconsistent with the workforce plan.

“(g) Whenever the Administration submits its performance plan under section 1115 of title 31 to the Office of Management and Budget for any year, the Administration shall at the same time submit a copy of such plan to the appropriate committees of Congress.

“(h) Not later than 6 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress an evaluation and analysis of the actions taken by the Administration under this chapter, including—

“(1) an evaluation, using the methods described in subsection (b)(7), of whether the authorities exercised under this chapter successfully addressed each critical need identified under subsection (b)(1);

“(2) to the extent that they did not, an explanation of the reasons why any critical need (apart from the ones under subsection (b)(3)) was not successfully addressed; and

“(3) recommendations for how the Administration could address any remaining critical need and could prevent those that have been addressed from recurring.

“(i) The budget request for the Administration for the first fiscal year beginning after the date of enactment of this chapter and for each fiscal year thereafter shall include a statement of the total amount of appropriations requested for such fiscal year to carry out this chapter.

### “§9803. Restrictions

“(a) None of the workforce authorities made available under this chapter may be exercised with respect to any officer who is appointed by the President, by and with the advice and consent of the Senate.

“(b) Unless specifically stated otherwise, all workforce authorities made available under this chapter shall be subject to section 5307.

“(c)(1) None of the workforce authorities made available under section 9804, 9805, 9806, 9807, 9809, 9812, 9813, 9814, or 9815 may be exercised with respect to a political appointee.

“(2) For purposes of this subsection, the term ‘political appointee’ means an employee who holds—

“(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a)).

### “§9804. Recruitment, redesignation, and relocation bonuses

“(a) Notwithstanding section 5753, the Administrator may pay a bonus to an individual, in accordance with the workforce plan and subject to the limitations in this section, if—

“(1) the Administrator determines that the Administration would be likely, in the absence of a bonus, to encounter difficulty in filling a position; and

“(2) the individual—

“(A) is newly appointed as an employee of the Federal Government;

“(B) is currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or

“(C) is currently employed by the Federal Government and is required to relocate to a different geographic area to accept a position with the Administration.

“(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed—

“(1) 50 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period multiplied by the service period specified under subsection (d)(1)(B)(i); or

“(2) 100 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

“(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee’s annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

“(d)(1)(A) Payment of a bonus under this section shall be contingent upon the individual entering into a service agreement with the Administration.

“(B) At a minimum, the service agreement shall include—

“(i) the required service period;

“(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

“(iii) the amount of the bonus and the basis for calculating that amount; and

“(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

“(2) For purposes of determinations under subsections (b)(1) and (c)(1), the employee’s service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

“(3) A bonus under this section may not be considered to be part of the basic pay of an employee.

“(e) Before paying a bonus under this section, the Administration shall establish a plan for paying recruitment, redesignation, and relocation bonuses, subject to approval by the Office of Personnel Management.

“(f) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

### “§9805. Retention bonuses

“(a) Notwithstanding section 5754, the Administrator may pay a bonus to an employee, in accordance with the workforce plan and subject to the limitations in this section, if the Administrator determines that—

“(1) the unusually high or unique qualifications of the employee or a special need of the Administration for the employee’s services makes it essential to retain the employee; and

“(2) the employee would be likely to leave in the absence of a retention bonus.

“(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 50 percent of the employee's annual rate of basic pay (including comparability payments under sections 5304 and 5304a).

“(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee's annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a).

“(d)(1)(A) Payment of a bonus under this section shall be contingent upon the employee entering into a service agreement with the Administration.

“(B) At a minimum, the service agreement shall include—

“(i) the required service period;

“(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

“(iii) the amount of the bonus and the basis for calculating the amount; and

“(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

“(2) The employee's service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

“(3) Notwithstanding paragraph (1), a service agreement is not required if the Administration pays a bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee, with no portion of the bonus deferred. In this case, the Administration shall inform the employee in writing of any decision to change the retention bonus payments. The employee shall continue to accrue entitlement to the retention bonus through the end of the pay period in which such written notice is provided.

“(e) A bonus under this section may not be considered to be part of the basic pay of an employee.

“(f) An employee is not entitled to a retention bonus under this section during a service period previously established for that employee under section 5753 or under section 9804.

“(g) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

**“§9806. Term appointments**

“(a) The Administrator may authorize term appointments within the Administration under subchapter I of chapter 33, for a period of not less than 1 year and not more than 6 years.

“(b) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration without further competition if—

“(1) such individual was appointed under open, competitive examination under subchapter I of chapter 33 to the term position;

“(2) the announcement for the term appointment from which the conversion is made stated that there was potential for subsequent conversion to a career-conditional or career appointment;

“(3) the employee has completed at least 2 years of current continuous service under a term appointment in the competitive service;

“(4) the employee's performance under such term appointment was at least fully successful or equivalent; and

“(5) the position to which such employee is being converted under this section is in the same occupational series, is in the same geographic location, and provides no greater promotion potential than the term position for which the competitive examination was conducted.

“(c) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration through internal competitive promotion procedures if the conditions under paragraphs (1) through (4) of subsection (b) are met.

“(d) An employee converted under this section becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure.

“(e) An employee converted to career or career-conditional employment under this section acquires competitive status upon conversion.

**“§9807. Pay authority for critical positions**

“(a) In this section, the term ‘position’ means—

“(1) a position to which chapter 51 applies, including a position in the Senior Executive Service;

“(2) a position under the Executive Schedule under sections 5312 through 5317;

“(3) a position established under section 3104; or

“(4) a senior-level position to which section 5376(a)(1) applies.

“(b) Authority under this section—

“(1) may be exercised only with respect to a position that—

“(A) is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A); and

“(B) requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

“(2) may be exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position; and

“(3) may be exercised only in retaining employees of the Administration or in appointing individuals who were not employees of another Federal agency as defined under section 5102(a)(1).

“(c)(1) Notwithstanding section 5377, the Administrator may fix the rate of basic pay for a position in the Administration in accordance with this section. The Administrator may not delegate this authority.

“(2) The number of positions with pay fixed under this section may not exceed 10 at any time.

“(d)(1) The rate of basic pay fixed under this section may not be less than the rate of basic pay (including any comparability payments) which would otherwise be payable for the position involved if this section had never been enacted.

“(2) The annual rate of basic pay fixed under this section may not exceed the per annum rate of salary payable under section 104 of title 3.

“(3) Notwithstanding any provision of section 5307, in the case of an employee who, during any calendar year, is receiving pay at a rate fixed under this section, no allowance, differential, bonus, award, or similar cash payment may be paid to such employee if, or to the extent that, when added to basic pay paid or payable to such employee (for service performed in such calendar year as an employee in the executive branch or as an employee outside the executive branch to whom chapter 51 applies), such payment would cause the total to exceed the per annum rate of salary which, as of the end of such calendar year, is payable under section 104 of title 3.

**“§9808. Assignments of intergovernmental personnel**

“For purposes of applying the third sentence of section 3372(a) (relating to the authority of the head of a Federal agency to extend the period of an employee's assignment to or from a State or local government, institution of higher education, or other organization), the Administrator may, with the concurrence of the employee and the government or organization concerned, take any action which would be allowable if such sentence had been amended by striking ‘two’ and inserting ‘four’.

**“§9809. Science and technology scholarship program**

“(a)(1) The Administrator shall establish a National Aeronautics and Space Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Administration.

“(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

“(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Administration, for the period described in subsection (f)(1), in positions needed by the Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

“(b) In order to be eligible to participate in the Program, an individual must—

“(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education in an academic field or discipline described in the list made available under subsection (d);

“(2) be a United States citizen or permanent resident; and

“(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105).

“(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

“(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

“(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

"(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

"(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

"(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

"(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

"(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 4 years.

"(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

"(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

"(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

"(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

"(A) the total amount of scholarships received by such individual under this section; plus

"(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

"(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

"(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

"(i) For purposes of this section—

"(1) the term 'cost of attendance' has the meaning given that term in section 472 of the Higher Education Act of 1965;

"(2) the term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

"(3) the term 'Program' means the National Aeronautics and Space Administration Science and Technology Scholarship Program established under this section.

"(j)(1) There is authorized to be appropriated to the Administration for the Program $10,000,000 for each fiscal year.

"(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

**"§9810. Distinguished scholar appointment authority**

"(a) In this section—

"(1) the term 'professional position' means a position that is classified to an occupational series identified by the Office of Personnel Management as a position that—

"(A) requires education and training in the principles, concepts, and theories of the occupation that typically can be gained only through completion of a specified curriculum at a recognized college or university; and

"(B) is covered by the Group Coverage Qualification Standard for Professional and Scientific Positions; and

"(2) the term 'research position' means a position in a professional series that primarily involves scientific inquiry or investigation, or research-type exploratory development of a creative or scientific nature, where the knowledge required to perform the work successfully is acquired typically and primarily through graduate study.

"(b) The Administration may appoint, without regard to the provisions of section 3304(b) and sections 3309 through 3318, but subject to subsection (c), candidates directly to General Schedule professional, competitive service positions in the Administration for which public notice has been given (in accordance with regulations of the Office of Personnel Management), if—

"(1) with respect to a position at the GS–7 level, the individual—

"(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant baccalaureate degrees, a baccalaureate degree in a field of study for which possession of that degree in conjunction with academic achievements meets the qualification standards as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

"(B) achieved a cumulative grade point average of 3.0 or higher on a 4.0 scale and a grade point average of 3.5 or higher for courses in the field of study required to qualify for the position;

"(2) with respect to a position at the GS–9 level, the individual—

"(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

"(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position;

"(3) with respect to a position at the GS–11 level, the individual—

"(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

"(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position; or

"(4) with respect to a research position at the GS–12 level, the individual—

"(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

"(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position.

"(c) In making any selections under this section, preference eligibles who meet the criteria for distinguished scholar appointments shall be considered ahead of nonpreference eligibles.

"(d) An appointment made under this authority shall be a career-conditional appointment in the competitive civil service.

**"§9811. Travel and transportation expenses of certain new appointees**

"(a) In this section, the term 'new appointee' means—

"(1) a person newly appointed or reinstated to Federal service to the Administration to—

"(A) a career or career-conditional appointment or an excepted service appointment to a continuing position;

"(B) a term appointment;

"(C) an excepted service appointment that provides for noncompetitive conversion to a career or career-conditional appointment;

"(D) a career or limited term Senior Executive Service appointment;

"(E) an appointment made under section 203(c)(2)(A) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(2)(A));

"(F) an appointment to a position established under section 3104; or

"(G) an appointment to a position established under section 5108; or

"(2) a student trainee who, upon completion of academic work, is converted to an appointment in the Administration that is identified in paragraph (1) in accordance with an appropriate authority.

"(b) The Administrator may pay the travel, transportation, and relocation expenses of a new appointee to the same extent, in the same manner, and subject to the same conditions as the payment of such expenses under sections 5724, 5724a, 5724b, and 5724c to an employee transferred in the interests of the United States Government.

### "§9812. Annual leave enhancements

"(a) In this section—

"(1) the term 'newly appointed employee' means an individual who is first appointed—

"(A) as an employee of the Federal Government; or

"(B) as an employee of the Federal Government following a break in service of at least 90 days after that individual's last period of Federal employment, other than—

"(i) employment under the Student Educational Employment Program administered by the Office of Personnel Management;

"(ii) employment as a law clerk trainee;

"(iii) employment under a short-term temporary appointing authority while a student during periods of vacation from the educational institution at which the student is enrolled;

"(iv) employment under a provisional appointment if the new appointment is permanent and immediately follows the provisional appointment; or

"(v) employment under a temporary appointment that is neither full-time nor the principal employment of the individual;

"(2) the term 'period of qualified non-Federal service' means any period of service performed by an individual that—

"(A) was performed in a position the duties of which were directly related to the duties of the position in the Administration which that individual will fill as a newly appointed employee; and

"(B) except for this section, would not otherwise be service performed by an employee for purposes of section 6303; and

"(3) the term 'directly related to the duties of the position' means duties and responsibilities in the same line of work which require similar qualifications.

"(b)(1) For purposes of section 6303, the Administrator may deem a period of qualified non-Federal service performed by a newly appointed employee to be a period of service of equal length performed as an employee.

"(2) A decision under paragraph (1) to treat a period of qualified non-Federal service as if it were service performed as an employee shall continue to apply so long as that individual serves in or under the Administration.

"(c)(1) Notwithstanding section 6303(a), the annual leave accrual rate for an employee of the Administration in a position paid under section 5376 or 5383, or for an employee in an equivalent category whose rate of basic pay is greater than the rate payable at GS–15, step 10, shall be 1 day for each full biweekly pay period.

"(2) The accrual rate established under this subsection shall continue to apply to the employee so long as such employee serves in or under the Administration.

### "§9813. Limited appointments to Senior Executive Service positions

"(a) In this section—

"(1) the term 'career reserved position' means a position in the Administration designated under section 3132(b) which may be filled only by—

"(A) a career appointee; or

"(B) a limited emergency appointee or a limited term appointee—

"(i) who, immediately before entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

"(ii) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management;

"(2) the term 'limited emergency appointee' has the meaning given under section 3132; and

"(3) the term 'limited term appointee' means an individual appointed to a Senior Executive Service position in the Administration to meet a bona fide temporary need, as determined by the Administrator.

"(b) The number of career reserved positions which are filled by an appointee as described under subsection (a)(1)(B) may not exceed 10 percent of the total number of Senior Executive Service positions allocated to the Administration.

"(c) Notwithstanding sections 3132 and 3394(b)—

"(1) the Administrator may appoint an individual to any Senior Executive Service position in the Administration as a limited term appointee under this section for a period of—

"(A) 4 years or less to a position the duties of which will expire at the end of such term; or

"(B) 1 year or less to a position the duties of which are continuing; and

"(2) in rare circumstances, the Administrator may authorize an extension of a limited appointment under—

"(A) paragraph (1)(A) for a period not to exceed 2 years; and

"(B) paragraph (1)(B) for a period not to exceed 1 year.

"(d) A limited term appointee who has been appointed in the Administration from a career or career-conditional appointment outside the Senior Executive Service shall have reemployment rights in the agency from which appointed, or in another agency, under requirements and conditions established by the Office of Personnel Management. The Office shall have the authority to direct such placement in any agency.

"(e) Notwithstanding section 3394(b) and section 3395—

"(1) a limited term appointee serving under a term prescribed under this section may be reassigned to another Senior Executive Service position in the Administration, the duties of which will expire at the end of a term of 4 years or less; and

"(2) a limited term appointee serving under a term prescribed under this section may be reassigned to another continuing Senior Executive Service position in the Administration, except that the appointee may not serve in 1 or more positions in the Administration under such appointment in excess of 1 year, except that in rare circumstances, the Administrator may approve an extension up to an additional 1 year.

"(f) A limited term appointee may not serve more than 7 consecutive years under any combination of limited appointments.

"(g) Notwithstanding section 5384, the Administrator may authorize performance awards to limited term appointees in the Administration in the same amounts and in the same manner as career appointees.

### "§9814. Qualifications pay

"(a) Notwithstanding section 5334, the Administrator may set the pay of an employee paid under the General Schedule at any step within the pay range for the grade of the position, if such employee—

"(1) possesses unusually high or unique qualifications; and

"(2) is assigned—

"(A) new duties, without a change of position; or

"(B) to a new position.

"(b) If an exercise of the authority under this section relates to a current employee selected for another position within the Administration, a determination shall be made that the employee's contribution in the new position will exceed that in the former position, before setting pay under this section.

"(c) Pay as set under this section is basic pay for such purposes as pay set under section 5334.

"(d) If the employee serves for at least 1 year in the position for which the pay determination under this section was made, or a successor position, the pay earned under such position may be used in succeeding actions to set pay under chapter 53.

"(e) Before setting any employee's pay under this section, the Administrator shall submit a plan to the Office of Personnel Management and the appropriate committees of Congress, that includes—

"(1) criteria for approval of actions to set pay under this section;

"(2) the level of approval required to set pay under this section;

"(3) all types of actions and positions to be covered;

"(4) the relationship between the exercise of authority under this section and the use of other pay incentives; and

"(5) a process to evaluate the effectiveness of this section.

### "§9815. Reporting requirement

"The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each of the next 6 years beginning after the date of enactment of this chapter, a report that provides the following:

"(1) A summary of all bonuses paid under subsections (b) and (c) of section 9804 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

"(2) A summary of all bonuses paid under subsections (b) and (c) of section 9805 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

"(3) The total number of term appointments converted during the preceding fiscal year under section 9806 and, of that total number, the number of conversions that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

"(4) The number of positions for which the rate of basic pay was fixed under section 9807 during the preceding fiscal year, the number of positions for which the rate of basic pay under such section was terminated during the preceding fiscal year, and the number of times the rate of basic pay was fixed under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

"(5) The number of scholarships awarded under section 9809 during the preceding fiscal year and the number of scholarship recipients appointed by the Administration during the preceding fiscal year.

"(6) The total number of distinguished scholar appointments made under section 9810 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

"(7) The average amount paid per appointee, and the largest amount paid to any appointee, under section 9811 during the preceding fiscal year for travel and transportation expenses.

"(8) The total number of employees who were awarded enhanced annual leave under section 9812 during the preceding fiscal year; of that total number, the number of employees who were serving in a position addressing a critical need described in the workforce plan pursuant to section 9802(b)(2); and, for employees in each of those respective groups, the average amount of additional annual leave such employees earned in the preceding fiscal year (over and above what they would have earned absent section 9812).

"(9) The total number of appointments made under section 9813 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

"(10) The number of employees for whom the Administrator set the pay under section 9814 during the preceding fiscal year and the number of times pay was set under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

"(11) A summary of all recruitment, relocation, redesignation, and retention bonuses paid under authorities other than this chapter and excluding the authorities provided in sections 5753 and 5754 of this title, during the preceding fiscal year. Such summary shall include, for each type of bonus, the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount.".

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end the following:

"98. National Aeronautics and Space
Administration .......................... 9801".

The **CHAIRMAN**. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the bill?

### AMENDMENT OFFERED BY MR. FLAKE

Mr. **FLAKE**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

Page 9, after line 15, insert the following:

"(j) The budget requests for the Administration for the second fiscal year beginning after the date of enactment of this chapter and for each fiscal year thereafter shall include a statement that demonstrates that the amount that was requested to carry out this chapter for the previous year was equal to or less than reductions in specific item budget requests made for that same year.

Page 42, line 2, strike the closing quotation marks and the last period.

Page 42, after line 2, insert the following:

"(12) A statement including the following:

"(A) The total amount of appropriations requested for the previous fiscal year to carry out this chapter.

"(B) Total outlays expended during the previous fiscal year to carry out this chapter.

"(C) A summary of all cost-cutting initiatives implemented and carried out by the Administration during the previous fiscal year to carry out this chapter.

"(D) An estimate of the total amount of appropriations to be requested by the Administration for the next fiscal year to carry out this chapter.

"(E) A written plan to implement cost-cutting initiatives during the next fiscal year to carry out this chapter. Such plan shall demonstrate that the estimated savings resulting from cost-cutting initiatives to be implemented during the next fiscal year shall be equal to or exceed the estimate of the appropriations request for the next fiscal year to carry out this chapter.".

Mr. **FLAKE**. Mr. Chairman, what the Flake amendment does, and I listened to the discussion about the merits of the bill, and I am compelled that we do need to do this. This is a good bill. We need to give NASA the flexibility they need to hire good people and retain them. I am not questioning the merits of the bill at all. I am simply saying in this era of big deficits and the spending problem that we have in Congress, we ought to ensure that any new authorization is met with some spending restraint on the other side and we pay for the money we are spending here.

The Flake amendment would require NASA to submit to Congress a plan to offset new spending authorized under this legislation with budget reductions elsewhere in the NASA budget. The Flake amendment gives NASA the flexibility to choose which budget request to target for reduction. We are not telling them how to do it; we are simply saying please match this funding with similar reductions.

The report that NASA must give when they get this money must demonstrate that spending requests for provisions authorized under this legislation are matched with corresponding budget cuts in other specific budget items. Adoption of the Flake amendment gives Congress the opportunity to ensure that new spending authorization for must-have workplace flexibility is met with spending restraints.

The CBO estimates that S. 610 will cost $80 million over the 2004–2008 period. There has been no indication that the new authorized spending will be prioritized against the spending accounts. While the workforce flexibility afforded to NASA under S. 610 is positive and market-oriented, NASA should identify areas of spending that can be reduced to offset new costs.

In November, Congress passed a $400 billion Medicare bill. The Senate passed the final omnibus package which totaled over $370 billion in spending. That has been signed into law. Two days ago, the CBO announced that we have a $477 billion projected deficit. If you include draws on the trust fund, that brings it all of the way up to just under $700 billion for the coming year. It is time to exercise some fiscal restraint. That is what the Flake amendment is designed to do.

Mr. **BOEHLERT**. Mr. Chairman, I rise in opposition to the amendment.

I want to thank the gentleman for his explanation of the amendment. The gentleman from Arizona is a very thoughtful Member, and he contributes significantly to the deliberations of this body. However, let me say a couple of things.

First of all, this legislation will give flexibility to NASA to work within the existing constraints. No new money, we are not coming up with a ton of new money or anything else. We are saying they have an existing budget for personnel and they have more flexibility with it. We are treating them like a business. I think that is very important.

We have to stem the tide of this brain drain. It is very serious. As the gentleman from Virginia (Mr. TOM DAVIS) pointed out, within 5 years, 25 percent of the workforce is eligible for retirement. We have 15 percent eligible for retirement right now. Those over 60 outnumber by three to one those under 30. It is a very serious problem. We tried to address it in a very responsible way. We did not address like some people around here suggest we address problems, give them a blank check. We did not do that. We said, no, they have to use their existing personnel accounts, no additional money; but we give them flexibility. Having said that, let me point out something else. There is a very practical reason why we should not accept this amendment and should go forward today. We have to get the bill to the President for his signature. This is a bill that has passed unanimously in the Senate, a bill that is going to pass by substantial margin here in the House, hopefully unanimously.

If we amend it, here is what is going to happen. This is something which has been cooking for months now. We just got the amendment today, and that is why I appreciate the explanation. I had not seen the amendment before. We received a thorough, sound, reasoned explanation; but if we pass this amendment, the bill is amended, and it goes back to the Senate, and we start all over again back and forth like a ping-pong match. We have preconferenced this bill. We worked it out with the Senate. They send it back here, we vote "aye" today, it goes to the President, he signs it, and we get on with the job of giving NASA the flexibility it needs.

I would urge my colleagues to vote against the amendment. I thank the gentleman from Arizona (Mr. FLAKE) for his thoughtful presentation.

Mr. **FLAKE**. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I think it is not unreasonable to ask to go back to the Senate. I think Members agree this flexibility is needed. It is market-oriented. We need to make sure that NASA retains and hires good people.

Many of my colleagues that I have spoken to in the last day on this subject have indicated that they were informed this would not cost anything, this would be totally from NASA's own budget. Yet the CBO estimates that it will cost $80 billion over the next 4 years. If that is the case that it draws only on NASA's budget, if it is the case that it does not cost anything, I would submit that there is no problem here, that it does not increase spending.

So all our amendment says is to the degree it does, if it is going to increase spending and if we are going to have to authorize new spending, it should be matched with spending reductions elsewhere in the budget.

The NASA budget for personnel is $2 billion a year. I do not believe it is unreasonable to ask for those kinds of spending reductions.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, my question is what are the CBO costs on this?

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I would say to the gentleman that the personnel costs for NASA are $2 billion per year, with a "B." The costs that CBO projects for this are $80 million.

Mr. BOEHLERT. Reclaiming my time, that is within the existing personnel allocation. This is not additional money, additional to the $2 billion. They are saying if NASA took advantage of all these programs, scholarships, retention incentives, moving expenses, the types of things that happen every single day in the business community, they have to do it with the existing personnel budget, no new money.

I am like the gentleman from Arizona, perhaps not as fiscally conservative, but I am moving in that direction. But the point is this does not add money; it allows more flexibility. The estimates that the gentleman from Arizona are referring to are estimates on what this could cost from the existing budget by using the flexibility that we are proposing.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

Again, the gentleman from Arizona (Mr. FLAKE) and I have worked together on so many battles. I respect what the gentleman is trying to do here, but I have to oppose this amendment for several reasons.

First of all, as the chairman of the Committee on Science noted, if we amend this bill today, it goes back to the other body, the black hole. We have been waiting a long time to get these personnel changes into effect so we can go out and retain part of that workforce that is now contemplating retiring, and we can start retaining the best and brightest out of our universities. Every day we delay that, we lose flexibility to do that.

The NASA budget is $15.5 billion. The personnel costs are only $2 billion. If we want to go after NASA's budget or start holding it down, the way to control that is by their section 302(b) allocation through the appropriations process. It is designed that NASA will eat these costs under the current appropriations. They may pay a little more for personnel in some areas and may pay less in some areas, but they have to do it under the budget that we pass. This appropriates no additional money, but it does give them flexibility to pay people at the top, our top rocket scientists, top engineers, and top program managers, the kind of dollars that will keep them in the program and recruit some of our best people into our space program instead of going out into the private sector where they can gain a lot more money.

The costs of failure of not doing this are much greater. A failed launch, cost delays, those costs are literally astronomical, if we are to do that; and that is what we are trying to eliminate here, the downside of not passing this. It is a cost-avoidance issue.

We control this through the budget process, the section 302(b) allocations that we make and budget, and there are no additional monies appropriated. These costs will be eaten up within the NASA budget, and there is plenty of flexibility to do this. There is a $15.5 billion budget, $2 billion for personnel costs, and $80 million can be reallocated without any additional cost to American taxpayers; and we can retain and recruit some of the quality people that are needed to run this space program and keep it going on the right track.

It is for those reasons that I urge my colleagues to vote against this amendment.

Mr. GORDON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we were not given notice of this amendment; but on quick and brief review, it seems to be a well-intentioned amendment that does not improve the bill. It seeks to solve a problem that does not exist, so I want to concur with the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. BOEHLERT) in opposing this amendment.

Mr. FLAKE. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. FLAKE. Mr. Chairman, I would like to engage in a colloquy with the sponsor of the bill. There seems to be some confusion as to whether or not this is new authorization for additional spending over and above NASA's personnel costs which have already been approved.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from New York.

□ 1145

Mr. BOEHLERT. Mr. Chairman, that is a legitimate concern expressed by the gentleman. Let me assure him, this is not additional money. This says to NASA, using your existing personnel allocation, we are giving you flexibility.

We say constantly, why does government not operate more like business, like they do in the real world? We are trying to give NASA that opportunity. We are not giving them a blank check. We are not giving them the key to the Treasury. We are just saying, existing dollars, you have more flexibility to retain the workforce you need to do the job we expect you to do.

Mr. FLAKE. Let me rephrase the question. If NASA takes advantage of the new flexibility given them to the fullest extent, will it have an additional draw on the Treasury or will it be totally within NASA's existing budget?

Mr. BOEHLERT. My counsel just advises me, it depends on what the appropriators do in future appropriations. But the answer is clearly "no." I know what the gentleman's intent is, his intent as I understand it, and that is why I appreciate the thoughtful presentation he gave on the floor today. I wish we had had it earlier. As Chairman ROHRABACHER has said, he takes a back seat to no one in being concerned about how we spend money around here.

So I agree with the basic intention. It is not to have additional money spent for NASA on personnel. It is to give them flexibility on the existing money we appropriate for them. Who knows, with the President's vision outlined, for this new Mars vision, eventually a generation or two ahead of us and the Moon in this generation, if the Congress decides to be supportive of that, there are going to be budget differences; but I want to assure the gentleman that our intent is to give NASA the flexibility to use existing dollars, not to add to the allocation or appropriation for NASA on personnel or any other thing.

Mr. FLAKE. So the CBO estimates of the cost are simply within NASA's own budget?

Mr. BOEHLERT. That is right.

Mr. FLAKE. With that explanation, I will withdraw the amendment assuming that we are on the same page.

Mr. BOEHLERT. I thank the gentleman.

Mr. FLAKE. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any other amendments?

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. ISAKSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 610) to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, pursuant to House Resolution 502, he reported the Senate bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 49 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1300

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 1 p.m.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

## PROVIDING FOR CONSIDERATION OF S. 1920, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 503 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 503

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 975 as passed by the House. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. If the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1920 and request a conference thereon.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman, my friend, from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us today is a fair rule that provides 1 hour of general debate on the bill and on the amendments made in order under the rule to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It provides that it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule a substitute amendment consisting of H.R. 975 as passed by the House, and it shall be considered as read.

The rule waives all points of order against the amendment in the nature of a substitute and makes in order only the amendments preprinted in the Committee on Rules report. It provides that the amendments made in order may be offered only in the order printed in the report and may be offered only by a Member designated in the report, and shall be considered as read and debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent.

The rule also provides that these amendments shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It waives all points of order against the amendments preprinted in the report, provides one motion to recommit with or without instructions, and provides that if the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1920 and to request a conference thereon.

Mr. Speaker, I am pleased today that this House will have the opportunity to once again during the 108th Congress consider and send to the Senate much-needed bankruptcy reform legislation under this fair rule. I am proud of the tireless efforts on behalf of many Members and their staffs, who have put in countless hours towards the passage of this legislation over the last four Congresses.

Their efforts allow us today to again urge Senate action to ensure that our Nation's bankruptcy laws operate fairly, efficiently, and free of abuse. Congress has the opportunity to once again end, once and for all, the loophole to debtors who are able to repay some portion of their debts to game the system and increase the cost of credit, goods and services for other law-abiding citizens. Between 2002 and 2003, the Federal court system reported that there was a 9.6 percent increase in bankruptcy filings to over 1.650 million filings, and these filings have a real cost not only to every consumer but also to simple, everyday Americans.

In 1998, debtors who filed for bankruptcy relief discharged more than $44 billion of debt. When amortizing on a daily basis, this amounts to a loss of at least $110 million every day; or put more simply, bankruptcies cost each American family that pays their bills on time $450 a year in the form of higher costs for credit, goods and services. As the other body continues to stall on this legislation to protect the system from further abuse, these numbers and totals only continue to mount.

It has been estimated that if current practices continue, one out of every seven households will have filed for bankruptcy by the end of this decade, with many of these losses as a result of the misuse of the law by irresponsible, high-income filers. The Credit Union National Association, known as CUNA, reported last year that credit unions have lost nearly $3 billion from bankruptcies since Congress began considering bankruptcy reform legislation in 1998.

We should not forget the other indirect costs associated with bankruptcy fraud. Because the law currently allows people to game the system for their own benefit, the number of Federal bankruptcy filings per judgeship has increased from 71.1 percent, from 2,998 per Federal judge in 1992 to 5,130 in 2003, the largest caseload in our Federal court system. This backlog in this workflow slows down the progress for a countless number of legitimate bankruptcy filings and increases disrespect for the entire judicial system.

This bill is crafted to ensure the debtor's right to a fresh start while protecting the system from flagrant abusers by those who can, should, and, we believe, will be paying their own bills. Bankruptcy should not be a convenience or just another financial planning tool, and this legislation will ensure that it will remain a safety net for those who genuinely need it while trying to prevent bad actors from imposing their costs on everyone else.

Congress has spoken on this issue many times before. As is widely known, Mr. Speaker, the 105th, 106th and 107th Congresses passed legislation addressing bankruptcy reform. In the 105th Congress, the conference passed the House, but time expired before the Senate voted on final passage. In the 106th Congress, a conference report received overwhelming bipartisan support in both Chambers. However, President Clinton chose to pocket veto the bill. In the 107th Congress, and again earlier this last year, we came extremely close again to the final passage of a conference report; but in the end, it was not accomplished.

Today, due to the outstanding work and leadership of our Committee on the Judiciary chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), we have the historic opportunity to make modern bankruptcy reform a reality.

As we debate and vote today, we should keep in mind the two important tenets fulfilled by this version of bankruptcy reform. First, the bankruptcy system should provide the amount of debt relief that an individual needs, no more and no less; and that bankruptcy should be a last resort and not a convenient response to a financial crisis.

One important part of this legislation that I would like to highlight is also known as the "homestead provision." Protection of one's homestead is something that is very important to me and many people in Texas and other States across this great Nation. The homestead provision in this legislation maintains the long-held standard that allows States to decide if a homestead should be protected, yet prohibits those who would purchase a home before filing a bankruptcy as a means to evade creditors. By tightening our current laws and making it more difficult to escape fraud by declaring bankruptcy, we are expressing no tolerance for those who would game the system to make up for their own wrongdoing.

Modern bankruptcy reform has taken a long and somewhat arduous journey, which makes the much-anticipated result of our work today even more rewarding. It has required not only hard work but also some difficult decisions on the part of this Congress. The result is what I believe to be a carefully balanced package that protects women, children, family farmers, low-income individuals, and provides access to bankruptcy for all Americans who have a legitimate need.

I believe that today's vote will finally make modern bankruptcy reform a reality.

Mr. Speaker, I urge my colleagues to vote with me in supporting this rule and the important underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Mr. Speaker, I had hoped that the procedural abuses that marked the first session of the 108th Congress would be left behind. I had hoped that we would start the new year on a positive note. We have an opportunity today to come together from both sides of the aisle and pass good legislation to help the good people who are struggling to keep their family farms alive.

The Senate has sent us a simple one-page bill, a bipartisan, noncontroversial bill that would extend bankruptcy protections for America's struggling family farmers. We could pass S. 1920 as it is, and tonight it could be on the President's desk to be signed into law. That would restore the chapter 12 bankruptcy protections for family farmers that expired at the end of last year.

Instead, we have before us an election-year dog and pony show. House Republicans have replaced this simple bill to extend a helping hand to family farms with a controversial 500-page bankruptcy overhaul bill, the same legislation that this body passed in March of 2003. They have transformed a bill to help family farmers into a symbolic protest against the other body for not taking up the bankruptcy bill.

Mr. Speaker, the House has routinely approved extensions of chapter 12 so that our family farmers are protected from the hardships of the global economy and so they can access the necessary funds to run their farms. Now is the time of the year when farmers must borrow in order to prepare for spring planting. If this House fails to extend bankruptcy protections for our family farmers today, many will not be able to convince their local banks to provide them with the necessary cash and credit to buy new seed. It is that simple, Mr. Speaker.

Are we going to help our family farmers today? Are we going to pass the extension of chapter 12 that unanimously passed in the other body? Are we going to send it to the President today for his signature? Or are we going to engage in political theatrics and once again subvert the legislative process?

Several members of the other body have already announced that they will not, I repeat they will not, accept S. 1920 back if the House attaches the larger bankruptcy bill to it. So what are we doing here other than punishing and putting in peril the livelihoods of our family farmers?

Mr. Speaker, I would humbly like to make a suggestion to the Republican leadership. Instead of using struggling family farmers to send a message to the other body, I suggest that they simply walk across the Capitol and consult with their fellow Republican leaders in the other body.

□ 1315

They should leave family farmers who need this bankruptcy protection out of their disputes.

Mr. Speaker, we have many critical problems facing our Nation today. Unemployment, an economy that is not creating jobs, and a health care crisis are just a few of the problems we are facing here today. Instead of this piece of political theater this afternoon, we could help struggling American families by passing a clean version of S. 1920, and then we could take up measures to extend unemployment insurance. Instead, we continue to ignore the almost 8.5 million unemployed Americans and the thousands more who have lost hope and who have given up looking for a job.

People are losing their jobs, running out of unemployment compensation, and are being forced to pay their mortgages and buy food using their credit cards. Their personal debt becomes so great that they have no choice but to file for bankruptcy, which speaks to the need for genuine bankruptcy reform.

Instead of addressing the fundamental issues facing Americans, we are wasting our time with this political sleight of hand, rehashing a controversial bill that passed last year, but has no future in the other body. Family farmers are being used as political pawns. The procedures and rules of the other body are being disregarded and the rules of this body are being manipulated and twisted in the process.

Mr. Speaker, the language this rule substitutes for S. 1920, the language from H.R. 975, the larger bankruptcy reform bill passed last year, is still very flawed. The rhetoric around bankruptcy overhaul paints a vivid picture of scheming people running up huge debts, buying extravagant houses and expensive cars just before they run to their local bankruptcy court to avoid paying their bills. But the reality is that only 3 percent of people who file for bankruptcy are these kinds of cheaters.

In order to stop these 3 percent who abuse the system, this bill takes the dramatic, sweeping step of harming the 97 percent of the people who are forced to seek protection under the Bankruptcy Code because of illness, unemployment or divorce. In fact, nearly half of the people who file for bankruptcy protection do so because of medical bills and the financial consequences of illness or injury. Middle-class families are only one serious illness away from financial collapse, and the impact of medical costs is highest on women, families headed by women and among older people.

Mr. Speaker, I am also very disappointed that the substituted language still does not include provisions to hold perpetrators of violence against women's health care clinics accountable for their actions. As part of a coordinated strategy, perpetrators of clinic violence have filed for bankruptcy to avoid paying judgments against them for violating Federal law. This bill would allow them to discharge these judgments and get away with breaking Federal law and trampling the constitutional rights of women.

Mr. Speaker, the Congress should be seeking the enforcement of Federal law and protection for the meaningful exercise of constitutional rights, not attempting to undermine it.

Mr. Speaker, this body still has an opportunity to do the right thing by our family farmers. A substitute will be offered by our colleague, the gentlewoman from Wisconsin (Ms. BALDWIN), to permanently authorize Chapter 12 of the Bankruptcy Code, which would, once and for all, guarantee these bankruptcy protections for our farmers. I urge my colleagues on both sides of the aisle to support the Baldwin substitute and to stop holding our family farmers hostage in a game to coerce through legislation that primarily benefits wealthy corporate contributors at the expense of struggling farmers.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, there is only one reason why Republicans are seeking to attach H.R. 975, the 500-page bankruptcy bill, to S. 1920, a 2-page farm bankruptcy renewal. They want to force the Senate to agree to radical bankruptcy changes that do not include protections for women and abortion clinics.

The bankruptcy bill has been held up for the past 3 years because Republicans refuse to agree to the Schumer amendment. The Schumer amendment, approved by the Senate by an 80-to-17 margin, prevents criminals convicted of crimes against women and abortion clinics from filing for bankruptcy protection to escape fines or civil judgments.

Since the Republican leadership does not have the vote to defeat the Schumer amendment, they want to use procedural tactics to prevent it from being considered at all. Today, I delivered a letter to the Speaker, signed by every Democratic woman Member of the House, 41 in all, stating our unity in opposing these tactics. It is wrong to hold family farmers hostage so the majority can push through a controversial bankruptcy bill that helps big banks and credit card companies. It is wrong to use procedural tactics to prevent an honest and open debate on language that would provide greater protections for women.

But it is not only Democratic women in the House who oppose these tactics; farmers do not want to be held hostage either. The National Farmers Union, the National Family Farm Coalition, and Farm Aid oppose the majority's tactics. The National Farmers Union said, "Any delay in approving an extension of Chapter 12 places agricultural producers and their families who are faced with bankruptcy in a serious and untenable position. We understand there are some in Congress who wish to utilize the extension of the ag provisions as a means to leverage support for a broader bankruptcy reform measure that contains highly controversial and divisive provisions unrelated to the farm bankruptcy law. We reject this legislative strategy as an insensitive, cruel and malicious effort that will only serve to increase the level of distress of farm families who are already experiencing severe financial difficulties."

And from the National Family Farm Coalition, I quote: "We urge you to pass this 6-month extension and not hold family farmers hostage to the highly controversial overall bankruptcy reform bill. Every day of delay by Congress has a direct cost to our Nation's family farmers."

And this from Farm Aid: "The reasons for the creation of the separate Bankruptcy Code that enables farmers to stay on the land while reorganizing their farm operation is as urgent now as it was in 1986 when first created by Congress. This lapse in coverage directly results in farmers having to face foreclosure and liquidation instead of seeking a reasonable negotiation with their creditors that works for farm families, their creditors and businesses in their rural community."

It is also opposed by unions and civil and women's rights organizations, like the AFL-CIO, AFSCME, Teamsters, United Auto Workers, the National Organization for Women, NARAL, Consumers Union, the Leadership Conference on Civil Rights and the NAACP.

It is not only the tactics that are the problem. H.R. 975 is a deeply flawed bill. It assumes that middle-class Americans who file for bankruptcy are spendthrifts that abuse the system, and that is not true. Over 91 percent of individuals who have filed for bankruptcy have suffered a recent job loss, medical problem or divorce. The leading cause of personal bankruptcy is unemployment. Two out of three individuals that file for bankruptcy have lost jobs. Half have experienced a serious health problem.

H.R. 975 will also hurt seniors. The average household debt for those over 65 and older has skyrocketed 164 percent, most of it related to medical costs. H.R. 975 also hurts women. In 1999, over 200,000 women filing for bankruptcy were owed child support or alimony.

The proponents of this bill say they want to restore personal responsibility and integrity to the bankruptcy system. Fine. But do not punish people who are in trouble because they lost a job or are dogged by huge medical bills or cannot get a deadbeat dad to pay child support. These are the people that account for a majority of personal bankruptcies, not spendthrifts abusing the system.

I urge my colleagues to oppose this rule and to oppose this attempt to hold family farmers hostage to help big banks and credit card companies.

Mr. McGOVERN. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to oppose the rule.

I strongly oppose this rule because it would delay the renewal of Chapter 12 family farm bankruptcy protection that is needed desperately by our family farmers. We should not be amending this bill and sending it back to the other body for more debate. This House should take up the 6-month extension bill, pass it without amendment, and send it to the President immediately. Chapter 12 farm bankruptcy protection expired on December 31, 2003. There is no good excuse for additional delay of Chapter 12 extension.

The Committee on the Judiciary chairman, the House leadership and the financial services industry have proposed under this rule that we gut this noncontroversial 6-month extension bill before us to try to force a conference committee on the massive bankruptcy overhaul bill. Groups representing family farmers are opposed to this parliamentary maneuver that will delay the extension of Chapter 12 protection.

On January 23, the National Farmers Union wrote to Speaker HASTERT and Minority Leader Pelosi that "We reject this legislative strategy as an insensitive, cruel and malicious effort that will only serve to increase the level of distress of farm families who are already experiencing severe financial difficulties." The National Family Farm Coalition and Farm Aid have also sent letters urging immediate action to extend Chapter 12 and opposing sending this legislation back to the other body.

Mr. Speaker, the bankruptcy overhaul bill that this rule moves forward is bad for several reasons. Among them is an attempt in this bill to shield people convicted of crimes against women and abortion clinics from fines and damages. Too often, I am sorry to say, criminals who commit these acts of violence have been able to avoid monetary penalties by declaring bankruptcy. Our bankruptcy laws should not be used and manipulated by criminals to avoid their punishment.

Again, the base bill, Senate 1920, could be on the President's desk by the end of this day. It is noncontroversial. Our body has passed this bill unanimously in previous sessions. We are not accomplishing anything by the parliamentary maneuvers that we are engaged in today.

Since I have been in Congress, the family farm protections in the Bankruptcy Code have expired six times, and we have acted to extend these provisions eight times. We should stop using family farmers as leverage to pass larger bankruptcy protections. I know these families; I represent many of them. I hear their struggles, I hear their stories. Let us act today to extend family farmer bankruptcy protection.

I do want to thank the Committee on Rules and the chairman of that committee, the gentleman from California (Mr. DREIER), for making my substitute amendment in order. However, our farmers need immediate relief, and the only way to achieve that goal expeditiously is to defeat the rule and to take up Senate bill 1920 immediately.

Mr. Speaker, I submit for the RECORD letters from the National Farmers Union, the National Family Farm Coalition and Farm Aid.

FARM AID,
*Somerville, MA, January 27, 2004.*
Hon. JAMES SENSENBRENNER, Jr.,
*Chair, House Judiciary Committee, House of Representatives, Washington, DC.*

DEAR REPRESENTATIVE SENSENBRENNER: I am writing to urgently ask you to take action this week to reinstate Chapter 12 Bankruptcy provisions for our nation's family farmers. Since the expiration of Chapter 12 on December 31, 2003, thousands of America's family farmers facing serious financial problems have not been able to consider filing a Chapter 12 bankruptcy.

Farm Aid operates a national family farmer hotline. Every day, we receive desperate calls from farm families facing financial crisis. The stresses these families are under could and should be alleviated immediately by reinstating Chapter 12.

The reasons for the creation of a separate bankruptcy code that enable farmers to stay on the land while reorganizing their farm operation is as urgent now as it was in 1986 when first created by Congress. This lapse in coverage directly results in farmers having to face foreclosure and liquidation instead of seeking a reasonable negotiation with their creditors that works for farm families, their creditors and businesses in their rural community.

I urge you to pass this six-month extension so that the livelihoods of thousands of family farmers are not linked to the cumbersome and controversial overall bankruptcy reform bill. When Congress passed the last extension in July 2003, the vote was 397–3. Every day of delay by Congress has a direct cost to our nation's family farmers. The immediate reinstatement of Chapter 12 bankruptcy will restore an important option for family farmers facing economic crisis.

On behalf of America's family farmers, I thank you.

Sincerely,
MARK SMITH,
*Campaign Director.*

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NATIONAL FAMILY FARM COALITION,
*Washington, DC, January 26, 2004.*
Hon. JAMES SENSENBRENNER, Jr.,
*Chair, House Judiciary Committee, House of Representatives, Washington, DC*

DEAR REPRESENTATIVE SENSENBRENNER: The National Family Farm Coalition representing family farmers and rural residents across the country urges you to take action this week to immediately reinstate Chapter 12 Bankruptcy provisions for our nation's family farmers. Since January 1, 2004 farmers facing serious financial problems resulting from record low commodity prices and serious drought conditions have not been able to consider filing a Chapter 12 bankruptcy.

The reasons for the creation of a separate bankruptcy code that enable farmers to stay on the land while reorganizing is as urgent now as it was in 1986 when first created by Congress. This lapse in coverage directly results in farmers having to face foreclosure and liquidation instead of seeking a reasonable negotiation with their creditors that works for farm families, their creditors and businesses in their rural community.

We urge you to pass this six month extension and not hold family farmers hostage to the highly controversial overall bankruptcy reform bill. When Congress passed the last extension in the July 2003, the vote was 397–3. Every day of delay by Congress has a direct cost to our nation's family farmers. We urge immediate reinstatement of Chapter 12 bankruptcy restoring an important option for family farmers facing economic crisis.

On behalf of family farmers we thank you.

Sincerely,
GEORGE NAYLOR,
*Iowa farmer and President, NFFC.*

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NATIONAL FARMERS UNION,
*Washington, DC, January 23, 2004.*
Hon. DENNIS J. HASTERT,
*Speaker, House of Representatives, Washington, DC.*
Hon. NANCY PELOSI,
*Democratic Leader, House of Representatives, Washington, DC.*

DEAR SPEAKER HASTERT AND DEMOCRATIC LEADER PELOSI: On behalf of the family farmer and rancher members of the National Farmers Union I write to encourage the House of Representatives to immediately adopt the language contained in S. 1920 which passed the Senate late last year and extended the chapter 12 provisions of title 11 of the United States Code for an additional six months retroactive to January 1, 2004.

The Chapter 12 provisions, which allow the development of alternative financial reorganization plans for farmers and ranchers within the bankruptcy code, expired at the end of 2003 when the House failed to take action on the Senate bill even though these provisions have been considered non-controversial by both parties over the course of several years. Any delay in approving an extension of Chapter 12 places agricultural producers and their families who are faced with bankruptcy in a serious and untenable position.

We understand there are some in Congress who wish to utilize the extension of the agriculture provisions as a means to leverage support for a broader bankruptcy reform measure that contains highly controversial and divisive provisions unrelated to the farm bankruptcy law. We reject this legislative strategy as an insensitive, cruel and malicious effort that will only serve to increase the level of distress of farm families who are already experiencing severe financial difficulties.

Thank you for your attention to this important issue.

Sincerely,
DAVID J. FREDERICKSON,
*President.*

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Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I guess I continue to be amazed at the extent to which the majority in this House will go to try to serve the interests of their particular favorite constituencies, even to the point of doing substantial harm to people who are struggling in this country. And that is certainly the case with respect to farmers.

□ 1330

To hold this bill, the original bill, the extension of the family farm provisions of the bankruptcy law, a totally noncontroversial bill which could have been put on the suspension calendar and passed without any dispute whatsoever, to hold it hostage to a bill that has been in process for several years now and has not been able to be passed by both the House and the Senate or reach the President's desk for signature just strikes me as being extremely insensitive, even if one did not know the surrounding statistics. But when one knows the statistics related to bankruptcies over the last year, it is even more alarming that this kind of Russian roulette would be played with this bill.

Business bankruptcies actually fell last year if you exclude family farms from the business category by 7.4 percent. Personal individual bankruptcies increased by about the same percentage, about 7 percent. But chapter 12 bankruptcies, those designed to meet the needs of financially distressed family farmers, increased by 116.8 percent.

Now, what happens then if this Russian roulette does not play itself out in the way that the majority would like it to play itself out and the family farm provisions expire? This would be the kind of irresponsible activity which I think is inexcusable. I think we should oppose this rule and oppose the bill if it gets amended to include the bankruptcies reform provisions.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

In closing, if I can restate one of the frustrations that many of us on this side of the aisle have, we are all very concerned about our small family farmers, and we are worried that the relief they seek will be delayed indefinitely because this new version of the bill, which includes the very controversial and, in my opinion, flawed bankruptcy overhaul bill which this House passed, will go nowhere in the other body, and this is all show business that we are doing here right now.

Mr. Speaker, I ask the gentleman or any Member on the other side of the aisle, given the fact that the Republicans control the House and the Senate, has Republican leadership here in the House been given assurances by the Republican leadership in the other body that they have the necessary votes to move this conference forward? I am looking for an assurance or an answer to that question.

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, the fact of the matter is that we are intensely interested in passing this piece of legislation today, moving it to the Senate, believing that our colleagues on the other side of the building will see the wisdom of this bill and move this very expeditiously. This is to make permanent relief for farmers. I believe that the wisdom of the entire bill will be seen by that body, and then we will be able to have it on the President's desk very quickly for signature.

Mr. McGOVERN. Mr. Speaker, I appreciate the gentleman's spin; but we passed this bankruptcy reform bill last March, and the other body has not moved on our version because they have some problems with it. If I am interpreting the statements in the press from the other body correctly, there are Members who will filibuster this. For the bill to move forward in the face of the filibuster, the other body needs to muster 60 votes, which I am told from reliable sources they do not have.

That is why I ask the question if those on the gentleman's side of the aisle know something that we do not know. If those press accounts are true, what we are doing here is not helping small family farmers, we are just going through the motions. This is a big waste of time for everybody.

My suggestion would be that we should move forward with relief for family farmers. We know that will pass here easily and will pass the other body swiftly. We could send it to the President today and we have done something good rather than engage in this type of politics.

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, time after time after time sitting in the Committee on Rules, we hear about all of the pieces of legislation that will never go anywhere and will never move. We have heard this about bankruptcies many times, about our budgets; and we have heard this about bills that are related to welfare reform and tax bills. It is amazing how often the other body and whoever sits as our great President, whether it be President Clinton or President Bush, have found the ability and a way to work with the leadership of both bodies. That is part of what this experiment is about.

We have great confidence that the American people, who are the special interests to each and every one of us, the special interests and the needs of farmers and the needs of Americans, will be heard by our President, by each Member of the Senate and this body; and that is why we are moving this legislation forward.

I do not think that we would ask someone ahead of time what they are going to do with that, but rather to allow them the chance to debate and work through the changes. Compromise happens all of the time.

Mr. McGOVERN. Mr. Speaker, reclaiming my time, I guess that answer means, no, we do not have assurance from the other body that they will move on this; and, no, we cannot give assurances to the family farmers who are watching us here today that in fact the relief that they seek will be enacted anytime soon.

My follow-up question will be if the gentleman gets his way and his leadership gets its way and this bill moves forward with the House-passed bankruptcy reform bill attached to it, it goes over to the other body and they decide to filibuster it, is there agreement on how long we are going to wait until we help our family farmers, or will this go on indefinitely?

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. The American people will have a lot to say about that as they talk with Members of the other body; and based upon that wisdom and as a result of what the leadership does, we will catch a good signal. We believe it will be on their agenda, and we are proud of what we are doing.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for his response; but it is not satisfactory, not only to those of us on this side of the aisle, but to those who may be watching this who are hopeful that we will actually do something of substance and that we will help family farmers looking for relief.

Mr. Speaker, the problem here is that we have an opportunity to do something good, to actually help some people; and we are turning this into political theatrics. I think that is unfortunate. I oppose the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate what the gentleman is saying. I appreciate that he wants to know what the agreements are between the bodies as they work together. I respect that, but I would say to the gentleman that I respect more the 315 votes from this body that chose to speak on the subject the last time we voted.

Perhaps it is true there are some frustrations that come about as a result of the business which we engage in. Certainly there are frustrations that 315 people, time after time after time that vote for this important bill, are thwarted in the process; but I believe rather than becoming frustrated, it is up to us to think through how we will accomplish those things that are necessary, to retry, to renegotiate, to do those things that are dealing with negativism of, oh, it will never happen, to keep searching, and that is what the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, has done. He looked at a piece of legislation with 315 vote, and knew how important it was. Rather than accepting a defeatist mentality, he took the attitude he would be proactive and work on behalf of our special constituencies that all of us as Members of Congress have, the American people.

Mr. Speaker, 315 votes is a clear and simple overwhelming majority of this body. I am proud of what we are doing. Obviously, what we are trying to do here is to make sure that we pass this bill. Since 1986, this ad hoc approach which has talked about reauthorizing chapter 12 relief has allowed this relief for small farms to lapse six times. Today we are going to make it permanent. Today we are providing an answer. Today it is a change. I am proud of what we are doing. Our great chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), has not only worked diligently on behalf of farmers but also on behalf of consumers of this country. I think we will pass this bill. I think it is the right thing, and I welcome the opportunity to join the chairman down at the White House when our great President signs this legislation into law.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1920.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

### BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore (Mr. SESSIONS). Pursuant to House Resolution 503 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1920.

☐ 1343

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, with Mr. LAHOOD in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment in the nature of a substitute to S. 1920 made in order by the rule replaces the text of that bill with the text of H.R. 975, the bankruptcy bill passed by the House by an overwhelming bipartisan vote of 315–113 on March 19, 2003.

The administration has without qualification endorsed this legislation. Nevertheless, this bill has languished in the other body now for almost a year. The question that has been asked is, why are we engaged in what admittedly may appear to be a redundant undertaking? While the other body is often described as the saucer in which the coffee cools, H.R. 975 has become nearly frozen in that proverbial saucer.

☐ 1345

Today I seek to reignite congressional consideration of bankruptcy reform.

Some of my colleagues may also ask, "Why now? What's the rush?" There are many answers. A major reason is that the current bankruptcy system is broken, and it gets worse every day that we fail to act. Bankruptcy filings continue to break record after record, straining the system's resources. The proliferation of bankruptcy filings is not just a temporary event, but part of a consistent upward trend. In 4 years, the number of bankruptcy filings has jumped by 150 percent to nearly 1.7 million cases as of fiscal year 2003.

Another reason has to do with the growing extent of fraud and abuse in the current bankruptcy system. Bankruptcy relief should be available to honest debtors, but current law allows, if not encourages, dishonest debtors to file abusive bankruptcies that overburden the system. According to the Justice Department, bankruptcy fraud and abuse is "serious and far-reaching."

While some debtors fraudulently conceal assets, others try to discharge debt despite their ability to repay their obligations. The current system is overburdened and ill equipped to aggressively detect and deter identity theft and other basic forms of bankruptcy fraud, let alone more creative schemes such as the so-called "credit card bust-outs." The Justice Department reports that debtors are obtaining credit cards despite having little or no income, incurring huge debts, paying those debts with worthless checks, and then filing for bankruptcy relief to discharge their massive liabilities. We need to give our law enforcement agencies and the judiciary the tools necessary to fight fraud and abuse in the bankruptcy system.

A third reason, I admit, has to do with money. According to some analyses, the increase in consumer bankruptcy filings has significant adverse financial consequences for our Nation's economy and the economic well-being of our citizens. For instance, it has been estimated that in 1997 alone, more than $40 billion of debt was discharged as a result of bankruptcy cases. These losses, according to one estimate, translate into a $400 annual "tax" on every household in our Nation in the form of higher prices and higher interest rates. For the sake of our family farmers, we ought to relieve them of this $400 tax so that they can do a better job in producing food and fiber for our Nation's tables as well as for export.

More importantly, there are moral reasons for supporting the need for bankruptcy reform. The current system allows deadbeat parents to use bankruptcy to avoid their child support obligations. Likewise, it permits corporate criminals to use bankruptcy to shield their mansions from the claims of those whom they have defrauded.

Let me be perfectly clear. If this bill is voted down in the substitute amendment that has been made in order by the Committee on Rules, deadbeat parents will have a better opportunity to use bankruptcy to escape their court-ordered child support enforcement obligations. That means that the people who are opposing this move are giving these deadbeat parents a get-out-of-obligation-free card so that they can stiff their custodial former spouses. We plug that loophole.

Furthermore, this bill plugs the so-called "homestead exemption" that has allowed corporate criminals to be able to use bankruptcy to shield their assets and huge mansions in the States that have unlimited homestead exemptions from bankruptcy and leave employees in the lurch, employees that could use those assets to be able to allow them to find new jobs as a result of a corporation going bankrupt as a result of executive and management abuse.

Perhaps among the most important reasons to support bankruptcy reform is that it will help some of the most needy and deserving members of our society. As the title of the bill indicates, these reforms are not just about preventing abuse, but they also provide long overdue consumer protections. For example, domestic support claimants will receive very much-needed, special protections under this legislation. These reforms will ensure that families with pensions and education IRAs will not have to use these assets to pay creditors. Those protections will not be there if this bill is voted down.

As part of their monthly credit card billing statements, consumers will be given more meaningful disclosures about the consequences of making minimum monthly payments. It will require the appointment of an ombudsman to serve as a watchdog for patients in health care facilities in bankruptcy. It more than doubles employee priority wage claims.

If this bill is voted down, those that vote "no" turn their back on all of these improvements. These are just a few examples of the many benefits that consumers will finally be able to enjoy once bankruptcy reforms are enacted.

I urge my colleagues to move forward with bankruptcy reform. This is a comprehensive bill. It is a good bill. It does not hurt the ability of somebody who is truly down and out to be able to file for bankruptcy and get their discharge and start anew. But what it will do is plug the loophole of those who wish to use the Bankruptcy Code as a financial planning tool, a financial planning tool that ends up stiffing every family that pays their bills on time and, as agreed upon, $400 a year in a hidden tax. That is a hidden tax that the lack of bankruptcy reform has stuck on all of our constituents who ought to be our special interest.

I urge my colleagues to support the enactment of the amendment in the nature of a substitute to S. 1920.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by offering my unequivocal support for S. 1920 that would provide for an extension of chapter 12 of the Bankruptcy Code which expired last December. That piece of legislation is noncontroversial and necessary to ensure that the farmers in our country have access to the bankruptcy protections they so earnestly deserve as they struggle to keep our food supply thriving and to maintain their farms.

As ranking member of the Subcommittee on Commercial and Administrative Law and a former conferee on H.R. 975, I continue to oppose the substance of H.R. 975 and further believe that the current maneuver to force the hand of the Senate is irresponsible and will only result in further delay in extending the family farmer protections everyone agrees should be extended.

The gentleman from Wisconsin's amendment tacks on to this otherwise noncontroversial bill H.R. 975, the product of a conference on which I served last term minus the negotiated provision that would prevent those who commit acts of violence against women and abortion clinics from avoiding penalties by declaring bankruptcy. This bill did not pass last year, and I believe it will meet the same fate this year. Therefore, the only result will be that the family farmer will be held hostage to efforts to leverage support for the larger bankruptcy reform.

My opposition to H.R. 975 has not changed. I believe that the omnibus bankruptcy reform bill is an unfortunate convergence of expedience and politics. There obviously is abuse in the bankruptcy system and reform is necessary, but I continue to believe that H.R. 975 is not a rational way to respond to abuse to set up a separate set of rules for what is, in effect, a pauper's bankruptcy court system and a different set of rules for a higher income bankruptcy court system.

Mr. Chairman, I believe that we should stop playing games with the family farmer. Like the National Farmers Union, and I quote from their letter to the House leadership, I "reject this legislative strategy as an insensitive, cruel and malicious effort that will only serve to increase the level of distress of farm families who are already experiencing severe financial difficulties." I urge my colleagues to vote against this bill and for a process that will respect the plight of the farmers of this country.

In response to the comments of the gentleman from Wisconsin, let me submit to this body that the primary reason we have an increasing number of bankruptcies, although there may be some abuse and I do not argue with that, but the primary reason we are having an increase in the number of bankruptcies in this country is job loss and economics which is being driven by this administration.

Second, I want to know how many times the House has to beat itself on the chest on this issue and try to force this issue. We have got a bill that is already in conference, I thought, in the other body; and this bill, if the Senate wanted to take it up, would take it up. So what are we doing beating our chests again this year saying we support bankruptcy reform?

And finally, I would just submit that this is an effort to find someone to blame for the failure to pass the bankruptcy reform legislation. The last time I checked, the Republicans were in control of the House, the Republicans were in control of the Senate, the Republicans were in control of the Presidency. It would seem to me, if you are in control of this process and you want to pass the bankruptcy reform bill, you would pass the bankruptcy reform bill and we would not be here going through this charade, blaming it on somebody else for failure to pass this bill. It is a convenient way to blame others, but it is a terrible way to do business.

NATIONAL FARMERS UNION,
*January 23, 2004.*

Hon. DENNIS J. HASTERT,
*Speaker, House of Representatives, Washington, DC.*

Hon. NANCY PELOSI,
*Democratic Leader, House of Representatives, Washington, DC.*

DEAR SPEAKER HASTERT AND DEMOCRATIC LEADER PELOSI: On behalf of the family farmer and rancher members of the National Farmers Union I write to encourage the House of Representatives to immediately adopt the language contained in S. 1920 which passed the Senate late last year and extended the chapter 12 provisions of title 11 of the United States Code for an additional six months retroactive to January 1, 2004.

The Chapter 12 provisions, which allow the development of alternative financial reorganization plans for farmers and ranchers within the bankruptcy code, expired at the end of 2003 when the House failed to take action on the Senate bill even though these provisions have been considered non-controversial by both parties over the course of several years. Any delay in approving an extension of Chapter 12 places agricultural producers and their families who are faced with bankruptcy in a serious and untenable position.

We understand there are some in Congress who wish to utilize the extension of the agriculture provisions as a means to leverage support for a broader bankruptcy reform measure that contains highly controversial and divisive provisions unrelated to the farm bankruptcy law. We reject this legislative strategy as an insensitive, cruel and malicious effort that will only serve to increase the level of distress of farm families who are already experiencing severe financial difficulties.

Thank you for your attention to this important issue.

Sincerely,
DAVID J. FREDERICKSON,
*President.*

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

There have been times when I have been the chairman of the committee where we have given the other body a choice. I seem to recall that in the last Congress the House passed two versions of the visa and border security bill. One contained provisions extending section 245(i) of the Immigration and Nationality Act and one did not, and the Senate chose to take up the bill that did not contain section 245(i) and passed it. Both bills, I believe, were supported both by the gentleman from North Carolina and myself. So sometimes giving the other body a choice speeds things along, and that is what this bill proposes to do.

Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I would like to rise in support of the amendment and to commend the chairman of the Committee on the Judiciary for offering this important amendment.

As we have noted, last March this body did pass important bankruptcy reform; and that is very important to my folks in Tennessee, but unfortunately it has languished over on the Senate side. I have heard from credit unions and banks in Tennessee. Their message is very clear. Bankruptcy is all too often used as the first resort instead of the last resort, and this makes it increasingly difficult for them to operate in a State where small business is our major employer. As the number of bankruptcy filings continues to rise, bankruptcy losses have a heavier impact upon those credit union members and on the banks who are fiscally responsible. What we have seen since 1998 when bankruptcies topped 1 million in their filings, they are up over 150 percent. We know the trend is continuing upward.

I do feel this amendment is a compassionate one. People who seek bankruptcy because of job loss, medical problems, divorce and other personal problems will be unaffected.

Mr. Chairman, it is time for us to move forward.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded not to criticize the Senate.

□ 1400

Mr. WATT. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise to plead for our Nation's family farmers and family fishing operations. And some people may ask why the representative from Manhattan and Brooklyn is rising to plead for family farmers. When I was a child, we had a family farm which we lost to foreclosure because of policies similar to what the majority party is urging on us today. This is the 11th time we have been here to debate a temporary extension of chapter 12. To string farmers along, especially in these very hard times, is simply unconscionable; but this is even worse. Instead of passing this bill last year, the chapter 12 extension bill, when we could have sent it directly to the President, the majority refused to act and allow chapter 12 to sunset. Even now they refuse to act and instead are using family farmers again to try to pass an overall bankruptcy bill that is not going to pass again because the Senate will not go along with it; so they are just using it as a charade and putting at risk all the farmers. But a bill that should not pass anyway. A bill whose main and essentially only effect is to enable the big banks and the credit card companies to reach their hands into the pockets of low- and middle-income people who, because usually of either a divorce or being laid off from their jobs or health emergency, are in bankruptcy and at that time to enable the big banks and the credit card companies to put their hands into these low- and middle-income pockets and take more money out of it for the big banks and the credit card companies in 60 or 70 different ways. That is what this bill does. And this bill is a lot more important, the majority would have us believe, than extending chapter 12 for the benefits of family farmers and family fishing operators.

Even if we pass this bill as amended by putting on the entire bankruptcy reform bill, so-called, on the back of the chapter 12 extension, and even if the Senate agrees to allow the House to circumvent them entirely, family farmers would still have to sit and wait while Congress fiddles.

We do have another choice. We could reject this maneuver entirely and send the 6-month extension to the President today. We could adopt the gentlewoman from Wisconsin's (Ms. BALDWIN) substitute and enact a part of this bill that is both uncontroversial and necessary immediately to make chapter 12 permanent and update it to provide needed relief. But the Republican leadership appears unwilling to do either. They appear intent on using the plight of family farmers yet again to advance the agenda of the credit industry and to do so by threatening and hurting the family farmers by engaging in a legislative maneuver that has already resulted in chapter 12's expiring and that they know will now result in its being allowed to lapse further.

This is simply wrong. I urge my colleagues to reject this outrageous stunt. This bill has been on the verge of passing "any minute" since 1997. How much longer must our farmers and fishermen and women wait? They have waited long enough. I urge my colleagues to support the gentlewoman from Wisconsin and save our family farms and stop using the plight of the family farmers to try to put the entire agenda of the banks and the credit card companies on the backs of the family farmers. Pass a family farm bill; then bring in a bankruptcy bill. We will debate it on the merits or demerits of that. I would say the demerits; but stop trying to put that entire burden on the family farmers' backs because their backs are already broken.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I rise in strong support of this bill and would urge this body to adopt it. I would like to adopt the words of Edith Jones, who served on the Bankruptcy Commission and is on the Fifth Circuit Court of Appeals, when she said "bankruptcy reform legislation is essential to restoring integrity to personal and business bankruptcies, redressing the imbalances and opportunities for manipulation that plague current law, and encouraging individual responsibility in financial affairs." However, and I say this to the gentleman from Wisconsin (Chairman SENSENBRENNER), he has done an outstanding job on this legislation. It is very much a thankless job, and it is with some hesitancy that I rise simply to point out one provision that I share with Judge Jones when she says, however, "Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation and should be eliminated."

Section 414 of the present legislation, I think, is a large snake. It is the proverbial fox in the henhouse. And what section 414 does is it eliminates the disinterested rule. That rule has existed in bankruptcy law for 66 years. Under current law, a person that advises the trustee must be "disinterested" in order to avoid conflicts of interest. Section 414 eliminates that exclusion. Consequently, section 414 would allow the same entities that may be engaged in negligence or even fraud prior to bankruptcy to advise the trustee during the bankruptcy process.

Our experience alone with the recent wave of corporate scandals means that we need to carefully examine any provision that would weaken the conflict of interest standards. Weakening those standards in the bankruptcy code promotes conflicts of interest rather than corporate reform.

Let me quote the Wall Street Journal addressing this section 414: "Relaxing the disinterestedness rules will serve to reward firms that had some part of the company's demise . . . By allowing firms that helped the company into bankruptcy continue to stay on the payroll, the firms are being rewarded for essentially failing at the task for which they were hired."

Eliot Spitzer has testified against section 414. He says, "The inherent conflict of interest created by section 414 and the perverse incentives created by such a section ought to be clear to all," and I would agree with him. And here we have the Attorney General of New York and we have the very conservative Judge Jones agreeing on this point, as did almost all the bankruptcy commissioners.

No convincing case has been made for drastically weakening the current standard as section 414 does. Indeed, one would be hard pressed to offer any public policy rationale for this change. As Judge Jones said, section 414 is totally out of character with the rest of this important legislation. And I include a copy of her letter.

Let me conclude by saying that section 414, which is contrary to the legislation's goal of creating a fair and more streamlined bankruptcy system, must be addressed at conference. Nonetheless, I strongly support this much-needed bankruptcy reform legislation which will limit abuses of the bankruptcy system without affecting bankruptcy protection to all who truly need it.

U.S. COURT OF APPEALS FIFTH CIRCUIT,
*March 11, 2003.*

Hon. F. JAMES SENSENBRENNER, JR.,
*Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I understand that the House Committee on the Judiciary will consider H.R. 975, bankruptcy reform legislation, on the morning of March 11, 2003. I also understand that the Committee may consider whether or not to retain Section 414 of the bill, which would amend the "disinterested person" standard codified at 11 U.S.C. §101(14). As a former member of the National Bankruptcy Review Commission and, in that capacity, a consistent advocate of maintaining strict disinterestedness standards for bankruptcy professionals, I urge the Committee not to change existing law. I support Congressman Bachus's effort to remove Section 414.

The National Bankruptcy Review Commission was asked to recommend a modification of the disinterestedness standard in order to accommodate, as I recall, the geographic growth and increasing sophistication of professional firms of all kinds involved in Chapter 11 bankruptcy practice. Despite fervent lobbying by prominent bankruptcy professionals and scholars, the Commission resisted making such a recommendation. We voted (by a lopsided majority, I believe) to retain the standard as it has existed since the 1930's.

The Commission report cites two reasons for retaining a strict prophylactic standard for all bankruptcy professionals. These are worth brief restatement. First, such a standard can alone protect integrity in the bankruptcy process. If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness, required by current law, eliminates such conflicts or potential conflicts.

Second, enforcing a strict standard of disinterestedness is necessary to maintain public confidence in the integrity of the bankruptcy system. A bankruptcy case should not be subject to the criticism that professional fees are generated to no purpose or for a bad purpose such as delay. The courts' efforts to ensure that fees remain reasonable are enhanced when, because of the complete disinterestedness of participating professionals, no hidden motives may be imputed to the actors in the case.

One need not focus solely on today's high-profile bankruptcy cases to realize that the challenge of maintaining disinterested professional services has permeated modern corporate reorganization law. The Commission, for instance, voted to retain the original standard in the wake of the criminal conviction of a prominent bankruptcy lawyer and several well-known instances in which law firms were required to disgorge part of their fees—all for violating disinterestedness standards. Given the ongoing nature of the problem, I do not see how any professional group can advocate, consistent with the public interest, eliminating the statutory requirement of disinterestedness. Moreover, as it appears likely that many future complex bankruptcy cases will arise in which the role of investment bankers will have to be explored, it seems particularly unwise to grant that group—alone among bankruptcy professionals—a status insulated from the strict disinterestedness requirement.

Since the close of the Commission's work in October 1997, I have been a proponent of the bankruptcy reform legislation that has been repeatedly passed by Congress. I still believe the bankruptcy reform legislation is essential to restoring integrity to personal and business bankruptcies, redressing the imbalances and opportunities for manipulation that plague current law, and encouraging individual responsibility in financial affairs. Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation, however, and it should be eliminated.

Very truly yours,

EDITH H. JONES.

Mr. WATT. Mr. Chairman, I yield myself 30 seconds.

I am a little perplexed by the gentleman's statement. He was yielded 4 minutes. He took 3 minutes and 50 seconds to talk about the problems with the bill and 10 seconds to praise the bill; yet he is going to support it. If there is no public policy justification for this provision, it seems to me that the gentleman would be voting against this bill.

Mr. Chairman, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to thank the chairman and all who have worked so hard on this bill and have been delayed for so long.

I rise to take strong exception to putting this bill once again in jeopardy by reinserting anti-choice language, language that was agreed upon in a bipartisan fashion and that again would put this bill in jeopardy.

As I understand the anti-choice movement, and I respect them for the view which I believe is sincere, the movement disavows violence. Each and every time there is violence in their name, the movement is clear that violence shall not occur in their name. And not only do I not have any reason to doubt them, I have every reason to believe they are sincere.

Why in the world then would we want to take out the bipartisan Hatch-Schumer language that was agreed upon and do so unilaterally? After all, the point of this bill is to remedy the abuse of the bankruptcy laws. Is it not an abuse to avoid a lawful judgment of a court of law rendered through imposition of fines after finding that a party had, for example, committed violence? Would anybody condone going into bankruptcy in order to avoid that lawful judgment? I see no reason why anybody would want to sign up for that, much less jeopardize this bill.

Mr. Chairman, I just want to say at the beginning of this session we have gotten to the point where bipartisan compromise does not matter anymore in this House. We know conference reports do not matter. We know that Democrats did not even get to conference. But the notion that Mr. SCHUMER and Mr. HATCH could reach a compromise on something as controversial in its underlying content as choice and then have that torn up by the House should be unthinkable. I do not think Mr. HATCH would have agreed to it, and as I understood it, the gentleman from Illinois (Mr. HYDE) agreed to it, that it was a kind of compromise. The gentleman from Wisconsin (Mr. SENSENBRENNER), all of them agreed that this was what should be done to get the bill through. Why throw it in their face and in our face by taking that compromise out of the bill? This used to be known as breaking one's word; and one thing I thought good politicians, let alone ethical men and women, never did was to break their word. This is a breaking of the word. I ask them to reconsider. Please let us begin this session, 2004, bright. Let us not go back to the bad old days of 2003.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his patience with trying to get this bankruptcy legislation through in a form that can be supported across the board and in fact in a form where it deals with the issue of bankruptcy. The Congress has been working on this legislation for a number of years, actually since before I got here; and this passage of this bill is long overdue.

Since Congress began working on this legislation, bankruptcy filings continue to rise. In fact, data recently released by the Administrative Office of United States Courts showed personal bankruptcies continued to rise at a record-setting pace of 7.4 percent last year.

Some of this is necessary. Some of this is abuse of the bankruptcy system. It has had a negative impact on our economy, amounting to a loss of $110 million a day. The abuse of the bankruptcy code continues with opportunistic filings and abusive loopholes in the code. One most notable, as I serve on the Committee on Financial Services, dealing with corporate crooks, this bill closes the mansion loophole for greedy corporate culprits.

☐ 1415

Under current bankruptcy law, debtors living in certain States can shield from their creditors virtually all of the equity in their homes. That includes a $3 million estate.

Congress spent a considerable amount of time discussing the issue of corporate responsibility, and this bill closes that loophole to continue the work we began last year. Some debtors have moved to particular States in order to take advantage of this loophole. This bill closes the loophole. It requires those debtors to reside in the State for at least 2 years before they can claim a homestead exemption; they have to have owned that home for at least 40 months; and most importantly, it caps the amount at $125,000, a reasonable amount for a family to keep a roof over their heads, but certainly not $3 million that they can just save from their prosecution.

This legislation also helps women and children in bankruptcy. It prioritizes the collection and payment of spousal and child support, giving them the highest payment priority under the bankruptcy law. The legislation also allows child and domestic violence proceedings to continue, notwithstanding the debtor's filing for bankruptcy protection.

Mr. Chairman, it is crazy for us not to move this bill at our, finally, hopefully, last opportunity.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS) the ranking member of Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from North Carolina, the manager of the bill, and I rise and take this time not to go over a piece of legislation that has been around here since 1997, started in 1996 with a commission, has been up and down and around, and here we are today taking the bill up yet another time.

Well, is it sufficient that 35 national organizations, civil rights groups, unions, public interest research groups, consumer organizations, women's organizations, law organizations, the Neighborhood Assistance Corporation, Legal Defense and Education Fund, 34 organizations, I would appreciate it if anybody could tell me why they think all of these organizations do not get the picture, do not understand why this bill should be rejected yet another time?

But my emphasis this evening is upon the parliamentary process by which the bankruptcy bill was brought to the floor today, and that is to say that the bill is being brought to a conference and the Senate has never passed this bill. This bill is being brought on the sham of a Chapter 12, 6-month, noncontroversial extension entitled "The Debts of the Family Farmer," and that is being used to force a several-hundred-page bill into conference.

The Senate has not acted. It is shameful that the leadership, the Committee on Rules of this House, would permit this bill, as large, as controversial, as complex as it is, to be taken, that little tale, and brought in here yet again. In other words, we are holding the farm families of America hostage by substituting the controversial omnibus bankruptcy bill to push anticonsumer changes to bankruptcy laws and bypass the Senate debate on the bill.

So I would like to point out that there happens to be a very big problem on the other side. Notwithstanding the parliamentary shenanigans in the House, again with this attempt to end-run around the Senate, the antichoice lawmakers have to answer this one question: Why do they oppose the compromise of Hyde-Schumer that would hold people who illegally harass, intimidate, commit crimes of violence, blockade and blow up clinics and innocent people, who abuse the bankruptcy system, to evade their lawful debts?

Will somebody on this floor, to whom I will yield, explain to me why they would support criminal conduct as a reason not to allow this bill to go through? I will yield to anybody.

And I would like someone else, further, to explain to me, who has stronger views on abortion than the gentleman from Illinois (Chairman HYDE) of the Committee on International Relations? He is the cosponsor of the bill that you are trying so desperately to keep this provision out of.

I think this is another example of the disgraceful, dishonest tactics being used in this House to get through anything by any means necessary, and I object to it very strenuously.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Michigan (Mr. CONYERS) is very right in saying that there were extensive negotiations relative to the so-called Hatch-Schumer abortion protestors' amendment during the conference in the last Congress. Those negotiations lasted the better part of a year. There were both public and private meetings with the principals involved.

At the end of the process, the gentleman from Illinois (Mr. HYDE) and the Senator from New York, Mr. SCHUMER, reached an agreement on compromise language that was put into the conference report on H.R. 333, which was the bankruptcy bill in the last Congress.

The gentleman from Illinois (Mr. HYDE) lived up to his word. He supported the rule that made that conference report in order. Unfortunately, that rule was rejected on November 14, 2002, by a roll call vote of 172 "yes" to 243 "no." I notice my friend from Michigan was one of the 243 that voted "no." If he wanted to get that language enacted into law, he could have supported bringing up the conference report on H.R. 333. For whatever reason, he chose not to do so.

But to answer the arguments that he made on the merits, it is that fines and forfeitures from offenses, both criminal and civil, have never been dischargeable in bankruptcy, irrespective of the offense that gave rise to the fine and forfeiture being imposed. So to say that the omission of language relating to abortion clinic protestors is a way of shielding criminal activity is a complete red herring. Fines and forfeitures that are imposed on abortion clinic protestors in a court of law are not dischargeable in bankruptcy today under the existing law nor, should this bill be enacted, under the provisions of this bill.

Now, having said that, I feel very strongly that abortion really should not become an issue in the debate on a bankruptcy bill. The position of this House has always been that abortion is not a part of the bankruptcy debate. There is a time and place to debate issues relating to abortion, but this is not it.

The other body has always disagreed. At some times in the last Congress we had a provision in the conference report that did reach a compromise on this issue. The House refused to consider it. There are other times when the conference in previous Congresses omitted the Schumer language that was passed by the Senate, and the conference report was passed by the Senate by a vote of 70-to-28 on December 7, 2000. That bill would have become law without the abortion clinic protestor language, except that President Clinton pocket-vetoed the bill.

So I just do not like to see the entire issue of abortion being mixed into it. But I think that the arguments that are made that the omission of the Hyde-Schumer language is an issue of bad faith is a complete red herring. We were not able to pass the bill with it in; we were able to pass it without it.

Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, with regard to the original bill that came over from the Senate, the gentlewoman from Wisconsin (Ms. BALDWIN) and I, have introduced, cosponsored, about six bills either to make the Chapter 12 permanent or to at least extend it. I would just like to tell my colleagues that in calling the bankruptcy judges that handled these farm cases, there has never been a farm case thrown out because the law expired. Sometimes it has been reacting late, but we have always made it retroactive in every case so those farmers that wanted to use the provisions of Chapter 12 have been able to do that.

So I would like to make Chapter 12 permanent, but I would also like to make some of the corrections that incorporate some of my language in a larger bankruptcy bill. I hope we can do that. I think it is important for our financial institutions to have some of the additional concerns that are addressed in this bill. This bill will also at the same time expand the availability of loaned money, of available credit money, to more people.

So I would hope we would pass the bill as provided by the Committee on Rules and send the bankruptcy bill in total over to the Senate and, hopefully, resolve it in conference for final passage.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding to me.

I would just like to respond to the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), who feels very strongly that the abortion consideration has no place in this bill.

Well, I will be happy to report that to the predecessor chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE). He will be happy to know that you do not feel it does and that a whole group of Senators, not to mention a fairly substantial number of Members of the House, all think that it does, and to think that by running an end-run around this provision with an arcane debt farmers provision, it is not going to work.

Now, for my friend, the gentleman from Michigan (Mr. SMITH), who has served with great distinction in the Congress, I will be happy to let his farmers know that everything is okay, that the provision has expired; but somehow he can get into court, or somebody, and they can just continue on, that with the judges, even though the provision has no effect, that the farmers are okay. I am sure they will be very comforted to hear that.

Mr. WATT. Reclaiming my time, Mr. Chairman, let me also just make a couple of responses to the statement of the gentleman from Wisconsin (Mr. SENSENBRENNER).

Number one, it is interesting that the chairman thinks that the abortion issue should not be part of the bankruptcy bill. Seemingly, everybody who abuses the bankruptcy process other than people who have had judgments against them for destroying or damaging bankruptcy clinics would be an appropriate subject for this. I thought this whole thing was to try to get to people who are abusing the system. If that is not an abuse, then I am not sure I understand what it is.

Second, in response to the gentleman's comments about this bill preserving criminal discharges, this is not about criminal discharges. this is about people who have gotten judgments against abortion clinic bombers or damagers, civil judgments, and had those defendants thumb their noses at those judgments by saying "I am just going to declare bankruptcy so I do not have to pay this judgment."

□ 1430

So if that is not an abuse, then I do not understand what an abuse is. If this bill is about dealing with abuse, then it seems to me people who fall into the category of abortion clinic abusers of the process should be equally accountable.

Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I rise in opposition to the bill in its present form. Instead of passing the bipartisan bill to help family farmers, we have substituted a controversial bill that violates traditional bankruptcy principles.

For centuries, American bankruptcy laws had the principle that if people get over their heads in debt, they can cash in all of their assets, pay off all the debts they can, and then get a fresh start. For policy reasons, a few assets have historically been exempted and a few debts have historically been nondischargeable, especially those that have been incurred by fraud, a result of crime, or through abuse of the bankruptcy system. Yet the principle has always been the same: cash in all you have and get a fresh start.

This bill violates the basic principle. People who incurred debts because of illness, unemployment, business failure and have debts they can never pay off will be denied an opportunity to get a fresh start. They will be stripped of every penny of income after basic expenses of food and rent without reasonable allowance for unforeseen emergencies such as automobile repairs, which will inevitably come up. People in these circumstances will be in economic slavery for 5 years and will probably be worse off at the end of 5 years than they were before.

The bill has no rational measure of determining a person's ability to pay off debts. If someone can pay off $10,000 in his debts over 5 years, that is $167 a month, then he is not entitled to a discharge. A person could cosign a spouse's business loan only to have the spouse die or disappear. If that person has a $50,000 salary, he may find himself owing $1 million, never even able to make interest payments, and that person would be denied relief under this bill. A person with hospital bills could have hospital bills of hundreds of thousands of dollars. That person will be denied relief under this bill. This will cause many Americans who have unforeseen business failures, health problems, or unemployment to find themselves unable to pay their debts and be trapped with no way out. And for 5 years that person would have nothing to lose.

Mr. Chairman, if our goal is to create a situation where people are stressed out with nothing to lose and to maximize the chances that a person would totally lose control and terrorize a community or its coworkers, this is it. Last year in Washington, D.C., we saw the impact of financial distress. A North Carolina farmer drove his tractor into the pond near the National Mall and was quoted as saying, "I am broke. I am busted. I am out." No one in the community is safe when we have increased the number of neighbors who feel like they have nothing to lose.

Finally, Mr. Chairman, we have to consider the impact the bill will have on small business entrepreneurs. How many people will be willing to take a chance on a new business if any failure will result not just in bankruptcy but no relief for the family for 5 years? No bank in the future will lend a business any cash, especially one in financial distress that actually needs the money without the personal signature of the owner. And so who will risk not only loss of everything but also risk family poverty with no relief for 5 years if the business fails?

Long ago we decided that there would be no debtors prisons in America. This bill represents an effort to take a giant step backwards towards that bygone era.

So I urge my colleagues to reject this bill in its present form so that we can return to the original bill and help family farmers.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from North Carolina (Mr. WATT) seemed to imply that because this bill does not contain the so-called Schumer language as compromised, people who protested abortion clinics will end up being able to stiff the owners and operators and the folks who work at that clinic of any judgment that might be obtained.

Now, the current law, Bankruptcy Code section 523(a)(6) makes nondischargeable debts incurred by willful or malicious injury by the debtor to another entity or to the property of another entity. That law is not changed in this bill. So if somebody trashes an abortion clinic for whatever reason and gets a civil judgment against them, that civil judgment is nondischargeable because the actions were willful and malicious.

Mr. Chairman, again, I looked at this roll call when the rule was voted down to bring up the legislation that did what the gentleman wanted to do, and that was the compromise Schumer-Hyde language in last Congress's bankruptcy bill. We did what my colleague asked, and he still voted "no."

So I think that the arguments that have been made are really a red herring to try to defeat an overall bankruptcy reform that the House has supported overwhelmingly on many occasions since this issue first came up at least 7 years ago.

Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, first of all I would like to associate myself with the comments of the gentleman from Wisconsin (Mr. SENSENBRENNER) on these two points that he has just made and then point out in response to the gentleman from Virginia (Mr. SCOTT) this bill is about getting money from people who have it. It is not about oppressing the poor. And I think the structure of the bill, if you look at it fairly, will show that I rise in support of Senate 1920.

The amendment in the nature of a substitute of the gentleman from Wisconsin (Mr. SENSENBRENNER) merely makes technical corrections to H.R. 975, which was passed by the House early last year. Given the uncontroversial nature of these revisions, I urge my colleagues to support the amendment.

Last March the House passed H.R. 975 by an overwhelming bipartisan vote of

315 to 113. The administration has endorsed this legislation. The House has voted affirmatively on five separate occasions to pass this bill. Today we are reconsidering this bill in an attempt to reignite a stalled process. We must take action. America's bankruptcy system is, in fact, broken. It gets worse every day with more filings that break record after record, putting an enormous strain on the judiciary's resources. I have seen numbers that indicate the exponential growth to the number of bankruptcy filings.

I believe the increase in consumer bankruptcy filings will have adverse financial consequences for the American economy. In 1997 alone, more than $40 billion was discharged as a result of bankruptcy cases. This loss translates into a $400 annual tax on every household in our Nation in the form of higher prices and higher interest rates.

I urge my colleagues to support the enactment of the amendment in the nature of a substitute to S. 1920.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, if the gentleman from Utah (Mr. CANNON) suggested that what I said was not accurate, I ask what did I say that was not accurate?

Mr. CANNON. Mr. Chairman, reclaiming my time, what I would like to point out is if you look at the structure of the bill, this is not intended to keep people in slavery or economic servitude. It is intended to take money from those people who are gaming the system who have a large ability to earn income.

Mr. SCOTT of Virginia. If the gentleman would yield, I said that people who have $2 million in debt that could pay $10,000 of that debt that they obviously can never pay will not be able to get relief under this bill. Is that true?

Mr. WATT. Mr. Chairman, I yield as much time as he may consume to the gentleman from Virginia (Mr. SCOTT) to pursue this discussion.

Mr. SCOTT of Virginia. Mr. Chairman, I said that somebody who can pay off $10,000 but can never pay off the $2 million, are they denied relief under this bill?

Mr. CANNON. Mr. Chairman, if the gentleman will continue to yield, will they be able to pay off the $10,000?

Mr. SCOTT of Virginia. They can pay $10,000 on a $2 million debt. The fact is they can never pay off the debt. They will be denied relief under the bill. Is that right?

Mr. CANNON. If they can pay off $10,000? In other words, is it possible that someone who owes millions and millions of dollars in debt may be held responsible for $10,000? We would certainly hope so.

Mr. SCOTT of Virginia. Mr. Chairman, reclaiming my time, so that someone who owes $2 million in debt can pay $10,000 and can never pay it will be in economic slavery because every dime they make over food and rent will go into the fund to help pay the $10,000.

Mr. WATT. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I think the gentleman from Utah (Mr. CANNON) misunderstands the question of the gentleman from Virginia (Mr. SCOTT). The question as I understand it was not if someone owes $2 million and can pay $10,000 should be then forced to pay $10,000. Yes. The question was, is it not true that under this bill if he owes $2 million, can afford to pay only $10,000, he can never get relief even if he pays the $10,000 he can afford to.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, it is my understanding of this bill that the court can impose a structured pay-out. And that is $10,000, and he can pay $10,000, then he is relieved under the bill.

Mr. SCOTT of Virginia. Mr. Chairman, if the gentleman will yield, so every dime that they make over food and rent goes into the fund to help pay the $10,000. If that is all they can pay, they have to pay that so they are down to food and rent for 5 years although they can only pay $10,000 on a $2 million debt. They cannot get relief from the $2 million under this bill. And the gentleman agrees with that.

Mr. CANNON. Mr. Chairman, I believe I understand the gentleman's question, and the point is that the person can get discharged in the course of bankruptcy including a payment, but that payment is not related to what his grocery bill is. It is related to what he can earn and presumably based upon the judgment and discretion of the court what should be paid in addition to a general discharge.

Mr. WATT. Mr. Chairman, it is obvious that maybe all of my colleagues need to read this bill. Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I am prepared to close the general debate.

Mr. WATT. Mr. Chairman, I yield myself the balance of the time, although I doubt that I will use it.

Let me just correct a couple of things that have been put out here that seem to me to need correction. First of all, child support and alimony are already nondischargeable and all of the women's and children's advocacy groups oppose this bill. So do not be misled by this claim that somehow or another this bill is going to do something to help women's and children's advocacy groups with child support.

Second, the implication has been made that there is somehow a cap on the homestead exemption in this bill, and that is not the case. We tried to get one on several occasions. It has never worked. It has always failed. And so anybody who is proceeding on the assumption that there is some kind of cap in this bill should dissuade themselves of that notion.

Having made those corrections and comments, Mr. Chairman, I presume the gentleman from Wisconsin (Mr. SENSENBRENNER) will have the last word. I encourage my colleagues to vote against the bill on the grounds that it will play Russian roulette with family farmers. We ought to proceed with the family farmer bill, which needs to be extended to protect family farmers and not get them caught up in all of this other politics about abortion and in a larger bankruptcy reform bill.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the bill that is in the substitute made in order by the Committee on Rules, which is the version of the bill that passed the House last March by about a three to one margin, is better for family farmers than what the Senate sent over to us. But the Senate sent over to us what is merely a 6-month extension of chapter 12 of the bankruptcy code.

The substitute amendment made in order at the Committee on Rules makes chapter 12 permanent. So you have a choice of saying that the other body's bill should be on the President's desk tonight, which means we will go through this entire debate again in 6 months, the end of June, when the Senate bill's provisions expire, or we will be able to pass this bill and take care of the chapter 12 problem permanently.

To protect our family farmers and to give them certainty in the law, let us do the permanent extension, pass the substitute amendment, and then pass the bill with its other provisions because that will protect everybody from being stiffed by the $400 per household that is passed down in the cost of higher goods and services and interest rates as a result of the current bankruptcy system.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to S. 1920, the bill to extend for 6 months the period for which Chapter 12 of Title 11 of the United States Code is reenacted. This legislation covers a significant amount of ground-consumer filings, small business bankruptcy, ancillary and cross-border cases, financial contract provisions, amendments to chapter 12 governing family farmer reorganization, and health care and employee benefits. These issues affect many constituents; therefore, we as creators of legislation must not take lightly the consideration of its passage. On its face, S. 1920 temporarily extends Chapter 12, the family farmer bankruptcy protection provision, for 6 months, retroactive to January 1, 2004 through June 30, 2004.

If we allow the amendment offered by Mr. SENSENBRENNER to pass favorably, it will essentially incorporate H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act. H.R. 975 passed the House last March by vote of 315 but did not surpass the Senate by virtue of a contentious debate related to preventing abortion protesters from filing for bankruptcy to avoid civil fines and judgment.

H.R. 975 is a significant departure from the current bankruptcy laws that would make it more difficult for individuals to obtain relief from their debts through bankruptcy proceedings. Attorneys practicing in this field would be faced with more complicated technical requirements, and judgment debtors would be faced with additional filing requirements and a "means test."

The "means test" entails the use of a formula for debtors to determine their eligibility for Chapter 7 or Chapter 13 bankruptcy relief based on their ability to repay debt, relying in part on Internal Revenue Service (IRS) calculations of estimated living expenses. Debtors whose remaining income over a 5-year period—after allowable expenses are deducted—is sufficient to repay at least 25 percent of their unsecured debt or $100 a month over 5 years, whichever is greater, or $10,000, would not be eligible for relief under Chapter 7. Under the measure, the current monthly income of the debtor would be calculated using the 6-month period ending on the last day of the month immediately before the bankruptcy filing was made. Monthly income would not include Social Security benefits and payments to victims of war crimes or crimes against humanity, or victims or international or domestic terrorism. Under the measure, if a debtor's income meets or exceeds the means-test threshold, there would be a "presumption of abuse." Under current law, there is a presumption in favor of granting the debtor a discharge" i.e., forgiving the debt, so this proposal will severely curtail the rights currently enjoyed by taxpayers. Under this measure, debtors can refute the presumption of abuse by demonstrating "special circumstances" that justify additional expenses or adjustment to their income to challenge the means-test formula. The debtors would have to itemize and document each additional expense or income adjustment—a very onerous and laborious ordeal.

This legislation is simply the wrong measure proffered at the wrong time. It will do nothing to address the critical problems facing our country. It will unfairly benefit the credit card and banking industries, rewarding large financial institutions-those paid for by those least able to afford it. The bill includes an extreme means test to determine whether a family can file for bankruptcy protection that helps them get out of debt, or whether the family must enter into a stringent repayment plan under Chapter 13 of the IRS Code.

Currenlty, less than one-third of Chapter 13 plans are successfully completed, and this rigid "one-size-fits-all" means test would result in an even greater number of failed repayment plans, increased administrative costs to the courts, and unnecessary constraints on families in genuine need of bankruptcy relief. The bill, along with the amendment that incorporates H.R. 975 hurts families. The problem with escalating personal bankruptcy filings is not that families are abusing the bankruptcy system. Ninety percent of bankruptcies are attributable to a crisis in the debtor's family such job loss, divorce, or excessive medical bills. In addition, credit card companies are extending credit far too easily. Credit card companies want all the benefits of a deregulated credit industry, with high interest rates and low minimum-payment requirements. They continue to irresponsibility extend credit to already debt-laden consumers and then run to Congress for help to apply pressure to consumers already struggling in this troubled economy.

While the bill purports to elevate the priority of child support payments, in reality, credit card companies would receive repayment of debt at the same rate as child support obligations. Those provisions would have a severe impact on the most vulnerable members of society, including women and children who rely on alimony and child support payments to live. The bill's homestead exemption cap does little to address the problem of wealthy debtors shielding their assets from creditors by purchasing million-dollars homes. Sophisticated, wealthy debtors can easily plan ahead and evade the cap. Under the bill, with a little planning, chief executive officers like Ken Lay, formerly of Enron, would be able to keep their homes, while lower-income renters—the former janitors at Enron, for example—could end up homeless.

The bill also imposes artificial deadlines and cumbersome new paperwork requirements on small businesses trying to reorganize and unnecessarily limits the discretion of bankruptcy judges in crafting the best possible result for small business debtors and creditors. The overbroad requirements called for will force many viable small businesses to permanently close their doors. The bill is great for credit card companies, but bad for everyone else. In fact, it hurts those who most need the second chance offered by bankruptcy.

I do, however, support amendment No. 2 of House Report No. 108–407 offered by Ms. BALDWIN of Wisconsin. This amendment would make Chapter 12 of Title 11 of the U.S. Bankruptcy Code that deals with "family farmer" reorganization permanent and would expand the eligibility requirements found within that Chapter. The number of Chapter 12 filings has risen in the past two years. Allowing this law to lapse would be irresponsible for us as legislators. Farmers with debts up to $1.5 million can qualify for Chapter 12 protection if 80 percent of that debt is related to farm operations. In normal bankruptcy proceedings, all assets are subject to liquidation, but under Chapter 12, land and equipment is exempt, allowing a family farmer to keep farming.

From its incipiency, this has always been a bad bill—one that kicks honest debtors when they are already down on their luck—but the timing could not be worse. The policy message that is being conveyed with this legislative scheme amounts to a slap in the face of the families of our brave men and women in uniform who fought and are still fighting in the expensive "Operation Iraqi Freedom," a war that has to date not been substantially justified. This bill should be defeated so that Congress instead of using the public's time and money to pay back credit card companies for their campaign contributions, can get back to work addressing the very real problems facing our country.

For the reasons stated above, Mr. Chairman, I oppose this bill.

Mr. OXLEY. Mr. Chairman, I rise today in support of S. 1920, and the amendment offered by the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER).

As you know, the gentleman's amendment consists of the text of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. That bill was additionally referred to the Committee on Financial Services, which I chair, based on its jurisdiction over banks and banking, credit, and securities and exchanges.

Mr. Chairman, this legislation is vitally important to the Nation. In particular, those provisions addressing the "netting" of financial contracts are an important part of ensuring that our economic recovery continues, as the Chairman of the Federal Reserve Board of Governors, Alan Greenspan, has said time and time again.

Accordingly, I wholeheartedly support any effort to move this legislation forward to enactment. For the record, I am submitting an exchange of letters between the Chairman of the Committee on the Judiciary and myself regarding H.R. 975. I appreciate his willingness to work constructively with the Committee on Financial Services and look forward to working with him to achieve enactment of these important reforms.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, DC, March 14, 2003.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary*
*Washington, DC.*

DEAR JIM: On March 12, 2003, the Committee on the Judiciary ordered reported H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. As you know, the Committee on Financial Services was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under Rule X of the Rules of the House of Representatives over banks and banking, credit, and securities and exchanges.

Because of your willingness to consult with the Committee on Financial Services regarding this matter, your continuing support for our requested changes, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 975. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H.R. 975 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

MICHAEL G. OXLEY,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, March 17, 2003.*

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services, House of Representatives, Washington, DC.*

DEAR MICHAEL: This letter responds to your letter dated March 14, 2003, concerning H.R. 975, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003."

I agree that the bill contains matters within the Financial Services Committee's jurisdiction and appreciate your willingness to be discharged from further consideration of H.R. 975 so we may proceed to the floor.

Pursuant to your request, a copy of your letter and this letter will be included in the report of the Committee on the Judiciary on H.R. 975.

Sincerely,

F. JAMES SENSENBRENNER, Jr.
*Chairman.*

Mr. CANTOR. Mr. Chairman, I rise today to speak in favor of bankruptcy reform, an issue this body has voted in favor of time and time again.

This reform is long overdue and will go a long way to stop abuses of the bankruptcy code.

This measure will permanently extend the agricultural chapter of the bankruptcy code and will add new protections for the American people, including a "bill of rights" for those who file for bankruptcy.

Additionally, this measure will provide new protections for parents and will strengthen their ability to collect child support. This legislation will also fix the system so that high income debtors attempting to protect their excessive lifestyles will be held accountable and not continue to live lavishly at the expense of working families.

By establishing a means test for those who file for bankruptcy, this legislation will ensure that those who can repay their debts will no longer be able to abuse the system. These abuses negatively affect the economy by raising the price of goods while simultaneously lowering the availability of credit. This measure is a victory for the majority of Americans who play by the rules over those who choose to play by their own.

Mr. Chairman, the time has come for us to pass bankruptcy reform. These reforms are necessary to protect the American people; and I urge passage of this legislation.

Mr. BISHOP of Georgia. Mr. Chairman, I rise today in support of S. 1920 and for the rule which preserves the institution of bankruptcy, and provides an important safety net for American families, individuals, and businesses.

At first glance, the bill before us, S. 1920, provides for a 6 month extension of Chapter 12 bankruptcy protection for America's family farmers. I am again happy to support this greatly needed extension, but there's more to this bill than that.

The rule that we are also considering today substitutes into S. 1920 the text of the much larger bankruptcy reform bill (H.R. 975) which we in the House passed on March 19, 2003 by a vote of 315–113. This was great news and progress in preserving the institution of bankruptcy protection. Unfortunately, the bill has not yet been taken up in the Senate—not surprisingly since previous House versions of bankruptcy protection have died on the vine in the Senate when extraneous provisions were included.

So today we have an opportunity for a second bite at that apple. The provisions in S. 1920 (and H.R. 975 by incorporation) preserve bankruptcy by ensuring this protection to those who really need it as a result of unforeseeable medical bills, unemployment, and other legitimate needs. I am also extremely pleased that it also includes a permanent extension of Chapter 12 family farmer bankruptcy protection, and I'd like to also acknowledge the efforts of Representative BALDWIN, whose amendment we are also considering, similarly makes permanent this important protection. Importantly, H.R. 975 ensures that more family farmers will be eligible for Chapter 12 by easing some of the income and debt limitations that currently restrict access to this type of bankruptcy relief. While reasonable minds may differ as to the best vehicle for family farmer bankruptcy protection, currently family farmers are without the bankruptcy protection they need. This is completely unacceptable.

Broadly speaking, Mr. Chairman, the bankruptcy system in America is broken and needs to be fixed. Bankruptcy filings have soared in recent years, with thousands of filers who are capable of repaying their debts, simply walking away from their debts and obligations through the current bankruptcy filing system.

We need a greater and more sustainable safety net for all Americans, and we need it now. The bill before us protects those who truly need it most, while also including protections for business so that they can get back on track and get back to work.

This bill is a good deal for Americans, Mr. Chairman, saving American taxpayers billions of dollars each and every year. It is a powerful and greatly needed measure that protects consumers and creditors against those who would abuse the system, while ensuring a fresh start to those who legitimately need the safety net that is the bankruptcy system.

Let me be perfectly clear—one way or another, we must pass family farmer bankruptcy protection now in order to lift up America's farmers by making this protection permanent. I believe that the bill before us holds this promise. But if this bill fails for any number of political obstacles between the House and the Senate, we must still honor our responsibility to ensure that our family farmers are protected. I know that I will, and I urge my colleagues to do the same.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for S. 1920, as amended. The Rules Committee has reported-out a rule (H. Res. 503) which upon passage, automatically modifies this bill by substituting the text of H.R. 975 which the House passed on March 19, 2003. This Member was a cosponsor of this earlier passed measure.

It is important to note that bankruptcy reforms bills have passed both the House and Senate in the 105th, 106th, and 107th Congresses. In the 105th Congress, the House passed a bankruptcy reform conference report, while the Senate failed to pass the conference report. In the 106th Congress, former President Bill Clinton pocket vetoed a bankruptcy reform conference report. During the 107th Congress, the rule under which the bankruptcy reform conference report was to be considered was defeated in the House because of a tenuous connection drawn to the subject of abortion clinics by conferees from the other body.

This Member would thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the Judiciary Committee, for his efforts in bringing, S. 1920, as amended to the House Floor for consideration. This Member supports S. 1920, as amended, for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision which provides for a means testing (needs-based) formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. Chapter 7 bankruptcy allows a debtor to be discharged of his or personal liability for many unsecured debts. In addition, there is no requirement that a Chapter 7 filer repay many of his or her debts. However, Chapter 13 bankruptcy filers commit to repay some portion of his or her debts under a repayment plan.

Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then proceeds to take a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the needs-based test of this legislation will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account to determine whether he or she has the capacity to repay a portion of their debts.

Second, this Member supports the additional monthly expense items that are exempted from consideration under the needs-based test which determines, under this legislation, whether a person can file either a Chapter 7 or 13 version of bankruptcy. These expenses include the following: reasonable expenses incurred to maintain the safety of the debtor and debtor's family from domestic violence; an additional food and clothing allowance if demonstrated to be reasonable and necessary; and actual expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Third, this Member supports the permanent extension of Chapter 12 bankruptcy in this legislation since it allows family farmers to reorganize their debts as compared to liquidating their assets. Using the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers to reorganize their assets in manner which balances the interests of creditors and the future success of the involved farmer.

It is important to note that S. 1920, as passed by the other body on November 25, 2003, would extend Chapter 12 bankruptcy for family farms and ranches through July 1, 2004. Chapter 12 bankruptcy expired on January 1, 2004.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, its expiration on January 1, 2004, would continue to be a very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option but to end their operations, it likely will also cause land values to plunge. Such a decrease in value of farmland will affect the ability of family farmers to obtain adequate credit to maintain a viable farm operation. It will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our Nation's farm families. It is clear that the agricultural sector is hurting and by a permanent extension of the Chapter 12 authorization, Congress can avoid one more negative possibility.

Lastly, this Member supports the provisions in this legislation, which requires that people convicted of a felony or who owe a debt from a securities fraud violation in the 5 years before filing for bankruptcy cannot claim an unlimited homestead exemption. This Member believes that this provision in the conference report is imperative in light of the recent corporate scandals at Enron and WorldCom. For example, this provision would apply to the $7 million penthouse in Houston of Kenneth Lay (if he still owns it), the former chairman of Enron, if he both files for personal bankruptcy in the future and owes a debt due to any conviction of securities fraud. In addition, this provision may also be relevant to Scott D. Sullivan, the former chief financial officer of WorldCom, who at one time was building a $15 million mansion in Boca Raton, Florida.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support S. 1920, as amended.

Mr. SMITH of Texas. Mr. Chairman I support this bill. It allows consumers to benefit from the changes to the bankruptcy system that were approved by this House last year.

It's time for Congress to enact permanent meaningful bankruptcy reform. Recent surveys show that 70 percent of Americans support reforming our nation's bankruptcy laws. Unless we take action, consumers will continue to be negatively impacted by the current system and fraudulent filings will continue to be rewarded rather than discouraged.

In 1980, 300,000 bankruptcy petitions were filed. This past year, over 1.2 million were reported during just the first nine months. Many of these filings are legitimate attempts by debtors to pay their debts and obtain a fresh start. However, bankruptcy is too often used as a way to avoid responsibilities.

Unnecessary Bankruptcy filings continue to increase at dramatic rates. This is bad for consumers and bad for our economy. The costs of these filings are passed on to America's businesses and consumers, who should not have to absorb these debts. We must ensure that debtors actually belong in bankruptcy and are not using the system to avoid their obligations.

This legislation encourages personal responsibility, protects consumers, and ensures that bankruptcy is used only as a last resort and is not abused by those who can afford to repay their debts.

Bankruptcy reform is good for consumers, family farmers, and our economy. I urge my colleagues to support this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

☐ 1445

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 975 as passed by the House shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 975

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation agreement practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study and report on reaffirmation agreement process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of name of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Reduction of homestead exemption for fraud.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitations on homestead exemption.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 325. United States trustee program filing fee increase.

Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.
Sec. 329. Clarification of postpetition wages and benefits.
Sec. 330. Delay of discharge during pendency of certain proceedings.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.
Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the FDIC and NCUAB with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy law amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy Judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.
Sec. 1234. Involuntary cases.
Sec. 1235. Federal election law fines and penalties as nondischargeable debt.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.

Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1401. Effective date; application of amendments.

TITLE XV—PREVENTING CORPORATE BANKRUPTCY ABUSE

Sec. 1501. Employee wage and benefit priorities.
Sec. 1502. Fraudulent transfers and obligations.
Sec. 1503. Payment of insurance benefits to retired employees.
Sec. 1504. Effective date; application of amendments.

## TITLE I—NEEDS-BASED BANKRUPTCY

### SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

### SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13”;**

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not at the request or suggestion of” and inserting “trustee (or bankruptcy administrator, if any), or”;

(II) by inserting “, or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”; and

(III) by striking “a substantial abuse” and inserting “an abuse”; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

“(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

“(II) $10,000.

“(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

“(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

“(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

“(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

“(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

“(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

“(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

“(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

“(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

“(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

“(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

“(I) documentation for such expense or adjustment to income; and

“(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

“(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

“(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

“(II) $10,000.

“(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

“(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

“(A) whether the debtor filed the petition in bad faith; or

“(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

“(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

“(i) a trustee files a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants such motion; and

“(II) finds that the action of the attorney for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

“(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

“(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

“(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

“(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and “(ii) determined that the petition, pleading, or written motion—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

“(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

“(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

“(C) For purposes of this paragraph—

“(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

“(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

“(II) is engaged in commercial or business activity; and

“(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

“(I) a parent corporation; and

“(II) any other subsidiary corporation of the parent corporation.

“(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

“(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

“(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

“(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

“(ii) the debtor files a statement under penalty of perjury—

“(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

“(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

“(10A) 'current monthly income'—

“(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

“(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

“(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

“(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;”.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The trustee shall—”; and

(2) by adding at the end the following:

“(b)(1) With respect to a debtor who is an individual in a case under this chapter—

“(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

“(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

“(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

“(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.”.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

“(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.”.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

“(c)(1) In this subsection—

“(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

“(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

“(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

“(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.”.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

“(7) the action of the debtor in filing the petition was in good faith;”.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting “to unsecured creditors” after “to make payments”; and

(2) by striking paragraph (2) and inserting the following:

“(2) For purposes of this subsection, the term ‘disposable income’ means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

“(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

“(ii) for charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

“(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

“(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.”.

(i) Special Allowance for Health Insurance.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking “or” at the end;

(2) in paragraph (3) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

“(A) such expenses are reasonable and necessary;

“(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

“(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

“(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title; and upon request of any party in interest, files proof that a health insurance policy was purchased.”.

(j) Adjustment of Dollar Amounts.—Section 104(b) of title 11, United States Code, is amended by striking “and 523(a)(2)(C)” each place it appears and inserting “523(a)(2)(C), 707(b), and 1325(b)(3)”.

(k) Definition of ‘Median Family Income’.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

“(39A) ‘median family income’ means for any year—

“(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

“(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;”.

(k) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 11 or 13.”.

### SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) Recommendation.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

### SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

“(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

“(1) a brief description of—

“(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

“(B) the types of services available from credit counseling agencies; and

“(2) statements specifying that—

“(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

“(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.”.

### SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the “Director”) shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) Test.—

(1) Selection of districts.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) Use.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) Evaluation.—

(1) In general.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) Report.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

### SEC. 106. CREDIT COUNSELING.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

“(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

“(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

"(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

"(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

**"§111. Nonprofit budget and credit counseling agencies; financial management instructional courses**

"(a) The clerk shall maintain a publicly available list of—

"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

"(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

"(A) have a board of directors the majority of which—

"(i) are not employed by such agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

### SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

## TITLE II—ENHANCED CONSUMER PROTECTION

## Subtitle A—Penalties for Abusive Creditor Practices

### SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

"(B) the offer of the debtor under subparagraph (A)—

"(i) was made at least 60 days before the date of the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).".

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.".

### SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

"(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

"(2) such act is in the ordinary course of business between the creditor and the debtor; and

"(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.".

### SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

"(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;"; and

(2) by adding at the end the following:

"(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

"(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

"(3) The disclosure statement required under this paragraph shall consist of the following:

"(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

"(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

"(C) The 'Amount Reaffirmed', using that term, which shall be—

"(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

"(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

"(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

"(i) 'The amount of debt you have agreed to reaffirm'; and

"(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

"(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

"(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

"(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

"(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

"(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

"(i) by making the statement: 'Your first payment in the amount of $_____ is due on            but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

"(I) The following statement: 'Note: When this disclosure refers to what a creditor "mȧy" do, it does not use the word "may" to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.

"(J)(i) The following additional statements:

"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

"'3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

"'4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"'7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

"'Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of such agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming these debts:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5) The declaration shall consist of the following:

"(A) The following certification:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $ , leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve such agreement, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(l) Notwithstanding any other provision of this title the following shall apply:

"(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

"(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.".

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

**"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules**

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

"(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

"(1) the United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".

### SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

"(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.".

### SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

## Subtitle B—Priority Child Support

### SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;".

**SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.**

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as so redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as so redesignated—

(A) by striking "Third" and inserting "Fourth"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as so redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as so redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

"(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.".

**SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.**

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.";

(2) in section 1208(c)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(3) in section 1222(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

"(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan".

**SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.**

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

“(iii) concerning child custody or visitation;

“(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

“(v) regarding domestic violence;

“(B) of the collection of a domestic support obligation from property that is not property of the estate;

“(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

“(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

“(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

“(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

“(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;”.

### SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

“(5) for a domestic support obligation;”; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking “(6), or (15)” each place it appears and inserting “or (6)”; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting “to a spouse, former spouse, or child of the debtor and” before “not of the kind”;

(B) by inserting “or” after “court of record,”; and

(C) by striking “unless—” and all that follows through the end of the paragraph and inserting a semicolon.

### SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));”;

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting “of a kind that is specified in section 523(a)(5); or”; and

(3) in subsection (g)(2), by striking “subsection (f)(2)” and inserting “subsection (f)(1)(B)”.

### SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

“(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;”.

### SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting “or for a domestic support obligation that first becomes payable after the date of the filing of the petition” after “dependent of the debtor”.

### SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) Duties of Trustee Under Chapter 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

“(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

“(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor's employer; and

“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.”.

(b) Duties of Trustee Under Chapter 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

“(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor's employer; and

“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.”.

(c) Duties of Trustee Under Chapter 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

“(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and "(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2) or (4) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

### SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

"(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;".

## Subtitle C—Other Consumer Protections

### SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking "or an employee of an attorney" and inserting "for the debtor or an employee of such attorney under the direct supervision of such attorney";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person, or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing. for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as so redesignated—

(i) by striking "Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as so redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

"(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

### SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

### SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

### SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

"(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

"(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.".

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting "522(n)," after "522(d),".

### SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

"(B) only to the extent that such funds—

"(i) are not pledged or promised to any entity in connection with any extension of credit; and

"(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

"(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;"; and

(2) by adding at the end the following:

"(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

"(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).".

### SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

"(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;"; and

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

#### "§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

**SEC. 228. DISCLOSURES.**

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

**"§ 527. Disclosures**

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

### SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

**"§ 528. Requirements for debt relief agencies**

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

### SEC. 230. GAO STUDY.

(a) Study.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) Report.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

### SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) Limitation.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

### SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) Consumer Privacy Ombudsman.—Title 11 of the United States Code is amended by inserting after section 331 the following:

**"§ 332. Consumer privacy ombudsman**

"(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) Compensation of Consumer Privacy Ombudsman.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) Conforming Amendment.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

### SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) Prohibition.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

**"§ 112. Prohibition on disclosure of name of minor children**

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) Clerical Amendment.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) Conforming Amendment.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112" after "section".

## TITLE III —DISCOURAGING BANKRUPTCY ABUSE

### SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

### SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.".

### SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

"(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;".

### SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

### SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subjection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

"(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

"(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

"(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion."; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking "consumer";

(B) in subsection (a)(2)(B)—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and

(ii) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C) by inserting ", except as provided in section 362(h)" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

### SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real property is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

### SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking "180 days" and inserting "730 days"; and

(B) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place"; and

(2) by adding at the end the following:

"If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).".

### SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and

(2) by adding at the end the following:

"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(3) a burial plot for the debtor or a dependent of the debtor; or

"(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".

### SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

**SEC. 310. LIMITATION ON LUXURY GOODS.**

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

"(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".

**SEC. 311. AUTOMATIC STAY.**

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

"(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

"(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

"(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;".

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

"(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

"(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

"(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

"(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

"(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

"(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

"(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

"(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

"(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

"(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

"(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

"(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

"(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

"(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

"(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

"(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

"(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

"(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

"(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

"(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

"(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

"(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

"(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.".

### SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by inserting after subsection (e) the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

"(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

"(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.".

### SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

"(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

"(i) clothing;

"(ii) furniture;

"(iii) appliances;

"(iv) 1 radio;

"(v) 1 television;

"(vi) 1 VCR;

"(vii) linens;

"(viii) china;

"(ix) crockery;

"(x) kitchenware;

"(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

"(xii) medical equipment and supplies;

"(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

"(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

"(xv) 1 personal computer and related equipment.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor, or any relative of the debtor);

"(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

"(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

### SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);".

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

### SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(C) by adding at the end the following:

"(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

"(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number."; and

(2) by adding at the end the following:

"(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

"(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

“(3) A notice filed under paragraph (1) may be withdrawn by such entity.

“(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

“(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.”.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;

“(ii) a schedule of current income and current expenditures;

“(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

“(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

“(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

“(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

“(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

“(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;”; and

(2) by adding at the end the following:

“(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

“(2)(A) The debtor shall provide—

“(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

“(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

“(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

“(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

“(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

“(A) at a reasonable cost; and

“(B) not later than 5 days after such request is filed.

“(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

“(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

“(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

“(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

“(4) in a case under chapter 13—

“(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

“(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

“(g)(1) A statement referred to in subsection (f)(4) shall disclose—

“(A) the amount and sources of the income of the debtor;

“(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

“(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

“(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

“(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

“(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.”.

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

### SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

“(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

“(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

“(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

“(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.".

### SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.".

### SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

### SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

### SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) such 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

### SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

**"§ 1115. Property of the estate**

"(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.".

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

"(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.".

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section".

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor who is an individual"; and

(2) by adding at the end the following:

"(5) In a case in which the debtor is an individual—

"(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

"(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

"(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

"(ii) modification of the plan under section 1127 is not practicable; and".

(e) Modification of Plan.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

"(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

"(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.".

### SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) Exemptions.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

"(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

"(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

"(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

"(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

"(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

"(B) the debtor owes a debt arising from—

"(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

"(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

"(iii) any civil remedy under section 1964 of title 18; or

"(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

"(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.".

(b) Adjustment of Dollar Amounts.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting "522(p), 522(q)," after "522(n),".

### SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

"(7) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by an employer from employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title;".

### SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) In General.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking "Notwithstanding" and inserting "Except as provided in subsection (e)(2), and notwithstanding"; and

(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

"(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.".

(b) Applicability.—This section shall only apply to cases filed after the date of enactment of this Act.

### SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) Actions Under Chapter 7 or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $160; or

"(B) under chapter 13 of title 11, $150.".

(b) United States Trustee System Fund.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;";

(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b)" and all that follows through "28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

### SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

### SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

### SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

### SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and expenses of preserving the estate including—

"(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

"(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;".

### SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) Chapter 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (11) the following:

"(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

"(A) section 522(q)(1) may be applicable to the debtor; and

"(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(b) Chapter 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

"(i) section 522(q)(1) may be applicable to the debtor; and

"(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(c) Chapter 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 day's before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(d) Chapter 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

## TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

## Subtitle A—General Business Bankruptcy Provisions

### SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

### SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

### SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

### SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) In General.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

### SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

### SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103-394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods" after "consent of a creditor"; and

(3) by adding at the end the following:

"(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, or any successor to such section 7–209.".

### SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.".

### SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

### SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

### SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a debt (excluding a consumer debt) against a noninsider of less than $10,000," after "$5,000".

### SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

### SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

### SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

### SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

### SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

### SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

### SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of the filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.".

### SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

### SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.—

(1) Disclosure.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) Information.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) Purpose.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

## Subtitle B—Small Business Bankruptcy Provisions

### SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

### SEC. 432. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

(c) Adjustment of Dollar Amounts.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.

### SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

### SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) Reporting Required.—

(1) In general.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

**"§ 308. Debtor reporting requirements**

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) Clerical amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

### SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

### SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

**"§ 1116. Duties of trustee or debtor in possession in small business cases**

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

### SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

### SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).".

### SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

### SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

### SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and "(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

### SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) Expanded Grounds for Dismissal or Conversion.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

"(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

"(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) Additional Grounds for Appointment of Trustee.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

### SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

### SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

### SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".

### SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding after paragraph (6) the following:

"(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.".

(b) Duties of Trustees.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking "and" at the end; and

(2) by adding at the end the following:

"(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and".

(c) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;".

### SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking "appoint" and inserting "order the appointment of", and

(2) by adding at the end the following: "The United States trustee shall appoint any such committee.".

## TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

### SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

### SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562," after "557,".

## TITLE VI—BANKRUPTCY DATA

### SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) In General.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

**"§ 159. Bankruptcy statistics**

"(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than July 1, 2006, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;

"(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

"(E) for cases closed during the reporting period—

"(i) the number of cases in which a reaffirmation agreement was filed; and

"(ii)(I) the total number of reaffirmation agreements filed;

"(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders entered determining the value of property securing a claim;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.".

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

**"§ 589b. Bankruptcy data**

"(a) Rules.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

"(b) Reports.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) Required Information.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) Final Reports.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) Periodic Reports.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) Clerical Amendment.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

### SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting "or an auditor serving under section 586(f) of title 28" after "serving in the case".

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

## TITLE VII—BANKRUPTCY TAX PROVISIONS

### SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

### SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.".

### SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";

(2) by striking "(1) upon payment" and inserting "(A) upon payment";

(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";

(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";

(5) by striking "(2) upon payment" and inserting "(B) upon payment";

(6) by striking "(3) upon payment" and inserting "(C) upon payment";

(7) by striking "(b)" and inserting "(2)"; and

(8) by inserting before paragraph (2), as so designated, the following:

"(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

"(i) designate an address for service of requests under this subsection; and

"(ii) describe where further information concerning additional requirements for filing such requests may be found.

"(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.".

### SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) In General.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**"§511. Rate of interest on tax claims**

"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) Clerical Amendment.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"511. Rate of interest on tax claims.".

### SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of the filing of the petition" after "gross receipts";

(B) in clause (i), by striking "for a taxable year ending on or before the date of the filing of the petition"; and

(C) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days."; and

(2) by adding at the end the following:

"An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".

### SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

### SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".

### SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

"(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

"(B) for a tax or customs duty with respect to which the debtor—

"(i) made a fraudulent return; or

"(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.".

### SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title".

### SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

"(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

### SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".

### SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) Payment of Taxes Required.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) Payment of Ad Valorem Taxes Required.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) Request for Payment of Administrative Expense Taxes Eliminated.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) Payment of Taxes and Fees as Secured Claims.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

### SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

### SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

### SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting "the estate," after "misrepresentation,".

### SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

**"§ 1308. Filing of prepetition tax returns**

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

### SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records,"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

### SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);".

### SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

**"§ 346. Special provisions related to the treatment of State and local taxes**

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

"(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

"(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

"(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

"(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

"(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

"(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

"(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

"(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

"346. Special provisions related to the treatment of State and local taxes.".

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

### SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

"(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.".

## TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

### SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

## "CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.
"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition.
"1516. Presumptions concerning recognition.
"1517. Order granting recognition.
"1518. Subsequent information.
"1519. Relief that may be granted upon filing petition for recognition.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.
"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.
"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

### "§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

### “SUBCHAPTER I—GENERAL PROVISIONS

**“§ 1502. Definitions**

“For the purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a nontransitory economic activity;

“(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

“(4) ‘foreign main proceeding’ means a foreign proceeding pending in the country where the debtor has the center of its main interests;

“(5) ‘foreign nonmain proceeding’ means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

“(6) ‘trustee’ includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

“(7) ‘recognition’ means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

“(8) ‘within the territorial jurisdiction of the United States’, when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

**“§ 1503. International obligations of the United States**

“To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

**“§ 1504. Commencement of ancillary case**

“A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

**“§ 1505. Authorization to act in a foreign country**

“A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

**“§ 1506. Public policy exception**

“Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

**“§ 1507. Additional assistance**

“(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor’s property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor’s property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

**“§ 1508. Interpretation**

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

### “SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

**“§ 1509. Right of direct access**

“(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

“(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

“(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

“(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

“(3) a court in the United States shall grant comity or cooperation to the foreign representative.

“(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

“(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

“(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

“(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

**“§ 1510. Limited jurisdiction**

“The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

**“§ 1511. Commencement of case under section 301 or 303**

“(a) Upon recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative’s intent to commence a case under subsection (a) prior to such commencement.

**“§ 1512. Participation of a foreign representative in a case under this title**

“Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

**“§ 1513. Access of foreign creditors to a case under this title**

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

**“§ 1514. Notification to foreign creditors concerning a case under this title**

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

“(2) indicate whether secured creditors need to file proofs of claim; and

“(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

### “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

**“§ 1515. Application for recognition**

“(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

### “§1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

### “§1517. Order granting recognition

“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

“(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body; and

“(3) the petition meets the requirements of section 1515.

“(b) Such foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

### “§1518. Subsequent information

“From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

### “§1519. Relief that may be granted upon filing petition for recognition

“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor's assets;

“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

### “§1520. Effects of recognition of a foreign main proceeding

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

“(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

### “§1521. Relief that may be granted upon recognition

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

“(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

### “§1522. Protection of creditors and other interested persons

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

### "§1523. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

### "§1524. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

### "SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

### "§1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

### "§1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

### "§1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

### "SUBCHAPTER V—CONCURRENT PROCEEDINGS

### "§1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

### "§1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

"(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

### "§1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

### "§1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

### "§1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

**"15. Ancillary and Other Cross-Border Cases .......................................... 1501".**

### SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(k) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

**“§1410. Venue of cases ancillary to foreign proceedings**

“A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

“(1) in which the debtor has its principal place of business or principal assets in the United States;

“(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

“(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.”.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

“(3)(A) a foreign insurance company, engaged in such business in the United States; or

“(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.”;

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking “, 304,” each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

“(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

“(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.”; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b)”.

## TITLE IX—FINANCIAL CONTRACT PROVISIONS

### SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply:”; and

(B) in clause (i), by inserting “, resolution, or order” after “any similar agreement that the Corporation determines by regulation”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply:”; and

(B) in clause (i), by inserting “, resolution, or order” after “any similar agreement that the Board determines by regulation”.

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

“(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

“(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

“(iii) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

“(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

“(II) with respect to a foreign futures commission merchant, a foreign future;

“(III) with respect to a leverage transaction merchant, a leverage transaction;

“(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by suchclearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for

Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C.

1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

### SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

### SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

### SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) Enforceability of Contracts With Uninsured National Banks, Uninsured Federal Branches and Agencies, Certain Uninsured State Member Banks, and Edge Act Corporations.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

### "SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) In General.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) Liability.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) Regulatory Authority.—

"(1) In general.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) Specific requirement.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) Definitions.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

### SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) Definitions of Forward Contract, Repurchase Agreement, Securities Clearing Agency, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, weather derivative, or weather option;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(iv) any margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) any combination of the agreements or transactions referred to in this subparagraph;

"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant"; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities' exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility

registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right.".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";**

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right.".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

**"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15**

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

**"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

**"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the

Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) Conforming Amendments.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.
"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

### SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-Insured Depository Institutions.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) Recordkeeping Requirements.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

(b) Insured Credit Unions.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) Recordkeeping Requirements.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

### SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) Exemptions from Contemporaneous Execution Requirement.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 910. DAMAGE MEASURE.

(a) In General.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) Claims Arising From Rejection.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) Exception from Stay.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

## TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

### SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

### SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting “101(18),” after “101(3),” each place it appears.

### SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

“(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

“(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

“(B) the holder of a particular claim agrees to a different treatment of that claim;”.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking “a State or local governmental unit” and inserting “any governmental unit”.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking “$1,500,000” and inserting “$3,237,000”; and

(B) by striking “80” and inserting “50”; and

(2) in subparagraph (B)(ii)—

(A) by striking “$1,500,000” and inserting “$3,237,000”; and

(B) by striking “80” and inserting “50”.

### SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking “for the taxable year preceding the taxable year” and inserting the following:

“for—

“(i) the taxable year preceding; or

“(ii) each of the 2d and 3d taxable years preceding;

the taxable year”.

### SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking “or” at the end;

(2) in subparagraph (B) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.”.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

“(d) A plan may not be modified under this section—

“(1) to increase the amount of any payment due before the plan as modified becomes the plan;

“(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

“(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.”.

### SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

“(7A) ‘commercial fishing operation’ means—

“(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

“(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

“(7B) ‘commercial fishing vessel’ means a vessel used by a family fisherman to carry out a commercial fishing operation;”; and

(2) by inserting after paragraph (19) the following:

“(19A) ‘family fisherman’ means—

“(A) an individual or individual and spouse engaged in a commercial fishing operation—

“(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

“(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

“(B) a corporation or partnership—

“(i) in which more than 50 percent of the outstanding stock or equity is held by—

“(I) 1 family that conducts the commercial fishing operation; or

“(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

“(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

“(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

“(III) if such corporation issues stock, such stock is not publicly traded;

“(19B) ‘family fisherman with regular annual income’ means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;”.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting “or family fisherman” after “family farmer”.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting “**OR FISHERMAN**” after “**FAMILY FARMER**”;

(2) in section 1203, by inserting “or commercial fishing operation” after “farm”; and

(3) in section 1206, by striking “if the property is farmland or farm equipment” and inserting “if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)”.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

**“12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .............. 1201”.**

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

## TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

### SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

“(27A) ‘health care business’—

“(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

“(i) the diagnosis or treatment of injury, deformity, or disease; and

“(ii) surgical, drug treatment, psychiatric, or obstetric care; and

“(B) includes—

“(i) any—

“(I) general or specialized hospital;

“(II) ancillary ambulatory, emergency, or surgical treatment facility;

“(III) hospice;

“(IV) home health agency; and

“(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

“(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any individual who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

### SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

**"§351. Disposal of patient records**

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"351. Disposal of patient records.".

### SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351; or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and".

### SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

**"§333. Appointment of patient care ombudsman**

"(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

"(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

"(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

"(b) An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

"(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

"(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

"(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

"333. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 333, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

### SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

"(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking "and (11)" and inserting "(11), and (12)".

### SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).".

## TITLE XII—TECHNICAL AMENDMENTS

### SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A), (38), and (54A), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

### SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

### SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

### SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

### SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking "attorney's" and inserting "attorneys'".

### SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

### SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

### SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

### SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

### SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

### SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

### SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

### SEC. 1213. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

### SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

### SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

### SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

### SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

### SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

### SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan of Reorganization.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) Rule of Construction.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

### SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

### SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) Short Title.—This section may be cited as the "Bankruptcy Judgeship Act of 2003".

(b) Temporary Judgeships.—

(1) Appointments.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28,

United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of the United States for the circuit in which such district is located."; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 1224. COMPENSATING TRUSTEES.**

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

**SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.**

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;".

**SEC. 1226. JUDICIAL EDUCATION.**

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

**SEC. 1227. RECLAMATION.**

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

**SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.**

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) Chapter 11 and Chapter 13 Cases.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) Document Retention.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

### SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) Sense of the Congress.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) Study Required.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) Report and Regulations.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

### SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

"(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or".

### SEC. 1231. TRUSTEES.

(a) Suspension and Termination of Panel Trustees and Standing Trustees.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) Expenses of Standing Trustees.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

### SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

### SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) Appeals.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel

"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

"(C) The parties may supplement the certification with a short statement of the basis for the certification.

"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".

(b) Procedural Rules.—

(1) Temporary application.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) Certification.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) Procedure.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) Filing of petition with attachment.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

### SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and

(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.

### SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

## TITLE XIII—CONSUMER CREDIT DISCLOSURE

### SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: __________.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _______.' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

### SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) INTERNET-BASED SOLICITATIONS.—

"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

### SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

### SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

## TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

### SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

## TITLE XV—PREVENTING CORPORATE BANKRUPTCY ABUSE

### SEC. 1501. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking "90" and inserting "180", and

(2) in paragraphs (3) and (4) by striking "$4,000" and inserting "$10,000".

### SEC. 1502. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking "one year" and inserting "2 years",

(2) in subsection (a)—

(A) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "transfer" the 1st place it appears, and

(B) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "obligation" the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking "or" at the end,

(B) in subclause (III) by striking the period at the end and inserting "; or", and

(C) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.".

### SEC. 1503. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

"(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

"(1) modified retiree benefits; and

"(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.".

### SEC. 1504. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 3(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

The CHAIRMAN. No amendments to the amendment in the nature of a substitute are in order except the amendments printed in House Report 108–407. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 108–407.

### AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Strike "Bankruptcy Abuse Prevention and Consumer Protection Act of 2003" each place it appears and insert "Bankruptcy Abuse Prevention and Consumer Protection Act of 2004".

In section 204 strike "2002" and insert "2003".

Strike section 1001 and insert the following:

### SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and as in effect on December 31, 2003, is hereby reenacted.

(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on January 1, 2004.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

In section 1201—

(1) strike paragraph (2) and insert the following:

(2) in each paragraph (other than paragraph (54A)), by inserting "The term" after the paragraph designation;

and

(2) strike paragraph (7) and insert the following:

(7) in paragraph (54A)—

(A) by striking "the term" and inserting "The term"; and

(B) by indenting the left margin of paragraph (54A) 2 ems to the right; and

Strike titles XIV and XV, and insert the following:

## TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

### SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4) by striking "90" and inserting "180", and

(2) in paragraphs (4) and (5) by striking "$4,000" and inserting "$10,000".

### SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking "one year" and inserting "2 years",

(2) in subsection (a)—

(A) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "transfer" the 1st place it appears, and

(B) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "obligation" the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking "or" at the end,

(B) in subclause (III) by striking the period at the end and inserting "; or", and

(C) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.".

### SEC. 1403. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

"(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

"(1) modified retiree benefits; and

"(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.".

### SEC. 1404. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 1402(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

## TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

### SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

### SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(ii) in paragraph (8)(D) by striking "paragraph (3)" and inserting "paragraph (4)";

(B) in subsection (b) by striking "subsection (a)(1)" and inserting "subsection (a)(2)"; and

(C) in subsection (d) by striking "subsection (a)(3)" and inserting "subsection (a)(1)";

(2) in section 523(a)(1)(A) by striking "507(a)(2)" and inserting "507(a)(3)";

(3) in section 752(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(4) in section 766—

(A) in subsection (h) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(B) in subsection (i) by striking "507(a)(1)" each place it appears and inserting "507(a)(2)";

(5) in section 901(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(6) in section 943(b)(5) by striking "507(a)(1)" and inserting "507(a)(2)";

(7) in section 1123(a)(1) by striking "507(a)(1), 507(a)(2)" and inserting "507(a)(2), 507(a)(3)";

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking "507(a)(1) or 507(a)(2)" and inserting "507(a)(2) or 507(a)(3)"; and

(B) in subparagraph (B) by striking "507(a)(3)" and inserting "507(a)(1)";

(9) in section 1226(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(10) in section 1326(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)".

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking "507(a)(1)" and inserting "507(a)(2)".

In the table of contents strike the items relating to titles XIV and XV, and insert the following items:

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

Sec. 1401. Employee wage and benefit priorities.
Sec. 1402. Fraudulent transfers and obligations.
Sec. 1403. Payment of insurance benefits to retired employees.
Sec. 1404. Effective date; application of amendments.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1501. Effective date; application of amendments.
Sec. 1502. Technical corrections.

The CHAIRMAN. Pursuant to House Resolution 503, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is very straightforward. It simply makes several minor corrections to the text of H.R. 975 that was passed by the House, which according to the rule has been substituted as the text of Senate 1920.

The technical revisions consist of the following:

The short title of the bill is revised to reflect the current year. Section 1001 of the bill is amended to clarify that the reenactment of Chapter 12 is made retroactively; this ensures that cases filed by family farmers during the lapsed period can simply be converted to Chapter 12 once it is reenacted. Titles XIV and XV of the bill are renumbered as titles XV and XIV, respectively, to clarify the bill's overall effective date. An erroneous drafting instruction in section 1201 of the bill is corrected. And a new provision is added to correct statutory cross-references in current law.

This is technical and noncontroversial, and I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I rise solely to advise that we have had no indication from our side that there is anybody who opposes these technical amendments and we, therefore, concur in the amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 2 printed in House Report 108-407.

### AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 2 OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 2 offered by Ms. BALDWIN:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection of Family Farmers and Family Fishermen Act of 2004".

### SEC. 2. PERMANENT REENACTMENT OF CHAPTER 12.

(a) PERMANENT REENACTMENT.—

(1) REENACTMENT.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), and as in effect on December 31, 2003, is hereby reenacted.

(2) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

(b) EFFECTIVE DATE OF REENACTMENT.—Subsection (a) shall take effect on January 1, 2004.

### SEC. 3. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

### SEC. 4. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 5. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

### SEC. 6. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

### SEC. 7. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

**SEC. 8. FAMILY FISHERMEN.**

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

**"12. Adjustments of Debts of a Family
Farmer or Family Fisherman with
Regular Annual Income .............. 1201".**

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

The CHAIRMAN. Pursuant to House Resolution 503, the gentlewoman from Wisconsin (Ms. BALDWIN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 30 minutes.

Ms. BALDWIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as you know, Chapter 12 family farmers bankruptcy protection is an effective and noncontroversial part of our Nation's Bankruptcy Code. Since its creation in 1986, it has allowed our Nation's family farmers who face economic hardship a greater opportunity to reorganize their debts and continue in farming.

As with many laws that we pass, the benefits of the direct impact, which can be easily measured, are often exceeded by the indirect benefits. Chapter 12 does not just benefit those using its protections. Many farmers who face the possibility of a bankruptcy never get to the point of a court filing. Bankruptcy trustees and bankruptcy attorneys are quick to point out that the very existence of the option of Chapter 12 filing promotes negotiations between farmers and their creditors, thus preventing bankruptcy filings altogether.

Chapter 12 protection is currently unavailable to our Nation's farmers. It expired on December 31, 2003. The House should have taken up the 6-month extension bill, Senate bill 1920, passed without amendment, and sent it to the President immediately. However, by approving the rule earlier today, we have foreclosed that option; therefore, I am offering this substitute amendment.

Mr. Chairman, my amendment provides the House with a clear policy choice by allowing a vote on passing a permanent Chapter 12 authorization instead of continuing to keep it tied to the controversial larger bankruptcy bill. My amendment simply uses the Chapter 12 language that was agreed to by bipartisan, bicameral conferees during the 107th Congress. It is the same as the bipartisan bill, Senate bill 2001, introduced by Members of the other body.

The amendment does the following: It makes Chapter 12 farm bankruptcy protections a permanent part of our Bankruptcy Code; it would increase the debt limits that a family farm can hold to qualify for Chapter 12 from $1.5 million to $3.2 million; and it would index those debt limits to the consumer price index. It would reduce from 80 percent to 50 percent the percentage of family farm liabilities that are due to farming operations; it would look at the previous 3 years, instead of only the previous year when determining whether 50 percent of income is from farming operations; and it would expand this type of bankruptcy protection to family fishermen.

These changes to Chapter 12 are not controversial and enjoy widespread bipartisan support.

Since I was first elected to Congress 5 years ago, we have passed eight, eight temporary extensions to Chapter 12. It is time to end this repetitive cycle of extensions and extensions. Our struggling family farmers should not be used as leverage. They should not have to continue to wait while we play games with Chapter 12 protections. This bill provides a textbook example that what we do here in Washington directly affects the lives of people facing real financial challenges.

In Wisconsin recently, a farmer from Columbus filed for Chapter 12 bankruptcy. He works day and night to make his farm a success. Unfortunately, like many farmers, the weather and the market conspired to disrupt his cash flow. Filing Chapter 12 bankruptcy gave his family time to negotiate with his creditors while he switched production from corn and soybeans to vegetables, which he now sells in local markets. He sells his produce in farmers markets in Madison and in Princeton, Wisconsin, and he is paying his debts.

Under Chapter 12, it was not only the Columbus farmer that benefited, his family and his creditors now are receiving their money. The people in my district can purchase his bounty, and he can continue to support his farm, his family and his obligations.

Every time we come to the floor to extend Chapter 12, we are told that a permanent extension cannot be passed separately from the big bill because taking out this terribly popular item would slow the bill's momentum. We were told that we had to strip the permanent extension of Chapter 12 from last year's farm bill because it would slow down the progress of the bankruptcy bill. We were told in June when we extended Chapter 12 again that we had to wait. Our farmers have been waiting for more than 5 years, and it is time to get this done.

Let us end the uncertainty these extensions cause by passing a permanent authorization. That is what my amendment would do. I sort of feel like I am in the middle of the movie "Groundhog Day." Every 6 months we go through a process of extending Chapter 12 extensions again. Every session of Congress we go through a drawn-out debate regarding a larger overhaul of our bankruptcy laws. My amendment would break us out of that cycle.

It is time to stop using our farmers as pawns to push for bankruptcy reform and it is time to restore this important protection. We should not be playing politics with the livelihood of our farmers by putting the special interests who want the bankruptcy overhaul ahead of the real needs of struggling family farmers.

I urge my colleagues to pass the Baldwin substitute amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with all due respect to my colleague from Wisconsin (Ms. BALDWIN), she had an opportunity to advance the bankruptcy bill on November 14, 2002, but voted against the rule to bring up the conference report that contained the compromise language relative to the abortion clinic protestors judgment discharge, and that vote was rejected, 172 to 243. Had that rule passed, obviously the conference report would have passed, the President would have signed the bill at the end of 2002, and we would not be here talking about any of these issues here today.

But I rise in opposition to this amendment because as we begin this debate, I want to make it perfectly clear that by opposing this amendment we are not in any respect jeopardizing the financial well-being of family farmers, or as proponents of this amendment have tried to construe the issue, holding farmers hostage. Nothing could be further from the truth.

The reality is that Senate 1920, as it will be voted on today, already accomplishes everything this amendment does and, indeed, much more. Since its enactment, Chapter 12 has lapsed on six occasions. The shortest lapse periods was 20 days; the longest was approximately 10 months. As with prior measures reenacting Chapter 12, the bill before us is retroactive, which will protect family farmers.

Mr. Chairman, you should know that the amendments simply extract one series of reforms from pending bankruptcy legislation. But what opponents of the amendment fail to include, however, are literally hundreds of other reforms in Senate 1920 that would benefit farmers in many other ways and nearly all Americans as well.

Although my colleague on the other side of the aisle essentially asserts that farmers are being held hostage to bankruptcy reform, the reality is that bankruptcy reform is being held hostage. Just look at the roll calls and who voted which way in the eight or nine votes that the House has had since 1998.

Here are just a small sample of the reforms being held up by opponents of overall reforms: First, reforms giving the Justice Department and the courts the tools they need to deal with fraud and abuse in the current bankruptcy system. Voting for this amendment and against the bill means that the Justice Department and the courts will not have those tools to deal with fraud and abuse.

Second, remedies addressing the so-called "mansion loophole" by which corporate criminals and other wrongdoers can shield their million dollar homes from the just claims of their creditors. And that includes employees of major corporations that had their 401(k)s looted as a result of stock prices tanking and they could not diversify what was in the 401(k)s.

So try telling that to an Enron or WorldCom employee that we are going to allow future corporate wrongdoers to be able to stiff their employees as well. The amendment offered by the gentlewoman from Wisconsin (Ms. BALDWIN) would allow that to happen. The base bill does not.

Third, reforms representing deadbeat parents from using bankruptcy as a means of avoiding their child support obligation. This bill increases the priority of child support obligations in bankruptcy. The Baldwin amendment does not do that. The National Child Support Enforcement Association states that these reforms are crucial to the collection of child support during bankruptcy. Do not turn your back on custodial parents who have to file bankruptcy because they cannot collect their support.

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Fourth, authorization for the appointment of additional bankruptcy judges in districts where there is a huge backlog of bankruptcy cases. Voting for the Baldwin amendment will mean justice delayed being justice denied. Voting against it and passing the bill will allow more judges to prosecute these cases to a conclusion.

Fifth, protections for victims of crimes of violence from being further victimized by criminals who file for bankruptcy relief.

Sixth, reforms requiring consumers to receive important information about the alternatives to, and consequences of, bankruptcy before they file for relief. Is it not better that people not file for bankruptcy because they can get better information and counseling to prevent them from having a scarlet letter being attached to their name because they had to go through bankruptcy?

There are also provisions waiving the filing of bankruptcy fees for the indigent. If my colleagues vote for the Baldwin amendment and against the bill, those provisions are not there.

There are reforms requiring millions of consumers to receive a monthly credit card billing statement that would include specific disclosures about the increased interest and repayment time associated with making minimum payments. A lot of people end up having to file for bankruptcy because they get themselves further and further in the hole with revolving credit card payments. If there is a warning on that and some information on that on the statements maybe not as many people will end up getting in that hole.

Also, the enactment of long-overdue reforms intended to reduce systemic risk in the banking and financial marketplace by minimizing the risk of disruption when parties to certain financial transactions become bankrupt or insolvent, the so-called netting provision. Federal Reserve Board Chairman Alan Greenspan has said these reforms are extremely important. They are extremely important for economic stability. The authors and supporters of the Baldwin amendment turn their backs on these reforms.

Also, protections against the disclosure of the name of a debtor's minor children in public bankruptcy files. Apparently, the people who want to strip these reforms out want anybody to go into a courthouse and see the names of minor children in a parent's bankruptcy file and let that become a matter of public discussion. There are also provisions preventing debtors from selling their customers' personally identifiable information.

The bill has reforms requiring the appointment of an ombudsman to safeguard the interests of patients in health care facilities that are in bankruptcy. Support the amendment and vote down the bill; there is no ombudsman to help out those patients in the bankrupt health care facility.

In light of the disastrous impact that bankruptcy cases like WorldCom and Enron have had on their employees, reforms that more than double the current monetary cap on wage and employee benefit claims entitled to priority under the bankruptcy code are included in my bill, but not the amendment that is before the House.

Other provisions would protect retirees in cases where chapter 11 debtors unilaterally modify their benefits, such as health insurance. We protect as best as possible retirees of a bankrupt company in forcing the company to try to uphold their health insurance obligation to those retirees.

Vote for the Baldwin amendment; those are not in there. My bill has got them.

These reforms would make it easier to recover excessive pre-petition compensation such as bonuses paid to insiders of a debtor that can be used to pay unpaid employee wage claims. My bill has got that. The amendment does not.

I should also point out that chapter 12 is rarely utilized by family farmers. Last year, less than 700 chapter 12 cases were filed out of the nearly 1.7 million bankruptcy cases filed during the same period. When chapter 12 lapses, as it has in the past, farmers can still seek bankruptcy relief under other chapters of the bankruptcy code; so we do not leave farmers that need to file for bankruptcy out in the cold. Merely what we do is enact chapter 12 on a permanent basis, and because of the provision in retroactivity and the amendment that was just adopted, their cases can be converted to chapter 12 once that chapter is reenacted.

While we obviously care about family farmers, we also care about the indigent, the patient, the single moms with unpaid support claims, retired employees who have lost their health benefits and the financial well-being of millions of consumers. Accordingly, Mr. Chairman, I urge my colleagues to vote against this amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. BALDWIN. Mr. Chairman, I yield myself such time as I may consume.

This House has already debated and voted on H.R. 975. My amendment does nothing to change that. This is truly a matter between the Republican leadership of the two bodies.

The gentleman notes that the chapter 12 provisions have expired six times of varying length, most recently on December 31, 2003.

I would note that June 23, 2003, the same gentleman said on this floor that "it is crucial that this specialized form of bankruptcy relief for farmers not be allowed to sunset for two fundamental reasons. First, family farmers absent chapter 12 would be forced to file for bankruptcy relief under the bankruptcy code's other alternatives, none of which work as well for them as does chapter 12."

We started the day with a bill before us that was simply a 6-month extension of chapter 12 bankruptcy. We can end the day with a permanent authorization of that bankruptcy code if my colleagues support my substitute amendment.

Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. HOLDEN), who has been extraordinarily active on this issue in fighting for family farmers.

Mr. HOLDEN. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, I rise in support of the Baldwin amendment, which simply seeks to extend chapter 12 of the bankruptcy code on a permanent basis once and for all. This amendment represents an achievable solution to a problem that has existed for more than 6 years.

In 1997, the National Bankruptcy Review Commission recommended that chapter 12 of the Federal Bankruptcy Code, the chapter that contains bankruptcy protection for family farmers, be made permanent.

Chapter 12 is by no means a controversial issue. It was enacted in 1986 as a measure to allow family farmers to repay their debts according to a plan under court supervision. Chapter 12 prevents a situation from occurring where a few bad crop years result in the loss of the family farm.

In the absence of chapter 12, family farmers are forced to file for bankruptcy relief under the bankruptcy code's other alternatives, none of which work quite as well for farmers as chapter 12 does. Chapter 11, for example, will require a farmer to sell the family farm to pay the claims of creditors. How can a farmer be expected to come up with the money to pay off his debts without his farm? Chapter 11 is an expensive process that does not accommodate the special needs of farmers.

This Congress, just as in previous Congresses, the larger Bankruptcy Reform Act, H.R. 975, includes a provision that permanently extends chapter 12. Also in this Congress, just as in previous Congresses, the larger Bankruptcy Reform Act, while enjoying a majority of support in the House, remains a controversial bill whose consideration by the other body remains a question. Simply substituting the text of H.R. 975 into this bill and sending it back over to the other body will not bring us any closer to extending chapter 12, even on a temporary basis.

For years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. Since at least the 105th Congress, they have been made to sit on pins and needles waiting to see if we will extend these protections for another few months as we try to work out the larger bankruptcy issue.

Mr. Chairman, the family farmers have waited long enough. Family farmers cannot make long-term financial plans based on 6-month extensions. Permanently extending chapter 12 will give farmers the kind of protection they desperately need, the kind of protections we have already voted for time and time again since the 1997 National Bankruptcy Review Commission recommendation.

I urge my colleagues to accept the Baldwin amendment.

Mr. SENSENBRENNER. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 20½ minutes remaining. The gentlewoman from Wisconsin (Ms. BALDWIN) has 18½ minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I think it is important here to agree where things are agreeable and to be clear about what the disagreements are.

I think it is very clear that we have had a number of extensions to the farm bill. I think it is clear that those extensions have all been retroactive. I think it is clear that every Member of this body wants to make sure that this noncontroversial provision continues in place. I think everyone should agree here that it is important that farmers are able to get credit, and balancing the issues before us are important so that that credit system stays in place and so that we also enhance, by the way, the rest of our economy.

The fact is the bill before us is a bipartisan bill. We have heard special interests uttered numerous times here, and perhaps we ought to have the same kind of response to that that we have in the Bible because it is so misleading. The fact is this is not a special interest bill. This is a bill that passed 315 to 115. This is a bipartisan bill that solves problems that we need to resolve in our economy.

On the other hand, those people who are passionate about prosecuting possible acts of people who are against abortion, that represents I believe a special interest that should not be one that sets aside this bill and allows it to go forward.

Another thing that we apparently disagree on is that this bill can be passed or not. The fact is this is a passable bill. It can be passed very quickly. It can solve the problems of our family farmers. It can reinstate chapter 12, which we all agree is very, very important, and it can move through a conference with the Senate and to the President for signature very quickly. We have done a number of things in this bill to make it helpful for Americans and for American consumers, and I would urge opposition to the amendment and support for the underlying bill.

Ms. BALDWIN. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I thank the gentlewoman for yielding me the time; and, Mr. Chairman, I do not think I will take 5 minutes, but I wanted to make a couple of comments because the chairman of the full committee has chided me on one or more occasions about voting against the rule that would have allowed the old bankruptcy bill that had the abortion clinics provisions in it to come to the floor and has made it sound like I did something that was inappropriate.

Now the chairman of the committee is going to have the opportunity to show how committed he is to a permanent extension of the family farms because the gentlewoman from Wisconsin's (Ms. BALDWIN) amendment would make the family farms provisions of the bankruptcy law permanent, and he has gone out of his way to talk about how he would like to see those provisions be permanent. I will be anxious to see how he plans to vote on this amendment because this is the clear way to make the provisions that protect family farmers permanent in the law, to keep it away from all of this abortion clinic politics, to keep it completely away from bankruptcy reform politics. This is the vote that will show either my colleagues are committed to protecting family farmers in this country or they are not.

I am anxiously awaiting how my colleagues are going to cast their vote on this, since the gentleman from Wisconsin (Mr. SENSENBRENNER) has made such a point of pointing out that I voted against the rule that would have allowed the prior bill to come to the floor last year. So this amendment is on the floor. There will be a recorded vote. I will be anxious to see how my chairman votes on it.

It is clear that farmers in this country are having a difficult time. Whereas there was a 7 percent, almost-8 percent decline in small business or business bankruptcies in 2003 and a 7 percent increase in individual bankruptcy filings in 2003, there was a 116.8 percent increase in bankruptcy filings by farmers in this country.

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So it is clear that farmers have been in distress.

This bill started out being a noncontroversial, farmer-friendly bill that would have passed this House on the suspension calendar had the leadership decided that it would put it on the suspension calendar. It had broad bipartisan support. We have extended on several occasions before the family-farm provisions.

It is not tied up in the politics of bankruptcy reform. It is not tied up in the politics of abortion clinics and whether there ought to be abortion provisions in the bankruptcy bill. This is a clear, clear-cut vote on whether we want to permanently extend the family-farm provisions.

So let there be no mistake about it, family farmers ought to hold Members of this body accountable on this vote. It is not trapped with any kind of political agenda. It is what we all have fought for. It is what we say we all believe in. This is our opportunity to vote on it. So I want to encourage my colleagues to support the Baldwin amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I want to thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time, and as chairman of the House Committee on Agriculture, I thank him for his leadership in bringing this legislation to the floor to help not only America's farmers and ranchers, but all small businesses dealing with the problems that exist in our current Bankruptcy Code.

The Baldwin amendment seeks to pick apart the comprehensive reforms by addressing farm and ranch bankruptcy only, which may be a popular proposal at first glance to many of us who represent farm country, but it is one the House should turn down this afternoon. If the House wants to enact full Chapter 12 reforms, including a permanent authorization, then Members should adopt the Sensenbrenner substitute, which contains these reforms.

Unfortunately, the Baldwin amendment is another cynical attempt to pit farmers and ranchers against other small-business owners and consumers. The bottom line is, adopting the Sensenbrenner comprehensive package protects family farmers, single moms, small businesses and millions of consumers. I would ask Members to vote "no" on the Baldwin amendment and keep bankruptcy reforms in a single bipartisan package of long overdue reforms to the Bankruptcy Code.

Ms. BALDWIN. Mr. Chairman, I yield myself such time as I may consume; and in closing, I would only reiterate what I said earlier, which is that we started the day, this morning, with a very simple bill before us, a bill to extend by 6 months the Chapter 12 protections for family farmers. We could end the day, if we pass this substitute amendment, with permanent authorization of Chapter 12 bankruptcy protections for our family farmers and family fishermen who are struggling today in the United States.

Instead, we have before us a massive bankruptcy overhaul that we have already debated and voted on in this House. These parliamentary maneuvers are most unfair to the farmers across America who woke up today hoping we would provide them relief. That is what we should do, and I urge Members to support the Baldwin substitute amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I do not think that Chapter 12 is controversial. It is also not utilized very much in bankruptcy filings. The statistical report of the Administrative Office of the U.S. Courts, for example, show that in the fiscal year that ended last September 30, there were only 19 Chapter 12 filings for the entire State of Wisconsin. So we are dealing with 19 family farmers, which is important, but there are still thousands of family farmers in my State and elsewhere that end up having to pay this $400 per household hidden tax and higher cost of goods and services and higher interest on the money that they have to borrow because of the abuses of the bankruptcy system that my amendment seeks to plug.

Now, the major reform of all of those that we have talked about in the bankruptcy bill, that this House has voted to approve eight times in various forms and motions, is that someone who is able to repay all or part of their debts through future earning cannot get a Chapter 7 liquidation and have all those debts discharged.

So this so-called "means test" means that someone who is really down and out and does not have the prospect of future earnings being able to repay a significant part of their debts, my bill does not impact on what their legal options are. They will still be able to file for Chapter 7, get a discharge, and be able to try to put their lives together and start anew. But somebody who does have the potential of future earnings, and, yes, a lot of these people use the bankruptcy system as a financial planning tool, my bill will allow a court to order a repayment of all or part of those debts.

Remember, every penny that is recovered this way is one less penny that has to be passed on to the 98 percent of the people of this country who pay their bills on time or as agreed to. The abuses of the bankruptcy system amount to about a $40 billion cost shift from people who do not pay their bills to people who do pay their bills.

I ask the Members to vote down the Baldwin amendment to give us another shot at getting a conference report passed and on the President's desk, because that is the vote in the interest of saving as much money as possible for the people who do pay their bills rather than allowing continued abuses of the bankruptcy system.

Vote "no" on the Baldwin amendment, pass the underlying bill, the substitute amendment, as authorized by the Committee on Rules.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Wisconsin (Ms. BALDWIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Ms. BALDWIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 204, answered "present" 1, not voting 70, as follows:

[Roll No. 8]

### AYES—158

Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hill
Hinchey

Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey

Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—204

Aderholt
Akin
Baca
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass

Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner

Bonilla
Bonner
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)

Burgess
Burns
Burr
Burton (IN)
Calvert
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crenshaw
Cubin
Culberson
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart

Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McKeon
Meek (FL)
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce

Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

### ANSWERED "PRESENT"—1

Ruppersberger

### NOT VOTING—70

Abercrombie
Ackerman
Alexander
Bachus
Ballenger
Bell
Bereuter
Bishop (GA)
Bono
Brown, Corrine
Brown-Waite, Ginny
Buyer
Camp
Carson (OK)
Crane
Cunningham
DeGette
Delahunt
Doggett
Everett
Fattah
Forbes
Gallegly

Gephardt
Gerlach
Gutierrez
Hastings (FL)
Hefley
Honda
Houghton
Hunter
Hyde
Israel
Jackson-Lee (TX)
Jenkins
Johnson, E. B.
Jones (NC)
Kolbe
Kucinich
Leach
Lewis (CA)
Lipinski
McInnis
McIntyre
Meeks (NY)
Miller (MI)

Miller, George
Mollohan
Ortiz
Petri
Pombo
Reyes
Reynolds
Rodriguez
Rogers (KY)
Roybal-Allard
Royce
Ryun (KS)
Sandlin
Serrano
Shimkus
Slaughter
Souder
Tanner
Thomas
Turner (TX)
Waters
Watson
Weldon (PA)
Young (AK)

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Mr. SAXTON and Mr. MEEK of Florida changed their vote from "aye" to "no."

Mrs. LOWEY changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. BEREUTER. Mr. Chairman, on rollcall No. 8, I was attending the Memorial Service for former Member Barber Conable. Had I been present, I would have voted "no."

Mr. REYNOLDS. Mr. Chairman, on rollcall Number 8, I was unable to be in the Chamber to cast a vote on the Baldwin Substitute Amendment to S. 1920 before time elapsed on the vote. My absence was due to my attendance at the Memorial Service for former Representative Barber Conable of New York.

Had I been present for the vote, I would have voted "no," on the Baldwin Substitute Amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, pursuant to House Resolution 503, he reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the Senate bill?

Ms. SCHAKOWSKY. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. SCHAKOWSKY moves to recommit the bill (S. 1920) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

After section 102 insert the following:

**SEC. 102A. PROTECTING MEMBERS OF THE MILITARY, VETERANS, AND THEIR FAMILIES.**

Section 707(b)(7) of title 11, United States Code, as amended by section 102, is amended—

(1) in subparagraph (B) by striking the close quotation marks and the period at the end; and

(2) by adding at the end the following:

"(C) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if—

"(i) the debtor or the debtor's spouse is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act);

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38); or

"(iii) the debtor's spouse dies while in military service (as defined in section 101 of the Servicemembers Civil Relief Act).".

In the table of contents, after the item relating to section 102, insert the following item:

Sec. 102A. Protecting members of the military, veterans, and their families.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes in support of her motion to recommit.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself 2 minutes.

I rise today with the gentlewoman from California (Ms. LORETTA SANCHEZ) and the gentleman from Ohio (Mr. STRICKLAND) to offer this motion to recommit on behalf of our brave soldiers and their families and veterans across the country. My motion to recommit would provide basic protections to financially distressed military families and veterans from the harsher aspects of the means test found in the newly added text of S. 1920. This motion would provide safe harbor from the bill's means test for military and veterans' families and safe harbor for the widows of our servicewomen and men.

Without changing the bill, military personnel, veterans and their families could be dragged into court by their creditors. They could be harassed because of an arbitrary standard, the means test, that has no true reflection of whether they can pay their debt or not. The men and women who in the past have and do today risk their lives to protect us deserve protection from us in return. We should be offering them relief, not greater hardships.

Since 9/11, 350,000 reservists and guardsmen have been called to active duty and almost 40,000 are serving in Iraq. According to the National Guard, four out of 10 members of the Reserves and National Guard lose money when they leave their civilian jobs for active duty. Additionally, many left for the war thinking they would be deployed for 6 months and have ended up staying for a year or even longer. There is almost no way that they could have financially anticipated and prepared for that extension of their service.

We want to help people like Mrs. Vicky Wessel. When she appeared on "60 Minutes" last year, she expressed the concerns that many families of reservists whose husbands or wives have been called to active duty experience. What she talked about was the financial difficulty. She said, "It is because a staff sergeant's pay is a 60 percent cut in pay from my husband's regular job."

There are thousands of families like the Wessels. Make no mistake about it, these families will not be protected under the bill as it stands. These are people who, through no fault of their own, may end up in bankruptcy. They are risking their lives for us. And the veterans who have done so in the past, we should protect them. This is what my motion to recommit does.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in support of this motion to recommit this bill with instructions to ensure that members of our military, veterans and their families are afforded bankruptcy protection under Chapter 7.

Every American knows that our Nation's greatest debt is to the men and the women who have worn the uniform of our country so that we can live in freedom and prosperity. Unfortunately, this has come at a very high price to many of the service members and to their families.

The war on terror is taking an entirely new toll, and a considerable portion of the burden is falling on our reservists. Never before have we asked so much of our troops. Nearly 250,000, including 120,000 reservists, have been fighting or are scheduled to begin service. Nearly 40 percent of the reservists suffer a major loss in income during this time. For many, the difference can amount to tens of thousands of dollars. As a result, service members are falling behind in their mortgages, depleting their life savings, losing personal businesses and racking up significant credit card debt. My colleagues might be surprised to know that some that are suffering the worst are medical doctors, self-employed doctors who were in private practices, but now have to leave them, have to keep the fixed overhead and pay that and come back. Their patients are gone, their nurses are gone, and they have thousands of dollars in unpaid bills.

Mr. Speaker, this country has a history of undertaking efforts to secure legal protections so that service members can devote their energy to the defense needs of our Nation. This motion would continue those efforts.

I urge all of my colleagues to vote "yes."

Ms. SCHAKOWSKY. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, it is because of the unique financial situations that veterans and military personnel often find themselves in as a result of their military service to our country that I support this motion to recommit, which would exempt them from the means test under Chapter 7.

The means test used to determine whether a debtor can file under Chapter 7 is an arbitrary bureaucratic formula. Its mathematical variables really do not reflect the unique circumstances of deployed military personnel that experience sudden loss of income. The test does not look at the debtor's actual expenses or personal situation. Rather, it uses a hypothetical expense of what a debtor's cost of living is mathematically determined to be. The means test uses this figure to calculate excess money, and when someone has too much excess money, they are prohibited from filing under Chapter 7.

□ 1600

The only recourse left to the individual denied this is a court motion for permission to use actual income and expenses, and such a motion takes time and money, something our soldiers and our veterans do not have.

So I would just simply ask my colleagues to consider what we have asked of our veterans and what we are currently asking of our military personnel. They have endured much for us, and I ask that we simply honor their service by voting for this exemption.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, let us be clear. The means-based test only applies to people with incomes above the State median income average. Anybody who is below the State median income does not qualify under the means-based test, and their bankruptcy petition cannot be thrown out.

Secondly, what the motion of the gentlewoman from Illinois proposes to do is to provide an exemption for active-duty servicemembers from the means-based test. That has been taken care of in most part since 1940 under the Soldiers and Sailors Relief Act, which allows for the staying of legal proceedings against anybody who is on active duty.

And I submit to the gentlewoman from Illinois and others that next year join us in voting for a defense authorization bill that gives our servicepeople a pay raise because that is the way to prevent bankruptcies to begin with.

But I would also like to point out that this motion to recommit applies to anybody who is a veteran. There are a lot of veterans that would fall under this exemption that have a lot of income. Take, for example, the junior Senator from Massachusetts, Mr. KERRY. He gets the same salary that we do, and it is reported that his wife has significant assets on her own. Under the gentlewoman's motion to recommit, should Mr. KERRY end up in hard times and have to file for bankruptcy, he would not allow his creditors to be able to ask for a means-based bankruptcy to apply at least some of the Senate salary that he received to apply to his debts. That is wrong. Vote "no" on the motion to recommit and vote to pass the bill.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to refrain from improper references to Senators.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Ms. SCHAKOWSKY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 170, noes 198, answered "present" 1, not voting 63, as follows:

[Roll No. 9]

### AYES—170

Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

### NOES—198

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Calvert
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crenshaw
Cubin
Culberson
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

### ANSWERED "PRESENT"—1

Ruppersberger

### NOT VOTING—63

Abercrombie
Ackerman
Alexander
Ballenger
Bell
Bono
Brown, Corrine
Brown-Waite, Ginny
Buyer
Camp
Carson (OK)
Crane
Cunningham
DeGette
Delahunt
Doggett
Everett
Fattah
Forbes
Gallegly
Gephardt
Gerlach
Gutierrez
Hastings (FL)
Hefley
Honda
Hunter
Hyde
Israel
Jackson-Lee (TX)
Jenkins
Johnson, E. B.
Jones (NC)
Kucinich
Leach
Lewis (CA)
Lipinski
McInnis
McIntyre
Meeks (NY)
Miller (MI)
Miller, George
Mollohan
Ortiz
Pombo
Reyes
Rodriguez
Rogers (KY)
Roybal-Allard
Royce
Ryun (KS)
Sandlin
Shimkus
Slaughter
Souder
Tanner
Thomas
Turner (TX)
Waters
Watson
Weldon (PA)
Wu
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1624

Mr. CONYERS changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 265, nays 99, answered "present" 1, not voting 67, as follows:

[Roll No. 10]

### YEAS—265

Aderholt
Akin
Andrews
Baca
Bachus
Baird
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Calvert
Cannon
Cantor
Capito
Cardoza

Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Feeney
Ferguson
Flake
Foley
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Issa
Istook
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McKeon
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros Lehtinen
Ross
Rothman
Ryan (WI)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller (NC)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rangel
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Snyder
Solis
Stark
Stupak
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watt
Waxman
Weiner
Woolsey

## NAYS—99

Allen
Baldwin
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Conyers
Cooper
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeLauro
Emanuel
Engel
Eshoo
Evans
Farr
Filner
Frank (MA)
Gonzalez
Green (TX)
Grijalva
Hinchey
Hoeffel
Holden
Holt
Jackson (IL)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Langevin
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall

## ANSWERED "PRESENT"—1

Ruppersberger

## NOT VOTING—67

Abercrombie
Ackerman
Alexander
Baker
Ballenger
Bell
Bono
Brown, Corrine
Brown-Waite, Ginny
Buyer
Camp
Carson (OK)
Crane
Cunningham
DeGette
Delahunt
Doggett
Everett
Fattah
Forbes
Gallegly
Gephardt
Gerlach
Gutierrez
Hastings (FL)
Hefley
Honda
Hunter
Hyde
Israel
Jackson-Lee (TX)
Jenkins
Johnson, E. B.
Jones (NC)
Kucinich
Leach
Lewis (CA)
Lipinski
McInnis
McIntyre
Meeks (NY)
Miller (MI)
Miller, George
Mollohan
Ortiz
Pombo
Reyes
Reynolds
Rodriguez
Rogers (KY)
Roybal-Allard
Royce
Ryun (KS)
Sandlin
Shimkus
Slaughter
Smith (MI)
Souder
Tanner
Thomas
Turner (TX)
Waters
Watson
Weldon (PA)
Wexler
Wu
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1632

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1630

### MOTION TO GO TO CONFERENCE

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 503, I offer a motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the House insist on its amendment to S. 1920 and request a conference with the Senate thereon.

The motion was agreed to.

### MOTION TO INSTRUCT CONFEREES

Mr. NADLER. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. NADLER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill (S. 1920) be instructed to disagree to section 414 of the House amendment.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 7 of rule XXII, the gentleman from New York (Mr. NADLER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume. I anticipate that this debate on this motion to instruct will take only a small fraction of the time allotted to it.

Mr. Speaker, this motion would instruct the conferees to strike section 414 of the bill. Section 414 would repeal important protections in the Bankruptcy Code against conflicts of interest on the part of investment bankers involved in the reorganization of a bankrupt company.

Section 414 would relieve investment bankers of the duty of being disinterested persons before they can be retained as professionals by the bankruptcy trustee. This disinterestedness standard has been in the code since 1938. It protects the estate from conflicts of interest by professionals in the case.

Mr. Speaker, many, many people who support this bill, which I do not, are opposed to this provision and support this motion to instruct. Judge Edith Jones of the U.S. Court of Appeals for the Fifth Circuit, a very conservative judge who is a member of the Bankruptcy Reform Commission and supports the bill, has written: "Such a standard can alone protect integrity in the bankruptcy process. If professionals who have previously been associated with a debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness required by current law eliminates such conflicts or potential conflicts. Section 414, in removing the rigorous standard of disinterestedness, is out of character with the rest of this important legislation, however, and it should be eliminated."

Mr. Speaker, that letter is as follows:

UNITED STATES COURT OF APPEALS,
FIFTH CIRCUIT,
*Houston, TX, March 11, 2003.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I understand that the House Committee on the Judiciary will consider H.R. 975, bankruptcy reform legislation, on the morning of March 11, 2003. I also understand that the Committee may consider whether or not to retain Section 414 of the bill, which would amend the "disinterested person" standard codified at 11 U.S.C. §101(14). As a former member of the National Bankruptcy Review Commission and, in that capacity, a consistent advocate of maintaining strict disinterestedness standards for bankruptcy professionals, I urge the Committee not to change existing law. I support Congressman Bachus's effort to remove Section 414.

The National Bankruptcy Review Commission was asked to recommend a modification of the disinterestedness standard in order to accommodate, as I recall, the geographic growth and increasing sophistication of professional firms of all kinds involved in Chapter 11 bankruptcvy practice. Despite fervent lobbying by prominent bankruptcy professionals and scholars, the Commission resisted making such a recommendation. We voted (by a lopsided majority, I believe) to retain the standard as it has existed since the 1930's.

The Commission report cites two reasons for retaining a strict prophylactic standard for all bankruptcy professionals. These are worth brief restatement. First, such a standard can alone protect integrity in the bankruptcy process. If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness, required by current law, eliminates such conflicts or potential conflicts.

Second, enforcing a strict standard of disinterestedness is necessary to maintain public confidence in the integrity of the bankruptcy system. A bankruptcy case should not be subject to the criticism that professional fees are generated to no purpose or for a bad purpose such as delay. The courts' efforts to ensure that fees remain reasonable are enhanced when, because of the complete disinterestedness of participating professionals, no hidden motives may be imputed to the actors in the case.

One need not focus solely on today's high-profile bankruptcy cases to realize that the challenge of maintaining disinterested professional services has permeated modern corporate reorganization law. The Commission, for instance, voted to retain the original standard in the wake of the criminal conviction of a prominent bankruptcy lawyer and several well-known instances in which law firms were required to disgorge part of their fees—all for violating disinterestedness standards. Given the ongoing nature of the problem, I do not see how any professional group can advocate, consistent with the public interest, eliminating the statutory requirement of disinterestedness. Moreover, as it appears likely that many future complex bankruptcy cases will arise in which the role of investment bankers will have to be explored, it seems particularly unwise to grant that group—alone among bankruptcy professionals—a status insulated from the strict disinterestedness requirement.

Since the close of the Commission's work in October 1997, I have been a proponent of the bankruptcy reform legislation that has been repeatedly passed by Congress. I still believe the bankruptcy reform legislation is essential to restoring integrity to personal and business bankruptcies, redressing the imbalances and opportunities for manipulation that plague current law, and encouraging individual responsibility in financial affairs. Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation, however, and it should be eliminated.

Very truly yours,

EDITH H. JONES.

Mr. Speaker, why are we voting on this technical issue? Because, Mr. Speaker, it has significant real-world consequences for employees, retirees, shareholders, and creditors of a bankrupt company. Current law prevents an investment banker who had been part of the financial affairs, and perhaps of the problems, of a bankrupt company from being responsible during the bankruptcy for advising, organizing, and overseeing the reorganization.

Anyone who has read a newspaper in the last few years cannot fail to understand the importance of this motion. This deals with conflicts of interest. Conflicts of interest among investment bankers, accountants, management, and other insiders have been at the heart of the most outrageous corporate scandals that have ended up in bankruptcy court, which have been in the headlines in our front pages in the last few years.

Perhaps when this provision was first proposed several years ago, some Members may have thought it was a minor technical change. No one any longer can believe for a moment after everything that has happened that this is just a small benign change.

The chairman of the Securities and Exchange Commission, William Donaldson, has written to Senators LEAHY and SARBANES in opposition to this provision. The former chairman of the Securities and Exchange Commission, Arthur Levin, has written to us in opposition to this provision.

Mr. Speaker, that letter is as follows:

U.S. SECURITIES AND
EXCHANGE COMMISSION,
*Washington, DC, May 22, 2003.*

Hon. PATRICK J. LEAHY,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

Hon. PAUL S. SARBANES,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATORS LEAHY AND SARBANES: Thank you for requesting the Commission's views on Section 414 of H.R. 975, which would amend the "disinterested person" definition in the conflict of interest standards of the Bankruptcy Code to remove the specific provisions covering investment bankers. On May 7, in response to a question from Senator Sarbanes at a hearing of the Senate Committee on Banking Housing and Urban Affairs on the Impact of the Global Settlement, I expressed my personal views about this amendment. Now I am pleased to convey the view of the Commission, which is that, while it may be possible to draft language that would address some of the concerns of the proponents of the amendment, Congress should proceed very cautiously before loosening any conflicts of interest restriction. While we recognize that this one-size-fits-all statutory exclusion is controversial, we believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

The current "disinterested person" requirement was adopted at least in part in response to a 1938 study by the Securities and Exchange Commission that provided extensive documentation and analysis of abuses in corporate reorganization. The study concluded that a firm that served as underwriter for a company's securities should not advise the company about distributions to those security holders in a reorganization plan. It further found that such a firm should not advise the company about potential claims against those involved with the company prior to the bankruptcy since this often would involve an assessment of transaction in which the firm participated. However, we should note that in the 65 years since the 1938 study was issued, bankruptcy practices and procedures have improved significantly with the addition of a dedicated bankruptcy judicial system, the establishment of the U.S. Trustee's office, and the strengthening of active creditors' committees.

We are aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated in any underwriting of the debtor, even if it was years ago and the firm has had no further involvement with the debtor. However, if the exclusion is eliminated entirely, we are concerned that the general protection in the statute—which relies on the judge, at the outset of the proceedings, to forbid those with materially adverse interests to the estate, its creditors, or its equity security holders from advising a company in bankruptcy—may well be insufficient.

We appreciate the opportunity to comment on this proposed amendment. If you or your staff need any further information, please contact my office.

Sincerely,

WILLIAM H. DONALDSON,
*Chairman.*

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[From Reuters, May 7, 2003]

SEC CHIEF PANS BANKRUPTCY ADVISER CHANGE

WASHINGTON (Reuters).—A measure before Congress that would let an investment bank advise a former corporate client during bankruptcy drew criticism from Securities and Exchange Commission Chairman William Donaldson on Wednesday.

"Personally, at a time like this, where investor confidence is as fragile as it is, I would want to proceed very cautiously before lifting any of the conflict of interest restrictions that we have," Donaldson told the Senate Banking Committee.

The provision redefining a "disinterested person" is contained in an overhaul of bankruptcy law that cleared the U.S. House of Representatives in March.

Sen. Paul Sarbanes, Maryland Democrat, asked Donaldson about the bankruptcy measure at a hearing on the $1.4 billion settlement reached last week with 10 Wall Street firms over biased research.

Donaldson said he was not speaking for the five-member SEC and could not rule out that some better definition might emerge in time to let former investment bankers bring their expertise into the bankruptcy process.

"But right now, I think it personally would be a mistake to change," said Donaldson.

Sarbanes, who said the prohibition on former investment bankers acting as bankruptcy trustees dated back to 1938, thanked Donaldson and said: "I appreciate the attitude that is reflected in that response."

No date has been set in the Senate for taking up the bill, which would also make it harder for individuals to walk away from their debts through bankruptcy.

New York State Attorney General Eliot Spitzer, who has been in the forefront of the investigation and prosecution of the Wall Street scandals, has urged us not to make this change.

The people responsible in both parties, Republicans and Democrats, the people responsible for protecting corporate integrity and protecting the shareholders and the stakeholders are opposed to this change.

We should be passing legislation to tighten the rules against conflicts of interest. We should not be loosening the rules. Whatever anyone may think of the rest of this mammoth bill, I hope everyone will agree that this one provision cannot be justified and that when people on this side of the aisle joined with William Donaldson as chairman of the SEC and Judge Edith Jones, with whom I disagree in every other provision in this bill, and Arthur Levin and Eliot Spitzer, stop, look, and listen.

This provision has been in the code since 1938. It is a protective provision. It protects shareholders, it protects workers, it protects the 401(k) accounts. Why do we need to make this change now?

I hope people will vote to instruct the conferees, whatever they do in the rest of this bill, not this change.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, section 414 does allow an investment banker that previously represented a business to continue to represent the business after it files for bankruptcy. Under current law, that investment banker would be prohibited from representing the debtor on a per se basis.

Let me say that this issue was debated in the Committee on the Judiciary. There was an amendment that was offered, and it was rejected by a vote of 12 to 17 when H.R. 975 was marked up in the committee. This issue was not brought up during the conference committee on H.R. 333 in the previous Congress. And to my knowledge, there was no motion to instruct on this issue that was ever made by anyone.

Let me say I am as sensitive to conflicts of interest as anybody else. But if you have this absolute bar, an investment banker that knows something about the business would be disqualified and then the business if it was trying to reorganize under chapter 11 would have to hire a new investment banker, and the new investment banker would end up having to be paid for all the time to get himself or that institution's self up to speed on the issues of the business.

So section 414 was designed to provide the professional advice that investment bankers give in a way that would be able to reduce the cost to the estate of the bankrupt business. And that is why I think that at least section 414 should not be stricken in its entirety and would urge a "no" vote on the motion to instruct.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I will be brief, perhaps even less than the 3 minutes.

Of the forest of things that is wrong with the bankruptcy bill, and I voted against it, this is actually a provision that represents a tree that actually makes some sense.

So my colleagues understand this provision, it says that when an entity enters into bankruptcy no investment house that has been involved in underwriting on any level at any time in the history of that company could be involved in the reorganization. So the following not-so-hypothetical could happen: Ford Motor Company goes into a bankruptcy proceeding and Goldman Sachs, who happened to be involved in their IPO 50 years ago and has had no investment and no underwriting since, is precluded from doing it. So who winds up benefiting from this provision? One company that is not an American company that happens not to do any underwriting.

We have been all year on this side of the aisle, more than all year, for the last several years, fighting against efforts by the Republicans to take away discretion from judges. This is a provision that says we are going to let the bankruptcy judge decide whether a party is disinterested, conflicted or not. If we are truly concerned about having conflicts of interest, theoretically we should not let accountants do business with the debtor company or a lawyer that has done business with the debtor company or anyone that has given advice to the debtor company. Yet we are singling out investment banks. Why? It does not make any sense to do that.

What we should do is take the language in this bill and make it the model for other debates on tort reform and everything else in this House. We have judges; we trust them to judge. We trust them to go through the parties, decide who is interested, who is disinterested, who has conflicts and who does not and then to draw conclusions about who is interested in doing what.

By striking 414 and putting this blanket provision that says anyone who has ever done any underwriting work cannot be involved in the proceedings, I would argue does not benefit the debtor or the stockholders or anyone else. We should want judges that say we want the very best, most talented people who are going to look out for the people who are the parties in the case. That should be how we do it. If we think the judges are doing a bad job, well, that is another question. If we think they cannot be trusted, well, that is another question. But we had a problem in this House recently. We say that juries cannot be trusted when it comes to tort reform. We say that judges cannot be trusted when it comes to this type of thing. When did we become such experts?

Apparently, the only thing American people can be trusted to do is vote for us, and then we take away all the discretion for everyone else. I think it is a very bad idea. There are 1,001 reasons why this bankruptcy bill should go into the dust bin. This is one provision that should not be changed. I urge a "no" vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

I have two basic comments. First, in response to the comments of my distinguished colleague from New York, it is not the case that anyone who worked as an investment banker for the banker company 50 years ago is affected by this provision.

If you actually read the provision in the statute book, a disinterested person is defined as a number of things, but it says the following: "Was not an investment banker for any outstanding security of the debtor." If it is still outstanding, then he has still got a relationship and he still has an interest in that. "Has not been, within 3 years before the date of the finding of the petition, an investment banker," et cetera. So in other words, it is a 3-year bar for outstanding securities. So the situation we were told about a moment ago does not apply.

Let me say that this is not a question of discretion; it is a question of protection. And, again, all the professionals in the field, everyone to whom we ought to be looking for guidance in this comes to the same conclusion. I do not claim to be an expert in investment banking or bankruptcy law, but everyone who is basically says the same thing.

I am going to read three quotes and that will be that. This is from the senior professor at Harvard Law School, an expert on bankruptcy, Elizabeth Warren: "There is a reason why the professionals who have worked for a business that collapses into bankruptcy are not permitted to stay on.

□ 1645

"The company must go back after bankruptcy and examine its old transactions. Having the same professionals review their own work is not likely to yield the most searching inquiry."

Arthur Levitt, former Chairman of the Securities and Exchange Commission: "I haven't read a single argument made by the investment banks that would persuade me that that prohibition should be changed. What we are talking about is a significant potential conflict of interest, and I think it is outrageous that investment banks would even try to go down that road."

William Donaldson, the current Chairman of the Securities and Exchange Commission: "We are aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated in any underwriting by the debtor, even if it was years ago, and the firm has had no further involvement with the debtor. However, if the exclusion is eliminated entirely," which is what this provision does, "we are concerned that the general protection in the statute, which relies on the judge at the outset of the proceedings to forbid those with materially adverse interest to the estate, its creditors or its equity and security holders from advising a company in bankruptcy may well be insufficient."

So there is a unanimity of judgment among the people involved in protecting shareholders and stakeholders and 401(k)s and employees and everybody else with a stake in this matter. We should not do this. And just one further observation. This has been the law since 1938. We have had no problems with it. We have no great hordes of people coming to our offices saying, Get rid of this. It has caused all kind of problems. Leave it alone.

Vote for the motion to recommit.

Mr. Chairman, I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. NADLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 146, nays 203, answered "present" 1, not voting 82, as follows:

[Roll No. 11]

### YEAS—146

Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballance
Becerra
Berkley
Bishop (GA)
Bishop (NY)
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Case
Clyburn
Conyers
Cooper
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hayworth
Hill
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jefferson
Johnson (CT)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rohrabacher
Ross
Rothman
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watt
Waxman
Wexler
Woolsey

### NAYS—203

Aderholt
Akin
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Calvert
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Cramer
Crenshaw
Crowley
Cubin
Culberson
Davis (AL)
Davis (TN)
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Isakson
Issa
Istook
John
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McKeon
Meek (FL)
Mica
Miller (FL)
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

### ANSWERED "PRESENT"—1

Ruppersberger

### NOT VOTING—82

Abercrombie
Ackerman
Alexander
Baker
Ballenger
Barrett (SC)
Bell
Berman
Berry
Blackburn
Boehner
Bono
Brown, Corrine
Brown-Waite, Ginny
Buyer
Camp
Carson (OK)
Clay
Collins
Crane
Cunningham
Deal (GA)
DeGette
Delahunt
Diaz-Balart, M.
Doggett
Everett
Fattah
Forbes
Gallegly
Gephardt
Gerlach
Gutierrez
Hastings (FL)
Hefley
Hinchey
Honda
Hunter
Hyde
Israel
Jackson-Lee (TX)
Jenkins
Johnson, E. B.
Jones (NC)
King (NY)
Kucinich
Leach
Lewis (CA)
Lipinski
Lowey
McInnis
McIntyre
McNulty
Meeks (NY)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Napolitano
Ortiz
Paul
Pombo
Reyes
Rodriguez
Rogers (KY)
Roybal Allard
Royce
Ryun (KS)
Sandlin
Shimkus
Slaughter
Souder
Stark
Tanner
Thomas
Turner (TX)
Waters
Watson
Weldon (PA)
Wu
Wynn
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1710

Mrs. CUBIN, Messrs. HOUGHTON, GREENWOOD and LINCOLN DIAZ-BALART of Florida changed their vote from "yea" to "nay."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. BARRETT of South Carolina. Mr. Speaker, due to a telephone call concerning an issue critical to my district with the Deputy Secretary of the Department of Energy, I unfortunately missed one recorded vote on the House floor earlier today.

I ask that the RECORD reflect that had I not been unavoidably detained, I would have voted "no" on Rollcall vote No. 11 (Democratic Motion to Instruct Conferees on S. 1920).

### PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on January 28, 2004, due to an illness, I unfortunately missed four recorded votes on S. 1920. I would like the RECORD to reflect that had I been present, I would have voted in the following manner:

Mr. Speaker, on Rollcall No. 8, I would have voted "aye."

Mr. Speaker, on Rollcall No. 9, I would have voted "aye."

Mr. Speaker, on Rollcall No. 10, I would have voted "aye."

Mr. Speaker, on Rollcall No. 11, I would have voted "aye."

### PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on January 27 and January 28, 2004, I was unavoidably unable to vote. Had I been present, I would have voted as follows:

Rollcall 6, H.R. 1385, Postage Stamp to benefit breast cancer research, "yes."

Rollcall 7, H.R. 3493, Medical Devices Technical Corrections Act, "yes."

Rollcall 8, Baldwin Substitute to S. 1920, federal bankruptcy law, "yes."

Rollcall 9, Motion to Recommit S. 1920, federal bankruptcy law, "yes."

Rollcall 10, Final Passage S. 1920, federal bankruptcy law, "no."

Rollcall 11, Motion to Instruct Conferees, "yes."

### PERSONAL EXPLANATION

Mr. RUPPERSBERGER. Mr. Speaker, I have interest in a company that does business with a financial institution that one way or another might be impacted by this legislation, so I have decided to vote present on S. 1920, the Bankruptcy Extension Act and the accompanying amendments and motions on January 28, 2004. This includes all rollcall votes starting at No. 8 until the end of the consideration of this measure. It also includes any motion to recommit and final passage.

### APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

Messrs. SENSENBRENNER, HYDE, SMITH of Texas, CHABOT, CANNON, Ms. HART, and Messrs. CONYERS, BOUCHER, NADLER and WATT.

From the Committee on Financial Services, for consideration of sections 901–906, 908–909, 911, and 1301–1309 of the House amendment, and modifications committed to conference:

Messrs. OXLEY, BACHUS and SANDERS.

There was no objection.

## RESIGNATION AS MEMBER OF CERTAIN STANDING COMMITTEES OF THE HOUSE

The SPEAKER pro tempore laid before the House the following resignation as a member of certain standing committees of the House:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 28, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR SPEAKER HASTERT: I hereby resign from the following committees: Committee on Government Reform, Committee on Transportation and Infrastructure, and Committee on Science.

Sincerely,

JOHN SULLIVAN,
*Member of Congress.*

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

## RESIGNATION AS MEMBER OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Energy and Commerce:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, January 28, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker of the House,*
*Washington, DC.*

DEAR MR. SPEAKER: Please accept my resignation from the House Energy and Commerce Committee. It has been my great pleasure to serve on the committee under the fine leadership of Chairman Tauzin.

Thank you for your attention to this request.

Sincere regards,

ROY BLUNT,
*Majority Whip.*

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

## RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE AND COMMITTEE ON GOVERNMENT REFORM

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science and Committee on Government Reform:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*January 28, 2004.*

Hon. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

MR. SPEAKER: Effective January 28th, I hereby resign from the Committee on Science and the Committee on Government Reform due to my pending appointment to the Committee on Financial Services.

Sincerely,

REP. CHRIS BELL.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

## ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. DELAY. Mr. Speaker, I offer a resolution (H. Res. 505), and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 505

*Resolved*, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

COMMITTEE ON ENERGY AND COMMERCE: Mr. HALL (to rank after Mr. TAUZIN), and Mr. SULLIVAN.

COMMITTEE ON INTERNATIONAL RELATIONS: Mr. BLUNT to rank after Mr. MCHUGH.

COMMITTEE ON SCIENCE: Mr. HALL to rank after Mr. BOEHLERT.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ELECTION OF MEMBER TO COMMITTEE ON FINANCIAL SERVICES

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 504) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 504

*Resolved*, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON FINANCIAL SERVICES: Mr. Bell.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY), my friend, the distinguished majority leader, for the purpose of informing us of the schedule.

Mr. DELAY. I thank the distinguished minority whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday, the House will convene at 10 a.m. At 11 a.m. a joint meeting of Congress will convene to receive Spanish President Jose Maria Aznar. Following President Aznar's speech, we plan to consider H.R. 3030, the Improving the Community Services Block Grant Act.

Finally, to accommodate scheduling demands next week, similar to those that we have this week, the House will not have votes next Thursday or Friday.

I thank the gentleman for yielding and would be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, I thank the gentleman; and I understand that the accommodation we are making this week and next week is so that we can hopefully, both of our respective parties, can determine where we are going to go and, as the President suggested at the White House, perhaps come together and try to take such action as we can agree upon be positive for our country. So I appreciate that accommodation for us as for the gentleman's group as well.

My colleague talked about we are going to do the community service block grant reauthorization next week. Will amendments and/or a substitute be allowed to the community service block grant bill?

Mr. DELAY. Mr. Speaker, if the gentleman would yield, I would reserve answering that question. I believe there is going to be an announcement by the Committee on Rules following this colloquy, and I think the gentleman will be very pleased with that announcement; but I would reserve that the Committee on Rules ought to make that decision and announcement.

Mr. HOYER. Mr. Speaker, I thank the leader, and I will wait with great expectation to be pleased by the announcement of the Committee on Rules, which will not be totally without precedent but not usual. I thank the gentleman for his observation.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ADJOURNMENT FROM WEDNESDAY, JANUARY 28, 2004 TO FRIDAY, JANUARY 30, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Friday, January 30, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ADJOURNMENT FROM FRIDAY, JANUARY 30, 2004 TO TUESDAY, FEBRUARY 3, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, January 30, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, February 3 for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1515

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 3030, IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, the Committee on Rules may meet next week to grant a rule for the consideration of H.R. 3030, Improving the Community Services Block Grant Act of 2003, which may require that amendments be printed in the Congressional Record prior to their consideration on the floor.

The Committee on Education and the Workforce ordered the bill reported on October 1, 2003, and filed its report with the House on October 10, 2003. Members should draft their amendments to the bill as reported by the Committee on Education and the Workforce. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman was on the floor when the majority leader and I had our weekly colloquy, and he said I was going to be very pleased. I was pleased to hear the information, of course, as to how one perfects an amendment that needs to be made in order, but I did not hear anything about whether or not the Committee on Rules is going to grant, as I asked the leader, the ability of the minority to offer any substitute and/or offer substantive amendments.

Mr. LINCOLN DIAZ-BALART of Florida. Reclaiming my time, Mr. Speaker, I would say to the gentleman that the Committee on Rules, as this announcement stated, may meet, I believe may very likely meet on this, and the Committee on Rules will obviously consider any request from any Members with regard to amendments. If the gentleman from Maryland or any other Members have amendments, we will be more than glad to listen to them and will give them all the merited courtesies.

Mr. HOYER. If the gentleman will continue to yield, Mr. Speaker, I appreciate very much that warm assurance that the gentleman from Florida will be glad to listen to me or to others.

I am a big fan of Martina McBride. I do not know if the gentleman is familiar with her. She is one of the great country music singers in America, and she has a song, the title of which is "I know you can hear me, but are you listening." And I know you may hear me, but I want you to be listening as well.

As the gentleman knows, as he is a long-time distinguished member of the Committee on Rules, we are very hopeful we will start this session off on the right foot and that the minority will be given, as your minority asked when you were in the minority, for the opportunity to offer amendments and substitutes so that our perspective can be considered as well as the majority's perspective. We think that serves the American people well. We think it is what you asked for when you were in the minority. We believe we gave it to you most of the time. You are correct, not all the time.

But we would hope, and this bill I think is not one of the very contentious bills that we will take up perhaps during the session, but we would hope that that opportunity would be afforded the minority.

Mr. LINCOLN DIAZ-BALART of Florida. Once again reclaiming my time, Mr. Speaker, I thank the gentleman very much for his comments and concerns, and as I stated before, what we are asking at this point, precisely because we will be looking very much forward to amendments, is that if any Members have ideas for such, is to please be ready with them because there may be a requirement that amendments be printed in the Congressional Record prior to consideration on the floor.

## GENERAL LEAVE

Mr. NEUGEBAUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 610.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

## PRESIDENTIAL DETERMINATION EXEMPTING U.S. AIR FORCE'S OPERATING LOCATION NEAR GROOM LAKE, NEVADA FROM DISCLOSURE OF CLASSIFIED INFORMATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

*To the Congress of the United States:*

Consistent with section 6001(a) of the Resource Conservation and Recovery Act (RCRA) (the "Act"), as amended, 42 U.S.C. 6961(a), notification is hereby given that on September 16, 2003, I issued Presidential Determination 2003–39 (copy enclosed) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination 2003–39 exempted the United States Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons. Information concerning activities at the operating location near Groom Lake has been properly determined to be classified, and its disclosure would be harmful to national security. Continued protection of this information is, therefore, in the paramount interest of the United States.

The determination was not intended to imply that, in the absence of a Presidential exemption, RCRA or any other provision of law permits or requires the disclosure of classified information to unauthorized persons. The determination also was not intended to limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake except those provisions, if any, that might require the disclosure of classified information.

GEORGE W. BUSH.
THE WHITE HOUSE, *January 28, 2004*.

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## CERTIFICATION OF AUSTRALIA GROUP PURSUANT TO CONDITION 7(C)(i) OF THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING, AND ON THEIR DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

*To the Congress of the United States:*

Consistent with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, I hereby certify pursuant to Condition 7(C)(i), Effectiveness of the Australia Group, that:

Australia Group members continue to maintain equally effective or more comprehensive controls over the export of: toxic chemicals and their precursors; dual-use processing equipment; human, animal, and plant pathogens and toxins with potential biological weapons applications; and dual-use biological equipment, as that afforded by the Australia Group as of April 25, 1997; and

The Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, in force as of April 25, 1997.

The factors underlying this certification are described in the enclosed statement of justification.

GEORGE W. BUSH.
THE WHITE HOUSE, *January 28, 2004*.

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## APPOINTMENT AS MEMBERS TO ANTITRUST MODERNIZATION COMMISSION

The SPEAKER pro tempore. Pursuant to section 11054 of the Antitrust Modernization Commission Act of 2002 (15 U.S.C. 1 Note), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following members on the part of the House to the Antitrust Modernization Commission:

Mr. Donald G. Kempf, Jr., New York, New York, and

Mr. John L. Warden, New York, New York.

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## HONORING THE MEMORY OF SHELLEY MARSHALL

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, I rise today to honor the memory of Shelley Marshall. Mrs. Marshall was a budget analyst for the Defense Intelligence Agency who was killed in the attack on the Pentagon.

I rise to commend the efforts of her husband, Donn Marshall, to honor her memory. Using his wife's retirement savings and money he expects to receive from the 9-11 Victims Compensation Fund, Donn established the Shelley A. Marshall Foundation. The foundation has held tea parties, one of Shelley's favorite pastimes, for senior citizens and high school students. The Marshall Foundation has also provided resources for story hours in libraries and has held writing and art contests at high schools both in West Virginia and Virginia.

Through the foundation, Shelley Marshall will continue to touch the lives of people in need in West Virginia and around the country. I thank Donn Marshall and the couple's children, Drake and Chandler, for their commitment to helping others and for the worthwhile way they have preserved Shelley's memory.

The Washington Post wrote an article on January 22, 2004, about the Marshall Foundation, which I include for the RECORD.

[From the Washington Post, Jan. 22, 2004]

### 9/11 MONEY FUNDS A DREAM

### MAN PLANS TRIBUTE TO WIFE LOST IN PENTAGON

(By Jacqueline L. Salmon)

SHEPHERDSTOWN, W. VA.—In the tiny townhouse he rents behind an office park, Donn Marshall unfurls an armful of papers on the living room couch. They are plans for a house to be built on land he has purchased nearby.

Modeled on an 18th-century Irish country house, it will have bedrooms for Marshall's two children, Drake and Chandler, and room for as many as six guests—everything that Marshall and his wife, Shelley, ever dreamed of.

But it will go ahead without her. Shelly Marshall, a Defense Intelligence Agency budget analyst, was among the 184 people who died Sept. 11, 2001, when terrorists flew an airplane into the Pentagon.

"I think it should be almost like a monument," Marshall said, as he smoothed wrinkles from the house plans. "In a sense, it's Shelley's money."

The Marshall family expects to receive about $2 million from the federal fund created to compensate the injured and the families of the 2,976 people killed that day at the Pentagon and the World Trade Center in New York. Although the money will not take away the grief that has diminished only slightly in 2½ years, Marshall said it will free him to work full time on the charitable foundation he established in his wife's name—his way of fighting back.

The fund, established by Congress to protect the airlines from billion-dollar lawsuits, has reached the family of almost every victim. Fund administrator Kenneth R. Feinberg, a Washington lawyer, said that by last month's final deadline, 2,924 families—98 percent—had surrendered their right to sue the airlines in return for an average award of just under $2 million.

But many who took the settlement wrestled with "survivor's guilt," said Larry Shaw, director of Northern Virginia Family Service, whose counselors are working with many families of Pentagon victims. "They felt that they were benefiting from the loss of someone they loved."

Shaw said family service counselors tell families that the settlement is part of their recovery process. "And part of the recovery is being able to fulfill some dreams that you had in your life," he said.

Shelley Marshall was a woman of passionate and varied interests. She put together family scrapbooks and hosted Victorian-style tea parties with her mother-in-law, Phyllis Marshall. She loved to spot hawks while out walking. Shortly before her death, she had begun to collect kickknacks decorated with dragonflies.

On Sept. 11, Shelly and Donn had commuted in separate cars to the Pentagon from their then-home in Charles County, with Donn carrying the children. Together, they said goodbye to Drake and Chandler at the Pentagon day-care center. Then Shelley headed to her office in the southwest wing of the Pentagon, and Donn drove to his Crystal City office, where he also worked for the Defense Intelligence Agency.

Moments after the plane buried itself in the Pentagon, Donn drove back to the blazing structure to search frantically for his family. The children were unharmed. He couldn't find Shelley.

Three days later, he got the news that she was dead.

The words of a grief counselor who visited him resonated. "Give your sorrow meaning," he urged Marshall. "It was like he flipped a switch," Marshall recalled.

With his wife's retirement savings, he set up the Shelley A. Marshall Foundation. He has used the proceeds to organize dozens of intergenerational tea parties for elderly nursing home residents and high school students across the Washington area, where Shelley grew up, and in West Virginia, where his parents live.

He has also funded story hours at libraries in both places, set up writing contests at high schools and arranged high school art workshops to reflect the interests of his late wife. In all, the foundation has spent about $60,000 on such events and plans to expand nationwide as well as overseas, where tea enthusiasts in Britain and Moscow are planning offshoots.

"I didn't want [Osama] bind Laden to have the last word on her life," Marshall, 39, said. "She died far too young, and I wanted her to be able to touch people."

All together, he figures, more than 5,000 people have participated in the foundation's activities.

"We can leave September 11 as a black day in history," Donn Marshall told guests at a fundraising tea party at the Pentagon City Ritz-Carlton in November, on what would have been Shelley's 40th birthday. "Or we can look at it as a day when something incredible started—and that's what we're trying to do."

The foundation work has drawn in family and friends. Shelley's mother, Nancy Farr, makes hundreds of cucumber sandwiches and shortbread for the nursing home parties. The work, Farr said, "is a blessing. Shelley will always be with us in our hearts, but other people know her because of the foundation."

Sometimes the work fends off Marshall's loneliness. Sometimes it doesn't. He believes that Shelley is still near. The signs are everywhere. The way the heat in his home clicks on when he asks her for a signal that she's present. A door that blows shut to remind him to take the children's coats to their school on a cold day. A dragonfly balloon from his son's birthday party that drifts into the bedroom and stops by his bed.

The signs comfort him—a little. "I know she's okay and that's huge," he said. "Now I just have to deal with not seeing her for a long time."

Shelley used to make a pot of tea each night for Donn, and he has taught himself to make tea the way she did. She had collected dozens of different kinds from her favorite tea shops—fragrant Oolongs, delicate "white" teas and black teas such as light-bodied Darjeeling and full-flavored Assams—and could recite their characteristics.

Last January, Marshall quit his job and moved his family to West Virginia to be closer to his parents in Martinsburg and Shelley's in Herndon. He said the compensation fund should support his family and put the children through college while he works full time on the foundation.

His next step is having their house built on 18 acres of woods and meadow that he bought just outside Shepherdstown, a cozy town of 1,500.

"I'm going to get people to come up for the weekend," he said. "We'll have two to three different people at the dinner table, hopefully, on the weekends—my artist friends, politicians. I want a lot of people coming in and interesting the kids with their ideas—I think they should have an extraordinary life after what happened to them."

When Marshall came out to see the land for the first time, he heard a scream above him and looked up to see a hawk. It circled over his head.

"I said, 'Okay, this is the place.'"

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## VOTING RIGHTS FOR CITIZENS OF THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, the denial of voting rights to people in the District of Columbia who pay their taxes every day and are fighting in Iraq, Afghanistan, and all around the world is finally sparking national attention, and even more important, it is sparking bills in the Congress. And bills not only from me and my side of the aisle, but I am pleased to note from my Republican friends.

Several Members are considering or have already put in bills to give voting rights for the residents of the District of Columbia, and all of these are Republican bills and worth noting on this floor. On behalf of the people of the District of Columbia, I want to express my appreciation for these Members who have come forward with their own bills.

The first national interest comes, of course, from our "First in the Nation" primary. It was nonbinding, but that did not much matter. People came out in double the numbers they came out in the 2000 Presidential primary. And they came out because the primary was in part to cast a personal protest vote against paying taxes without representation here in the House, no representation in the Senate whatsoever, and yet serving as we have in our Armed Forces since our Nation was established, all without representation. Today, we are once again disproportionately represented in our Armed Forces in Iraq and Afghanistan.

The bills, however, are not about protest. They are about a remedy. I am still gathering signatures, and am grateful to Members who have signed on to my No Taxation Without Representation Act, and I will continue to do so. Indeed, this bill got out of committee in the Senate a couple of years ago, and I certainly have not given up on it. But I do want to come to the floor this afternoon to say I welcome bills, especially the bills by my Republican friends, and I am very encouraged and will continue to work with them until we get a bill that everybody can agree upon.

My own bill, of course, would give representation in the House and the Senate for the District of Columbia. The gentleman from Virginia (Mr. TOM DAVIS), Chair of the Committee on Government Reform, which has oversight for the District of Columbia, is considering a bill that would have a House-only seat.

The gentleman from Ohio (Mr. REGULA) has long favored and often in the past put in bills for voting rights. His is a retrocession bill. D.C. would return to the State of Maryland, that is to say, if Maryland agreed, with Congress maintaining control over the Federal enclave.

And now the gentleman from California (Mr. ROHRABACHER) has come forward with a bill that treats the District, for purposes of voting rights only, as Maryland citizens. District residents could vote in Maryland, could run for the Maryland Senate seats. We would remain an independent jurisdiction and there would be no retrocession.

The gentleman from Ohio (Mr. KUCINICH) has represented that he is considering a statehood bill. The problem with that, and I appreciate his interest, is that we had a vote on statehood in 1993, but the District had a grave financial problem and had to give back State costs, so we do not presently qualify to become a State.

We are asking for voting representation because every citizen qualifies for representation in her legislature. As long as the Federal Government takes the money of the people I represent every April 15, as long as we have men and women fighting and dying abroad, and today especially in Iraq and Afghanistan, it is simply intolerable for there to be unequal representation.

For my constituents, this is a pure and simple question of disparate treatment, inequality of treatment and discrimination. At a time when we are insisting on democracy not only in Iraq but everywhere we see, everywhere we go in the world, at some point people are going to point their fingers right at us and say, "Why do you not give the same democracy to the people who live closest to you, the people of your own Nation's capital?" To that, our only answer can be,"Duh?"

We do not have any answer. The fact that I have colleagues on the other side of the aisle, three of them, who have come forward with their own bills says to me that there is a gathering consensus that we can, in fact, move forward with a bill.

I am not going to abandon my bill at the moment. Ultimately all of these bills will come together, and I have no doubt that together we can find the solution to the last remaining and most intolerable scar on our democracy.

My thanks, finally and once again, to my colleagues, the gentleman from Virginia (Mr. TOM DAVIS), the gentleman from California (Mr. ROHRABACHER), the gentleman from Ohio (Mr. REGULA), and the gentleman from Ohio (Mr. KUCINICH).

## WHERE IS THE OUTRAGE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I rise today in a mood to lament what is going on in this House. The American people, I think, sometimes do not understand what it means to have one-party government. The United States right now is in the hands of one party from the Presidency through the Senate, right on through the House of Representatives. One party makes all of the decisions. That has a very strong effect on what happens around here. Issues that might raise questions if they are in the hands of the majority party are clearly not raised. If they are an issue of the minority party, who cares because the majority is running the place and there is really very little that the majority cannot do, from the way it has handled the Committee on Rules to the way it handles bills all up and down the line.

If it was just the processes of the House that I was depressed or upset about, that would be one thing. But there are huge issues that I think affect the American body politic. When people think about the Congress, there is often a saying, that people like their Congressperson, but they do not like Congress in general because of the things that they see happen here.

The first issue that brought this to my mind was the issue of the outing of a CIA agent by someone in the White House. I am not someone who is enamored of the CIA, but still someone who knows the importance of the CIA; and I believe that the protection of CIA agents is absolutely paramount. We cannot have an intelligence agency that is being exposed on every hand by anybody for any political purpose. The issue comes up, there is no outrage in this body.

We will give them $40 billion more for the budget for that agency, but we will for political purposes out an agent anytime we feel it is politically, or some people will, anytime they think it is politically expedient. It obviously came from the White House, and we are several months down the road, and there is nothing happening. They have moved it now to a special prosecutor in Chicago. Why there, I do not know. Finally, the Attorney General felt he could not handle it; it was too hot to deal with in the Justice Department, so it is gone.

There are other things that happen here. We have intelligence leaks in the other body. There is no outrage anywhere. No one demands an inquiry because the man who did it apparently, we do not know, and it is not clear who did it, but it is clear there should be an investigation of an intelligence leak. It does not happen. Where is the outrage in this place? Is it only Democrats in the minority that feel outrage? Are there no Republicans who care about the intelligence agencies in this country that allow leaks, allow outing of agents?

The other thing that we do in this House is we deal with public policy, huge public policy, policy that affects 20, 30, 40, 50 million people at a swipe, not little issues. Sure, there is the museum that goes up in somebody's district, and people get all excited about the pork involved in that kind of thing. Those are not the issues people should be outraged about.

The outrage ought to be about issues like, take the pharmaceutical bill. It comes to the floor. Medicare affects 40 million people. The issue sits on this floor frozen in time for almost 2 hours while the leadership of the majority tries to get the votes. We are told that the voting closes down after 15 minutes, but that issue could go for 2 hours. Where is the outrage in this body?

Mr. Speaker, one Member even suggested he was given a little extra encouragement.

## THE BUDGET AND FISCAL POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, I cannot think of an issue that has commanded more attention on the floor of this House, and rightly so, probably since its inception, than the issue of the budget, and how much we should be spending, and how much we are going to spend. This year is no different in that regard in that there will be a great deal of attention paid to it and a lot of words expended on it.

I am a member of the Committee on the Budget, and we are beginning that process today to write the budget resolution, that document that we then submit to Congress for its approval and will hopefully become sort of an outline for how we will spend the taxpayers' money in this next fiscal year.

As we embark upon that project, we are given a lot of information to start our deliberations. I must say the information that we have been given this year, in just the last few days actually, is really quite startling. It prompts certainly me and I think it will prompt many other people to begin perhaps an early discussion of the issue of the budget and what we are in store for when we start looking at some of the implications of our fiscal policy.

There is a friend of mine who is an ex-governor of the State of Colorado, and he is now teaching at the University of Denver in Colorado. He is teaching a class called Hard Choices, Difficult Choices I believe is the name of it. He presents his students with a variety of difficult questions they will have to answer from a public policy standpoint, what would they do if they were in our shoes.

I cannot think of a more difficult task to put before anyone than to come up with the right decision when it comes to how much money we are going to be spending in the next fiscal year, how much money are we going to be taking away from our constituents not just today, but how much debt are we going to be giving our grandchildren and their grandchildren, and millions and millions and millions of Americans yet unborn. It is frightening, it is overwhelming, and I can understand why many Americans, perhaps even some of our colleagues here on the floor, would tend to just let all of this go over their heads saying this is overwhelming stuff, the numbers are so huge, I am just not going to focus on it that much. But I suggest that it is imperative that every single Member and every single citizen focus on these numbers and on the debt we are incurring and on the enormous amount of money we are spending even though we are not taking in the same amount of money in taxes.

Let me preface my remarks by saying I am absolutely convinced that the problem here and that I am going to address in the next few minutes has nothing to do with the possibility that we are not taking enough money away from taxpayers. I believe that the tax rates, especially for folks in the middle- and upper-income tax rates are quite high, significant, and high enough, certainly.

I think a case could be made that we are not taking enough from everyone in the country, every income earner. Some people have suggested that some sort of tax, there ought to be a minimum tax that anybody who makes any money has to pay because then they have a stake in the system. I think there is merit in that discussion, and I would like to have more of it. I think the people who are paying taxes are certainly paying enough taxes. The problem is not on that side of the ledger, as far as I am concerned. The problem is almost entirely on the other side of the ledger, the spending side of the ledger.

The blame can be shared by every single Member, myself included. I do not stand here as someone who has never voted for a program increase. I certainly have. I have voted almost every time in the 5 years I have been here for the defense appropriations. We recently all had the opportunity to vote for the homeland security appropriations, and I have supported those. I believe, and I still believe, that the primary responsibility of the Federal Government is to protect and defend the people of this country and almost all of the other things that we do are extraneous to that particular purpose.

Surprising as it is to many people, there is, of course, no requirement in the Constitution of the United States that the Federal Government provide funding for the education of children, although it is certainly a laudable goal. There is nothing in the Constitution that requires us to be doing probably 75 percent of what we do. It is not required. We are required to protect and defend, and that is why I have been willing to go along with increases in those budgets. But we have to make some very hard choices, very hard choices for all of us because we are at a point where the case could be made that the budget is out of control.

We are now approaching $500 billion in deficits for the next fiscal year, and we can no longer think about this as something that we can get under control in the near future, that we can grow our way out of it or tax our way out of it. Those two things I do not believe are legitimate short-term goals.

I certainly believe that the economy can be stimulated by a lot of the actions we have taken, including tax cuts; and I believe we are seeing some of that happen. I think there are a lot of indicators to suggest that the economy is recovering. We are noticing a growth in productivity, we are noticing a growth in manufacturing jobs, a general growth in the economy and economic activity for the third quarter of the last year, which I should say was almost historical, over 8 percent. There are certainly some indicators that would suggest that the economy is getting stimulated and that we are beginning to see a growth even in the jobs category which has been the one that has been the most reluctant and most difficult to actually affect positively by our tax actions.

However, I do not believe that growth will ever be enough to overcome the spending spree this Congress and past Congresses have been on, along with the administration.

Something that was just given to Members not too long ago by the comptroller, and it was put out by the U.S. Accounting Office and the comptroller, is information that I know for a lot of people would be pretty darn boring stuff. When discussed, people think it is billions and trillions, what is relevant about it.

☐ 1745

Again, I think it is really important for us to understand, Mr. Speaker, that some significant changes have occurred in spending patterns and habits of this Congress over the last couple of decades. I would actually say over the last, let us say, 40 years. We can condense this into just a very, I think, concise description of the problem.

In 1963, the defense budget of this country was 48 percent. Almost one-half of the total budget of the Nation was spent on the defense of the Nation, 14 percent of the budget was spent on Social Security costs, 7 percent on interest, and 31 percent on all other things. That was in 1963, 40 years ago.

Fast forward to 2003. The total budget for defense was 19 percent. It had fallen from half of what we spend in this Congress to 19 percent for defense. That is our primary responsibility, remember, the thing that we are supposed to do, 19 percent. But the budget for Social Security and Medicare had grown to 41 percent of the budget. Again, interest stayed about the same at 7 percent and all other spending again at 33 percent.

So we see what happened here. We narrowed what we spent significantly, and a lot of people will claim that we are spending too much on the military, a claim that could be made, but just remember it is only 20 percent today as it was almost 50 percent of the total Federal budget 40 years ago.

There is also something that is taking hold here; something that the American people have to understand is that a relatively small part of that budget that we fight about every year is in something we call discretionary programs. Those programs over which we have some control, how much we are going to appropriate every year, is a matter of debate and negotiation, but it has become a very, very small part of the budget.

About a third of the budget actually falls into that category of discretionary spending. Two-thirds is spending on what are called mandatory programs. These are programs where the determination of how much we are going to spend is made by how many people become enrolled, how many people are eligible. That is Social Security, Medicare, and there are several other kinds of programs including certain veterans programs that are in this category of mandatory spending. It is sort of on autopilot.

That has grown enormously over the last couple of decades, now commanding, as I say, two-thirds of the entire budget. And so that when we start talking about how to deal with the problem of the budget and a $500 billion deficit, it is impossible to talk about this in any meaningful way without addressing the issue of mandatory spending.

Will we actually take that on is the question everybody really has on their minds. Will we have enough guts in this Congress and will the administration propose to actually do something about mandatory spending? Because we can talk about freezing the expenditures or reducing the rate of growth to a certain percent for all those things that are not mandatory, and it will have little if any real impact on the overall budget and on that debt that is presently held by the public.

What is the debt, by the way? Debt that is held by the public today is $3.9 trillion. Add to that the debt of our trust funds like Social Security and that is $2.9 trillion for a total debt of $6.8 trillion. How does that figure out? How does that break down per person in this country, every man, woman and child? That is $24,000 apiece. If we add in everything that is not included in these things we call trust fund debt and public debt, but all the other expenditures that we have in the Congress and that really are just simply debt, but they are just not added for government purposes in the figure above, the burden per person rises to a little over $100,000.

It goes on to say here in this GAO report that it amounts to a total unfunded burden of about $30 trillion in current dollars, which is roughly 15 times the current annual Federal budget and three times the current annual GDP.

Okay. Lots of figures, lots of acronyms and pretty darn boring, I guess, to a lot of people. I know certainly to a lot of people. But I hope we can all understand that these hard choices we have to make will affect not just the quality of life of the people that we represent, but the quality of life that we are preparing, if you will, for our grandchildren and their children. It will be a significantly different quality of life unless we do something about this, unless we make some very hard choices this time around.

I had a call just before the House adjourned for the day from a member of the media. It was a call with a question attached to it that I thought might have been a joke actually. I thought somebody was perhaps making a kind of bad attempt at some sort of humor. But I had a call, and there was a question from a reporter at a prestigious newspaper in the Nation. He said that in fact the President's budget, when it comes out here soon, will include, among other things, a significant increase in the National Endowment for the Arts.

I say a joke because, of course, I could not believe that considering everything we have talked about here, considering the state we are in, the economic condition we are in, that we can be talking about significant increases in anything that we do in this Nation, let alone something like the National Endowment for the Arts. The reason why I think that this reporter was calling me is because I have tried year after year to strike funding for the National Endowment for the Arts as a frivolous expenditure and one that could never, I think, be justified based upon what it is that the Federal Government is supposed to be doing here. I have tried to make the case over and over again that art would survive even if we did not fund it, and that it was there and doing well even before the Federal Government began giving it $150 million a year, and that there was really no need for Federal involvement in this issue, and that all of the arguments that could be made and were made on the floor during the debate over funding for the arts, they all went to the quality of life people had, to giving people inspiration, to making them feel different about themselves and about the world in which they lived.

They were all really very commendable arguments. They were things that I think all of us would suggest would be good for us as Americans to be so inspired. But the question remains, what business is that of the Federal Government, and that we could make exactly the same case for a national endowment for religion, then we could form a panel and make them presidential appointments, and that we turn over to them the responsibility of distributing $150 million to various religious activities or religions in the country. Then when somebody asks which ones, we would say, that is up to the board to decide because we believe religion is a good thing and that it provides a quality-of-life experience and that it does inspire people and makes them feel better about the world in which they live.

All those things are certainly true, but, of course, no one would agree, or I think very few people would agree that we actually needed a national endowment for religion. But it is all based on the same premise, that it is an appropriate function of the Federal Government.

Of course, I suggest that it is not and have tried to strike the funding. That is why, as I say, the reporter called me.

But apparently it is not a joke. Apparently that is going to be part of the President's budget. I certainly hope that request is not granted, and I certainly hope that we go far, far beyond that in saying that that is not going to be an indication of just how serious we are about fiscal responsibility, that we are not going to significantly increase the national endowment. We have to do something of major, major proportion in order to actually get a handle on this issue.

Just to give Members an example of how scary things are, we could completely eliminate every single dime of discretionary funding, and we would probably still not be really close to getting to that balanced budget goal we have in the next 5 or so years. We could completely eliminate it, or at least, I should say, we could completely eliminate several major portions of it, including the amount we spend entirely on the military. We could eliminate the entire defense appropriation and not be in balance the next fiscal year. It just goes to show you how difficult the choices are that we are going to have to make. The question is, will we?

Time and time again, I have been involved in discussions, both on and off the floor of the House about this problem, how dramatic it is, how difficult it is going to be to deal with it; and time and time again the forces arrayed against spending are overwhelmed by the forces that are arrayed in favor of spending. Should our folks on the other side of the aisle chastise us for spending too much, which they certainly will, it is important to remember that during the debate on the budget last year that if you added up all of the amendments that were submitted by the minority side for additional spending, it would have approximated $900 billion of increased spending by amendments that were offered by the other side.

So it is not as though we could look to the Democrats for any leadership in this area. They are being true to form and certainly spending restraint is not their strong suit. But it is not ours either, I must say. Certainly not if we look at the recent history of the Congress and of our spending habits, we have not been all that much better. I am sad to say that. But it is time, all right, to really think about how we are going to address this issue.

And what are the hard choices we are willing to make? Are we actually willing to talk about things like Social Security containment, Medicare and Medicaid containment? Are we willing to talk about even significant reductions in other levels of discretionary spending? I am willing to look at everything, I will tell you right now, including a restraint on the spending in the Federal budget that goes to our defense establishment.

I am concerned about a number of things that have happened recently. I am concerned that when we leave out big chunks of the budget, we make them sacrosanct and say we cannot go after those, we can go after everything else but we cannot go after defense, we cannot go after homeland security, that a lot of things get added to both of those budgets that are sometimes, I think, frivolous; and they get added to protect them from the budget scrutiny that would naturally be there if they were not in the category of defense or homeland security.

I think those budgets will grow astronomically if they are left to be untouched by any sort of action of our Congress, of especially the Committee on the Budget.

I am certainly willing to look at all of those things and to apply some sort of tourniquet on this hemorrhage that we are experiencing that is actually defined as spending. Because it is a spending problem. I want to reiterate that. It is a spending problem. It is not a taxation problem. It is spending.

Remember the old sign that used to hang, I think, at a previous President's election headquarters? It said, "It's the economy, stupid." So every single person answering the phone in his campaign headquarters would have to try to direct their answer to the question, no matter what the question was, and somehow they would try to deal with the economy or to make that part of the answer so that people would focus on the economy, which was in a slight recession at the time.

We should perhaps put a great big sign around this House, maybe around the outside of the House and the inside of the House both that says, "It's the spending, stupid," because it is the spending that we have to deal with. It is what we must get under control. As I say, I certainly do not speak from a holier-than-thou perspective. I know I have voted for increases in the past on various budget items. I also am saying that the time has come for us all to look very carefully at how we are going to address this very serious issue. There will be some very hard choices.

Mr. Speaker, to tell you the truth, I do not know that we are up to the challenge. I have seen this happen before. There is a great deal of talk at this point in time about the need to do something, but at the point in time when push comes to shove and the rubber meets the road and all those other little things we throw in there to describe a tough situation, we will back away and the forces of spending will overwhelm the forces of moderation in this regard, including the budget process itself.

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Everything in this body is built so as to construct an ever-expanding government with ever-greater costs. And I am not suggesting that it is done nefariously, that people are trying to figure out how to sink the government by spending us into oblivion. It is just simply the way the system works, and it is the nature of this Republic that we will represent the interests of our constituents as they are reflected by ever-increasing demands for certain services that the Federal Government does now and gets involved with.

There are so many places to look for budget cuts; however, I want to encourage us to think about all of them; to leave nothing off the table including defense, including homeland security. I certainly for one, as I say, I am willing to look at all constraints because it is absolutely clear that there is no way to say we are going to simply freeze expenditures or we are going to have only a 1 percent increase in expenditures that are in this category nonmandatory, nondefense related, nonhomeland security related.

Do my colleagues know what that comes down to? Squat. There is nothing there, Mr. Speaker. There is just this tiny little bit of the budget that then is eligible to be held in check, and it will do nothing except give us the rhetorical high ground. It will certainly not give us the moral high ground. We will be able to go out and say we froze the budget. We will not add all these other exceptions. We will be able to say that we only allowed a certain small percentage increase, but will we explain what that increase is in or what that constraint is in? No. We will just talk about it as being part of the budget process because most people frankly do not care.

Most people are confused by these issues and want to turn off the message and certainly the messenger if we are talking about cutting them. But I am hoping that we can all do what needs to be done for the country because the consequences are dire; and as I said earlier, the choices are very hard. But we cannot shirk them. It is our responsibility, and so I hope that we will all undertake that with a most serious attitude because I just do not know how else we will accomplish our goal, Mr. Speaker.

And the public, as I see the polls recently and the concerns being expressed and certainly from the information that we get in our office, the kinds of calls we get, I think that the public is at this point in time ready to say we need to do something even if it affects their favorite program. I guess we will see about that. But we get a lot of information now coming to us from our constituents talking about the budget as being a very serious topic to them and worried about these deficits and worried about our spending, and that is good. I am glad that it is actually getting out there to the point where people are focusing on this because it will take that kind of commitment, it will take a public that is supportive of our efforts to try to cut the budget for us ever to actually get the job done, and it will take talking to the public in terms that we can all understand and explaining to them and to us all, not just the general public but certainly to other Members, the importance of being more fiscally responsible and the dire consequences of huge deficits that go on for year after year after year.

It is not as sexy a topic as many others that we could address, I know; and it is challenging to inspire the Nation to stand behind us as we try to cut spending. That is very difficult. It sounds so much better to stand up and say I want to do X, I want this program. It will solve so many problems. It will cure disease. Let us triple the budget for the NIH, for the National Institutes of Health. And people come into my office all the time with requests to increase funding for the research into particular diseases and searching for solution and a cure, and our heart goes out to them. They bring their children in with them, children afflicted with these horrible diseases; and we want to say yes, absolutely, certainly we will do that. I want to put all the money I can think of into curing this disease so their child will have the possibility of not just a productive life but life itself, and I want to do that. I mean, I certainly am susceptible to the same kinds of siren songs that all the rest of us are.

Again, I am telling the Members I am not immune to the call for spending. So it is easier to say yes to them. It is easier to say yes to every person that comes into our office asking us for money for a certain project because they can make a great case. As long as I have been here, I can think of few times that I have been confronted by constituency groups or advocacy groups that do not make a good case for whatever it is they are trying to advance. They are, for the most part, I believe, very good people, all motivated by the best of intentions. And so it is so much easier to say to them, okay, I will do my best, yes, I will vote for an increase. And we all do it, and we have all got to reconsider it in light of what is happening in this country and in light of the very stark projections about where we go from here.

And the President needs to do this also. He has to provide the leadership so that we can look to him and the administration for guidance and for the example that he can provide for fiscal constraint. So I am just hoping again that things like that that reporters call to me about the increase in the National Endowment for the Arts are simply trial balloons, as we say around here, and that they put them out just to see if there is any hope and, of course, if they see that there is not, it goes down. I hope that that is the case. I hope he is not serious.

I certainly hope that the President comes to us with a budget more austere than the one I have been hearing about, and I hope those of us on the Committee on the Budget can muster the courage to present a budget resolution to this Congress that is austere, truly austere, that it does not just have the rhetorical flourish of budget freezes or restraints in the rate of growth and that sort of thing, but a true cut in spending because really this is the only way we will actually get to a balanced budget in the foreseeable future, or even if it is not a balanced budget, a more reasonable approach toward solving our fiscal crisis.

So I just want to keep emphasizing I know I am certainly not the purest of the pure on this and cannot come to everybody with a holier-than-thou attitude and say I never voted for an increase in the budget. I do not believe I ever voted for a tax increase. That is certainly true. But I cannot say I have never voted for an increase in the budget. I can tell the Members that there is little that I can think of today that would make me able to cast such a vote now in this budget cycle coming up, and I am going to do everything I can to make sure that the budget resolution that our committee reports is one that we can all be proud of from the standpoint that we can defend it, not just to our constituents but to our own consciences. That is a challenge for all of us.

## THE FISCAL STATUS OF OUR NATION

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, I rise this evening with my fellow members of the Congressional Black Caucus to address the dire fiscal status of our Nation.

Just this past Monday, the Congressional Budget Office released its annual report on the Federal budget and the economic outlook for the next 10 years. The staggering numbers included in this report should be startling to both Democrats and Republicans alike. More importantly, I want the American people to know that we must address this critical issue.

Mr. Speaker, since the mission and the purpose of the CBO is to be objective in its analysis and in its reporting to Congress, they have no interest in fudging the numbers to look better than they actually are. With that being said, the CBO projected that the government would accumulate $2.4 trillion in additional debt over the next decade. And as of this moment, the outstanding public debt is well over $7 trillion and is growing by the moment.

And with that, Mr. Speaker, I yield to the gentleman from Virginia (Mr. SCOTT), one who has spent a phenomenal amount of time on this issue and has been at the forefront in trying to make sure that our tax dollars are spent effectively and efficiently.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman from Maryland for taking the leadership on this budget.

We have a difficult situation: and rather than use adjectives and slogans, I like to use charts so we can see what is going on year by year. If we look at the budget deficit, and this is the budget without the Social Security and Medicare, which is supposed to be saved for Social Security and Medicare when we need it, this is the deficit year by year. And we see that we have got the Johnson, Nixon, Ford administrations. It dropped a little bit under Nixon-Ford. Under Carter it stayed about the same. People remember that under Reagan and Bush, the first Bush administration, deficits came about. But not enough credit is being given to what happened under the Clinton administration because without a single Republican vote in the House and without a single Republican vote in the Senate, we passed a deficit reduction plan that resulted in not only an elimination of all of that deficit but an actual surplus, a surplus without counting the Social Security and the Medicare surplus. If we count those, it is even higher than that.

Some of the Republicans want to take credit for some of this. And they say in 1994 the Republicans took over Congress; so in 1995 when they were sworn in with the Republican Congress, they ought to get some credit for this. But let us remember history. When they came in, they passed massive tax cuts, primarily for the wealthy, and President Clinton vetoed those budgets. They passed them again and threatened to close down the government if he did not sign them, and he vetoed them anyway. And they closed down the government, and he vetoed them anyway. Trying to take credit for a budget plan when their plans were vetoed, even with the closure of government, their plans were vetoed; and we were able to maintain this line by vetoing their bills. They cannot get any credit for the green.

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However, we do see when President Bush was sworn in, they passed the same kinds of tax cuts, primarily for the wealthy, and what happened? We see what would have happened down here if President Clinton had signed it. We see exactly what would have happened. We have skyrocketing deficits.

Now, this is actually not quite as low as it ought to be. This is a couple of months ago, so it is actually a little worse than this.

The on-budget deficit for this year, the total deficit, the $477 billion the gentleman mentioned, does not count about $175 billion in Social Security and Medicare funds that were spent first before you went in debt another $477 billion. Almost $650 billion in total on-budget deficit, because we are supposed to be leaving Social Security and Medicare money for Social Security and Medicare.

Let me put these numbers in perspective. If you add up all of the money that we receive from the individual income tax, everybody's individual income tax, the total is less than $800 billion this year. We are pushing $700 billion in on-budget deficit. It is just totally out of control. This, I think, shows it.

I do not see how anybody who voted for the red can explain what is going on with the budget without starting off with an apology. And as far as we are concerned, we, the Congressional Black Caucus, voted for the green and against the red. So you cannot blame us for this.

Mr. CUMMINGS. Mr. Speaker, the gentleman just said something that is just so incredible. Let me make sure I heard the gentleman right.

Is the gentleman saying that in the United States, when people go on April 15 and they go through their tax returns and they look at all this money that has been sent to the Federal Government over the last year, taken from their checks every 2 weeks or every month, whatever, the gentleman is saying out of all the people that pay taxes in the United States, it amounts to about $800 billion?

Mr. SCOTT of Virginia. Less than $800 billion.

Mr. CUMMINGS. The gentleman is saying when you include the Social Security money——

Mr. SCOTT of Virginia. They had to spend the Social Security and Medicare surplus before they got to the $477 billion that the gentleman mentioned as a unified deficit. Less than $800 billion in individual income tax. That includes everybody.

Mr. CUMMINGS. That is incredible.

Mr. SCOTT of Virginia. To show how this deficit also looks, let us look at another way of looking at it, and that is, of the budget, how much of today's budget is paid for with borrowed money?

When President Clinton ran up a surplus, obviously we were not borrowing any money to pay for the operation of government. But when this administration came in, we started borrowing money, and in fact this year almost one-third, and with the new numbers, more than one-third of the on-budget spending is paid for with borrowed money. You borrow it from Medicare and Social Security, and then you borrow the rest, and over one-third is paid for with borrowed money.

You can see, we have not done that since World War II. We are in a peacetime economy, and we are borrowing a higher percentage of the Federal budget. The spending we have in the Federal budget, a higher percentage is paid for with borrowed money than at any time since World War II. This is irresponsible.

Now, how did we get in that mess? Well, we had tax cuts. Who got the tax cuts? I remember one candidate during the campaign, President Bush, said the vast majority of his tax cuts will go to those at the bottom. Let us see what that looks like on a chart.

The bottom 20 percent, the next 20 percent, the middle 20 percent, this is about what they got, the percentage of the tax cut they got. Then the fourth 20 percent. The upper 20 percent got 70 to 80 percent of the tax cut. In fact, the top 1 percent got more than half of the 2001 and 2003 tax cuts. The top 1 percent got more than half.

Now, just in case people want to know what they got out of it, because people say, you got a lot, you got a little, in terms of those who made over $1 million, that is what you got. If you made only $500,000 to $1 million, that is what you got. If you made $200,000 to $500,000, or $100,000 to 200,000, or $75,000 to $100,000.

As you get to what most people actually make on average, all of them, some pay a little more tax, depending on the number of children and deductions and whatnot, but $40,000 to $50,000, you hardly need any ink to draw the bar. Millionaires, off the chart. That is who got the tax cut.

When you run up all this deficit, you have debt; and debt is somewhat esoteric, but interest on the national debt is cash money. You have got to pay it.

Now, this black line is the interest on the national debt which we would have paid if we had not messed up the budget in 2001 with all these tax cuts. Under the Clinton Administration, when they left office, the projections at that time, before we messed up the budget in 2001, we would have paid off the entire national debt held by the public around 2008 to 2009. We were scheduled to pay zero interest on the national debt.

Instead, we offered those people the big tax cuts, ran up the debt, increased the debt and increased the interest on the national debt, so by 2008, 2009, 2010 we are going to be spending $300 billion on interest on the national debt rather than zero, because we ran up the debt, we were fiscally irresponsible.

Now, again remember, less than $800 billion, everybody's individual income tax; the first $300 billion, gone, interest on the national debt that we would not have had to pay.

We were told that we needed to get into that mess, run up the debt, run up the interest on the national debt, to create jobs. Let us see how we did.

This is the number of jobs created every 4 years since Harry Truman was in office. Harry Truman created jobs. Eisenhower created more jobs than we had when he came in; this is about 4 million. Kennedy, Johnson, Johnson, second administration, about 6 million. Nixon and Ford, everybody creating jobs. Clinton, almost 10 million first term, another 10 million the second term.

From 40 yards away, with bad vision, you can tell who is the worst since the Truman administration.

Now, every time something goes wrong, it is always 9/11. Three million jobs lost since the President came in office. 9/11 could not possibly be the cause of this any more than the Korean War stopped Truman from creating jobs. The Vietnam War did not stop Kennedy, Johnson and Nixon from creating jobs. The hostage situation in Iran did not stop Carter from creating jobs. The Cold War was going on all this time, Reagan, Bush. Clinton had Somalia, Grenada. Everybody is still creating jobs until you get here.

One of the problems, however, as you get into this situation, is Social Security. This is the cash flow for the Social Security trust fund. These purple lines represent the surplus we talked about that is bringing more money into Social Security than we are spending today. That will go on until about 2017. Then we start going into deficit.

This line at about 2022, 2025, that is $300 billion. That is about $1,000 for every man, woman and child in America. For a family of four, $4,000. Every man, woman and child, $1,000. When you get around 2032, you are up to $600 billion, or $2,000 for every man, woman and child. By 2037, a $1 trillion a year shortfall.

I admit if you look at this, you may conclude that there is nothing we could have done about that. $800 billion for individual income tax, you would have to spend all of that just to maintain Social Security by 2037. So maybe it was a lost cause. Maybe Social Security was a good idea, but it could never work.

Until you look back. You remember this chart where the top 1 percent got half the tax cut? The 2001, not 2003, just the 2001 tax cut, if you took the money that the top 1 percent got in the 2001 tax cut, and instead of giving a tax cut to the upper 1 percent, put that same amount of money into the Social Security trust fund, you would have run up the surplus to a point where you could have paid Social Security benefits without reducing benefits for 75 years. Or you can give the top 1 percent a tax cut and worry about this $1 trillion deficit when you get to it.

We made the choice. Excuse me, they made the choice, because the gentleman and I opposed the tax cuts and would have preferred making Social Security secure for the future, would have preferred paying off the national debt so we would not have had $300 billion a year to deal with in just a couple of years. We had other priorities: health care, Social Security, veterans benefits that this House voted to cut by $19 billion last year. We had other priorities. But we could have solved this with just what the top 1 percent got in the 2001 tax cut. They could have gotten all they got in the 2003 tax cut, just the 2001.

So when we look at this chart, you cannot create a chart like this by accident. You cannot have every single year under the Clinton administration, without exception, being better than the last, and every year in the Bush administration being worse than the last.

Let me tell you a little bit about this up-tick. Things will continue to get worse. But by 2014, technically, we might be back in balance if we do not do anything. If we do not do anything; that is, if we do not change present law.

The President has suggested that we make the tax cuts permanent, do not let them expire. If we are to go back into balance, we have to reject that initiative. The President has said, let us go to Mars for $1 trillion. If we want to get back into balance, we have to reject that initiative.

Let us privatize Social Security, take some money out, not put more money in the trust fund, for $1 trillion, to privatize Social Security. If we expect to go back into balance, we have to reject that initiative.

In other words, we have to reject all of the President's initiatives just to get back to balance. And if we do, we would have run up the debt so much in the meanwhile that we will be paying over $300 billion in interest on the national debt, rather than zero that we would have paid had we not messed up the budget.

Again, anyone who voted for the red and against the green ought to start off with an explanation of their vote and an apology.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman for his presentation. I think the gentleman said it best when he first started, that when you put it on charts, it really does make it very, very clear what is happening here.

I think one thing that is very sad though, as the gentleman went down one of those charts that shows who was getting the tax cuts, it says there the tax cuts go to the wealthiest Americans. One of the interesting things about that is that when you look at the folks who are not making a lot of money, some of them may have gotten $300, some may have gotten $400. But when you look at the reduction of services, say, for example, in my State of Maryland, tuition has gone up 10 or 20 percent for college kids and Pell grants have leveled off. I think in part because of our money problems.

Well, if a family got $300, say they got $400, the rise in tuition which they must pay if they are going to keep their kids in college, that wiped that out right there. That does not even go on to include all the other things that they will now have to pay for.

Mr. SCOTT of Virginia. And Maryland is suffering from the same budget crunch that Virginia is suffering from, all the States, virtually all the States are suffering from, where we are cutting back on services, cutting back on transportation, cutting back on health care, knocking people off of Medicaid. We are trying to provide more health care, and we are knocking people off. We are not creating jobs. We did not extend the unemployment benefits for those who are in areas of extremely high unemployment.

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Tuition has gone up. Your property taxes have gone up. Education funding, we are underfunding No Child Left Behind by $9 billion. And so the money that the States expected to get from No Child Left Behind they are not getting.

The State House of Delegates in Virginia voted 98 to one to reject the No Child Left Behind because they found that the unfunded mandates were not offset by the money that was supposed to come. Now, we knew when we passed that there were complicated mandates, expensive mandates in that bill, but the authorized spending would more than compensate for those mandates. Unfortunately, we did not send the money that we promised. We sent the mandates, did not send the money.

And so when you add up all those, would people rather have had decent public school education, would they rather have had decent health care, better roads, lower tuition? You add all those up, the little tax cut, and when you add it up, and unless we have a profound new direction, we will not be able to pay Social Security. You ask people whether they would rather have Social Security after 2017 or the $300 tax cut today. I think most people would say let us take care of Social Security first. And if I can get a tax cut, I would like one; but let us take care of Social Security first. We did not do that. We took care of tax cuts first.

And we are going to look at that Social Security chart, and who knows what we will be able to do in 2020 and 2025. Now, a lot of people pushed the ideas of personal responsibility. And the suggestion is that if there is no Social Security, your retirement will be your personal responsibility and we will not have Social Security. Like, what is the problem if you lose Social Security? You know, I got mine, I got investments. Is that the attitude?

Or should we adopt the philosophy that we have had since Franklin Roosevelt was President that senior citizens ought to be able to retire with some dignity. And whatever happens to their investments, whatever happens to the stock market, you ought to be able to have at least a minimum amount of money coming in for necessities, rent and food. And if all else goes badly, you ought to be able to have that.

And we are in a situation now where unless there is a profound change in direction, we will not be able to pay Social Security after it stops running a surplus. As a matter of fact, in this budget we have now, it is a 10-year budget, goes to 2014, we have, they say, it goes in the balance, but that includes a $275 billion Social Security surplus. Just in 3 years in 2017, it goes from $275 billion surplus to no surplus. We just had in 3 years a $275 billion hole in the budget. What provisions have been made for that? None. None. We will worry about it. And the challenge, quite frankly, I would say to my good friend, the gentleman from Maryland (Mr. CUMMINGS), the challenge is getting someone to acknowledge that there is a problem.

We had a Committee on the Budget meeting yesterday. We heard that when you look at this chart the economy was good. Good? We heard that the budget deficit was manageable.

You cannot get anyone to acknowledge that there is a problem. If we do not have a profound change in direction, we cannot pay Social Security. We cannot get anyone on the other side of the aisle to acknowledge that that constitutes a problem. If one does not acknowledge that there is a problem, one is certainly not going to come up with a painful solution. That is the problem that we have, this problem we have in this Congress today that making the tough choices is painful.

We made the tough choices in 1993 and suffered in the next campaign. Republicans picked up 50 seats with the budget vote, that responsible budget vote, as a primary issue in the campaign. And so we suffered because of that. But it was the right thing to do. I do not think anybody that voted for that budget, even those that lost their seats as a direct result of that vote, I do not think they think it was the wrong thing to do. When the 218th vote was cast, the Republicans started chanting bye-bye Marjorie. She had cast the 218th vote that passed the bill. And they waved bye-bye Marjorie and defeated her in the next election using that vote.

Mr. CUMMINGS. Mr. Speaker, I think, certainly, when we come to this House, we come here for the purpose of lifting up the people that we represent in making their lives better. And when you look at the jobless rate, which is 5.7 at the latest count, I think, it is 10.2 for African Americans, and then not counted in those figures are so many people that I am sure call your office quite often who have been out of work for so long, they basically are looking but they have pretty much given up hope, so their figures are not even in there.

Mr. SCOTT of Virginia. It is hard to put the magnitude of this mess into perspective; $300 billion more interest on the national debt in 2008, 2009 than we should have paid. Should have been zero. $300 billion. Do you know how many people you can hire at $30,000 apiece with $300 billion? 10 million. 10 million. Just deal out $30,000 jobs. 10 million. Do you know how many people are listed as unemployed in America today? Nine million. You can hire every unemployed person in America, offer each and every one a $30,000 job, and have money left over with the additional interest on the national debt that we are going to have to pay because the budget has been messed up, and we are going to be paying $300 billion in interest on the national debt rather than zero if we had stuck to the fiscal responsibility that was exercised when President Clinton vetoed irresponsible bills.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman from Virginia (Mr. SCOTT) very much. We really appreciate it. He did an outstanding job.

Mr. Speaker, I would yield to my colleague, the gentlewoman from Georgia (Ms. MAJETTE), one who has also put our budget concerns at the forefront of our Nation's mind and this Congress's mind and one who also believes in making sure that we spend the taxpayers' dollars effectively and efficiently and that we do those things that are reasonable to uplift all of the citizens of our great country.

Ms. MAJETTE. Mr. Speaker, I thank my colleague, the gentleman from Virginia (Mr. SCOTT) from the Committee on the Budget, for his excellent presentation.

Mr. Speaker, I rise this evening because the President's lack of solutions and lack of vision brings me to the floor.

This President's economic policies have had a devastating effect and devastating impact on this country and on hardworking Americans. His tax cuts have tied our hands and prevent us from solving the major challenges that we face in education, in health care, and in job creation.

The people in the 4th Congressional District of Georgia and across this country are looking for the American Dream. They work hard. They follow the rules. They are trying to get a small piece of the American Dream, but it is getting further and further out of their reach.

Let us start with jobs. Now, I am not talking about the economy and stock dividends and the stock market. I am talking about jobs, plain and simple. I am talking about replacing the 3 million jobs that have evaporated since this President took office. The American people want us to focus on creating more good-paying jobs, on providing a quality education for our children, on providing affordable and accessible health care for every American. These are the priorities of the hardworking people of Georgia's 4th Congressional District and the people of this Nation. But instead, this President talks about a mythical country where everyone is happy, healthy, well educated, and employed. But, obviously, he did not check in with the men and women who have been laid off from BellSouth in Atlanta and Brown & Williamson in Macon and General Electric in Stone Mountain or Delta or Coca Cola or Lord & Taylor, and the list goes on and on. Nor did he check in with the 1.4 million Americans who have lost their unemployment benefits and still cannot find a job and have been denied unemployment benefits because the Republicans insist they do not exist. But they do exist.

And we owe it to them, our husbands, our wives, our partners, our children, our friends, our neighbors. We owe it to them to make a real effort to create jobs.

We cannot afford to make tax cuts permanent for the very wealthy, and we absolutely cannot use Social Security money to pay for it. The American people deserve a leader who understands the meaning of a level playing field and has the vision and the will to make it happen.

Americans are hungry. They are hungry for a national strategy that focuses on providing good jobs, providing a strong public education system, and providing quality health care. And so we must keep the promises that we have made to the millions of Americans who have played by the rules, who have worked hard to find that piece of the American Dream. And it is just as important to keep the vision and the path clear for those who are still seeking that dream.

Abstinence education? A trip to Mars? Steroid use in professional sports? Those might be the priorities of this President; but, Mr. Speaker, I promise you those are not the priorities of most Americans.

Mr. CUMMINGS. I thank the gentlewoman from Georgia (Ms. MAJETTE) for her statement. I really appreciate the excellent statement addressing this issue to the Congressional Black Caucus.

I stood up again, and continue to stand up, with regard to the issues that affect all Americans. I have often said that a lot of times when people hear the words "Congressional Black Caucus" they just assume that the Congressional Black Caucus is only speaking for African American people. The fact is that the caucus, which represents collectively over 26 million people, more than one-third of whom are white, the fact is that we speak for America.

And with that I just want to summarize some of the things that have been already said. But before I do that, I am very pleased to yield to my colleague, the gentlewoman from the District of Columbia (Ms. NORTON), who is, as I said in a speech just yesterday, one of the strongest fighters that I have ever met, constantly on the battlefield addressing the issues that can bring harm to our citizens, but at the same time in doing those things that uplift them.

Ms. NORTON. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS) for yielding to me. I particularly thank him for this Special Order and for the emphasis this Special Order has taken as I was watching it. I want to thank my good friend, the gentleman from Virginia (Mr. SCOTT), for focusing on his charts and his very lucid explication on what is happening, particularly to baby boomers who are the retirees, many of whom have begun, those who are 62, already begun to take their benefits.

The reason I value what is happening on the floor is that discussions of deficits quickly go off into the arcane about economics and the rest. And I, of course, applaud those who call attention to what deficits do to slowing economic growth, through raising interest rates, to crowding private investment. But I must say to the average American, until the interest rate goes up on his or her car, there may be little understanding of what that means. I am very concerned with what it means in particular for the baby boomers who seem to me are in dire risk because of the President's budget which is not even out yet. It is already controversial.

CBO's projections, as I understand them, do not even take into account at least two huge items that are almost inevitably going to be before us. One is the alternative minimum tax and another is, of course, the President's very explicit statement when he was right before us last week that he wants to make the tax cuts permanent. We do not even include that in your projections. They were not even looking at the real possibilities here assuming that what the President wishes for tax cuts, in fact, does happen.

We, of course, are looking at the worst deficit in our history. My good friends on the other side tell us, well, it is really because of spending. If they would only stop spending, things would be okay.

☐ 1845

I have looked at the figures since 2001 and 9/11. Each year, 90 percent or more of the spending has been for defense and homeland security. In 2001, 95 percent of the funding increases were for defense and homeland security; 93 percent in 2002; 90 percent in 2003; 90 percent in 2004. It is not the spending, as they say, stupid. It is the tax cuts. And we have got to come to grips with that and face that reality if we want to do something about it.

Mr. Speaker, the baby boomers are those people who were born in 1946 or begin with those people born in 1946. They will begin to collect reduced Social Security payments in 2008 at 62 because you can do that. These same baby boomers are going to qualify for Medicare benefits when they get to be 65 in 2011. We already know what is happening to Medicare costs. They are rising so fast they have become an unbelievable figure.

What concerns me most is, what we are going to do now that we have already eaten up the surplus that we were putting into Social Security and Medicare trust funds. What are we going to do? We know that the Medicare bill says what we will do is, the Congress at a certain point in time will have to look at whether or not to cut benefits or to raise taxes.

Assuming we are in the same Congress we are in now, and I pray we are not, then, of course, what this Congress would look to do is to cut benefits. That would be a historic first. Therefore, when one begins to talk about the deficit, I have come to the floor to say that I think the Congressional Black Caucus tonight has put the emphasis where it belongs. Let us put it on some real bodies, the people who will suffer, the baby boomers who are already almost upon us.

For the moment, let us think of what the President already has proposed, the first step towards privatizing Social Security, which really sinks the whole thing and makes it impossible to even talk about where younger workers would be allowed to redirect part of their payroll taxes out of the Social Security trust funds and they themselves deal with private accounts. We have got to put all of this on the table and have an honest discussion about it.

I thank my good friends who have come to the floor tonight for beginning that very honest discussion.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman for her statement. We really appreciate it. The Congressional Black Caucus has looked at this budget situation, and I tell you there are some things that, the legal term is shocking to the conscience. When the gentleman from Virginia (Mr. SCOTT) presented those charts, I just hope America was listening and watching.

Mr. SCOTT of Virginia. Mr. Speaker, I just want to comment on one of things our colleague from Washington, D.C., said about cutting spending as the answer.

We had a hearing over on the Senate side a couple of days ago, and one of the witnesses suggested spending as the answer, but had to acknowledge that to get close to balancing, you would have to eliminate Federal funding for health care, Federal funding for transportation, totally eliminate Federal funding for education, and that would only get you back to balancing, not enough to pay off any of the national debt.

So if you are not going to do that, you ought to be honest. Also, when you talk about job loss, everybody says, well, you know, it was not our fault, it was not our fault. The fact is, when we were fiscally responsible in the 1990s when President Clinton was vetoing the massive tax cuts, we created jobs. As soon as this budget passed, we started losing jobs. That is what happened. Now you can explain it one way or another.

Finally, let me say that we do not often discuss it, but there are national security implications running up a big deficit. When we had to come up with 87 billion more dollars to continue the war in Iraq, we had to borrow the money. How much more money can you borrow? Suppose something else came up? When President Clinton left office, we had a $250 billion surplus, counting the Social Security surplus; and if we needed $87 billion, we could come up with $87 billion. Now we have to find people to borrow $87 billion from.

The fact is that many national governments are now holding hundreds of billions of dollars of our debt. Some are not our traditional allies. China, suppose we got into a negotiation with China over weapons of mass destruction, over trade policy, and in the middle of the negotiations they said, We are not going to buy a $100 billion of your paper next year unless you agree with us, unless you let us produce weapons of mass destruction, unless you agree with us on the trade deal, what would we do? Because if they stopped buying the paper or, even worse, if they sold it, interest rates would go up to double digits overnight. There would be nobody to buy it. So there are national security implications in running up this kind of debt.

Finally, we just have to acknowledge that balancing the budget is tough. There are no easy solutions. You cannot produce popular tax cuts and popular spending and think you can end up with a balanced budget. You have to make the tough decisions. That is what we did in 1993. They were politically unpopular, but we did the right thing. And that is what we need to get back to today; otherwise, it will get worse before it gets better and we will be spending hundreds of billions of dollars more than we need to in interest on the national debt, and we will have no way to address the Social Security shortfall that is right around the corner.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman from Virginia (Mr. SCOTT), the gentlewoman from the District of Columbia (Ms. NORTON) and the gentlewoman from Georgia (Ms. MAJETTE) for being a part of this hour.

If I could summarize for a moment, Mr. Speaker, over the past several days some of my colleagues, and even the President himself, have come to the House floor and to this Chamber discussing the need to address the national debt. They have said that the accumulation of this monstrous debt is to be blamed on congressional spending, as the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Virginia (Mr. SCOTT) said.

As a result, these same colleagues have promised to slash the spending dragons in Congress. The President in his State of the Union address promised the Nation fiscal restraint in his effort to slash the deficit in half over the next 5 years. I am not quite sure if we were all reading from the same CBO report. But surely if we were, the spending slashers must have missed a part of the report that pointed to the decrease in Federal revenue as a result of the Bush tax cuts as the major culprit in this steadily increasing Federal deficit.

Mr. Speaker, the CBO noted that if we were to allow the tax cuts to expire, then the deficit would gradually decline until the books balance in 2004.

But if we act to extend the tax cuts, as the President has urged the Congress to do in his State of the Union address, then we will run large deficits well into the next decade.

Again, Mr. Speaker, without any actions to further help Federal programs and agencies that are already fiscally deprived, the deficit would be nonexistent in the next 10 years. But if Congress follows the lead of the President, then the deficit will continue to spiral out of control, and we will be sticking our children and grandchildren with this enormous bill.

But let there be no mistake, this is not a spending-driven deficit. In less than a week, President Bush will send to Congress his budget for fiscal year 2005. According to a recent article in the Washington Post, that forecast will go out only 5 years, in effect, omitting the cost of extending the tax cuts. Yet, Mr. Speaker, I am sure the President will keep his promise to increase domestic spending to only 1 percent. In order to ensure that our children and generations yet unborn are not forced to bear the brunt of this administration's fiscal mismanagement, sacrifices must be made; and that is what the gentleman from Virginia (Mr. SCOTT) said, hard decisions for hard times. But these sacrifices should not be endured by my children or yours, and they should not be shouldered by those who are already struggling to carry the load that is theirs to bear.

In short, Mr. Speaker, I hope the President will exercise the compassionate side of his conservative agenda to hold the domestic programs sacred that educate our children, that would ensure that the 43 million plus people who are uninsured get some health insurance, that we would provide our first responders the resources they need to protect our borders and ports, and that we would protect the basic freedoms of our society.

Finally, Mr. Speaker, domestic discretionary spending represented only 17 percent of all Federal spending in 2004. When we consider that the President's own No Child Left Behind legislation to ensure a quality education to all of our Nation's schoolchildren was underfunded by over $7 billion in 2004, it begs the question, what is left to be cut?

When we further consider that in the land of wealth and opportunity, 43 million Americans have no health coverage, we must begin beg the question, what is left to be cut?

Mr. Speaker, these are critical issues that should be addressed in the President's budget. The Federal budget resolution is the blueprint for spending this Congress and our government will follow. What we do here will have a tremendous effect on the future of our country. We must get our fiscal house in order and bring our budget back into balance, and we must focus on investing in those things that will strengthen the basic needs of our fellow Americans.

Mr. Speaker, we will evaluate the President's budget closely and seek to determine whether he will make the right choices for America.

Mr. Speaker, it is simply irresponsible to mortgage our children's and our grandchildren's futures. When the President sends his budget to Congress next week, I hope it will reflect our national priorities and reflect an investment in our most important national interests, our children.

Mr. Speaker, I would ask, how much time do we have remaining?

The SPEAKER pro tempore (Mr. NEUGEBAUER). The gentleman from Maryland (Mr. CUMMINGS) has 13 minutes.

Mr. CUMMINGS. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, I thank the gentleman for yielding, the chairman of the Congressional Black Caucus. And I would like to inform him that I was tardy in arriving because I was informed that the Republicans would not be taking the next hour and that I would be taking the next hour instead.

So I want to continue the gentleman's discussion in the next hour, and I invite any Members who would like to come and join me in that endeavor.

I am going to talk about commonsense legislative priorities, and practically every priority I discuss will be related to budget and appropriations matters. And I want to thank those three Members. I watched the presentations. And starting with the Technicolor presentation of the gentleman from Virginia (Mr. SCOTT), I learned a great deal in terms of how you can graphically discuss what is happening in America. The chart with the Social Security was astounding.

I have a good friend, the gentleman from New York (Mr. NADLER), who would like to make a speech that Social Security is not in jeopardy. It will go on for a long, long time, and in the foreseeable future it will almost never reach a point where it would be out of money. But the gentleman from New York (Mr. NADLER) made those calculations a couple of years ago and he is still making them. He never anticipated the tax cut. He never anticipated the kind of recklessness that this administration has undertaken with respect to taking revenue out of the pot and driving us to a crises with respect to budget matters.

□ 1900

It is hard for people with common sense or ordinary Americans to understand the excesses and extremes that are embodied in the policies of this administration.

I did not hear any mention, but I am sure someone mentioned the fact that the war in Iraq by the most conservative estimates is spending $1 billion a week. That is a conservative estimate. A little arithmetic will let us know. A billion dollars a week, 52 weeks a year, that would be $52 billion a year in Iraq. We have already appropriated $87 billion and previously more than $70 billion. So about three times that amount, the $52 billion, has already been appropriated for the war. We are three times greater than $1 billion a week.

That defies the imagination, when we look at the fact that in the President's State of the Union speech he talked about not allowing the domestic budget to go beyond a 4 percent increase, which means that many domestic programs would have to be cut, while on the other hand he did not attach a percentage or a figure to additional appropriations that he would be asking the Congress for with respect to the war in Iraq.

We ought to focus in on budget and appropriations matters from one hour of the day to the next and from one day of the week and all the weeks and all the months. That is the issue, how are we going to expend the taxpayers' money to make a better life for the American people. We cannot talk about it too much.

Let us focus on the fact that in the Constitution, the Preamble, they talk about promoting the general welfare. We provide for the common defense, but in that same Preamble, they discuss promoting the general welfare.

How do we spend $1 billion a week in Iraq to promote the general welfare, or, really, three times that amount? It is $3 billion being spent somewhere over there. I do not know whether Halliburton is getting the other $2 billion or not. The estimates keep coming out. It is $1 billion a week; but when we add up the arithmetic, we see we get more. So what is Halliburton getting? How are they skewing that?

Halliburton Company admitted that in one transaction two of their employees have gotten a $6 million bribe. In one transaction, two of their employees have gotten $6 million. So we can see how big the figures are and how big the deals are and how corrupt and crooked the deals can become.

At the same time, over here, if we look at $1 billion, we can build 100 state-of-the-art schools for $10 million a piece with $1 billion. Make the contrast.

I heard my colleague from Virginia say that the interest on the national debt over a period of time is going to be $300 billion, and for $300 billion we can create 10 million jobs. Ten million jobs at $30,000 each, 10 million jobs for what we are going to pay in interest on the national debt because of the fact it is being recklessly racked up going forward.

So what is $30,000 a year, you say? That is not enough to inject a mission crunch, but that is more than most Americans are making when we look at the income for families of four. Last week, I think, in Barbara Walters "20/20" show, they had a discussion of myths that need to be demythologized, and they talked about are people happy if they have more money. It is interesting that they said that people making less than $30,000 a year, family of four, they are miserable, and between $30,000 and $50,000 they begin to rise, and at $50,000 a year, a family of four can really be happy. The real happiness is not affected after $50,000 on up, but between $30,000 and $50,000 people are miserable, unhappy and to reach a point where a family can really be happy.

I do not know how much science there is behind that. They do a lot of interviews, et cetera, but $30,000 per year can provide 10 million jobs. The gentleman from Virginia (Mr. SCOTT) said that before, and I think it is something we ought to take into consideration.

We are in a situation where common sense has been thrown out the window. Common sense is not driving policy in our Nation.

Mr. Speaker, I am going to continue this discussion in a few minutes, and I appreciate the gentleman having started this, and he has cause to be congratulated for focusing on what matters most, this budget.

Mr. CUMMINGS. Mr. Speaker, let me just say this. I would hope that the American people will have listened to what has been said tonight. I have often said and stated the quote that our children are the living messages we send to a future we will never see, and the fact is that when I think about our children being saddled with this tremendous debt and at the same time many of their parents are not working now so they can support them and many of them have been unemployed for many, many weeks and not getting any help, and I see our college students at colleges like Morgan State University and Fam U, where I was just a few weeks ago asking for help so they can go to school and do well and do better than their parents did, it does concern me; and I would hope that all of America will pay attention to what is going on in this great House.

To close out, I will yield to the gentlewoman from Ohio (Mrs. JONES) to close out, a distinguished member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, I appreciate this opportunity to be heard. I want to congratulate my colleague on his leadership as the head of the Congressional Black Caucus. He has been doing a fantastic job, and all the people across America and across the world need to know that the gentleman from Maryland (Mr. CUMMINGS) is leading the charge on behalf of the Congressional Black Caucus.

Mr. Speaker, as a member of the Congressional Black Caucus and a member of the Committee on Ways and Means, I rise to discuss our Nation's budget priorities. The Congressional Budget Office's most recent report identified an optimistic increase in economic growth, while the outlook deficit worsened by over $1 trillion in fiscal year 2004. The administration's tax cutting agenda is largely responsible for that turnaround. Yet the administration will continue to push for making the tax cuts permanent. Under the administration's stewardship, the $5.6 trillion surplus estimated by CBO in 2001 has entirely disappeared, replaced by $2.4 trillion in deficits.

Please understand that our Nation's economic growth results from an increase in capital income while income from wages and salaries have decreased. Since this administration's policy taxes wages and income and affords tax breaks and shelters on capital income, much of our Nation's income and economic growth is removed from the tax base.

Under the administration's stewardship, that $5.6 trillion surplus estimated in 2001 has entirely disappeared.

Budget deficits are harmful to longer-run economic growth for the simple reason they decrease national saving by directly reducing the public sector's contribution to saving. Given that the retirement of the baby boomers is now within the 10-year budget window, policy-makers should be focusing on ways to increase, not reduce, national saving. It is not at all clear that the stated deficit reduction goals of this administration are sufficient to prepare for this imminent increase in fiscal pressures.

Despite the economy's current "recovery," we have continued to lose jobs, over three-fourths of 1 million jobs, in fact, since the end of the recession in 2001. Of the 8.4 million unemployed workers, 1.9 million of them have been unemployed for more than 26 weeks. Moreover, the 8.4 million does not include about 4.4 million additional Americans who want a job but are not counted among the unemployed, nor the additional 4.7 million people who are underemployed.

The President unveiled a new job-training program in the State of the Union, including grants to community colleges, but this is really a mere pittance compared to the job losses.

It is vital that we establish policy that will provide jobs to all of those citizens who have become unemployed in the previous 4 years. America's highways provide an opportunity to create jobs throughout communities nationwide. Every $1 billion that we invest in transportation generates more than $2 billion in economic activity. Our roads, ports, and rails are essential to America's economic success; but they are deteriorating.

Mr. Speaker, I encourage my colleagues to take a look at this budget that this administration has put forth and make statements that it is not sufficient, that it is not doing the things that we need.

I thank the gentleman for the opportunity.

Mr. CUMMINGS. Mr. Speaker, I thank my colleagues very much.

## BARBARISM

The SPEAKER pro tempore (Mr. NEUGEBAUER). Under the Speaker's announced policy of January 7, 2003, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I would like to continue the discussion that we have just had in a slightly different vein. I would like to broaden it beyond numbers and figures and talk a little more of philosophy with the understanding that we decision-makers here in the Congress, all of us are very bright people. One does not get to Congress unless they are very bright. So whether it is Republican or Democrat, we have bright and educated people who are here. If they make decisions that are wrong, it is not because they are not knowledgeable. So I am not going to question the knowledge of anyone.

I do want to question the fact that we have allowed ourselves to be swayed into a situation where we make some very irresponsible decisions; and beyond irresponsible, we make some barbaric decisions.

I have got barbarism on my mind because I am sort of a captive of a series running on the History Channel right now called "The Barbarians," and they got Attila and the Tartars. They have got all these different obvious barbaric groups that for a certain period of time captured the known civilized world at that time and held it as their own.

I was surprised to see they interjected into these obvious, understood to be barbaric groups that usually assign the concept of barbarism to, they have interjected the story of Hitler. "Tyrant of Terror" is the name of that series, and they also put the Japanese war crimes trials in another section.

So what we have is these barbarians who seem to be guys who ate raw meat and they scalped people and they burned cities to the ground. They raped any female in sight.

This series is also saying there are people who have risen to a new level of culture, the people who listen to Beethoven and Bach and go to the opera and who have enjoyed the legacy of great writers, others and Shakespearean translation. Those people allowed themselves to be captured by a barbarian philosophy, to be led by a barbarian, probably the world's greatest war machine.

The German war machine was the world's greatest war machine that probably ever existed. Instead of being a war machine for defense and for the promotion of peace in the world, it was a war machine that was put to the spread of terror; and there are a few decisions, with one or two signatures, the Gestapo could send millions of people to their death.

Conan the Barbarian, Attila the Hun, and all the other barbarians together did not kill as many people as the terror of Hitler did, both in concentration camps, in the case of people they considered undesirable, Jews and weak people and disabled people, and on the battlefield. On the battlefield they slaughtered millions. Russia estimates that the Soviet Union lost about 18 million people in that war.

So here is a very well-advanced group in terms of art, music, literature and, most of all, in terms of science, military science; and they behaved and caused more damage than all the other barbarians put together.

What does this have to do with America? What does it have to do with this discussion? I want to talk about commonsense legislative priorities, and I want to talk about the other extreme away from common sense. There is in the middle irresponsibility, and at the extreme is barbarism. Barbaric decisions can be made in this House in this Capitol, a combination of Congress and the President, barbaric decisions with barbaric consequences.

□ 1915

And we ought to think deeply about that. We ought to think deeply about it because a few hundred years from now historians will be writing and looking back on the history of the world, and I think they would say that the American civilization brought mankind to a level never dreamed of before. Our constitutional civilization brought mankind to a point which is unrivaled anywhere else.

We have the promise to continue to take civilization forward. We have the promise to do what has never been done in the world before. We already have done more for ordinary people. The masses of people live better, with more hope and happiness and necessities being provided than in any other society that has ever existed in the history of the world. We are the United States of America. And I often say nothing else has ever existed like this in terms of wealth and power. The Roman Empire was a village compared to the United States of America.

I think we have great responsibilities as a consequence of that. I think that God has blessed America. God has blessed America in so many ways in terms of just natural resources, land, periods of peace, and on and on it goes, with great leaders who have come forward at the right time to take care of crises and reestablished the Nation on the right route. We have so much that we can appreciate, and I think we are indebted to God as a result.

In fact, I am sure when God looks down on the kinds of things we propose sometimes and the number of children still hungry in America, he must weep; when he looks upon the kind of magnificent medical advances that we have made and still people in need die for lack of good medical treatment, with 40 million people uninsured in the richest most powerful Nation that ever existed.

So we should stop at this point as we go into the year 2004, which is a Presidential election year, and in addition to considering the numbers and the revenue estimates and the expenditure estimates think very closely about what are we deciding to do with the available resources. Taxpayers should not say I am against big spending; I do not want to spend any more money. The question is what do we spend money for. Are we against big spending if it is going to provide prescription drug benefits for senior citizens or, in the final analysis, for all who need them; if prescription drug benefits are a part of our civilization?

There would be no magic drugs, no wonder drugs if it had not been for the group investment and the investment of government in research and the investment of the government in education. We invented constitutional civilization on the one hand, but we did a lot of great things after that. The Morrill Act, which is little known by most Americans, the Morrill Act established land grant colleges in every State.

Land grant colleges were pretty much patterned after Thomas Jefferson's University of Virginia. They were established to go beyond the study of philosophy and art and literature and study practical things. They were established to study agriculture and mechanics. The legacy of the land grant college is that it established throughout the whole United States centers of learning, which were not just centers of learning in the usual sense, but centers of learning which focused on everything there was to be learned about anything that existed in order to make life easier for all of us.

Out of those centers of learning came the production of agriculture. In the world today it is unparalleled what we do in agriculture. That was one of the priorities of land grant colleges. But also out of the land grant colleges engineering feats and devices and procedures and so forth have evolved. Out of the learned world that we created, not by accident but by legislation, we have a dynamic out there which has produced these marvels of science in every area, including the area of medicine.

So it belongs to all the people. It belongs to the people of the United States who are the recipients of that part of the Constitution which talks about promoting the general welfare. We have lost our way, and we need some common sense to go back and reread the Preamble to the Constitution and understand the real meaning of that. They did not say promote the welfare of just the corporations. They did not say promote the welfare of the 1 percent of the richest Americans. They did not say promote the general welfare of people who have college educations. They said promote the general welfare. We as a Nation can stand together and exist only if we clearly understand what that means.

There is a time when we do not hesitate to call upon our citizens to risk their lives in this process of promoting the general welfare and providing for the defense of the country. The very fact that nations do not hesitate to call upon their citizens and demand that they go forward in times of crises when the Nation is threatened: the draft in World War I, the draft in World War II, Korea. On what basis, what right do we have to draft ordinary people, most of them poor, many of them from working families? On what basis can we do that? What moral principle is at work there? It is an assumption that we are all a part of this country. And when the time comes for the country to be defended, then everybody has an obligation. And if we do not have volunteers, the government has the right to draft.

If we accept that, then the government has an obligation to make certain that our families are taken care of, at least to provide a job and the opportunity to earn a living. The government has an obligation to deal with the elderly who no longer can work. Social Security is not a luxury. Social Security is a manifestation of the American civilization.

We were not the first to get Social Security, so I will not say we invented it. There are nations in the world, particularly in Europe, who might have had it first. But as far as the change in American construct and the dedication of our resources, Social Security was a great step forward. Of course, there was Franklin Roosevelt and the New Deal in a time of crisis, and later on the protege of Franklin Roosevelt, Lyndon Johnson, took it further and we got Medicare and Medicaid. Now we want to trivialize some of these great achievements.

At the beginning of the second year of the 108th Congress, I would like us to take a hard look at some commonsense legislative priorities, and those legislative priorities all involve budgets and appropriations. And before we can get to budgets and appropriations, we have to talk about taxes. We cannot talk about any of this unless we go to the core of our problem at this moment in our history.

The core of the problem of decisionmaking in America right now is the war in Iraq. The war in Iraq can make us or break us. The war in Iraq will make us behave like barbarians if we are not careful. We will make barbaric decisions if we do not get control of what is happening in Iraq.

I will not talk about the rationale for going to war. I will not talk about recklessly pulling out of Iraq at this point. Yes, we do need to take a look at the billions of dollars that we have appropriated. I did not vote for the $87 billion, but I hope that it is going to help those troops who did not have modern bullet-proof vests and communication equipment that they needed. There all kinds of things that have come to light in terms of the way our military treats some of its soldiers that need to be dealt with in terms of this war in Iraq. We are going to make people stay there longer. There are National Guardsmen and Reservists, people who never dreamed they were going to be in a combat situation for a year at least and being told that even after that year we cannot guarantee that they are going to get out.

There are things happening which have nothing to do with dollars and cents that we have to deal with, and dollars and cents are a part of the problem; spending more money on the right things and not letting Halliburton charge enormous prices for gasoline, not letting Halliburton employees pay or receive bribes in order to pay unscrupulous people in Kuwait and other places to overcharge us for services and equipment.

I see I have been joined by my colleague from New Jersey, Mr. Speaker, so at this point I would be happy to yield to him.

Mr. PAYNE. Mr. Speaker, I thank the gentleman for yielding, and I would like to commend the Congressional Black Caucus for taking time out the first hour and now the gentleman from New York's second hour talking about the budget priorities because the budget is so important. The budget will determine how this Nation will survive during the next decades. It is important that we look at the budget priorities because, as I mentioned, it will say where we are going as a Nation.

Mr. Speaker, as I join my colleagues in the Congressional Black Caucus in urging a reordering of the Nation's budget priorities, I think it is very important that we just listen to what the President has said.

State of the Union Speech and the Budget: Rhetoric Versus Reality.

Of course, as we know, the President talked about the fact that jobs would be created. He said 2.9 million jobs, I think, would be created: but we have lost 2.3 million since he has been in.

There are claims that more tax cuts would create jobs, not supported by facts. Claims about job growth, certainly overstated. Questionable commitment to manufacturing initiatives. We will talk about that a little more. Additional tax cuts will cost $1 trillion. Relief from the alternative minimum tax could cost nearly $700 billion. Up to $1 trillion will be needed for Social Security privatization plan. New tax-free accounts will have long-term impact on our deficit. The Mars proposal is likely to cost hundreds of billions of dollars.

The administration's budget has omitted the cost of the war in Iraq and Afghanistan. Job training funds are just a drop in the bucket of what is needed. Proposal for drug testing and abstinence, but no additional funds for basic education. Basing Pell grant awards on course selections and not economic needs. Inefficient plans to help the underserved. Flawed efforts to lower health care costs. Additional health proposals that assist the healthy and the wealthy. No mention of veterans.

So as I go around my congressional district talking with my constituents, I hear a great deal of concern voiced about the direction in which our country is moving. I have not heard anyone tell me that their family has benefited from the tax cut which has taken billions of dollars away from vital areas of the budget. The concern I hear raised is about education, including Head Start, after-school programs, college loans, Pell grants, and the need for affordable housing. They talk about access to quality health care and a healthier environment.

So as I conclude, if the President supports the manufacturing sector of our economy, why did his administration propose earlier to phase out Federal support for the Manufacturing Extension Partnership program? If he supports job creation, why did his administration try to cut adult training and vocational education? If he cares about education, why did his administration propose a change to focus the Pell grant program away from making college affordable to low-income undergraduates?

Mr. Speaker, when the President took office, he inherited an amazing budget surplus of $5.6 trillion over 10 years. That has been squandered totally to the point where we have a $3 trillion deficit projected.

□ 1930

Does it make any sense to talk about missions to the Moon and Mars when the basic needs of our communities are not being met? We do not even have the true cost of the war in Iraq, a war we entered based on the administration's statements that Iraq definitely had weapons of mass destruction, none of which have been found, despite months and months of searching.

We are asked to spend $87 billion for new schools and prisons in Iraq, while schools in some of our communities are falling apart. It is time for us to restore some of the fairness and sanity to our budget process.

I look forward to working with my colleagues and hopefully with the administration to turn these things around.

Mr. OWENS. Mr. Speaker, the gentleman from New Jersey, I am sure, has had the experience that I have had, that they were glad to get the income tax check from the government because their unemployment was running out. That immediate cash was great, but the unemployment insurance would be far greater, an extension of it, would be a far greater benefit for any family than a sole check for $300. That is the kind of education that we have to give.

Mr. PAYNE. The gentleman might remember there was supposed to be a .2 percent drop in the unemployment rate, and the administration said, see, we are doing the right thing. However, it was because tens of thousands of persons seeking employment simply decided to drop out of the market of seeking employment. Some decided to go back to school; others just disappeared. So the actual unemployment rate, even though they said it dropped two-tenths of 1 percent, this month there are more people unemployed than previously unemployed; but if you do not seek a job, you are not counted. It is a flawed kind of statistic that says that unemployment is dropping. It is not dropping.

It is a shame that we are even having this so-called jobless recovery. What does a jobless recovery mean? It simply means in the pockets of the corporations, because of the sending jobs offshore, they claim productivity is up. That is because when you pick up your phone to call a 1–800 number, it is picked up in Bombay or offshore. Doctors, I understand, when they do an EKG, it goes up and someone in an English-speaking developing country who is a trained physician looks at it and sends back what the diagnosis should be; therefore, the cost of a physician in our country is undercut. We saw the offshore development of textiles and toys and things, but now we are seeing high-level jobs also going offshore, and nobody is talking about that.

Mr. OWENS. Mr. Speaker, the word "outsourcing" ought to be branded into the minds of every young American. The folks with great hopes that if they stay in school and get an education, become a programmer or technician, that they were guaranteed a job, but outsourcing beyond the movement of manufacturing jobs, which has taken place already and taking jobs away from people who are not educated, entry-level people, the outsourcing is going to take everything. The highest and most complex jobs in science can be outsourced. You can have Russian and Chinese physicists, space experts in Japan, India. They are the people who will be filling those positions while the corporations that we have given the contracts to make big profits because they can get those people by paying them in 1 year what a scientist or a technician would cost for a month here.

That outsourcing is a concept that ought to be branded into the mind of every young American. That is the death knell of our economy because as they do that, they take the last group of jobs that we feel secure about, and take away our consumer spending power. Our economy is driven by consumers, and it seems corporations do not care about that. They are looking at their individual bottom line, how much they can make.

In one of the papers in my area there was a front-page article about the bonuses received by corporate CEOs at Christmas time. One of them got $18 million as a bonus, one got $4 million, $7 million. They want more. In order to get more, they will outsource and lower the cost of doing services. Where do we go from there unless we realize that our jobs as legislators and our job as American citizens is for a way to promote the general welfare in America. That means new laws and new policies and pulling out of trade agreements. Whatever is necessary, we have to promote the general welfare in America first.

Mr. PAYNE. Mr. Speaker, as the gentleman mentioned, we talk about promoting the general welfare and we talk about providing for the common defense. There is no question that we have provided for the common defense even above the defense, but in a military budget that is a different budget than a defense budget. But are we providing for the other things that we said? We are not. Architects and engineers, buildings to be designed are being outsourced. We would like to have a 30-story building with glass and chrome; and you write up something and send it out, and engineers and architects in India are coming up with architectural designs for companies that win the bids.

Mr. OWENS. The gentleman mentioned India. Members ought to know that the Massachusetts Institute of Technology is not now considered the greatest institute of technology in the world, there is one in India that has surpassed the Massachusetts Institute of Technology. And all over the world, they are seeking the graduates of that institution in India. We let that happen, despite the act which created all the land grant colleges, and how did we let ourselves fall behind anybody in the provision of first-rate education?

Mr. PAYNE. And even the fact that the CEOs' ratio of pay to the worker in many countries, it may be 50 to 1, 55 to 1 ratio.

Mr. OWENS. Maybe the gentleman can explain that.

Mr. PAYNE. The ratio is how much more the CEO makes than the regular worker. If a worker is making $30,000 a year, in many countries the CEO would be making maybe 10 times that amount at the highest, $300,000, maybe 15 times in some places.

In the United States, it is almost difficult to quantify what the average salary is and what the CEOs are making. Pharmaceutical CEOs make between 25 and $30 million. That is the salary. That is what they make with bonuses, stock options, and salaries. In all of the industries, we see these salaries that are so far above what the average worker's salary is, it is difficult to quantify. I am afraid to give that number. It recently appeared in a New York paper about a week or so ago. We are driving people down.

The middle class is being squeezed. That little $300 people got as a tax rebate, while others got millions of dollars. I congratulate Senator CORZINE who is a very wealthy person. He said he did not want the tax cut. He did not need it. He thought it was unfair when people who are struggling daily to make a living, just to move ahead.

We have people who cannot afford bus tickets for two or three kids going to high school, and a kid may have to drop out because the family cannot afford it. It is $50 a month in Newark. With three kids, it is $150. That is just one of the costs. We are making it difficult for struggling, working people to make ends meet.

The cost of education and health care have gone through the roof, whereas our wages have not only leveled off; they have dropped. We have not had an increase in minimum wage in years.

Mr. OWENS. It has been 7 years since we have had an increase in minimum wage. It is frozen at $5.15 an hour. On that, you cannot get out of the poverty even if you work 40 hours a week every week of the year.

Mr. PAYNE. Finally, the Department of Labor as they are making new categories for workers who are ineligible for overtime through regulations, even though it has not been finalized, from what I understand on the Department of Labor's Web site, there are instructions for companies that might qualify on how they can move to take people in a new category as being ineligible for overtime pay and in steps one through five, how they can accomplish that. We are driving down the salaries of American workers and outsourcing of jobs going abroad. They said that would create more jobs in America in certain categories of jobs once the PRC, the People's Republic of China, continued to grow economically. We have not seen the impact here.

Mr. Speaker, I appreciate the gentleman allowing me this opportunity to have this discussion.

Mr. OWENS. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PAYNE) for joining me. We are not really covering a wide range of topics. There is a center. We are searching for commonsense legislative priorities, and those priorities will have to relate to budget appropriation and taxes.

Is it perhaps barbaric that the ratio of the salary of the CEO to the worker can be 300 to 400 times as much as the average worker, plus bonuses, investments, et cetera? And to increase that, you indulge in outsourcing and move jobs overseas to lower markets. Where does it end? Is that greed not approaching barbarism?

There are two kinds of barbaric behavior. One is obviously the kind yielded by the people on the top. Attila the Hun, he and his henchmen yielded a certain kind of power, just as Hitler did. They yielded a certain kind of barbaric power over their people.

On the other hand, the people at the bottom, the masses of the people, might worry also about barbaric behavior that they indulge in.

Certainly in America every individual who is born in this Nation has a right to vote and should worry about the fact that we allow our government and our leadership to get out of control and reach the point where they are doing barbaric things and contemplating barbaric policies. The wiping out of Social Security through the failure to take in appropriate revenue, the raiding of Social Security to balance budgets, and a proposal to privatize Social Security for young people so the amount of money going into the Social Security trust fund would be greatly reduced at a time when the number of people who are qualifying for Social Security would be increased, that is a barbaric proposal in my opinion. We need to meet it that way.

I hate to talk about anger because it seems that anger is not popular these days, but there is a time to get angry. There is a time to get angry. I have quoted on this floor the quote from Shakespeare's "King Lear" when King Lear has given away his kingdom to his daughters and had great faith in them that they would take care of him, and they tell him he is in the way and he does not even need bodyguards. It finally dawns on him that they have betrayed him, and they are evil people. He says, "Fool me not so much to bear it tamely; touch me with noble anger."

Mr. Speaker, there is a time for noble anger. I think Jesus Christ driving the money lenders out of the temple displayed anger. There is a time for noble anger, and the people on the bottom who are tolerating this unnecessary suffering in the richest Nation that ever existed need to get angry. While they are getting angry, they should get angry with themselves and angry with their neighbors, and anybody that does not vote should be treated as a pariah.

□ 1945

If you do not have a good excuse for not voting, you have degraded yourself.

In this constitutional civilization that we have created, the power is really in the hands of the people.

This is a Presidential election year. In the last Presidential election year, less than 51 percent of the people went out to vote. About 51 percent. That means 49 percent did not bother to go to vote for President. You know if they did not vote for President, they did not vote for Senators, a greater percentage did not vote for Members of Congress and, as you go down the line, city council, all this great democracy of ours going to waste. The people on the bottom want to act like barbarians. They want to act helpless and not do anything about it. They want to sit and watch the CEOs make enormous amounts of money while they move the job-producing, life-producing industries out of the country at the same time they demand that your son, your daughter must serve in the defense of the country when the country is threatened.

Those who have the most, the CEOs and the corporations, they have the most to defend. They have the greatest stake. Yet they do not go out to fight like Attila the Hun on the battlefield. They do not go out personally. They do not send their children or their relatives. They call on all Americans to rise to the defense of their country, and they have the right to demand that they do it via a draft. We do not have a draft right now. People say that is a word you should not be using, that it is not relevant. Every 18-year-old male in America has to register for the draft, right now. Every 18-year-old in America. That is the leftover piece, which, if the war in Iraq continues, there is no way to sustain the war in Iraq and to leave it with some degree of accomplishment without increasing the number of troops and probably there has to be a draft if we do not solve that problem.

But back to the greed of the corporations and the greed that has been encouraged by the policies of this administration, this present administration. The Congressional Budget Office has released a new report. It is the kind of thing that some people on the bottom who do not like to read in general, who only want to watch television, you better start reading, barbarians at the bottom, so you know what to get angry about and you know that your days are numbered in this great Nation of ours. Your prosperity may suddenly be over one day if you continue to let these outrageous atrocities, economic atrocities be created.

"The Congressional Budget Office's new report on the Federal budget demonstrates that the return of large budget deficits is more a reflection of diminished revenues than, as some have recently implied, of increased spending." We are getting less money via taxes. It is not that big government is spending more. It is that you are getting less money because you have decreased the taxes on the richest people in America.

"CBO estimates that revenues in 2004 will drop to historically low levels, their lowest level as a share of the economy since the Truman administration. Spending, in contrast, will not be at a particularly high level. As a share of the economy, spending will be lower in 2004 than it was in every year from 1975 through 1996."

They have a little box here at the bottom of the page that says, "Key Facts That Emerge from the CBO Data. In 2004 as a share of the economy, one, Federal revenues will fall to their lowest level since 1950; two, Federal spending will be lower than in any year from 1975 through 1996, and thus will be lower than throughout the administrations of Presidents Carter and Reagan and the first President Bush. In explaining the shift from a large surplus in 2000 to a large deficit in 2004, the drop in revenues since 2000 accounts for more than three times as much of the fiscal deterioration as the increase in expenditures."

We are not spending ourselves into a deficit. We are failing to collect taxes from those who have gained the most benefits from our society and can afford to pay larger amounts in taxes. We have a barbaric grab for more and more money. There is a way that we could finance Social Security in the future. There is a way we can end this pressure on individuals and families, even rich families, by changing our Tax Code in a way which focuses more taxes on corporations instead of families and individuals.

Shortly after World War II, corporations were paying nearly 40 percent of the total tax burden. Corporate taxes accounted for about 40 percent of the total tax burden. Individuals and families accounted for about 44 percent of the total tax burden. There were other kinds of taxes which produced the rest. At this moment in history, individuals and families still, despite the tax cuts, are way up there in terms of their percentage of the total tax burden. Corporations are down between 8 and 10 percent. The tax on corporations is down to between 8 and 10 percent. Most of us are not looking in that direction. Neither party has taken a hard look at what it would mean if we were to impose greater taxes on corporations instead of on individuals.

A tax cut is in order for the middle class. I do not agree with people who say we should wipe out all tax cuts. We need to certainly relieve middle-class families with tax cuts. But what you lose when you do that, you can gain from greater taxes on corporations, and they will not feel the pain. It is one way to get back the money they make as a result of outsourcing. They are making greater and greater profits. They produce goods and services at greater profits by going to the cheapest labor markets throughout the world. They come back here, and they sell what they have to offer in goods and services at a level commensurate with our economy. We are paying the same prices.

The difference is in profit, enormous profits that are being reaped by the corporations. The tax problems of America can be resolved if we focus on taxing corporations more and getting the money we need to do a vast amount of retraining and education and the things needed to make our society able to compete in the increasingly high-tech industry competition. We used to think that no matter what happens, we are going to be the leaders in high-tech industries, no matter what happens. We never dreamed that the Massachusetts Institute of Technology would not forever be the greatest of its kind. But the Indians speak English, too. Pakistanis speak English. Their governments made some conscious decisions about how they wanted to educate a portion of their population and they are now challenging us. They are challenging us and the Chinese are learning more and more English all the time. They have an enormous population. If they only educate one-fifth of it. It is an enormous hoard of people who have education and can compete at very low salary levels for any kind of job you might want.

The Soviet Union, of course, has been counted out, but one thing that Stalin and the whole bunch of dictators did was create a massive education system, and the residue of that is still there. They are very educated people. They are learning English, too; and the competition from Soviet scientists will be there for American scientists. There is nothing that outsourcing will leave untouched.

Mr. Speaker, I submit for the RECORD this first page of the "Center on Budget and Policy Priorities" report that I just read from in its entirety.

[From the Center on Budget and Policy Priorities, Jan. 26, 2004]

### CBO FIGURES INDICATE LOWER REVENUES, NOT HIGHER SPENDING, ACCOUNT FOR THE LARGE DEFICIT

### AS A SHARE OF THE ECONOMY, REVENUES TO HIT LOWEST LEVEL IN 54 YEARS

(By Isaac Shapiro and Joel Friedman)

The Congressional Budget Office's new report on the federal budget demonstrates that the return of large budget deficits is more a reflection of diminished revenues than, as some have recently implied, of increased spending. CBO estimates that revenues in 2004 will drop to historically low levels, their lowest level as a share of the economy since the Truman Administration. Spending, in contrast, will not be at a particularly high level. As a share of the economy, spending will be lower in 2004 than it was in every year from 1975 through 1996.

On the revenue side:

CBO projects that revenues will fall to 15.8 percent of the economy in 2004. This is the lowest level since 1950. (The figures in this analysis focus on revenues and spending as a share of the Gross Domestic Product, labeled here as the "economy." The Gross Domestic Product is the basic measure of the size of the economy. Measuring spending and revenues as a share of the economy is the standard way that economists and budget analysts examine changes in the levels of revenues and spending over time.)

CBO projects that income tax revenues (including both the individual and corporate income tax) will equal 8.0 percent of the economy in 2004. This is the lowest level since 1942.

Without the tax cuts enacted in recent years—which will reduce revenues by $264 billion in 2004, according to Joint Committee on Taxation estimates—revenues as a share of the economy would not be close to a historically low level.

### KEY FACTS THAT EMERGE FROM THE CBO DATA

In 2004, as a share of the economy:

Federal revenues will fall to their lowest level since 1950, during the Truman Administration.

Federal spending will be lower than in every year from 1975 through 1996 (and thus will be lower than throughout the administrations of Presidents Carter and Reagan and the first President Bush).

In explaining the shift from a large surplus in 2000 to a large deficit in 2004, the drop in revenues since 2000 accounts for more than three times as much of the fiscal deterioration as the increase in expenditures.

Mr. Speaker, we started the evening with colleagues of mine from the Congressional Black Caucus discussing budget matters. I consider my discussion to be an extension of that discussion. Commonsense legislative priorities deal with budget and appropriations and taxes first. This Congressional Black Caucus budget, a budget to leave no family behind for fiscal year 2004, is still relevant. It is relevant in terms of the kind of priorities we set forth. We united with the Congressional Progressive Caucus and produced a budget which we are quite proud of. I am just going to read some of the principles that were set forth in our Congressional Black Caucus budget because it relates to the kind of priorities that we need to establish:

"Basic Assumptions and Principles for an Alternative Budget of the Congressional Black Caucus and the Congressional Progressive Caucus."

1. A smaller, streamlined and efficient government should be the goal of all lawmakers; however, there must be enough revenue and resources to carry out the vital functions of our complex American society. It is absolutely necessary that we maintain an adequate investment in human development. Education comes first in terms of keeping our civilization moving forward. We are drastically cutting funding for education at the higher education level and at the elementary and secondary education level. No Child Left Behind has no clout because of the fact that the President refused to fully fund the bill.

2. Federal assistance for education, health care, housing, child care, transportation, worker safety and protection, and business development is as vital as support for homeland security and defense. Somehow we get off on these tangents and we define priorities in terms of some buzz words, homeland security and defense. Education is our greatest defense. An educated population is our greatest bulwark against invasion economically or militarily. The high-tech army that went into Iraq would not be possible if you did not have very educated personnel in that army. The kind of projections being made by the homeland security people of germ warfare being sneaked into the country or anthrax and various other destructive actions by terrorists, you need an educated population to deal with those kinds of crises and threats. Therefore, it is very important that we understand that assistance for education is as important as the specific dollars that we label homeland security and defense.

3. The imperative of the government to provide for the Nation's security can be effectively implemented and sustained only if all of the vital investments in human development are assigned priority on a continuing basis. This second session of the 108th Congress must get back to looking at education. No Child Left Behind cannot be the last discussion and the last word on education. We have a higher education bill to reauthorize, and we are stumbling along on that trying to find ways to do the least amount for our higher education students when it is a time when we ought to be doing the most amount for them.

4. While the taxing of middle income and working families must be reduced and maintained at the lowest possible levels, the Federal Government must nevertheless secure the revenue it needs by upwardly adjusting the tax rates on corporate entities and by creatively seeking larger fees from publicly owned resources such as the spectrum, the Internet, and public lands and waterways. We throw away, we the American people give to private interests and corporations some of our greatest resources. The spectrum, the air above us, has made many people rich. We should look at the ways in which we can make better use of these resources for all of the people in terms of selling bandwidths in the spectrum, leasing it, renting it, taxing the Internet. None of that should be off-limits while billions are made by accident to be in a place where they can take advantage of it. If you want taxes, there are plenty of ways to get them without going into the pockets of middle-class families to get that revenue.

5. There should be an end to the tax system as we know it and a revamping which reduces the portion of the tax burden borne by individuals and families to less than 50 percent of the overall tax burden. Corporate entities utilizing the collective and accumulated knowledge and institutional support of the total society will continue to grow and prosper. Such recipients of publicly sponsored research and development protected by the legal system must pay their fair share in terms of meeting the revenue needs of the Nation.

We have other items here related to health, human services, and safety nets. While the recently released Democratic Caucus prescription drug plan with a $25 premium should be endorsed, other health care inadequacies must be addressed in the current budget. We have gone through a process of passing relief for seniors suffering from the need for more money for prescription drug benefits, and we have given them a bogus bill which needs very much to be revamped.

In the area of housing, there is an acute housing shortage in the inner city communities which can only be met in a timely manner by providing more public and section 8-type housing. For the upwardly mobile poor, there are homeownership programs being sponsored by foundations and the private sector which could be made more effective with Federal assistance.

Small businesses in urban settings have never received the quantity and quality of support provided over the years for agribusinesses. We give far more to agribusinesses. Our farm subsidies are out of kilter. We are still giving enormous amounts of money to less than 2 percent of the population.

☐ 2000

Farm subsidies represent one of the greatest swindles in the American budget. The taxpayers should take a look. They should get angry about the fact that we are funding these farm subsidies and they are not going to poor people. The agribusinesses, the corporations have bought up the quotas. They have accumulated the right to those subsidies, and we are really subsidizing large agribusinesses with the farm subsidy. The revenue generated by these large entities could generate greater funding if we dealt with that problem.

International relations means that we have to again, as I said before, focus on what do we do about the war in Iraq. How do we get out of Iraq. Many proposals are being made by many different candidates. The sensible proposals that must prevail are proposals which allow us to leave with order and honor but, on the other hand, leave immediately and trust the rest of the international community to help us accomplish the purposes that we can accomplish productively in Iraq.

At the core of our decision-making this year is the war in Iraq. The war in Iraq will make us behave like barbarians, or we can behave like the extraordinary creators of a new kind of civilization. The constitutional civilization created by America is one that guides us and will guide us out of these absurd and ridiculous atrocities that are being committed in economics and will be committed militarily if we do not get out of the war in Iraq.

### CONGRESSIONAL BLACK CAUCUS/CONGRESSIONAL PROGRESSIVE CAUCUS—BASIC ASSUMPTIONS AND PRINCIPLES FOR AN ALTERNATIVE BUDGET

#### GENERAL PRIORITIES

1. A smaller, streamlined and efficient government should be the goal of all lawmakers; however, there must be enough revenue and resources to carry out the vital functions of our complex American society. It is absolutely necessary that we maintain an adequate investment in human development.

2. Federal assistance for education, health care, housing, child care, transportation, worker safety and protection, and business development is as vital as support for homeland security and defense.

3. The imperative of the government to provide for the nation's security can be effectively implemented and sustained only if all of the vital investments in human development are assigned priority on a continuing basis.

#### TAX POLICY

4. While the taxing of middle income and working families must be reduced and maintained at the lowest possible levels, the Federal government must nevertheless secure the revenue it needs by upwardly adjusting the tax rates on corporate entities and by creatively seeking larger fees from publicly owned resources such as the spectrum, the internet, public lands and waterways, etc.

5. There should be an end to the tax system as we know it and a revamping which reduces the portion of the tax burden borne by individuals and families to less than fifty percent of the overall tax burden. Corporate entities utilizing the collective and accumulated knowledge and institutional support of the total society will continue to grow and prosper. Such recipients of publicly sponsored research and development; protected by the legal system and military might of the nation and enriched by the great American consumer market; such entities can and should bear a greater portion of the national tax burden.

6. Tax cuts for the upper income brackets should be repealed immediately. Tax cuts for all families earning less than fifty thousand dollars per year should be implemented immediately commencing with a large reduction for payroll taxes for the poorest workers.

#### EDUCATION AND JOB TRAINING

7. Since the nation's security as well as its future economic stability and prosperity is directly dependent upon the quality of education of its citizens, the budget should greatly increase Federal assistance for education from HeadStart to Title I, bi-lingual education, Historically Black Colleges and Universities, Hispanic Serving Higher Education Institutions, special education and educational technology. Since school buildings are essential for the implementation of all school improvements, the taboo must be ended and Federal grants for school construction must be provided. The President's budget is proposing construction grants (not loans) only for charter schools.

8. Significant Federal initiatives for education reform such as No Child Left Behind cannot be implemented effectively while Local Education Agencies are under assault from state and local budget cuts; therefore, an emergency targeted revenue sharing for education programs must be legislated. The Federal government must move beyond its present funding posture which contributes less than seven cents of each dollar spent for education while mandating compliance with far reaching reform programs.

9. Job Training programs must be rescued from the downward spiral of budget cuts. It must be made complementary and compatible with our overall education efforts as well as the changing occupational needs generated by new challenges in homeland security and global competition for expertise. The role of the Federal government in job training for youth must be restored and funding levels increased. A more detailed analysis of the staffing needs of the Homeland Security initiative must be coordinated with the Department of Labor.

Technicians to clean up anthrax, other biological warfare germs; to respond to chemical or dirty bomb attacks; to translate terrorists communications; etc. must be trained. Even familiar first responders such as nurses, police and firefighters are in short supply when a requirement that they live within one hour's traveling time to their assigned post is mandated. Big city inner city residents must be trained to be their own first responders. Funding for this purpose must be made available immediately.

#### HEALTH, HUMAN SERVICES AND SAFETY NETS

10. While the recently released Democratic Caucus Prescription Drug Plan with a twenty-five dollar premium should be endorsed, other health care inadequacies must be addressed in the current budget. Of greatest significance to the CBC are the President's proposals to have the Federal government abandon MedicAid and leave it to the states. This bribing of the states by allowing them to keep whatever they save as a result of reduced health care for the poor must be blocked beginning with the budget process. The swindle that started with welfare reform dollars must not be allowed to expand.

11. Welfare Reform must be revisited and made more humane by providing more in cash payments for children. The survivor benefits rate used by Social Security for payments to children under eighteen should be used as a guide for calculating aid to dependent children. Funds must also be provided to allow any welfare parent who qualifies to attend college for two years with a job specific goal such as nursing or medical technician, etc.

12. A coordination and calibration of the services provided to families under Title Twenty with the goals of assisting low-income youth under No Child Left Behind must be appropriately funded.

#### HOUSING AND URBAN DEVELOPMENT

13. There is an acute housing crisis in the inner city communities which can only be met in a timely manner by providing more public and section 8 type housing. For the upperwardly mobile poor there are home ownership programs being sponsored by foundations and the private sector which could be made more effective with Federal assistance.

14. Small businesses in urban settings have never received the quantity and quality of support provided over the years for agribusinesses. Small businesses and related economically significant institutions such as hospitals and public service agencies deserve greater loan and grant options. The revenue generated by these entities would offset the increased funding.

#### TRANSPORTATION

15. Mass transit subsidies are provided primarily to assist working families and the poor. More federal funding is needed in order to avoid increased costs faced by workers already hard pressed to make ends meet. Congress must insist that transit systems receiving Federal aid must provide open disclosure for their accounting and contracting procedures as well as their salary and consultant fee rates.

#### AGRICULTURE

16. Billions of dollars continue to be appropriated for agribusinesses and farmers There is no need for an increase in the overall budget; however, specific earmarking of funds for the poorest farmers; for Black farmers, for loans to groups that have been discriminated against by the farm loan programs; these are all items which must be addressed in the budget.

#### INTERNATIONAL RELATIONS

17. Foreign Aid dollars are still basically dollars distributed with a double standard with Caribbean nations and Africa being greatly short-changed. The CBC will continue to assign high priority to an increase in funding for these neglected areas and people.

#### GENERAL

18. Funding for Commissions to study issues such as Reparations; Disenfranchisement of Federal Ex-Offenders; Disparities in Sentencing; Disparities in Health Care; etc. are vitally needed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SLAUGHTER (at the request of Ms. PELOSI) for today on account of inclement weather.

Mr. McINTYRE (at the request of Ms. PELOSI) for January 27 and the balance of the week on account of weather-related difficulties.

Mr. EVERETT (at the request of Mr. DeLAY) for today on account of having influenza.

Mr. GERLACH (at the request of Mr. DeLAY) for today on account of a death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DeFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. McDERMOTT, for 5 minutes, today.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1741. An act to provide a site for the National Women's History Museum in the District of Columbia; to the Committee on Transportation and Infrastructure.

## ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Friday, January 30, 2004, at noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6427. A letter from the Administrator, Agriculture Marketing Service, Poultry Programs, Department of Agriculture, transmitting the Department's final rule — Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading [Docket No. PY-03-001] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6428. A letter from the Administrator, Agriculture Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Oranges and Grapefuit Grown in Lower Rio Grande Valley in Texas; Increased Assessment Rate [Docket No. FV-906-1 IFR] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6429. A letter from the Administrator, Agriculture Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Walnuts Grown in California; Decreased Assessment Rate [Docket No. FV04-984-1IFR] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6430. A letter from the Administrator, Agriculture Marketing Service, Transportation and Marketing Programs, Department of Agriculture, transmitting the Department's final rule — National Organic Program; Amendments to the National List of Allowed and Prohibited Substances [Docket Number TM-03-02] (RIN: 0581-AC27) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6431. A letter from the Administrator, Agriculture Marketing Service, Fruit and Vegetable Division, Department of Agriculture, transmitting the Department's final rule — Revision of Fees for the Fresh Fruit and Vegetable Terminal Market Inspection Services [Docket Number FV-03-301] (RIN: 0581-AB63) received January 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6432. A letter from the Administrator, Agriculture Marketing Service, Livestock and Seed Program, Department of Agriculture, transmitting the Department's final rule — Amendment to the Soybean Promotion and Research Rules and Regulations [Doc. No. LS-02-14] received Janaury 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6433. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule — Fees for Processed Commodity Analytical Services (RIN: 0580-AA84) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6434. A letter from the Acting Staff Director, Office of Regulatory and Management Services, Department of Agriculture, transmitting the Department's final rule — Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Facilitate Urgent Timber Removal From Other Lands (RIN: 0596-AB48) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6435. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests [DFARS Case 2002-D001] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6436. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Payment Withholding [DFARS Case 2002-D017] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6437. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Unique Item Identification and Valuation [DFARS Case 2003-D081] received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6438. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Bank Holding Companies and Change in Bank Control [Regulation Y; Docket No. R-1092] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6439. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7821] received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6440. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7547] received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6441. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received December 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6442. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (RIN: 2501-AC81) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6443. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Modification of the Community Development Block Grant Definition for Metropolitan City and Other Conforming Amendments [Docket No. FR-4872-I-01] (RIN: 2506-AC15) received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6444. A letter from the Deputy Secretary, Securities & Exchange Commission, transmitting the Commission's final rule — Recordkeeping Requirements for Registered Transfer Agents [Release No. 34-48949; File No. S7-13-03] (RIN: 3235-AI87) received December 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6445. A letter from the Deputy Secretary, Securities & Exchange Commission, transmitting the Commission's final rule — Compliance Programs of Investment Companies and Investment Advisers [Release Nos. IA-2204; IC-26299; File No. S7-03-03] (RIN: 3235-AI77) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6446. A letter from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting the Department's final rule — Regulations Implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended (RIN: 1215-AB40) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

6447. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products; Test Procedure for Clothes Washers [Docket No. EE-RM/TP-03-100] (RIN: 1904-AB43) received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6448. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — National Institutes of Health Center Grants (RIN: 0925-AA24) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6449. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format [Docket No. 2000N-1652] (RIN: 0910-AB91) received January 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6450. A letter from the Regulations Coordinator, Office of Special Programs, Department of Health and Human Services, transmitting the Department's final rule — Smallpox Vaccine Injury Compensation Program: Administrative Implementation (RIN: 0906-AA60) received December 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6451. A letter from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Glazing Materials; Low Speed Vehicles [Docket No. 03-15712; Notice 2] (RIN: 2127-AJ52) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6452. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commisison, transmitting the Commission's final rule — Compatibility With IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments (RIN: 3150-AG71) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6453. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approval Spent Fuel Storage Casks: Standardized NUHOMS -24P, -52B, -61BT, -24PHB, and -32PT Revision (RIN: 3150-AH36) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6454. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Changes to the Adjudicatory Process (RIN: 3150-AG49) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6455. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: Standardized NUHOMS -24P, -52B, -61BT, -32PT, and 24PHB Revision (RIN: 3150-AH28) received December 22, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6456. A letter from the Deputy Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Dugong (Dugong dugon) in the Republic of Palau (RIN: 1018-AI81) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6457. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Recision and Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No. 021212307-3037-02; I.D. 120503A] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6458. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands [Docket No. 021212307-3037-02; I.D. 120403A] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6459. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands [Docket No. 021212307-3037-02; I.D. 120403C] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6460. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Fall Commercial Red Snapper Component [I.D. 120103F] received December 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6461. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Tax Refund Offset — received December 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6462. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Religious Beliefs and Practices: Nomenclature Change [BOP-1105-F] (RIN: 1120-AB04) received January 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6463. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule — Public Participation in Railroad Abandonment Proceedings [STB Ex Parte No. 537 (Sub-No. 1)] received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6464. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Definition of Income for Trust Purposes [TD 9102] (RIN: 1545-AX96) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6465. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Interest Rates (Rev. Rul. 2003-126) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2844. A bill to require States to hold special elections to fill vacancies in the House of Representatives not later than 21 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes; with amendments (Rept. 108-404, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DEAL of Georgia:

H.R. 3736. A bill to provide that pay for Members of Congress be reduced following any fiscal year in which there is a Federal deficit; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 3737. A bill to increase the minimum and maximum rates of basic pay payable to administrative law judges, and for other purposes; to the Committee on Government Reform.

By Mr. FILNER:

H.R. 3738. A bill to amend title 10, United States Code, to provide for immediate implementation of full concurrent receipt for retired members of the Armed Forces who have a service-connected disability of both military retired pay paid by reason of their years of military service and disability compensation from the Department of Veterans Affairs paid by reason of their disability; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALDEN of Oregon (for himself, Mr. BLUMENAUER, Mr. DEFAZIO, Ms. HOOLEY of Oregon, and Mr. WU):

H.R. 3739. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber, of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto; to the Committee on Armed Services.

By Mr. MILLER of North Carolina (for himself, Mr. BALLANCE, Mr. ETHERIDGE, Mr. JONES of North Carolina, Mr. PRICE of North Carolina, Mr. BURR, Mr. COBLE, Mr. MCINTYRE, Mr. HAYES, Mrs. MYRICK, Mr. BALLENGER, Mr. TAYLOR of North Carolina, and Mr. WATT):

H.R. 3740. A bill to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building"; to the Committee on Government Reform.

By Mr. BROWN of Ohio (for himself and Mr. RYAN of Ohio):

H.R. 3741. A bill to amend the Buy American Act to increase the requirement for American-made content, to tighten the waiver provisions, and for other purposes; to the Committee on Government Reform.

By Mr. ACEVEDO-VILÁ (for himself, Mr. SERRANO, Mr. GUTIERREZ, and Ms. VELÁZQUEZ):

H.R. 3742. A bill to designate the United States courthouse and post office building located at 93 Atocha Street in Ponce, Puerto Rico, as the "Luis A. Ferre United States Courthouse and Post Office Building"; to the Committee on Transportation and Infrastructure.

By Mr. NEY (for himself, Mr. HOLDEN, Mr. BOEHLERT, and Mr. ISAKSON):

H.R. 3743. A bill to improve the safety of rural roads; to the Committee on Transportation and Infrastructure.

By Mr. ROSS:

H.R. 3744. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself and Mr. WOLF):

H.R. 3745. A bill to amend the Indian Gaming Regulatory Act to require State legislature approval of new gambling facilities, to provide for minimum requirements for Federal regulation of Indian gaming, to set up a commission to report to Congress on current living and health standards in Indian country, and for other purposes; to the Committee on Resources.

By Mr. TIAHRT (for himself, Mr. RYUN of Kansas, Mr. MORAN of Kansas, and Mr. MOORE):

H.R. 3746. A bill to designate the community center at McConnell Air Force Base, Kansas, as the "Robert J. Dole Community Center" in honor of World War II veteran and former United States Representative and Senator Robert J. Dole; to the Committee on Armed Services.

By Mr. WALDEN of Oregon:

H.R. 3747. A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; to the Committee on Resources.

By Mr. SHADEGG:

H.R. 3748. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable and advancable credit against income tax for health insurance costs; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 3749. A bill to revise and reform the Act commonly called the Jenkins Act, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. SKELTON, Mrs. EMERSON, Mr. MCGOVERN, and Mr. SWEENEY):

H.J. Res. 87. A joint resolution honoring the life and legacy of President Franklin Delano Roosevelt and recognizing his contributions on the anniversary of the date of his birth; to the Committee on Government Reform.

By Mr. TAYLOR of Mississippi (for himself, Mr. FROST, Mr. OWENS, Mr. JEFFERSON, Mr. BERRY, Mr. DAVIS of Tennessee, and Mr. BOSWELL):

H.J. Res. 88. A joint resolution proposing an amendment to the Constitution of the United States to provide that certain trust funds are outside the budget of the United States; to the Committee on the Judiciary.

By Mr. CASTLE:

H. Con. Res. 351. Concurrent resolution congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I-AA national championship; to the Committee on Education and the Workforce.

By Ms. MILLENDER-MCDONALD:

H. Con. Res. 352. Concurrent resolution recognizing the contributions of people of Indian origin to the United States and the benefits of working together with India towards promoting peace, prosperity, and freedom among all countries of the world; to the Committee on International Relations.

By Mr. WEXLER (for himself, Mr. WHITFIELD, Ms. GRANGER, Mr. ENGLISH, Mr. ADERHOLT, and Mr. GUTKNECHT):

H. Con. Res. 353. Concurrent resolution expressing the sense of the Congress regarding the visit to the United States of Turkish Prime Minister Recep Tayyip Erdogan beginning January 26, 2004; to the Committee on International Relations.

By Mr. MENENDEZ:

H. Res. 504. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. DELAY:

H. Res. 505. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mrs. BIGGERT (for herself and Mr. STRICKLAND):

H. Res. 506. A resolution supporting the goals and ideals of National Eating Disorders Awareness Week; to the Committee on Energy and Commerce.

By Mr. BURGESS (for himself, Mr. EHLERS, Mr. DAVIS of Tennessee, Mr. LAMPSON, Ms. ROS-LEHTINEN, Mr. COSTELLO, Mr. FEENEY, Mr. DELAY, Mr. UDALL of Colorado, Mr. NEUGEBAUER, Mr. GORDON, Mr. WEINER, Mr. SMITH of Texas, Mr. HONDA, Mr. ROHRABACHER, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, Mr. GINGREY, and Mr. CALVERT):

H. Res. 507. A resolution expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the crew of the Space Shuttle Columbia their lives, and extending heartfelt sympathy to their families; to the Committee on Science.

By Mr. PAYNE:

H. Res. 508. A resolution recognizing and honoring the 50th anniversary of the United States Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. BACHUS.

H.R. 112: Mrs. MUSGRAVE, Mr. UDALL of Colorado, Mr. BEAUPREZ, Mr. TANCREDO, and Ms. DEGETTE.

H.R. 218: Mr. PUTNAM.

H.R. 348: Mr. BISHOP of Georgia, Mr. HOLDEN, Mr. CLAY, and Mrs. WILSON of New Mexico.

H.R. 391: Mr. OSBORNE.

H.R. 525: Mr. ISRAEL, Mr. POMEROY, and Mr. GREENWOOD.

H.R. 583: Mr. MCCOTTER.

H.R. 584: Mr. WALSH.

H.R. 594: Mr. PETERSON of Pennsylvania and Mr. RUPPERSBERGER.

H.R. 617: Mrs. MUSGRAVE.

H.R. 713: Mr. PEARCE and Mr. HILL.

H.R. 715: Mr. BURR.

H.R. 790: Mr. ANDREWS.

H.R. 852: Ms. BERKLEY.

H.R. 873: Mr. STUPAK.

H.R. 880: Mr. MCNULTY.

H.R. 965: Ms. KAPTUR.

H.R. 970: Mr. PORTER and Mr. LEWIS of Georgia.

H.R. 990: Mr. CULBERSON.

H.R. 1205: Mr. CUMMINGS.

H.R. 1214: Mr. MCCOTTER.

H.R. 1231: Ms. CORRINE BROWN of Florida and Mr. FATTAH.

H.R. 1233: Mr. TIBERI.

H.R. 1251: Mr. FRANK of Massachusetts.

H.R. 1258: Mr. LARSEN of Washington.

H.R. 1310: Mr. CRANE and Mr. STUPAK.

H.R. 1336: Mr. CULBERSON, Mr. JOHN, Ms. MCCOLLUM, Mr. ISRAEL, Mrs. NORTHUP, and Ms. PRYCE of Ohio.

H.R. 1372: Mr. ANDREWS, Mr. FEENEY, and Mr. ROGERS of Michigan.

H.R. 1404: Mr. FOLEY.

H.R. 1406: Mr. SMITH of Washington.

H.R. 1513: Mr. MCINTYRE, Mrs. NORTHUP, Mr. PASCRELL, Mr. BAKER, and Mr. LATOURETTE.

H.R. 1552: Ms. BERKLEY and Mr. LARSEN of Washington.

H.R. 1563: Mr. GORDON, Mr. GREEN of Texas, Mrs. LOWEY, Ms. LORETTA SANCHEZ of California, Mr. CALVERT, Mr. STUPAK, and Mr. DAVIS of Florida.

H.R. 1567: Mr. CULBERSON and Mr. CARTER.

H.R. 1608: Mr. CULBERSON, Mr. TANCREDO, Mr. HALL, Mr. MARSHALL, and Mrs. NAPOLITANO.

H.R. 1639: Ms. JACKSON-LEE of Texas and Mr. BELL.

H.R. 1676: Mr. FRANK of Massachusetts and Mr. SANDERS.

H.R. 1688: Mr. SHERMAN and Mr. WAXMAN.

H.R. 1716: Mr. FOLEY and Mr. FILNER.

H.R. 1736: Mr. VISCLOSKY.

H.R. 1767: Mr. BROWN of South Carolina.

H.R. 1863: Mr. FILNER, Mr. NADLER, and Mrs. NAPOLITANO.

H.R. 1889: Mr. PAYNE.

H.R. 1910: Mr. ROSS.

H.R. 1914. Mr. JENKINS.

H.R. 1916: Mr. ENGLISH.

H.R. 2032: Mr. MENENDEZ, Mr. JACKSON of Illinois, and Mrs. BIGGERT.

H.R. 2045: Mr. MANZULLO, Mr. CARTER, Mr. PEARCE, Mr. PLATTS, and Mr. BAKER.

H.R. 2068: Mr. REYES, Mr. ACEVEDO-VILA, Mr. QUINN, Mr. ACKERMAN, Mrs. TAUSHCER, Mr. MCNULTY, and Mr. WALSH.

H.R. 2069: Mr. ACEVEDO-VILA.

H.R. 2133: Mr. JONES of North Carolina.

H.R. 2201: Mr. RAHALL, Ms. KAPTUR, Mr. MARKEY, Mr. GRIJALVA, Ms. BORDALLO, Mr. ACEVEDO-VILA, Mr. MORAN of Virginia, Mr. BOUCHER, and Mr. FOLEY.

H.R. 2238: Mr. STENHOLM and Mr. KUCINICH.

H.R. 2239: Mr. OLVER, Mr. MEEK of Florida, and Mr. BISHOP of New York.

H.R. 2318: Mr. BACA.

H.R. 2363: Mr. MCDERMOTT.

H.R. 2365: Mr. NEY.

H.R. 2540: Mr. UDALL of Colorado and Ms. HARMAN.

H.R. 2621: Mr. BLUMENAUER.

H.R. 2635: Mr. CULBERSON.

H.R. 2681: Mr. BLUMENAUER, Ms. MILLENDER-MCDONALD, Mr. WALSH, Mr. DEUTSCH, and Mrs. TAUSCHER.

H.R. 2702: Mr. PASCRELL.

H.R. 2735: Mr. TURNER of Texas, Ms. LEE, and Mr. CUMMINGS.

H.R. 2797: Mr. HOUGHTON and Mr. RADANOVICH.

H.R. 2837: Mr. STARK.

H.R. 2899: Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, and Mr. CANNON.

H.R. 2928: Mr. DEMINT.

H.R. 2948: Mr. OWENS.

H.R. 3039: Mr. ENGLISH and Mr. SOUDER.

H.R. 3069: Mr. WAMP and Mr. LUCAS of Kentucky.

H.R. 3104: Mr. ACKERMAN, Ms. NORTON, Mr. RYAN of Ohio, Mr. BRADY of Pennsylvania, Mr. BISHOP of Georgia, Mr. SANDLIN, Mr. JOHNSON of Illinois, Mr. ISRAEL, Mr. SANDERS, Mr. RUPPERSBERGER, Mr. FRANK of Massachusetts, Mr. GORDON, Ms. PELOSI, Mr. MCNULTY, and Mr. WALSH.

H.R. 3109: Mr. HINOJOSA, Mr. ISRAEL, Mr. ORTIZ, and Mr. ROTHMAN.

H.R. 3111: Mr. HOEKSTRA and Mr. MICHAUD.

H.R. 3133: Mrs. LOWEY.

H.R. 3142: Mr. SIMMONS, Mr. GILLMOR, Mr. BALLANCE, Mr. PRICE of North Carolina, Mr. KOLBE, Mr. FLAKE, Mr. DAVIS of Florida, and Mr. HASTINGS of Florida.

H.R. 3148: Mr. FOLEY.

H.R. 3178: Mr. HOEFFEL, Mr. HAYWORTH, Mr. HOLDEN, Mr. STARK, Mr. CLYBURN, Mr. WALSH, Mr. KING of New York, and Ms. BERKLEY.

H.R. 3190: Mr. SULLIVAN.

H.R. 3193: Mr. MCINNIS, Mr. JONES of North Carolina, and Mrs. MYRICK.

H.R. 3204: Mr. CAPUANO.

H.R. 3213: Mr. WILSON of South Carolina, Mr. TANCREDO, Mrs. MUSGRAVE, Mr. MANZULLO, Mr. AKIN, Mr. KING of Iowa, Mr. ADERHOLT, Mr. BARTLETT of Maryland, Mr. CRANE, Mrs. MYRICK, Mr. ISTOOK, Mr. ROGERS of Alabama, Mr. HERGER, Mr. PENCE, Mr. SAM JOHNSON of Texas, Mr. PITTS, Mr. FLAKE, Mr. SHADEGG, Mr. NEUGEBAUER, Mr. MILLER of Florida, Mr. CHOCOLA, and Mr. BLUNT.

H.R. 3238: Mr. MEEKS of New York, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DEUTSCH, Mr. HASTINGS of Florida, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. OWENS, and Mr. BISHOP of Georgia.

H.R. 3259: Ms. GINNY BROWN-WAITE of Florida.

H.R. 3270: Mr. EHLERS.

H.R. 3293: Mr. MEEHAN, Mrs. JONES of Ohio, Mr. ROTHMAN, and Mr. HOLT.

H.R. 3313: Mrs. NORTHUP.

H.R. 3331: Mr. KUCINICH.

H.R. 3390: Mr. BOYD, Mr. FILNER, Mr. GOODE, Mr. WAMP, and Mr. WHITFIELD.

H.R. 3411: Ms. WOOLSEY.

H.R. 3412: Mr. ROSS and Mr. HOLT.

H.R. 3429: Mr. JOHNSON of Illinois.

H.R. 3438: Mrs. CAPPS and Mr. OLVER.

H.R. 3444: Ms. SCHAKOWSKY, Ms. KAPTUR, and Mr. GRIJALVA.

H.R. 3459: Mr. ROSS and Mr. COOPER.

H.R. 3476: Mr. SCHIFF, Ms. KAPTUR, Mr. MENENDEZ, Mr. CARSON of Oklahoma, Mrs. WILSON of New Mexico, and Mr. ISRAEL.

H.R. 3507: Ms. WATERS.

H.R. 3522: Mr. TANCREDO and Mr. PLATTS.

H.R. 3528: Mr. MCNULTY, Ms. CARSON of Indiana, Mr. KIND, Mr. ISRAEL, Mr. OWENS, Mr. SMITH of Washington, Mr. MCDERMOTT, and Ms. DELAURO.

H.R. 3534: Mr. COLLINS.

H.R. 3546: Mr. DINGELL, Ms. SLAUGHTER, Mr. FRANK of Massachusetts, Ms. ESHOO, Ms. LEE, and Mr. BROWN of Ohio.

H.R. 3547: Mr. DINGELL, Ms. SLAUGHTER, Mr. BROWN of Ohio, and Ms. ESHOO.

H.R. 3550: Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. KILDEE, Mr. MARKEY, Mrs. MALONEY, Mr. CLAY, Mr. MEEKS of New York, Mr. MEEK of Florida, Mr. CARDIN, Mr. VAN HOLLEN, Mr. TOWNS, and Mr. GONZALEZ.

H.R. 3593: Mr. BOUCHER, Ms. SCHAKOWSKY, Mr. ROTHMAN, Mr. BALLANCE, Mr. ETHERIDGE, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. MCNULTY, Mr. RUSH, Mr. FILNER, and Mr. BISHOP of New York.

H.R. 3595: Mr. SERRANO.

H.R. 3599: Mr. LEVIN.

H.R. 3619: Mr. LARSON of Connecticut, Mr. HILL, Mr. CARDIN, Mr. LAMPSON, Mr. MOORE, Mr. CARSON of Oklahoma, Ms. MAJETTE, Mr. DAVIS of Alabama, and Ms. WATSON.

H.R. 3635: Mr. BISHOP of Georgia.

H.R. 3673: Ms. MCCARTHY of Missouri, Mr. BROWN of Ohio, Mr. BOUCHER, Mr. BERMAN, and Mr. ALLEN.

H.R. 3674: Mr. TANCREDO, Mr. JONES of North Carolina, and Mr. NORWOOD.

H.R. 3676: Ms. MILLENDER-MCDONALD.

H.R. 3678: Mr. CAMP.

H.R. 3687: Mr. DEAL of Georgia, Mr. NUNES, Mr. GREEN of Wisconsin, Mr. DEMINT, Mr. GOODE, Mr. KING of Iowa, Mr. ISAKSON, Mr. HILL, and Mr. TANNER.

H.R. 3708: Mr. TERRY.

H.R. 3712: Ms. HARMAN, Mrs. NAPOLITANO, and Mr. RANGEL.

H.R. 3714: Mrs. NAPOLITANO.

H.R. 3716: Mr. NEY.

H.R. 3717: Mr. BARRETT of South Carolina, Mr. ROSS, Mr. HINCHEY, Mr. BAKER, and Mr. BEREUTER.

H.R. 3721: Mr. CRAMER and Mr. LAHOOD.

H.J. Res. 12: Mr. BISHOP of Georgia.

H.J. Res. 72: Mr. PRICE of North Carolina and Mr. LEACH.

H.J. Res. 84: Mr. RADANOVICH, Mr. FRANKS of Arizona, Mr. KLINE, Mr. BRADLEY of New Hampshire, Mr. BILIRAKIS, Mr. HENSARLING, Mr. SHAW, Mr. LAHOOD, Mr. HOSTETTLER, Mr. LINDER, Mr. KENNEDY of Minnesota, Mr. LOBIONDO, Mr. KIRK, Mr. HASTINGS of Washington, Mr. WALSH, Mr. HUNTER, Mr. MURPHY, Mr. WELLER, Mrs. CAPITO, Mr. SMITH of Texas, Mr. BURGESS, Mr. GILLMOR, Mr. CULBERSON, Mr. BLUNT, Ms. HARRIS, Mr. STEARNS, Mr. GARRETT of New Jersey, Mr. PITTS, Mr. OSE, and Mr. LINCOLN DIAZ-BALART of Florida.

H. Con. Res. 37: Mr. MILLER of North Carolina.

H. Con. Res. 247: Mr. SHERMAN.

H. Con. Res. 310: Mr. WILSON of South Carolina.

H. Con. Res. 332: Mr. MCNULTY.

H. Con. Res. 338: Mr. OWENS and Mr. RANGEL.

H. Con. Res. 348: Mr. ROTHMAN and Mrs. NAPOLITANO.

H. Res. 32: Mr. BELL.

H. Res. 402: Mr. TERRY.

H. Res. 420: Mr. FARR, Ms. SCHAKOWSKY, Mr. VAN HOLLEN, Mr. FILNER, Ms. WOOLSEY, Mr. WAXMAN, Ms. KAPTUR, Mr. RANGEL, and Mr. STARK.

H. Res. 466: Mr. ABERCROMBIE, Mr. DOGGETT, Mr. FILNER, Ms. JACKSON-LEE of Texas, Mr. WAXMAN, Ms. WOOLSEY, Ms. ESHOO, Mrs. MALONEY, Mr. GONZALEZ, Ms. NORTON, Ms. KAPTUR, Mr. BROWN of Ohio, Mr. GEORGE MILLER of California, Ms. LEE, Mr. HINCHEY, Mr. SERRANO, Ms. LOFGREN, Mr. SANDERS, Ms. MCCARTHY of Missouri, Mr. CUNNINGHAM, Mr. HOBSON, and Mr. WEXLER.

H. Res. 477: Ms. WOOLSEY.

H. Res. 485: Mr. CASE, Mr. MOORE, Mr. OWENS, Mr. FROST, and Mr. PASTOR.

H. Res. 497: Mr. WATT and Mr. OLVER.

H. Res. 499: Mr. TIERNEY, Mr. MEEHAN, Mr. RYAN of Ohio, Mr. KLECZKA, Mr. BERMAN, Ms. MCCARTHY of Missouri, Mr. OLVER, Ms. BERKLEY, Mr. GEORGE MILLER of California, Mr. HOEFFEL, Mr. FARR, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Ms. WOOLSEY, Mr. VAN HOLLEN, Mr. SANDERS, and Mr. SCHIFF.

H. Res. 500: Mr. SHIMKUS.

# EXTENSIONS OF REMARKS

## FREEDOM FOR RICARDO SEVERINO GONZALEZ ALFONSO

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Ricardo Severino Gonzalez Alfonso, a political prisoner in totalitarian Cuba.

Mr. Gonzalez is the president of the Manuel Marquez Sterling Journalists Society and an independent reporter in totalitarian Cuba. Mr. Gonzalez works and writes to inform the world about the gross human rights abuses that occur every day under the repressive regime of the Cuban dictator.

Unfortunately, writing and reporting the truth is not allowed under Castro's tyrannical dictatorship. All attempts to portray the absolute lack of freedom in totalitarian Cuba are viciously condemned and their authors are imprisoned or exiled. Mr. Gonzalez has been harassed by Castro's thugs since 1997, and on March 18, 2003, he was arrested for his insistence on publishing the truth about Castro's totalitarian Cuba.

The sham trial verdict that sentenced Mr. Gonzalez to 20 years in the Cuban gulag read:

> ". . . he managed to get his articles, which were subversive and misleading in nature with regard to the Cuban system, published in various newspapers and magazines such as Reporters Without Borders."

Mr. Speaker, Mr. Gonzalez was 53 years old when he was condemned to 20 years in Castro's gulag. The conditions in the Cuban totalitarian gulag are so atrocious as to almost guarantee that Mr. Gonzalez will not walk out if he were to have to serve the entirety of his sham sentence. Let me be very clear, Mr. Gonzalez has been sentenced to die in the gulag by the Cuban tyrant for writing the truth about Castro's brutal, repressive regime. It is imperative that Cuba be free as soon as possible, so that Mr. Gonzalez and all the political prisoners can also live in the freedom and dignity that they deserve.

My colleagues, we must cry out for the release of all those who languish in dungeons because they believe in human rights and freedom. We must demand the immediate release of Ricardo Gonzalez Alfonso and every political prisoner.

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## PERSONAL EXPLANATION

### HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. DEMINT. Mr. Speaker, I was absent during roll call vote 6; had I been present, I would have voted "yea."

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## HONORING THE STUDENTS OF POLK CREEK ELEMENTARY SCHOOL

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mrs. CAPITO. Mr. Speaker, I rise today to honor the fourth grade class at Polk Creek Elementary School in Weston, West Virginia. These students in Mrs. Mary Wagoner's class recorded a CD entitled "Thinking of You" for distribution to the 100 Lewis County, West Virginia, residents serving our country in Iraq.

The students performed the songs "Thinking of You," "Allegiance Rap," "You Are Our Heroes," "The West Virginia Hills," "American Tears" and "Mighty United" for our soldiers.

All of us in this House share the sentiments expressed by these students. The men and women serving our country in Iraq are in the thoughts and prayers of us all. Hearing from these school children will improve the morale of our troops and show them they are in the thoughts of people back home.

I would like to thank Principal Thomas Garrett, Teacher Mary Wagoner, along with Whitney Ballard and Shaun Davis, for their hard work with the students at Polk Creek Elementary on this project. I am honored to represent the Lewis County community and thank Polk Creek Elementary for their efforts to honor our military personnel.

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## THE ROBERT J. DOLE COMMUNITY CENTER

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. TIAHRT. Mr. Speaker, today, I am introducing legislation to authorize the Secretary of the Air Force to rename the community center at McConnell Air Force Base, currently known as "Emerald City," as "The Robert J. Dole Community Center." I would like to thank my colleagues from Kansas, Mr. Ryun, Mr. Moran and Mr. Moore, for agreeing to join as original cosponsors of the bill.

Senator Dole once said that his life "is proof that America is a land without limits." He was born in Russell, Kansas, on July 22, 1923, the eldest son of Doran R. and Bina Talbott Dole. He graduated from Russell public schools and attended the University of Kansas, Lawrence, entering in the fall of 1941. He received an A.B. and LL.B from Washburn Municipal University in 1952.

Senator Dole entered active duty in the U.S. Army in June 1943 after completing his sophomore year at the University of Kansas. He served 5½ years in World War II and was a 10th Mountain Division platoon leader in the Allied liberation of Northern Italy. During this time, he was twice wounded and twice decorated for "heroic achievement," and was discharged with the rank of Captain in July 1948, having convalesced for 3 years from grave wounds sustained in combat.

In 1950, he was elected to the Kansas Legislature and served for 2 years before being elected Russell County Attorney, a position he served in for 8 years. In 1960, he was elected to the U.S. House of Representatives and reelected in 1962, 1964 and 1966. He was elected to the U.S. Senate in 1968 and was reelected in 1974, 1980, 1986 and 1992.

One of the many lasting contributions that Bob Dole made to the State of Kansas and to the American people was the manner in which he worked to strengthen McConnell Air Force Base in Wichita over the course of his nearly 4 decades of service in the U.S. House of Representatives and the U.S. Senate.

Due largely to his efforts, infrastructure improvements at the base have included a base hospital, housing for single officers and enlisted personnel, and a multifaceted community center, "Emerald City," which contains a bowling center, officer and enlisted clubs, a fitness center and a cafeteria.

In honor of Senator Dole's service to Kansas and to the men and women who have called McConnell Air Force Base home, I am pleased to introduce this legislation, which authorizes the Secretary of the Air Force to rename the community center at McConnell Air Force Base, currently known as "Emerald City," as "The Robert J. Dole Community Center."

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## HONORING THE LIFE OF BILL L. KRATZ

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. GRAVES. Mr. Speaker, I have the honor today to recognize the life of Bill L. Kratz, who unexpectedly passed away on January 25, 2004. As a husband, father, Christian, and public servant, Mr. Kratz will be missed by many.

A life-long resident of Missouri, Bill Kratz was born on May 12, 1938, in Shelbyville, Missouri. On September 17, 1961, Bill married Patricia Lohman, and they settled in Independence, Missouri. They had two children, Dana and Keith, and eight grandchildren. Mr. Kratz served in the National Guard from 1961 to 1966 and was also employed by General Motors, from which he retired in 1989. After retirement, Mr. Kratz took an active role in the community by serving on the planning commission for the city of Independence since 2000 and assisted in the 2000 census.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Kratz was also active in his church, Messiah Lutheran Church, serving as an elder, chairman of the Adult and Family Board, chairman of the Board of Social Ministry, vice president of the congregation, and president of the congregation.

I offer my condolences to his wife, Patricia; children, Dana and Keith; and their families. In this time of sorrow, may the thoughts and prayers of friends and family comfort them and may his memory bring them peace.

## PERSONAL EXPLANATION

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. JOHNSON of Illinois. Mr. Speaker, due to the ice and snow storm in the Washington, D.C. area last night, my flight, American Airlines No. 1548 from Chicago's O'Hare International Airport to Washington, D.C.'s Ronald Reagan National Airport, was significantly delayed by 3½ hours. I therefore missed the two votes for the evening, Roll Call Nos. 6 and 7. Had I been present, I would have voted "yea" on H.R. 1385, an act authorizing the United States Postal Service to issue a special stamp to benefit breast cancer research; and I would also have voted "yea" on H.R. 3493, the Medical Devices Technical Corrections Act.

## HONORING MARY LEIBHAM

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Mary Leibham for 33 years of dedicated public service. Ms. Leibham will retire from the District Attorney Compliance and Closure Unit in early February. On Saturday, January 24, she will be honored at an event held at the SOS Club in Modesto, California.

Mary was born in North Dakota, but was raised in Sacramento, California. For the past 25 years, she has lived in Modesto, California. In 1971, Mary's extensive career in the Department of Social Services began as she transferred to the District Attorney Family Support Division as a family support officer. She returned to the Department of Social Services as a welfare fraud investigator in 1979. Less than a year later, Mary went back to the District Attorney Family Support Division as a family support officer and has since served as a senior family support officer, Family Support Program analyst, and is currently serving as Manager II, supervising the Compliance and Case Closure Unit (formerly District Attorney Family Support Division).

Ms. Leibham has had numerous accomplishments and has been involved with many noteworthy projects. She is the recipient of the 2001–2002 California Family Support Council Director's Award, as well as the 2001–2002 California Family Support Council Contribution in Training. Mary has participated in the Welfare Reform Task Force, the CDDA FSO College Committee, and the Stanislaus County Employee Mentoring Program-AIM Project for Everett Elementary and Chrysler Schools.

Mr. Speaker, I rise today to honor Mary Leibham upon her retirement from public service. Although her career in public service has ended, her contributions will be felt for generations to come. I invite my colleagues to join me in wishing Mary a fulfilling retirement.

## CELEBRATING THE 75TH ANNIVERSARY OF THE SAN ANTONIO HISPANIC CHAMBER OF COMMERCE

### HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. RODRIGUEZ. Mr. Speaker, seventy-five years ago, in 1929, the consul general of Mexico in San Antonio, then as today a center for trade between the United States and Mexico, formed what was to become the highly successful San Antonio Hispanic Chamber of Commerce. This week the Hispanic Chamber celebrates its 75th anniversary with pride in its past accomplishments and optimism for its future successes.

As the oldest organization of its kind, the San Antonio Hispanic Chamber of Commerce continues to be a leading advocate for Hispanic, minority, and woman-owned businesses in San Antonio through individual business advice, networking, and advocacy. Widely respected today as a positive force in the business life of our community, the Hispanic Chamber, like its membership, had to overcome social and economic barriers on the path to success.

Chartered in 1929 by Don Enrique Santibanez, the chamber focused on improving political and economic ties between the United States and Mexico. That mission remains central to the 21st Century Hispanic Chamber, which plays a lead role in promoting trade between the United States and our neighbors to the south in Latin America. The San Antonio Hispanic Chamber of Commerce has helped make San Antonio the gateway to the Americas.

Facing active discrimination, the early chamber had to do more than the typical chamber of commerce. Not only did it seek to promote business growth, it sought to develop Hispanic civic participation in the power centers of our community. As we continue to the battle against negative stereotypes the chamber continues its mission of training its members to become community leaders.

And it has met with great success. For those of us in Congress, the San Antonio Hispanic Chamber of Commerce serves as a great resource and source of inspiration. Locally, the Hispanic Chamber provides leadership, expertise, and encouragement to the vibrant and growing Hispanic business community. Their success is our success.

I would like to commend Chairman Leo Gomez and the 2003 Board of Directors for their leadership over the past year. They have continued the Chamber's tradition of molding Hispanic community leaders and advancing minority business interests. I know that the chamber's new chair, Elaine Mendoza, will take the chamber to new levels of success. Of course, the Hispanic Chamber's achievements reflect the hard work, dedication, and leadership of its staff, headed by chamber president Rita Elizondo. Our thanks to all of you for what you give to our community.

Mr. Speaker, I ask my colleagues to recognize the achievements of the San Antonio Hispanic Chamber of Commerce as it marks 75 years of progress.

## RECOGNIZING BETTY LUCINDA ETCHISON

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Betty Lucinda Etchison for her nearly 58 years of committed service to the McLanahan Corporation. Her presence with the company will be sorely missed.

Betty Lucinda was born in Geeseytown, Pennsylvania, in 1928 to George J. and Rebecca H. Etchison. After graduating from Hollidaysburg High School in 1946, she began her journey through the McLanahan and Stone Corporation as a stenographer. At the time, she was only a temporary employee; but after proving herself as a capable worker, Ward McLanahan hired her as a full-time employee.

Under the direction of James Craig McLanahan, Ms. Etchison further disclosed her vast capabilities, quietly earning recognition for her incomparable performance on the job. Shortly after the company became the McLanahan Corporation, Ms. Etchison's distinguishing loyalty was acknowledged, as she became Michael McLanahan's personal secretary and remained in the same position for the next 31 years. Working tirelessly to overcome the obstacles of having to learn and master continually changing technology, Ms. Etchison flourished under her final boss, Sean McLanahan.

To the enjoyment of local citizens, her spirit and dedication translated into every aspect of her life. Ms. Etchison has been a life-long member of the Scotch Valley Grange, helping to prepare food and treating the crowds by playing the piano at numerous functions and selflessly contributing her time and musical talent to the Lutheran churches of Frankstown and Geeseytown. Her uncompromising sense of duty to the community in which she lives has been a source of inspiration.

Having worked diligently for four generations of the McLanahan family, Ms. Etchison has demonstrated an unyielding enthusiasm and care for the company which she has served. For her incomparable generosity, service to the McLanahan Corporation, and unabated commitment to excellence, Betty L. Etchison deserves the highest recognition. The legacy she has left behind is one that every American should emulate, and her contributions will not go unnoticed by the business for which she worked nor the community in which she lives. I would like to congratulate Ms. Etchison on her accomplishments, and I wish her the best of luck in her retirement.

## PERSONAL EXPLANATION

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. ROGERS of Kentucky. Mr. Speaker, on Tuesday, January 27, I was unavoidably detained due to the inclement weather and was not present for roll call votes numbers 6 and 7. The votes were on H.R. 1385 and H.R. 3493, respectively. Had I been present, I would have voted "yea" on both measures.

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## HONORING THE ANNIVERSARY OF THE FOUNDING OF THE DALLAS COWBOYS

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. SESSIONS. Mr. Speaker, I rise today to honor the anniversary of the founding of the Dallas Cowboys. On this day in 1960, Clint Murchison, Jr., and Bedford Wynne were awarded an expansion franchise by the NFL at the league's annual owners meeting in Miami Beach.

The Dallas Cowboys have been a pillar of strength in the NFL since their founding 44 years ago. Legendary Coach Tom Landry guided America's Team to five NFC championship titles and two Super Bowl victories. Jimmy Johnson then returned the team to glory with back-to-back Super Bowl championships in 1993 and 1994. Barry Switzer then capped off the Cowboy's claim to the title of "Team of the Nineties" with their win in Super Bowl XXX.

The Cowboys also lead the league in producing seven Super Bowl Most Valuable Players and hold the record for playoff victories with 32 wins in the postseason. During this past season, the Cowboys recorded their 400th career franchise victory, including regular season and playoffs, in the Monday night overtime thriller against the New York Giants.

I congratulate Owner and General Manager Jerry Jones, Head Coach Bill Parcells, current and former Cowboys players, and the team's loyal fan base in Texas and across the country on the occasion of this great anniversary.

With the arrival of Coach Parcells this season, the Cowboys were able to make an unexpected bid into the playoffs, a tremendous improvement for the team. I wish Mr. Jones, Coach Parcells and all of the Cowboys players all the best for continued improvement for next season and congratulate them on this anniversary.

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## SOUTHWEST MISSOURI LOSES A LIVING LEGEND

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. BLUNT. Mr. Speaker, I rise today to pay tribute to a Southwest Missouri golf legend who has joined Sam Snead, Gene Sarazen, and Ben Hogan on that first tee in the sky. Herman Keiser, a native of Springfield, MO, passed away December 24, 2003, at the age of 89. His death marked the end of a wonderful career as a golf professional, who in 1946, after a 31-month tour of duty in the U.S. Navy fighting World War II, won the 1946 Masters, a golf event that has been held at Augusta National Golf Club since its inception in 1934.

Mr. Keiser began his golfing career as an assistant golf professional at Portage Country Club in Portage, OH. Shortly after his arrival, he became the head golf professional at Firestone Country Club in Akron, OH, which hosted the World Series of Golf just this past year as well as numerous PGA and Champion Tour events.

The highlight of his career came when in 1946 Herman Keiser found himself on the first tee at Augusta National Golf Club preparing to play in a tournament founded by legendary Bobby Jones and won twice by Horton Smith. In fact, he had the pleasure of playing some practice rounds with Horton Smith prior to the first round of the tournament. During these cherished moments, Smith gave Keiser some very important tips that enabled him to read the difficult greens at Augusta.

After three rounds of golf, Keiser found himself 5 strokes ahead of legendary golfer Ben Hogan. Others in the field included the likes of Byron Nelson and Sam Snead. In his final round, Keiser shot a 74 which placed him at 6 under for the tournament. He was emotionally and physically spent and waited to see what Hogan would do after Keiser three-putted the 18th hole for his 74. All Hogan had to do was par the 18th hole, a very difficult Par 4 dogleg right. His second shot landed 12 feet from the hole where Hogan three putted giving Keiser the win that he so deserved. Keiser had remembered what Horton Smith had told him during the practice round. Unfortunately for Hogan, he did not have the same lesson. For Keiser, his 1946 win was "the greatest thing that ever happened to me."

In 1947, Keiser continued his golfing excellence by becoming a member of the successful Ryder Cup team that defeated Britain 11 to 1. Shortly after the team's success, Keiser returned to Ohio, where he purchased a driving range and became a life member of the Professional Golfers' Association of America.

Mr. Speaker, Herman Keiser came from Springfield, MO, to carve a small place for himself in the history of professional golf. He lived a wonderful life and contributed much to the game of golf. He will always be remembered in my home State and will be missed.

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## CITY OF ALEXANDRIA RESOLUTION REGARDING IMPACT OF USA PATRIOT ACT

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. MORAN of Virginia. Mr. Speaker, last week the President made a number of comments about the need to extend and enhance the USA PATRIOT Act during his State of the Union speech. It is with that address to the Nation in mind, that I rise today to insert into the RECORD a resolution passed by a local jurisdiction in my district. On November 11, 2003, the city of Alexandria, VA, passed a resolution which requests that Congress assess the impact of the USA PATRIOT Act and other Federal antiterrorism efforts. The resolution calls on Congress to repeal provisions of the act, other laws, regulations, policies, and practices that infringe on personal rights, liberties, and due process.

I support the community spirit and civic concern that led to the passage of this resolution. I agree with many of the points expressed in the resolution and have been troubled by the interpretation and implementation of a number of the PATRIOT Act's provisions. I look forward to these issues being revisited in the coming year. The American people deserve nothing short of a full and open debate on these issues so greatly affecting civil liberties and the role of government in peoples' personal lives.

RESOLUTION NO. 2088

Whereas, the Alexandria City Council is committed to upholding the United States Constitution and its Bill of Rights;

Whereas, the City of Alexandria has a long history of working to obtain and preserve the civil rights and liberties of its residents;

Whereas, the City has a diverse and multiethnic population, and everyday embraces the richness of community that includes immigrants, whose contributions to the City are vital to its economy, culture and civic character;

Whereas, the City has among its residents many who were affected directly and many more who were affected indirectly, by the tragic events of September 11, 2001, both in New York City and at the Pentagon, only a short distance from this Chamber as well as in Somerset County, Pennsylvania;

Whereas, this nation's need to respond to those terrible events, and to protect itself from future acts of terrorism, does not diminish the commitment of the City or of its residents, regardless of their personal circumstances, to the Constitutional rights and liberties that are the precious entitlement of all;

Whereas, the Alexandria City Council believes there is no inherent conflict between national security and the preservation of liberty—that Americans can be both safe and free;

Whereas, the Alexandria City Council is proud of the cooperative work among federal, state and local law enforcement officials to protect the safety of Alexandrians;

Whereas, federal, state and local government actions designed to protect the public from terrorist attacks, such as those that occurred on September 11, 2001, must be taken in a rational and deliberative fashion to ensure that any new security measure intended to enhance public safety does not impair constitutional rights or infringe on civil liberties;

Whereas, federal laws, regulations, policies, and practices adopted since September 11, 2001, including provisions of Public Law 107–56 (the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act or "USA PATRIOT" Act), and related Executive Orders, regulations and actions:

(a) authorize the indefinite incarceration of non-citizens to solitary confinement, based upon mere suspicion, without being charged with any crime, without counsel, and without a right to be heard;

(b) authorize the indefinite incarceration of citizens designated by the President based unspecified standards as "enemy combatants" to solitary confinement, without being charged with a crime, without counsel, and without a right to be heard;

(c) limit the traditional authority of the federal courts to curb law enforcement abuses including electronic surveillance;

(d) limit judicial oversight of federal "sneak and peek" searches and eliminate timely notice to the person who is the subject of the search that his or her property has been searched;

(e) grant broad governmental access to personal medical, financial, library, and educational records without judicial oversight;

(f) inhibit free speech and free association by defining any person or group as a terrorist, or an act as terrorism, without articulating the basis for the characterization or giving the person or group so characterized a right to be heard;

(g) encourage local and state law enforcement personnel to enforce federal immigration laws, and to use those laws as a pretext for detention of, and denial of due process to, persons who are not reasonably suspected of criminal behavior;

(h) permit government surveillance of public meetings, including religious services, Internet chat rooms, holiday gatherings, and political rallies without judicial oversight;

Whereas, draft federal legislation, known as the Domestic Security Enhancement Act ("DSEA" or "Patriot II"), contains many new and sweeping provisions that further expand government surveillance authority, increase government secrecy, reduce governmental accountability, erode the separation of powers essential for Constitutional checks and balances, and diminish the right of all persons to the due process of law guaranteed by the Constitution: Therefore, be it

*Resolved*, That the Alexandria City Council:

1. Affirms its strong support for fundamental constitutional rights and its opposition to federal measures that infringe on civil liberties;

2. Affirms its strong support for the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based solely on their country of origin;

3. Directs the Police Department of the City of Alexandria to ensure that it protects the constitutional rights of Alexandria residents, that it maintains a relationship of trust with those it is sworn to serve and protect, and that it continues to abide by the Alexandria Police Department directives that prohibit racial profiling or collecting information not reasonably related to suspicion of criminal behavior;

4. Directs public libraries in the City to promote unfettered access to information, which is the collective heritage of humanity and which is a fundamental human right, and to protect freedom of inquiry, universally recognized as a driving force for the progression of civilization itself, by:

(a) posting this notice to library users "WARNING: Under Section 215 of the Federal "USA PATRIOT" Act (Public Law 107-56), records of the books and other materials you borrow may be obtained by federal agents. That federal law prohibits librarians from informing you if records about you have been requested or obtained by federal agents. Questions about this policy should be directed to: Attorney General John Ashcroft, U.S. Department of Justice, Washington, DC 20530."

(b) ensuring there is regular destruction of records that identify a book borrower after the book is returned, or that identify the name of an Internet user after use;

5. Recommends that local businesses and institutions in the City, and in particular booksellers, notify consumers that purchase records are subject to disclosure to federal law enforcement agencies;

6. Directs the City Manager to ensure that, to the extent legally possible, no City resources—including law enforcement funds and educational administrative resources—may be used for unconstitutional activities, including but not limited to monitoring the exercise by political and religious groups of their First Amendment rights of expression, association, assembly or petition, or obtaining library, bookstore or website activity records without proper authorization and without notice to the subjects of the records;

7. Directs the Clerk of Council to:

(a) send a copy of this Resolution to Governor Warner with a letter urging him to ensure that state anti-terrorism laws and policies be implemented in a manner that does not infringe on personal rights, liberties and due process; and

(b) send a copy of this Resolution to Senators Warner and Allen, and Congressman Moran, accompanied by a letter asking that the resolution be read into the record, on the floor, and urging Congress to assess the impact of the "USA PATRIOT" Act and federal anti-terrorism efforts; to work to repeal provisions of the "USA PATRIOT" Act and other laws, regulations, policies and practices that infringe on personal rights, liberties and due process; and to ensure that no provision of the "USA PATRIOT" Act originally intended to expire remains in effect past its sunset date; and be it further

*Resolved*, That the provisions of this Resolution shall be severable, and that if any phrase, clause, sentence, or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the Constitutions of the United States or of the Commonwealth of Virginia, the validity of the remainder of this Resolution shall not be affected thereby.

## BREAST CANCER STAMP EXTENSION

SPEECH OF

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Ms. WOOLSEY. Mr. Speaker, I rise today in support of H.R. 1385, which continues the authorization of the breast cancer research stamp. This stamp has been just one small part of a comprehensive federal effort to combat this horrible disease, and I am pleased that it will continue. It's strange to think that a postage stamp has the ability to save lives, but the breast cancer stamp truly has such potential. With the continuation of this stamp, people around the country will have the opportunity to support research programs at the National Institute of Health and the Department of Defense. These research efforts are playing a critical role in understanding breast cancer, identifying who is at risk, and creating safer and more effective treatments that allow more people to survive and prosper after fighting this disease.

Perhaps no one understands the tragedy of breast cancer more than the people of Marin County in my Congressional district. For some reason, Marin has an unusually high rate of breast cancer. Far too many mothers, wives, sisters, and daughters have been lost in our community. We're doing all that we can to find out what is happening in Marin and what we discover will be used to fight breast cancer all over this country. In the face of so much community tragedy and loss, I have had the honor of working with breast cancer survivors and advocates in my community to help understand the causes of this epidemic and support those who are battling cancer. Watching their struggle has underscored the importance of federal efforts just like the creation and extension of the breast cancer stamp. By allowing Americans to give just a little bit every time they mail a card or a letter, we can help fund the research that will save the lives of our daughters and granddaughters.

I urge my colleagues to join me in supporting H.R. 1385 to help continue the fight against breast cancer.

## TRIBUTE TO DR. TIM K. SIU

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. SCHIFF. Mr. Speaker, I rise today to pay special recognition to Dr. Tim K. Siu who is the recipient of the Distinguished Citizen Award from the San Gabriel Valley Boy Scouts.

A Rotarian since 1969, Dr. Siu has served Rotary International as District Governor and is presently a senior active member. Among his many accomplishments as a Rotarian, Dr. Siu has 33 years of perfect attendance and was a Paul Harris Fellow.

Dr. Siu has served as a member on the Board of Directors of the Tokai Bank of California, a member of the Board at California State University Los Angeles, on the Board of Directors for the West San Gabriel Valley YMCA, Professor Emeritus of University of Southern California Medical School, and Director of Disaster Committee of the American Red Cross. He is currently on the Board of Directors for San Gabriel Valley Medical Center, Board of Councilors for the University of Southern California Pharmacy School and on the Board of California State University Pomona.

In his community, Dr. Siu has served on the City of Alhambra Planning Commission and the Alhambra Civil Service Commission. He has been an officer and director of Alhambra Day Nursery, Wysong Retirement Home, Burke's Manor Senior Citizen Home, and Los Angeles County Medical Association. Dr. Siu is currently serving as a member of the Board of the San Gabriel Valley Medical Center where he is active in building an outpatient surgical center in San Gabriel.

Dr. Siu practiced anesthesiology. He taught anesthesiology at the University of Southern California Medical School until his retirement as Professor Emeritus. He was also the medical examiner for the National Youth Sports Program at USC, the San Gabriel Valley Pop Warner Program, and was the team doctor for the Alhambra High School Football Team.

Dr. Siu is involved in the Chinese community with the Chinese Historical Society, the Chinese-American Citizens Alliance, and the Chinatown Public Service Association. Currently, he is active in building a Chinese American Museum in the original Chinatown of Los Angeles.

Dr. Siu served in the United States Navy stationed at Great Lakes Naval Hospital in Illinois.

Dr. Siu is a native of Hawaii and is married to Dr. Annie Chi Siu. Tim and Annie have four daughters; a general dentist, an athletic administrator, an orthodontist and a registered nurse.

I ask all Members of Congress to join me today in congratulating Dr. Tim K. Siu on a truly exemplary professional and public service career.

## TRIBUTE TO PAUL AND SHARON ELERICK, SANTA CRUZ COUNTY DEMOCRATS OF THE YEAR

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to two extraordinary Americans and distinguished Californians, Paul and Sharon Elerick, who are being honored as Democrats of the Year by the Santa Cruz County Democratic Central Committee.

Paul and Sharon Elerick met in 1958 at an ice cream shop in Michigan and have been utterly devoted to each other ever since. They have raised two children, Paul Jr. and Denise, who are now raising their own families in Santa Cruz County.

Paul Elerick was elected Chair of the Santa Cruz County Democratic Central Committee in 1998 and served in that position until 2003. In that time, he managed three Democratic Headquarters and has contributed mightily to create countless successful campaigns.

Between them, Paul and Sharon Elerick have worked to elect some of the greatest leaders of Santa Cruz County, including Julian Comacho, John Bakalian, Leon Panetta, Bob Taren, Sam Farr, Dale Dawson, Gary Patton, Mardi Wormhoudt, Robley Levley, Ellen Pirie, Ron Ruiz, Bob Lee, Fred Keeley, John Laird and Bill Monning.

Mr. Speaker, I ask my colleagues to join me in extending to Paul and Sharon Elerick our sincerest congratulations as they are honored as the Santa Cruz County Democratic Central Committee's Democrats of the Year. We are a better community, a better country, a better people and a stronger democracy because of them and all that they have done.

## PERSONAL EXPLANATION

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. CAPUANO. Mr. Speaker, on Tuesday, January 27, 2003, Louis Rabaglia, my 94 year-old Uncle and a former firefighter, required hospitalization and I had to remain in my District to address related concerns. Consequently, I was unable to cast votes on Rollcalls 6 and 7. Had I been present, I would have voted in the following manner: "yea" on Rollcall 6 and "yea" on Rollcall 7.

I ask unanimous consent that the CONGRESSIONAL RECORD reflect my intended votes.

## PERSONAL EXPLANATION

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall vote No. 6 and No. 7. If present I would have voted "yea."

## HONORING MR. DALE BUTLER, JR.

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. CARDOZA. Mr. Speaker, I rise today to honor a great friend to the 18th Congressional District, the State of California, and our Nation, Mr. Dale Butler, Jr. Dale is retiring from his 33-year tenure with Stanislaus County, and he is a living example of how the American dream is alive and well today.

Dale was raised on the Westside of Stanislaus County, a predominantly agricultural area in the San Joaquin Valley. His first job as a migrant farm worker gave him a work ethic that has followed Dale his entire life. The first major leadership role Dale took on was serving our nation in the U.S. Navy as a personnel specialist from 1962 to 1966. He then took his leadership abilities to the Riverbank Army Ammunition Plant as a production control scheduler. In 1971, Dale graduated from California State Stanislaus with a bachelor of arts degree in political science.

Following graduation, Dale began his career with Stanislaus County. From 1971 to 1999, Dale held a variety of administrative and management positions with the county. He has been involved in budgets, legislation analysis, recruitment selection, discipline, labor relations, training, and Equal Rights. He has held positions as a Principal Analyst, Senior Management Consultant in the Chief Executive Office, and Senior Personnel Analyst. He has also served Stanislaus County as the Equal Rights Officer from 1972 to 2001. Currently, he serves in the Stanislaus County Chief Executive Office as the Deputy Executive Officer, overseeing purchasing, central services, and fleet services divisions.

Not only has Dale served our Nation, but he has a deep commitment to the betterment of our Central Valley as well. Currently, he is the president of the Stanislaus County Fair Board, a member of the Stanislaus County Latino Community Round Table, the Stanislaus County Hispanic Leadership Council, the Mabuhay Club, and the Modesto Bee's Hispanic Advisory Council. Dale has also founded a number of organizations such as the Stanislaus County Latino Community Round Table, El Concilio de Stanislaus County for the Spanish-Speaking, Inc., and the Stanislaus County Disability Resources Agency for Independent Living. There have been a number of honors bestowed upon Dale such as, the Stanislaus County Latino Community Round Table's Outstanding Latino of the Year, the California Association of Physically Handicapped's Humanitarian of the Year, the American GI Forum's Hispanic of the Year, and the Volunteer of the Year from the Hispanic Chamber of Commerce.

Dale is married to Corazon Butler, and together they have three children, Christine, Diana, and Dale III. I am proud to recognize all of Dale's accomplishments, and to call him my friend. Today I call upon my colleagues to help me thank Dale for his service to the Central Valley, and to wish him a very happy retirement.

## CLARIFICATION OF CONGRESSIONAL INTENT OF SECTION 102(g) OF DIVISION H IN H.R. 2673

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. THOMAS. Mr. Speaker, I rise to clarify the Congressional intent of Section 102(g) of Division H, Miscellaneous Appropriations and Offsets, in H.R. 2673, the Consolidated Appropriations Act, 2004.

Specifically, after discussing this Section with my colleague, Mr. GOODLATTE of Virginia, it is my understanding that it is the Congressional intent of that provision to also provide assistance to those producers who sustained eligible losses in the wildfire, known as the McNally Fire, which occurred in southern California in 2002.

I am pleased that this is indeed the Congressional intent of Section 102(g) because, as in the case of the 2003 southern California wildfires, while human action contributed to the genesis of the McNally Fire, the underlying natural conditions were such that it quickly became a natural disaster of enormous proportions and intensity. Among those underlying natural conditions were the weather, specifically drought conditions, and a buildup of undergrowth, dead or dying trees, and brush.

From my discussions with the Gentleman from Virginia, it is my further understanding that Section 102(g) is intended to provide assistance to those producers in the same manner as authorized in the underlying act cited in Section 102(g), Division H of the Conference Report to H.R. 2673, and specifically using the same loss thresholds as provided in that underlying act. The Congressional intent also is to ensure that the Secretary of Agriculture has the flexibility to make payments in a manner that quickly facilitates receipt of this assistance by eligible persons.

I appreciate the assistance rendered by the Gentleman from Virginia in this matter.

## A TRIBUTE TO BYRON SHER—PUBLIC SERVANT EXTRAORDINAIRE

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to the distinguished senator of the 11th senate district of California, my good friend, Mr. Byron Sher. My Congressional district overlaps with many of the communities in Senator Sher's district, and this has afforded me the opportunity to work closely with the Senator on numerous issues.

Byron has based his long and productive political career upon the strong foundations of a distinguished academic pedigree. After an ambitious undergraduate career, he earned his Juris Doctor from Harvard Law School in 1952 and then was a Fulbright Research Scholar in New Zealand. Byron went on to teaching positions at some of the leading law schools around the country, including Southern Methodist, University of Southern California and Harvard Law School. Currently, he is an emeritus professor of law at Stanford University.

Mr. Speaker, Byron has been active in local and regional government since he came to Palo Alto in 1957, and since then, he has repeatedly shown his commitment to the community through dedicated public service. He was a member of the Palo Alto City Council for 9 years and served two terms as mayor. In addition, for many years, Byron has been an active participant in local, State, and national environmental boards.

As a member of the California State Legislature, Byron has many notable achievements, however I wish to take a moment to mention some of the numerous legislative successes that Senator Sher has accomplished in the area of environmental protection. He is the author of landmark laws to protect California's environment, including the California Clean Air Act, the Integrated Waste Management Act, the Surface Mining Reclamation Act, the Safe Drinking Water Act and the nation's first law to prevent toxic contamination from leaking underground storage tanks. He also authored laws to strengthen California's timber regulations and added new rivers to California's Wild and Scenic River System, safeguarding them for future generations. He is consistently rated among the top legislators by the most respected environmental, consumer, law enforcement, education and housing groups. I applaud his conscientious hard work on the part of our community and California.

It is always a privilege to pay tribute to an extraordinary public servant on his retirement from a long and illustrious career of public service. What makes Byron so special though, is that this is his second such retirement from public service. After eight terms in the California Assembly he was term limited out of office. In 1996, however, he found a way to continue his service to the people of California, winning a special election to fill a vacancy in the State Senate. Now having exhausted almost every public office available, we on the Peninsula wait with excitement to learn how Byron will use his exceptional talents to continue to give back to our community and the nation at large.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Byron Sher as he completes a record of distinguished service in the California State legislature. The people of San Mateo County and the people of California have been well served by his extraordinary leadership and advocacy in both the State Assembly and the State Senate. I extend my personal best wishes to Byron and his family for a relaxing and well-deserved retirement.

## PERSONAL EXPLANATION

### HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. CARTER. Mr. Speaker, during rollcall vote 6, H.R. 1385, to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research and during rollcall vote 7, H.R. 3493, Medical Devices Technical Corrections Act, I was unavoidably detained due to inclement weather. If I had been present, I would have voted "yea" on rollcall vote 6 and 7.

## MOURNING THE DEATH OF JOHN J. SEXTON

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. EMANUEL. Mr. Speaker, I rise today with a heavy heart. Early this morning, the people of Chicago lost a great friend in John J. Sexton who passed away after a long and difficult illness. John Sexton was a man who lived life to its fullest, and the friends and family he had are a testament to the quality of his character and the type of man he was.

John Sexton achieved his success in life through hard work and determination. He spent his life in public service and was dedicated to the people of Chicago, rising through the ranks with the City, from machinist, to foreman, to Assistant Superintendent of the Meter Division of the City's Water Department, and finally Superintendent of the Meter Division. His dedication to his job and the city he loved is an example of why Chicago is known as "The City That Works."

But, it was John's connection to and involvement in his community that John's friends will remember. John loved the northwest side of Chicago, his home for his entire life. John raised his family in the Hiawatha Park neighborhood where he was very active as president of the Hiawatha Boys Baseball Organization.

As church life plays such an important role in the lives of so many Chicagoans, John was a member of several esteemed Northwest side parishes. He grew up in Presentation Parish, attended grammar school at St. Angela's and high school at St. Michael's. As an adult he was a member of St. Francis Borgia Parish.

The Northwest side has produced some of Chicago's finest leaders, and John Sexton played an active part in the success of many of their careers. John's passion for politics began at 16, working as a precinct worker for former Alderman Thomas Casey. As a precinct captain in the mighty 36th Ward Regular Democratic Organization, John became a close confidant and friend to many elected officials, especially Alderman William J.P. Banks and State Senator James A. DeLeo.

John's top priority was always his family, and the love and support they provided him was the most important thing in his life. For 31 years he was married to his wonderful wife, Rosetta. Their family also includes their daughter, Laurie Moran, and her husband Joseph, their son, John Jr., their daughter, Diana, and John's sister, Mary Kay Kuhter.

Mr. Speaker, I join with the people of Chicago in mourning John Sexton, a man I was proud to call a friend. May God bless the Sexton family and the memory of a man who was truly loved by his friends, his community and his family.

## HONORING THE LEBANON-WILSON COUNTY CHAMBER OF COMMERCE'S 80TH ANNIVERSARY

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. GORDON. Mr. Speaker, I rise today to recognize the 80th anniversary of the Lebanon-Wilson County Chamber of Commerce, an organization that has helped that Middle Tennessee community be one of the most desirable places in America to live.

The chamber can take a lot of credit for the quality of life enjoyed in Wilson County. Residents have an opportunity to work at good jobs, send their children to quality schools and experience a wide variety of recreational venues, including a new $125 million superspeedway that draws racing fans from all over the country. The chamber's advocacy for the business community and its economic development efforts have definitely paid big dividends to the county.

Chartered in September 1924, the Chamber of Commerce is fortunate to have had so many active, visionary members in its ranks. They have been instrumental in helping strengthen the county's diverse economy, including the retail, distribution and industrial base. Chamber leaders have helped attract many top-notch companies to the area. Dell computers, for example, employs approximately 1,400 people at its Wilson County assembly facility.

The Lebanon-Wilson County Chamber of Commerce has become one of the premier community advocates in the nation and has helped boost the area's quality of life in so many ways. As the chamber celebrates its 80 years of existence, I commend the organization for all it has done to make Wilson County such a desirable place to live and raise a family.

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## UNEMPLOYMENT EXTENSION

## HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. HOLT. Mr. Speaker, I rise today to give voice to millions of unemployed American workers. The citizens I speak of are the very people who keep the United States of America open for business each day. However as we are gathered here today, these people are, desperately searching for work so that they may provide food for their families, keep a roof over their heads, and save money to send their children to college and one day enjoy a well-deserved retirement. In December we failed to aid these people by not extending the benefits provided under Temporary Extended Unemployment Compensation (TEUC) for millions of unemployed citizens, we now have the chance to succeed where we failed before.

Mr. Speaker, on behalf of these Americans, who are our constituents, our neighbors, and the people who have entrusted us with the care of our nation, it is essential that we renew their unemployment benefits, and it is essential that we do it now. At the close of last year we failed to renew these benefits under TEUC for as many as 450,000 unemployed workers and instead of families spending quality time with each other, exchanging gifts, and rejoicing in the new year, the bottoms of Christmas trees were left bare and the countdown to the New Year was a time for fathers and mothers, brothers and sisters to hope 2004 might be better. Middle class Americans cannot sustain the American dream while not receiving any income for three or four months, or even longer. We owe them this continued assistance until this economy can provide them with jobs they desperately want again.

Mr. Speaker, the Congress must make the plight of middle class America its number one concern. Without the temporary extension of unemployment benefits under TEUC, Americans will continue to struggle to pay the bills in this still-weak job market. By extending the unemployment benefits for an additional six months, it will grant more time for unemployed Americans to find new jobs. While experts could explain various aspects about the business and economic cycles and how companies will begin hiring again in the future, this does not solve the present problem of how bread winners are going to pay bills and how food is going to get into the stomachs of children so that when they go to school, their day is spent learning and not focusing on the pain in their gut.

Mr. Speaker, to this end I submit that we not hesitate in renewing unemployment benefits and spend the taxpayers dollars on the soundest investment of all, the American worker. Its long past time that these unemployed workers get the benefits they deserve and time for us as a Congress to vote to restore the Temporary Extended Unemployment Compensation program.

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## TRIBUTE TO KATHY CLONINGER

## HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mrs. TAUSCHER. Mr. Speaker, as co-leader of the Honorary Congressional Girl Scout Troop, I am pleased to congratulate Kathy Cloninger, who has recently been named as Chief Executive Officer of Girl Scouts of the USA. Under Kathy's leadership, Girl Scouts of the USA will truly become the preeminent organization advocating for America's girls.

As a former Girl Scout I know first hand the difference that scouting can make in a girl's life. More than 3 million girls look to Girl Scouts of the USA to help them grow into talented, successful young women.

As a former businesswoman, I also know first hand the difference that the leader of an organization can make. As co-leader of Troop Capitol Hill, I look forward to working closely with Kathy Cloninger. Her vision for Girl Scouting is inspiring.

Under Kathy's leadership, Girl Scouts of the USA will complete their transition from the Girl Scouts that I knew, to the Girl Scouts that is now rising to the challenge of addressing the needs of contemporary girls with contemporary issues. From Girl Scouts Beyond Bars to troops in public housing communities, as I tell my daughter, this is not your mother's Girl Scouts.

Mr. Speaker, I ask you to join me in congratulating Kathy Cloninger in her new position and wish her the best of luck.

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## PERSONAL EXPLANATION

## HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall Nos. 6 and 7 on Tuesday, January 27, 2004, I was unable to cast my vote due to inclement weather, being detained Charleston International Airport with multiple day-long delays and cancellations.

Had I been present, I would have voted the following:

Rollcall 6, to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research, I would have voted "yea".

Rollcall 7, Medical Devices Technical Corrections Act, I would have voted "yea".

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## THE EUROPEAN POPULATION FORUM 2004

## HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. GREENWOOD. Mr. Speaker, the global community, particularly the poorest countries of the world, face significant problems in the area of reproductive health and family planning. A critical shortage of international funding for family planning exacerbates severe threats to maternal and child health. To examine current population developments, the European Population Forum 2004 was held January 12–14, under the auspices of the United Nations Economic Commission for Europe and the United Nations Population Fund. I encourage members of this body to take note of the following statement written by Werner Fornos, president of the Population Institute and recipient of the 2003 United Nations Population Award. The following article, which appeared in the International Herald Tribune on January 14, 2004, sheds light on the dangerous and false belief that population growth is no longer the global concern it was a decade ago.

[From the International Herald Tribune, Jan. 14, 2004]

### A GLOBAL CONCERN

### A POPULATION CRISIS STILL LOOMS

(By Werner Fornos)

As the European Population Forum in Geneva draws to a close, coming to grips with high fertility rates remains a daunting international challenge, particularly in the poorest countries of the world where population growth continues to outstrip resources, place pressure on the environment, and exacerbate social disintegration. Despite encouraging recent reports from the United Nations, human growth remains an issue that requires priority attention around the globe if there is to be realistic hope for achieving sustainable development.

Only 3 years ago, the United Nations estimated that by mid-century the planet's human population would have risen from about 6.2 billion to 9.3 billion. More recent figures project the 2050 population to be 400 million less than the previous estimate. When the numbers are examined more closely, however, we find that the population of the industrialized countries is estimated to remain constant through 2050 at about 1.2 billion. Virtually all human growth will occur in the developing world, where the population is expected to increase from the current 5.1 billion people to 7.7 billion.

Considering that developing countries bear the brunt of the earth's grinding poverty, desperate hunger, disease, illiteracy and unemployment, the recent downward revision of demographic figures does not warrant celebration. In fact, some developing countries, including Burkina Faso, Mali, Niger, Somalia, and Yemen, are likely to quadruple their population by mid-century.

Over the past 40 to 45 years, the world's population has doubled. But annual population growth has been decreasing since the 1990's, from a high approaching 90 million to less than 80 million. These declines have spawned a pervasive myth that population growth is no longer a matter of global magnitude—a myth that is spread, unsurprisingly, by the same crowd that 10, 15, and 20 years earlier insisted that population growth was never a problem in the first place: religious extremists and reactionary political ideologues.

The irony of the myth is that this year marks the 10th anniversary of the International Conference on Population and Development. That meeting, in Cairo, established important quantitative goals for the next 20 years, including efforts to ensure that every pregnancy is intended; to protect women from unsafe abortion; to promote education for all and to close the gender gap in education; to combat AIDS; and to bring women into the mainstream of development.

A key concern, however, is that expenditures for implementing family planning and reproductive health programs have fallen well short of the $17 billion that the Cairo meeting estimated would be required by 2000.

Industrialized countries were expected to come up with one-third of that total, or $5.7 billion, but by 2001 had contributed only $2.5 billion. Developing countries and private sources, expected to spend $11.3 billion on population activities by 2000 had contributed only $7 billion by 2001.

Global goals for drastically reducing poverty, maternal and child mortality, illiteracy and hunger will be mere wishful thinking unless and until population growth is substantially lowered. For this to happen, the international community must clearly understand that to achieve an improved quality of life for all, now is the time to accelerate population stabilization efforts, rather than retreat from them.

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## IN RECOGNITION OF DONALD A. DUFF

### HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. MATHESON. Mr. Speaker, I rise to pay tribute to Mr. Donald A. Duff, of Salt Lake City, who is retired after forty-three years of Federal service on January 2, 2004. His abiding love of this country began at the age of seventeen during his service as a seasonal postal carrier in northwest Washington, DC.

In 1959, Mr. Duff enlisted in the United States Air Force, following in the footsteps of relatives who have served this nation in every conflict since the Revolutionary War. He also comes from a long line of relatives with close ties to our capital city including a great-great-grandfather who assisted Pierre L'Enfant in laying out the streets of Georgetown and a great-grandfather who grew the first American Beauty Rose in the White House garden. Mr. Duff's father also served as an Admiralty lawyer, working with Presidents McKinley and Franklin Roosevelt to establish merchant marine laws. The U.S. Congress and the Maritime Commission recognized his work by naming in his honor a WWII Liberty Ship, the "S.S. Edwin H. Duff."

Mr. Duff served the Air Force Strategic Air Command Headquarters as a photo intelligence specialist, analyzing satellite and U2 photography during the Cold War. In 1962, he made the initial confirmation of a Russian missile in the Havana harbor that ultimately led to the Cuban Missile Crisis.

Mr. Duff also distinguished himself as a wildlife and fisheries biologist in the U.S. Forest Service, the U.S. Fish and Wildlife Service and the Bureau of Land Management. These agencies, as well as the Environmental Protection Agency, the American Fisheries Society, and Trout Unlimited have recognized him, for his expertise in conserving native fishes and in river restoration.

He was a member of America's first fisheries scientific exchange with the Republic of Ireland in 1989. In the ensuing years, he developed a management plan for restoration of Ireland's salmon species. Ireland was later awarded 19 million pounds from the European Union for this restoration, and Mr. Duff served as the chief external advisor from 1995–2000, restoring over 200 miles of salmon-bearing rivers and habitats. He has been instrumental in providing similar assistance to other European and Asian countries during his career.

I ask my colleagues to join me in recognizing Mr. Duff's achievements on the occasion of his retirement.

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## TRIBUTE TO THE COUNTY OF WILL

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. WELLER. Mr. Speaker, I rise today to honor the County of Will as it is recognized as the 2004 recipient of the Joliet Region Chamber of Commerce's annual "Salute to Industry Award". The County will be the 28th recipient of this award and lies within my 11th Congressional District in Illinois.

Will County was first established in 1836 by an act of the Illinois legislature, which subdivided it from Cook County. The area was a favorite hunting ground for the Indians as it had an abundant supply of water and timber. Travel was facilitated by the old Sauk Trail and by the Des Plaines, DuPage, and Kankakee Rivers.

Today, the County is the fastest growing county in Illinois and the fourth-fastest growing county in the nation. According to the U.S. Census the population of Will County as of April 2001, was a little over 502,000. It is estimated that Will County's population will reach over 800,000 by the year 2020 and over 1 million in 2030.

Will County is the only county in the State of Illinois that has the County Executive System. Mr. Joe Mikan is the current County Executive. The County Board is comprised of 27 members, of which three represent each of the nine districts.

County Executive Mikan and Will County elected officials are always striving for new advances to make it easier for constituents and businesses to operate in the County. They have streamlined business procedures, opened a Workforce Services division, and developed the Will County Archives Center. The County is also pursuing co-sponsorship of the future South Suburban Airport.

Mr. Speaker, I urge this body to identify and recognize other counties in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

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## RECOGNIZING JOAQUIN RECLOSADO, JR., A VETERAN'S VETERAN

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. FILNER. Mr. Speaker, I rise to recognize Joaquin Reclosado, Jr., a Marine and California National Guard veteran who is the driving force behind the Annual Sunset Retreat Ceremonies held in Imperial County, California in my Congressional District.

On November 11, 2003, the Eighth Annual Sunset Retreat was conducted by local veterans to celebrate Veterans' Day. Each year, a ceremony is held for veterans, with special attention to veterans of a prior war, women veterans, and this year, Native American veterans.

The Sunset Retreat is the brainchild of Mr. Reclosado, universally recognized as "Junior". He organized the first event in 1996. He oversaw the committees, obtained equipment and the venue, contacted participants, and made certain that the event took place. But for Junior, all agree that the Sunset Retreat Ceremony would not happen!

He was born in Calexico, California in 1935 of Mexican and Filipino parents and attended school in Calexico. He joined the Marines in 1953, serving in Korea and leaving active service in 1963. The next 27 years, Junior spent with the Imperial County Sheriff's Department and serving in the California National Guard. He retired from the Guard at the age of 60 with the rank of Sgt. Major.

In addition to his duties with the annual Sunset Retreat, Junior is active with the American Legion, the Veterans of Foreign Wars, the Korean War Veterans Association, and the 1st Marine Division Association, both in Imperial Valley and in the state of California. He organizes Memorial Day ceremonies, MIA-POW recognitions, and the details of veterans' funerals. He arranges for veterans to visit local schools. He is a frequent participant in events of the Imperial Valley United Veterans Council.

Junior Reclosado is someone who is deeply involved in bringing deserved attention to the contributions of the men and women in the Armed Forces and to our country's veterans. He is a veterans' veteran!

I am pleased to take this opportunity to honor him and his service to his community and to our nation.

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## PERSONAL EXPLANATION

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, due to the inclement weather my flight was cancelled yesterday and I was absent for rollcall vote No. 6 on H.R. 3493, and rollcall vote No. 7 on H.R. 1385.

Had I been present, I would have voted "aye" on each of these rollcall votes.

## BILL TO HONOR FORMER GOVERNOR LUIS A. FERRÉ

### HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. ACEVEDO-VILÁ. Mr. Speaker, last October, the people of Puerto Rico lost a great man. Former Governor Luis A. Ferré was a visionary who dedicated his life to his country. As Governor from 1968 to 1972, he was a proponent of many projects that ensured great economic development for the island. To honor his life, today I am introducing legislation, as a companion to legislation introduced by Senator RICK SANTORUM in the Senate, to designate the Luis A. Ferré United States Courthouse and Post Office Building, located at 93 Atocha Street in Ponce, PR, as a tribute to his life and work.

Former Governor Ferré was a brilliant politician, musician, businessman, and philanthropist who dedicated his life to serving his people and moving Puerto Rico forward. During his term as Governor, he created, among other things, the Environmental Quality Board, the Departments of Natural Resources and Housing, the Office of Youth Affairs, and the Tourism Company. Throughout his life, he also demonstrated his unwavering commitment to Puerto Rican culture and the arts by founding what is now the biggest newspaper in Puerto Rico and the Art Museum of Ponce.

He was an extraordinary man whose efforts and endeavors gave luster to Puerto Rico and to his native city of Ponce. During his years in the public service, he demonstrated true commitment and dedication to his country and his city by initiating public works and creating projects that contributed to the modern and developed Puerto Rico that we enjoy today.

His love for Puerto Rico and its people will live on forever in the hearts of all Puerto Ricans. Giving his name to the U.S. Courthouse and Post Office building in Ponce is a simple but long-lasting way to recognize his work and honor his life, and I ask you to join me in celebrating his life.

## CELEBRATING BLACK HISTORY MONTH

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with a great sense of honor that I rise to celebrate Black History Month and its 2004 theme—Celebrating the 50th Anniversary of Brown v. Board of Education. On May 17th of this year, we will celebrate the anniversary of the Supreme Court's decision to desegregate public schools in America. Because of this ruling, many significant pathways have been opened within our country that focus on justice, equality, and the importance of education.

As we reflect on the importance of the Brown v. Board of Education ruling, I would like to take this opportunity to pay tribute to an individual from the First Congressional District that has represented the epitome of leadership in education within the African-American community, Dr. YJean Chambers. YJean passed away on Wednesday, November 12th, 2003, but her legacy of courage and dedication continues to inspire us all each day.

YJean and her family moved to Gary, Indiana from Kentucky when she was a young girl, seeking a better life for themselves. In 1939, she graduated from Gary Roosevelt High School ranking second in her class, and then went on to earn her Bachelor of Education degree from Illinois State University. She also went on to earn her Master of Arts degree from Purdue University, where she received Purdue University's highest award, Doctor of Humane Letters in 1993.

YJean knew how important education was to all members of her community and therefore shared her gift of knowledge and enthusiasm for learning by becoming a teacher in Madison, Illinois. After two years she began teaching speech and drama at her alma mater, Gary Roosevelt High School. In 1971, YJean became a full time professor at Purdue Calumet in Hammond, Indiana where she taught communications and was appointed Assistant Professor of Communications in 1973.

YJean gave selflessly to her community in so many ways, including being a member of several important educational organizations. She served as President of the Steel City Hall of Fame, sat on the Service Academies Nomination Board, was a member of the Board of Trustees of the Gary Community Schools, and was also a member of the Board of Directors of the Indiana School Board Association. YJean made history in Northwest Indiana by becoming the first African American woman elected to the Northwest Indiana Crime Commission and the first woman to serve on the Advisory Board of the Bank of Indiana.

Mr. Speaker, as we celebrate the anniversary of Brown v. Board of Education throughout Black History Month, let us pay tribute to our country's educational leaders such as Dr. YJean Chambers, who have taught us the true values of equality and determination. I respectfully ask that you and my other colleagues join me in commending Dr. Chambers, as well as all other outstanding African-American leaders in education for their efforts to build a better society for our country and the citizens of Northwest Indiana.

## INTRODUCING A RESOLUTION TO DECLARE THE WEEK OF FEBRUARY 22, 2004 AS NATIONAL EATING DISORDERS AWARENESS WEEK

### HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mrs. BIGGERT. Mr. Speaker, I rise today to introduce a resolution declaring the week of February 22, 2004 as National Eating Disorders Awareness Week. I want to thank my friend TED STRICKLAND from Ohio for introducing this resolution with me, and for his support on this very important issue.

Conservative estimates indicate that 5 to 10 million girls and women and 1 million boys and men in the United States are struggling with eating disorders, including anorexia, bulimia, binge eating disorder, or borderline conditions. These conditions can lead to serious physical and mental health problems, yet affected individuals often do not seek treatment because of the shame and misunderstanding surrounding these disorders.

National Eating Disorders Awareness Week will serve as a way to increase public awareness of these disorders and to promote healthful eating habits and healthy body image. I urge my colleagues to join me in supporting this worthy endeavor, and I yield back the balance of my time.

## HONORING LOWELL STANBERRY

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Lowell Stanberry, a good friend and great American who has dedicated his life to helping others and fighting for what he believes.

Lowell is a legend in Dade City, Florida, which I formerly represented. He has worked hard his entire life and has been vitally important to the city's economic prosperity. He has volunteered in various capacities for numerous volunteer, civic, and philanthropic organizations which work to improve the lives of those who have lived in Lowell's community.

Lowell also has been a lifelong conservative. He was a Republican long before it was politically-expedient. "I think politics is kind of like religion," he says. "If you were born a Republican, I think you die a Republican."

He certainly has made his mark on local, state, and national politics. He helped make the Pasco County Republican Party what it is today. He has helped elect numerous public officials. I am unsure whether I would have won my first congressional election had it not been for Lowell's support. He also has been actively involved in other gubernatorial and presidential campaigns in Florida.

The East Pasco Republican Club recently honored Lowell with its Lincoln Heritage Award, which the group gives to an outstanding individual who upholds the ideals of service and intelligent compassion. I cannot think of a more deserving recipient than Lowell Stanberry.

Mr. Speaker, I am proud and honored to call Lowell a friend and fellow Republican. He has taught everyone with whom he has come into contact the importance of charity and of maintaining the courage of your convictions.

## TRIBUTE TO THE LATE MR. JOHNY CESAIRE

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to one of Miami's unsung heroes, the late Johny Cesaire, also known popularly by my Haitian American constituency as P Jhony of Radio Pep La. His untimely demise due to cancer last Monday, January 16, 2004, leaves a deep void in our community.

Though I have had not the opportunity of bonding with him as did my mother, Congresswoman Carrie P. Meek, I do reserve the utmost respect and genuine admiration for his insatiable quest for simple justice and fairness for the less fortunate among us, particularly our newly-arrived Haitian refugees. Throughout his 10-year stint with Radio Pep La, he vividly put a true face and a brave voice on the struggle of Haitians across Florida and beyond by portraying their unjust and inhumane treatment on the part of government, along with its discriminatory immigration laws and provisions that, to this very day, continue to impact their lives negatively.

Mr. Cesaire was virtually the resilient and unyielding voice of the Haitian community that called to attention the cruel disenfranchisement of Haitians at almost every level of government. With his support the Haitian Refugee Immigration Fairness Act (HRIFA) came about in October of 1998 to bring longed-for hope and confidence to Haitians in South Florida and throughout the nation. Thanks to him, hundreds of Haitians and their families have been given a chance to seek the freedom and legalize their status in the United States.

Our community will be in mourning on Saturday, January 31, 2004 as his friends and admirers will come together at Holy Family Church to bury this seemingly ordinary man of God, who had done some great and extraordinary things during his earthly sojourn. I will certainly miss him for his undaunted leadership.

He talked and lived by the simple adage that the quest for personal achievement is not beyond the reach of those willing to dare the impossible on behalf of a people buffeted by so much discrimination and injustice.

This is the legacy that Johny Cesaire bequeathed to us, and it is with his nobility and compassion for the less fortunate that we will always remember him. I am greatly privileged to have been taught by him with this credo, and I thank him for giving me the honor of representing him in the U.S. Congress. I pray that God grant him Eternal Rest.

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## PERSONAL EXPLANATION

### HON. FRANK W. BALLANCE, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. BALLANCE. Mr. Speaker, due to inclement weather, I was not present for rollcall votes Nos. 6 and 7. Had I been present, on rollcall vote No. 6, I would have voted "yea"; on rollcall vote No. 7, I would have voted "yea."

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## MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. SOUDER. Mr. Speaker, I rise today in support of H.R. 3493, the Medical Devices Technical Corrections Act of 2003. This bill will help ensure medical devices are quickly approved and sent to market as intended by the Medical Device User Fee Modernization Act of 2002. In particular, the bill will clarify FDA third-party inspection requirements to ensure companies can use third-party inspectors for two consecutive inspections. Additionally, the legislation will authorize HHS to conduct a study to identify barriers to market entry for pediatric products, which often help small populations and, therefore, are not profitable to manufacturers.

These clarifications are critical to the medical device industry in the United States, which leads the world in the development and manufacturing of medical technology. Medical device companies produce nearly $78 billion annually and generate nearly 6 percent annual growth. The products produced by these companies have a tremendous impact on our country's economy by creating great high-paying American jobs and consistently generating annual trade surpluses in the billions of dollars.

Advances in medical technology are improving the quality of life for people around the world as new and more effective treatments for various diseases and medical conditions are developed. New medical technology also helps reduce the cost of health care and Medicare as health problems are prevented and treated more easily through early detection, less invasive procedures and faster recovery times for the patient.

The medical device industry is critical to the economy of Indiana as well as the district I represent, Indiana's 3rd district. A large majority of the nation's orthopaedic devices are produced in Warsaw, Indiana, where DePuy, Zimmer and Biomet, three of the Nation's leading companies in orthopaedic devices are located. These companies control roughly 40 percent of the global market share of orthopaedic joint replacements and generate $4 billion dollars annually in sales. The combined economic and societal impacts of these three companies to my district and the state are highly significant. I commend the House for summarily passing H.R. 3493 and I encourage my colleagues in the other body to vote in favor of H.R. 3493, the Medical Devices Technical Corrections Act of 2003.

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## NATIONAL NURSE ANESTHETISTS WEEK

### HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. COLLINS. Mr. Speaker, during this week, the fifth annual National Nurse Anesthetists Week, I recognize the work of nurse anesthetists and the important role they play in the delivery of safe and effective health care. This year, millions of Americans will undergo surgery or deliver a baby, and most of them will receive their anesthesia care directly from a Certified Registered Nurse Anesthetist (CRNA). During this week devoted to recognizing the work of CRNAs, CRNAs are celebrating their long history of providing safe anesthesia care.

I would like to thank the more than 30,000 members of the American Association of Nurse Anesthetists (AANA), AANA's president, Tom McKibban, AANA's Executive Director, Jeffery Beutler, and the staff of the AANA for their effort in promoting measures to ensure that Americans across our nation have access to quality health care services at the times they need it most. More than their promotion of commonsense legislation, though, I want to thank the AANA and its members for the work they do everyday in providing excellent care for their patients in what are often challenging and trying times for these Americans and their loved ones. In addition, CRNAs practice in every setting and are the sole anesthesia provider in more than two-thirds of all rural hospitals, ensuring that most Americans can have access to care within their own community.

In addition to being a main provider within America's borders, CRNAs are also the main provider of anesthesia care to American service men and women stationed around the world. Overseas, CRNAs have been on the front lines supporting U.S. troops since World War I, and presently more than 165 nurse anesthetists are on duty in Iraq, comprising nearly 80 percent of the anesthesia providers serving in the conflict. For their service to their country and our men and women in uniform, our nation and this Congress will always be grateful.

In my own state of Georgia, there are currently 793 AANA members who provide care for the people of Georgia. I would also like to thank these CRNAs, Martha Kral, the President of the Georgia Association of Nurse Anesthetists (GANA), and Janice Izlar, GANA's Federal Political Director, for the quality health care services they provide to the people of Georgia.

It is my honor to recognize National Nurse Anesthetists Week and the work of CRNAs across the country. In the year ahead, I look forward to continuing to work with the AANA, that GANA, and CRNAs from across Georgia and across the nation to promote patient safety and to educate patients and their families about their anesthesia options and nurse anesthesia providers.

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## PERSONAL EXPLANATION

### HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. BOOZMAN. Mr. Speaker, I would like the RECORD to show that I was unable to attend votes yesterday, January 27, 2004, due to inclement weather in Washington, DC that prevented my return. Should I have been present, I would have voted "yea" on H.R. 1385. I would have also voted "yea" on H.R. 3493, the "Medical Devices Technical Corrections Act."

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## RECOGNIZING THE CONTRIBUTIONS OF FREDERICK AND BARBARA McGEHAN

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize two faithful public servants who are constituents of mine, Barbara and Frederick McGehan.

Fred McGehan, the Public Affairs Officer and Director of the Boulder Public Affairs Office at the National Institute of Standards and Technology (NIST) in Boulder, is retiring in February after 30 years of service at NIST. Barbara McGehan, the Public Affairs Officer for the NOAA Research Laboratories in Boulder, retired at the end of 2003, after 21 years of service to the Federal Government, 18 years dedicated to serving the National Oceanic and Atmospheric Administration (NOAA) in Boulder. I've had the pleasure of working with both Fred and Barbara for the last five of their many years in the Federal Government.

After earning her Bachelor of Arts in History and Government at the State University of New York at Buffalo, Barbara worked for U.S. Rep. Richard McCarthy in the U.S. House of Representatives from 1965 to 1968. She worked for the Maryland Democratic Party from 1971 to 1973. She and Fred moved to Colorado in 1977, where Barb worked at the Sacred Heart of Mary Church, first on the church newsletter and later as a substitute teacher at Sacred Heart School.

In November 1985, Barbara started at NOAA in Boulder with the program that became the NOAA Forecast Systems Laboratory (FSL). She worked for FSL until 1994, when she accepted the position of Public Affairs Officer for NOAA in Boulder.

Fred graduated from Holy Cross College in Worcester, Massachusetts in 1963 with a B.A. degree in English, and afterward from Columbia University with a graduate degree in journalism. Fred put his education and training to good use by working as a general assignment reporter at the Providence Journal in Rhode Island, and then covering science, space and medicine for Newhouse National News Service and the Baltimore Sun. With his experience in news reporting under his belt, Fred began his "next career" in public affairs at the National Institute of Standards and Technology (then known as the National Bureau of Standards) in its headquarters laboratory in Gaithersburg, Maryland, in 1974.

When he and Barb moved to Boulder in 1977, Fred continued his work at NIST as a science writer and public affairs specialist before taking over as Public Affairs Officer and Director of the Boulder Public Affairs Office. In his public affairs capacity and also while serving as Executive Officer and Acting Director of the NIST Boulder Laboratories and at various times during his nearly 30 years at NIST, Fred also has devoted enormous energy to working with the community.

Fred and Barbara have three grown children and are active in St. Thomas Aquinas Church in Boulder. Fred is an avid fan of Colorado Rockies baseball.

Of course, after so many decades of service, Fred and Barb deserve to have all the time in the world to spend with their children, be active in their community, and go to ball games. I'm sure they plan a very active retirement.

But Barb and Fred will be missed by their colleagues and by the millions of Americans who benefit every day from NOAA and NIST research and services. They were outstanding public affairs officers and advocates for their respective labs. During my visits to NIST and NOAA, they both helped me understand the many ways in which the labs influence people's everyday lives.

More importantly, Fred and Barb inspired me to continue my fight for Federal funding for research activities at NOAA and NIST and for infrastructure improvements that these labs so direly need. Fred and Barb have my assurance that I will continue to work in Congress to advance the needs and promote the tremendous achievements of Boulder's NIST and NOAA labs.

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## A SPECIAL TRIBUTE TO JIM DAUBEL FOR HIS DEDICATED SERVICE TO THE NEWS-MESSENGER

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding gentleman, and good friend, from Ohio. Jim Daubel is set to retire after a 26-year tenure as president, publisher, and editor of the Fremont News-Messenger.

Mr. Speaker, when Jim was just a boy, his father, Don Daubel, would take him to the old Fremont News-Messenger building on Arch Street. Jim remembers climbing up on the newsroom desks where he'd bang away on the typewriters the reporters would use everyday. As exciting as those memories were for Jim, they were just the beginning.

The Daubel family has been a journalism institution in Fremont dating back to 1925 when Jim's grandfather, F.J. Daubel, purchased the Fremont Messenger at a bankruptcy sale with his brother-in-law L.E. Kinn and associate J.N. Kinn. In 1937, the family purchased the Fremont News, creating the News-Messenger that Jim Daubel would know his entire life.

By the time Jim was in the 8th grade, he was working part-time in the print shop, a job he would hold through high school. After he went off to Marquette University in Wisconsin, where he would receive his journalism degree in 1963, he moved into the newsroom.

After almost 50 years in journalism, of which the last 30 were spent with The News-Messenger and Port Clinton News Herald, Jim said it was "just time" to step down and leave the business—and the paper—that has been such a part of him for as long as he can remember.

Jim will leave big shoes to fill in the halls of Fremont's News-Messenger. His wisdom, honesty, and forthrightness are attributes to which all in journalism should aspire. He has set an example for everyone on how to live a life of service, putting the greater interests of the community before one's own.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Jim Daubel. Our communities are served well by having such honorable and giving citizens, like Jim, who care about their well being and stability. We wish Jim and his family all the best as we pay tribute to one of our district's finest citizens.

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## HONORING R.H. "ANDY" ANDERSON

### HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. LARSEN of Washington. Mr. Speaker, today I rise to honor a man with a distinguished record of community service in the state of Washington. R.H. Anderson is set to retire after an exemplary career that has spanned six decades. His colleagues and friends know him as Andy. The people of the Second Congressional District also know him as a dedicated public servant who has worked to improve the quality of life for thousands of residents and businesses in Washington State.

A graduate of Seattle's Lincoln High School, Andy began his career as a photojournalist. He began learning about the world of politics as a student at the University of Washington when he was assigned to cover the HUAC hearings being held in Seattle.

Andy developed a love of radio and began spending time at a local jazz station. Soon he was doing odd jobs such as pulling records for late night disc jockey Bill Apple at KRSC, a radio station in Seattle. Apple soon recognized that Andy had real talent and a tremendous voice for radio. Andy began doing some news stories on the air, unpaid at first, before landing a job on the 10 p.m. to 1 a.m. slot.

Andy was then hired at Seattle radio station KVI, which had a jazz format at the time, as a temporary replacement for their regular disc jockey. Upon the return of the regular broadcaster, Andy found a niche at Everett station KRKO, where he was hired as a newscaster. His love of politics had been ignited while covering the HUAC hearings, and Andy was delighted to be covering the political world.

Andy began working at Bellingham radio and television station KVOS in 1955. He was on the cutting edge of the television era, and began covering politics and elections on camera. Andy could finally show his community the political universe that he had been describing with his voice for nearly a decade. In 1956, KVOS hired a young radio announcer by the name of Al Swift. Andy and Al formed a close friendship during their work together.

In 1965 Andy worked in Canada as an assistant to the president of Canawest Film Productions, an arm of KVOS. Andy wrote scripts and produced feature films, commercials, and corporate films. Andy moved back to Bellingham in 1976 and back into his role as news director after Al Swift left KVOS to work for Representative Lloyd Meeds.

Andy set up a major news organization at KVOS TV. His efforts brought a sizable viewing audience to local news programming, providing a great lead-in audience to the CBS evening news. The news department ran soundly under Andy's direction until 1983, when KVOS was sold and the news department eliminated.

Andy's old friend Al Swift, meanwhile, had been serving as a Member of Congress since 1979. Swift's District Manager, Bill McDonald, had passed away and Al Swift hired Andy as his new District Manager.

While serving as District Manager for Congressman Al Swift, Andy was instrumental in creating the PACE (now NEXUS) lane for frequent travelers between the United States and Canada. This expanded trade and reduced waiting time at the border. Thousands of individuals and businesses benefited from Andy's involvement in bringing rapid travel between the two nations.

After Congressman Swift chose to retire in 1994, Andy began a consulting business that he successfully ran for several years. Andy then retired but still maintained a burning desire for public service.

After I won election to Congress in 2000, I asked Andy to come out of retirement to join my team. For the past three years, he served as director of my Bellingham office, representing me in the northern area of my district. His tireless and outstanding efforts on behalf of the people of Washington's Second Congressional District are legendary and will be truly missed.

Andy's career in public service can be measured not only in economic benefits, but also in the amount of improved quality he brought to the lives of those in the region. He was always available to answer a question, investigate and solve a problem, and to champion programs to help the residents of Washington state.

Mr. Speaker, Andy's friends, colleagues, and family are holding numerous gatherings to celebrate his great career. I am honored to pay tribute to Andy Anderson, a true friend and a dedicated public servant. His direct work with the public may be ending, but the public will always know the impact of his service. The achievements of Andy Anderson will be felt for many decades due to his passion for improving the lives of his fellow residents. I ask all of my colleagues to join me in congratulating Andy on his fine career and his unwavering commitment to Washington State, and our nation.

## TRIBUTE TO DON HARRIGER, GENERAL MANAGER, WESTERN MUNICIPAL WATER DISTRICT

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Don Harriger, General Manager of the Western Municipal Water District is one of these individuals. On Wednesday, January 28, 2004, he will be honored at a special retirement dinner.

Don was appointed General Manager in 1989, and has been responsible for the planning, direction, management, and overall supervision of the activities and operations of the District.

Prior to his appointment as General Manager, Don served the District as Assistant General Manager. In that previous position, he was appointed by the court to two Watermaster Committees, appointments he currently still holds. The Western-San Bernardino and the Santa Ana River Watermaster Committees were established as part of the 1969 Stipulated Judgments that settled the massive water rights issues in the Santa Ana Watershed. In June of 2003, Don was elected chairperson of the Santa Ana River Watermaster Committee.

Before joining Western, Don was Chief Engineer and Assistant Manager of the Santa Ana Watershed Planning Agency, the forerunner of the present-day Santa Ana Watershed Project Authority (SAWPA), a joint powers agency responsible for regional water resources planning and project implementation. At SAWPA, he was primarily responsible for the technical direction of the development of the Santa Ana Watershed Basin Plan. Prior to his position at SAWPA, Don was associate engineer with the State of California, Department of Water Resources.

A California registered professional engineer, Don received his Bachelor of Science Degree in Civil Engineering from the University of Illinois and his Master of Science Degree from California State University Sacramento. He and his wife Arvina reside in Riverside.

Don's leadership at the Western Municipal Water District has contributed immensely to the betterment of the District and the community of Riverside, California. I am proud to call Don a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

## HONORING JUDGE JOSEPH MATTINA UPON THE OCCASION OF HIS RETIREMENT

### HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. REYNOLDS. Mr. Speaker, as the Western New York community gathers tonight to celebrate the life and career of the Honorable Judge Joseph Mattina, I rise to pay tribute to this outstanding jurist and dedicated public servant.

Throughout his career, Judge Mattina has been an exemplary community leader. Over his 40 years as a Supreme Court and Surrogate Court Judge, he has displayed a selfless commitment to our fellow citizens and to the betterment of our community. He has truly served our society with tireless devotion, and his community contributions distinguish him as an example for us all.

As a judge, his name has become well known throughout both New York State and our nation. He has presided over significant and challenging trials, such as the Attica Prison Rebellion. He has also been influential in overseeing important programs throughout the State.

But Judge Mattina is known not only for his contributions to his profession, but for his contributions to our community. He is a decorated awardee, recipient of such awards as "Outstanding Citizen of the Year" and the "National Brotherhood" award. He has been honored by Time Magazine and has been inducted as a charter member of the Hall of Honor at the National Judicial College. He will be honored yet again this year when a state-of-the-art medical center located in Buffalo, NY is named after him: the Judge Joseph S. Mattina Medical Center. This is in recognition of his more than 35 years of service as a volunteer and as an important advocate of the construction of this facility.

Judge Mattina has earned a legacy of outstanding leadership and superb dedication. He has made significant and considerable contributions to our community, for which we are all incredibly thankful.

Mr. Speaker, I ask that this Congress join me in honoring Judge Joseph Mattina, and wish him the best of luck upon his retirement.

## S. 877—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003—CAN-SPAM ACT OF 2003 (PL 108–187)

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. DINGELL. Mr. Speaker, this statement represents my views as well as the views of W.J. "BILLY" TAUZIN, Chairman of the Committee on Energy and Commerce, on S. 877 the Can-Spam Act of 2003 ("the Act"). Our views on Sections one through five of the Act are contained in a separate statement submitted today by Chairman TAUZIN.

Section 6 of the legislation prohibits a person from allowing commercial e-mail messages in violation of section (5)(a)(1) to be sent by a third party if that person had knowledge of such promotion, expected to receive economic benefit from such promotion, and took no action to prevent the transmission of the e-mail messages or report such messages to the Federal Trade Commission. This section should not be interpreted to preclude any action brought under section 5 arising out of the same conduct.

Section 7 of the legislation sets forth enforcement provisions for the Act.

Subsection (a) provides for enforcement of the Act by the Federal Trade Commission

(FTC) under section 18(a)(1)(B) of the Federal Trade Commission Act.

Subsection (b) provides for enforcement of the Act by certain other Federal functional regulators.

Subsection (e) provides the FTC and the Federal Communications Commission (FCC) may seek injunctive relief or cease and desist orders without the showing of knowledge otherwise required under this Act.

Subsection (f) sets forth enforcement of the legislation by the States.

Paragraph (1) provides that the attorney general, or other official or agency of the State, may bring civil actions exclusively in Federal district court to enjoin violations of section 5 of the Act or obtain damages on behalf or residents of the State, equal to the greater of actual damages or statutory damages as determined under paragraph (3).

Paragraph (2) provides that State attorneys general may seek injunctive relief without the showing of knowledge otherwise required under the Act.

Paragraph (3) sets forth statutory damages.

Subparagraph (A) provides that for purposes of paragraph (1)(B)(ii) damages are determined by multiplying the number of violations, with discrete separately addressed unlawful messages each counting as a separate violation, by up to $250.

Subparagraph (B) limits the damages a state attorney general may recover for violations of section 5, other than section 5(a)(1) to no greater than $2,000,000.

Subparagraph (C) allows the court, in its discretion, to increase the amount of damages awarded under subparagraph (b) to three times the amount set therein if the court finds that the defendant's conduct was willful and knowing or the defendant's unlawful activity includes one or more of the aggravating violations set forth in section 5(b).

Subparagraph (D) provides for a reduction of damages. In assessing damages under subparagraph (A), the court may consider factors including whether the defendant has established and implemented, with due care, commercially reasonable practices and procedures designed to prevent violations of section 5. The court may consider whether the violation occurred despite commercially reasonable efforts to maintain compliance with the practices and procedures designed to prevent such violations.

Subsection (f) also provides that in the case of a successful action under paragraph (1), the court, in its discretion, may award costs of the action and reasonable attorney's fees to the State.

Subsection (g) provides for a limited right of action by bona fide Internet service providers. Paragraph (1) grants to Internet service providers adversely affected by a violation of section 5(a)(1), 5(b), or 5(d) or a pattern or practice that violates paragraph (2), (3), (4), or (5) of section 5(a) the right to bring civil action in Federal district court. The term "Internet access service" is defined to have the same meaning given that term in section 231(e)(4) of the Communications Act of 1934.

Subsection (g)(2) contains a special definition of "procure" for purposes of ISP enforcement actions that includes a scienter requirement with regard to whether a person who initiates commercial email on their behalf is engaging or will engage in a pattern or practice that violates this Act. It is the intent, with regard to the falsification violations of Section 5(a)(1), that "conscious avoidance of actual knowledge" be construed broadly in a manner consistent with a fundamental purpose of this Act to prohibit and deter falsification techniques in commercial e-mail. Therefore if the procurer has an indication that the initiator is or has engaged in any falsified spamming technique prohibited by Section 5(a)(1) or 18 U.S.C. 1037, the Act is intended to be read so that such a procurer meets the standard of "conscious avoidance of actual knowledge" of violations of the Act by an initiator unless the procurer and takes reasonable steps to prevent such violations by the initiator.

Actual knowledge or conscious avoidance of actual knowledge could be evidenced, for example, by information obtained by the procurer directly from an initiator, or via a complaint, warning or cease and desist communication received from a recipient, Internet access service, or law enforcement alerting the procurer that an initiator to whom the procurer is providing consideration is violating the law. Conscious avoidance of actual knowledge could also be evidenced, for example, by: (1) Doing little or nothing to determine whether suspect initiators who are marketing partners, resellers, affiliates, agents or contractors of the procurer are violating or have violated Federal or State law; (2) failing to follow the procurer's stated policies or procedures prohibiting illegal e-mail advertising methods by initiators who are marketing partners, resellers, affiliates, agents or contractors; (3) repeatedly allowing initiators who are engaged in illegal e-mail advertising methods to provide false information or to fail to identify themselves when they sign up to conduct e-mail advertising for the procurer's products or services; (4) repeatedly paying initiators whom the procurer has terminated for violating the procurer's e-mail policies prohibiting illegal spamming methods; or (5) allowing initiators who have been terminated for violating the procurer's policies prohibiting illegal e-mail activities repeatedly to sign up for new accounts. The above is not an exhaustive list of ways in which the requisite state of mind can be evidenced.

Subparagraphs (f) and (g) allow enforcement actions for violations of certain parts of Section 5 to be brought by States and ISPs only for a "pattern or practice" of violations. The Act regulates a wide variety of commercial e-mail practices, some of which are deemed more deplorable than others and subject to higher penalties.

Such action may seek to enjoin further violations by defendants, or collect certain limited monetary damages. It is our intention that these cases be based on bona fide violations and not used as tools for anti-competitive behavior among competitors. Additionally, we intend that Internet access service providers provide actual Internet access service to customers.

Statutory damages for Internet service providers are at a lower level than those provided to federal and state regulators.

Section 8 provides for the effect of the legislation on other law.

Section (b) provides for preemption of state laws that expressly regulate the use of e-mail to send commercial messages, including laws that regulate the form or manner of sending commercial e-mail (e.g. labeling requirements). It does not preempt statutes dealing with fraud, falsity, or deception in any portion of a commercial e-mail message or attachment thereto. Thus, State opt-in spam laws, such California S.B. 186 enacted in the fall of 2003, state opt-out spam laws, and state ADV labeling requirements for commercial e-mail would be entirely preempted, except to the limited extent that those laws also prohibited use of falsification techniques or deception such as those prohibited in 18 U.S.C.1037, Section 5(a)(1) and Section 5(a)(2) of this Act. Similarly, State anti-spam laws, such as Virginia's, that expressly regulate or criminalize e-mail falsification techniques would not be preempted. In addition, Section 8(b) is not intended to preempt general purpose State deceptive trade practice laws, or State common law rules, such as State trespass to chattels theories, that have been used in anti-spam litigation. Nor does Section 8(b) preempt State laws relating to acts of fraud or computer crime. However, to the extent any State or local law regulates the manner of sending commercial e-mail, the mere titling of the law as an "anti-fraud statute" or the combination of commercial e-mail regulation provisions with actual falsification or computer crime provisions in the same statute is not sufficient to avoid preemption of those regulatory provisions by this Act.

Section 9 provides the FTC with authority to establish a do not e-mail registry.

The provision requires the FTC to set forth a plan and timetable for establishing a national do not e-mail registry. The FTC is required to report to the Congress on any practical, technical, security, privacy, enforceability or other concerns the FTC may have with such a registry.

We expect that the FTC will proceed with due care in this important inquiry. In particular, the FTC should take care not to inadvertently adopt a do not e-mail registry that would facilitate the availability of working e-mail addresses to persons who might use them in violation of this Act.

Section 14 requires the FCC to promulgate rules to prevent the sending of unsolicited e-mail messages to wireless customers, without the express consent of such customers.

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## S. 877—CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003—CAN-SPAM ACT OF 2003 (PL 108–187)

### HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. TAUZIN. Mr. Speaker, this statement represents my views as well as the views of the Ranking Member of the Committee on Energy and Commerce, JOHN DINGELL, on S. 877, the CAN-SPAM Act of 2003 ("the Act"). The House passed S. 877 by unanimous consent on December 8, 2003, and the President signed S. 877 into law on December 16th 2003 (Public Law 108–187). These views are in addition to those included in the November 21, 2003 and December 16, 2003, floor debate on S. 877.

The purpose of the CAN-SPAM Act of 2003 is to prohibit certain predatory and abusive practices used to send commercial e-mail, provide consumers with the ability to more easily identify and opt-out of receiving other unwanted commercial e-mail, and to give such opt-outs the force of law. The legislation provides enforcement tools to the Federal Trade Commission (FTC), the Department of Justice (DOJ), other Federal regulators, States' Attorneys General and bona fide Internet service providers (ISPs) to enforce compliance with the Act.

The Act's scope provides extensive jurisdiction over commercial e-mail by, among other things, cross-referencing definitions of terms such as "protected computer" as that term is used in Section 1037(e) of Title 18, United States Code. This jurisdiction may be interpreted to extend extraterritorially. It is the intent of the Act to broadly assert jurisdiction over commercial e-mails—from any source—that are sent to U.S. recipients or that use protected computers in the U.S. to affect any of the deceptive spamming activities prohibited in Section 1037 of Title 18 or Section 5(a)(1) of the Act's civil provisions, as well as jurisdiction over computers and computer servers engaged in communication with the United States which are used to send such commercial e-mails that otherwise cause harm to commerce in the United States. However, the managers also recognize that because of the nature of the Internet, commercial e-mail which is in no way falsified may transit the United States as a matter of routine conveyance without the knowledge of the initiator or sender, without being received by any U.S. consumers and with minimal impact here. For example, a travel agency located in Spain using computers that are sometimes in communication with the United States might send unfalsified commercial e-mail promoting travel specials exclusively to consumers in Chile but those e-mails would be routed as a matter of course through computer servers located in California without the knowledge of the initiator or sender. The Act is not intended to regulate the contents of such legitimate commercial e-mail messages (by, for instance, imposing the Act's required inclusions and opt-out regime) merely because they transit the United States or are sent from computers in communication with the United States, provided such commercial e-mails are not falsified in a manner prohibited by Section 1037 of Title 18, or Section 5(a)(1) or directed to or received by U.S. consumers and do not otherwise cause harm here.

Section 1 of the legislation sets forth the short title, the CAN-SPAM Act of 2003.

Section 2 of the legislation sets forth various Congressional findings and determinations. Such findings and determinations are in addition to those in this statement.

Section 3 sets forth definitions.

The term "Commercial electronic mail message" is defined as any e-mail message, the primary purpose of which is commercial advertisement or promotion of a commercial product or service. The definition of commercial electronic mail message does not include transactional e-mail. The purpose of this provision and its relationship to the definition of "transactional or relationship message" is to exclude from most of the requirements of the legislation, e-mail messages that are pursuant to existing transactional relationships between a consumer and an e-mail sender.

The term "Electronic mail message" is intended to capture e-mail messages sent to a unique electronic mail address as that term is commonly understood and should be read to include messages sent to a unique electronic mail address where the reference to the Internet domain or "domain part" in the message is implicit and does not appear or is not displayed explicitly. This is not intended to expand or contract the commonly understood concept of "Electronic mail message" and "Electronic mail address" but to ensure the bill covers those e-mail messages where either the domain part is implicit or is added upon transmission or delivery of the message to a recipient by the owner of the Internet domain to facilitate delivery of the message.

Section 4 sets forth civil and criminal penalties for fraudulent, abusive and predatory commercial e-mail.

The section provides that intentionally sending multiple commercial e-mail messages from a protected computer without authorization is subject to the penalties set forth in subsection (b) of section 4. The purpose of this provision is to prevent fraudulent use of third party's computer for purposes of sending commercial e-mail.

The section also provides that materially falsifying header information in multiple commercial e-mails is subject to the penalties set forth in subsection (b) of section 4. The purpose of this provision is to prevent fraudulent practices that disguise the route or source of a commercial e-mail message.

The section also provides that using information that materially falsifies the identity of the actual registrant for five or more e-mail accounts or online user accounts, or two or more domain names, and intentionally sending commercial e-mail messages from any combination of such addresses or accounts is a violation of this Act and subject to the penalties set forth in subparagraph (b) of section 4. The term "online user accounts" is meant to include registration for an account on a website that facilitates sending of e-mail messages to other users of such website. The purpose of this provision is to prevent the fraudulent establishment of e-mail accounts, online user accounts, web addresses or domain names from or through which unwanted commercial e-mail messages are intentionally sent or routed.

The section also provides that one who falsely represents one's self to be the registrant or bona fide successor in interest to the registrant of five or more Internet protocol addresses and intentionally sends multiple commercial e-mails from such addresses is subject to the penalties set forth in subsection (b) of section 4.

Subsection (b) of section 4 sets forth criminal penalties under the legislation. An offense as defined in section 4 is punishable by a fine or imprisonment of not more than five years or both if the offense is committed in furtherance of a felony (other than one defined in this Act), or the defendant has previously been convicted of a criminal offense under this Act or under the laws of any State, for conduct involving the sending of multiple unlawful commercial e-mail messages or unauthorized access to a computer system. Other violations under section (b) are punishable by a fine or imprisonment of not more than three years, or both.

Section 4 (in newly created 18 U.S.C. 1037(d)(2)) and Section 5(a)(6) contain definitions of "materially" that apply to certain falsification violations of the Act's criminal and civil provisions. The phrase "identify, locate, or respond" as used in this definition is intended to be interpreted broadly to encompass all methods of technical falsification that impede the ability of the recipient, an ISP, the FTC or appropriate Federal regulator, the DOJ, or a State Attorney General either to identify the source of the e-mail or whether the e-mail comes from an approved or known sender, to locate or bring enforcement action against an initiator of the e-mail, or to respond by taking countermeasures against or transmitting the e-mail message back to the initiator. Materially falsifying may also include, for example, falsifying certificates or similar sender authentication mechanisms used by a recipient or an Internet access service to identify the source of an e-mail message.

Section 5 of the legislation sets up a regulatory regime for sending commercial e-mail messages.

The section prohibits the sending of commercial e-mail messages or transactional or relationship messages with headings that are materially false or materially misleading. The section also prohibits knowingly sending commercial e-mail messages with deceptive subject headings.

The section requires a person sending commercial e-mail messages to conspicuously identify such messages as a solicitation or advertisement and provide to each recipient a conspicuous means of opting-out from receiving subsequent commercial e-mail messages. The term "clear and conspicuous" as it applies to the requirements of Section 5(a) is intended to be consistent with the meaning of that term as set forth in FTC guidance documents (e.g. "Dot-Com Disclosures" available via online publications at *http://www.ftc.gov*). It is intended that a required inclusion can meet the "clear and conspicuous" standard in a number of ways. The Act does not authorize the FTC to require the notice to be placed in a specific location such as the subject line or body of a commercial e-mail. The FTC is required by this Act to conduct a study of required labels in the subject line of commercial e-mail messages but cannot prescribe an inclusion of such label or notices in the subject line without further Congressional action. In addition, the sender of the commercial e-mail message must provide a reply e-mail address or other Internet-based mechanism, such as a clear and conspicuous link to an opt-out form, on a website that will enable recipients to reject further commercial communications within the scope of the opt-out from the sender. In addition, the sender must ensure the return e-mail address or other form of Internet-based communication is capable of receiving opt-outs for not less than 30 days from the transmission of each commercial e-mail message. We intend that senders of commercial e-mail provide a convenient, clear and simple way for consumers to opt-out of commercial e-mail. We also intend that senders of commercial e-mail devote sufficient resources to monitoring and maintaining records of consumer opt-outs so that giving effect to these consumers' opt-outs will be prompt and permanent.

The section expressly provides that senders of commercial e-mail may provide recipients with a menu of options of commercial e-mail messages that the recipient may or may not wish to receive. Such a menu must include the option of receiving no additional commercial e-mail messages. An opt-out menu gives consumers the option to continue to receive a sub-group of defined communications from a sender, if the consumer so desires.

The section provides that senders must give effect to customer opt-outs within ten business days of receiving such opt-outs. This time period is subject to regulatory modification by the FTC as described below. It further provides that subsequent affirmative consent by a consumer (an opt-in) will allow a sender lawfully to send commercial e-mail to a consumer so consenting. The burden of proving subsequent affirmative consent should be on the sender in any dispute between a sender and a recipient of commercial e-mail.

This provision prohibits the sender, or any other person who knows that the recipient has made an opt-out request, from selling, leasing, exchanging or otherwise transferring or releasing the e-mail address of the recipient other than for purposes of compliance with this Act or any other law.

Subparagraph (5) of section 5(a) sets forth specific required inclusions in commercial e-mail. These include clear and conspicuous identification that the message is an advertisement or a solicitation; a clear and conspicuous notice of the opportunity to opt-out of receipt of subsequent commercial e-mail messages; and a valid physical postal address of the sender.

Subsection (b) of section 5 provides that harvesting e-mail addresses or generating e-mail addresses by means of a dictionary attack constitutes an aggravating factor for illegal transmission of commercial e-mail under subsection (a) of section 5. Use of automated means to generate e-mail addresses, or gathering e-mail addresses is not by itself illegal, unless the commercial e-mail messages sent to the generated or harvested addresses as a result of such activity do not comply with the requirements of subsection (a).

Subpart (2) makes reference to online user accounts. As in section 4, the term online user accounts is meant to include registration for an account on a website that facilitates sending of e-mail to other users of such website or any other protected computer not affiliated with the website.

Subsection (c) of section 5 requires the FTC to conduct a rulemaking on the 10-day period required for e-mail senders to comply with customers' opt-out requests. As technology allows, we hope that that period will be shortened.

Subsection (d) sets forth additional requirements for transmission of commercial e-mail messages containing sexually explicit material. In particular, such e-mail messages must alert recipients in the subject heading of the e-mail that the message contains sexually explicit material. Additionally, the sender must provide a means of opting-out from receipt of such messages in a manner that does not involve viewing sexually explicit images.

My views, as well as those of Ranking Member JOHN DINGELL, regarding Sections six through 16 of the Act are continued in the Statement of JOHN DINGELL submitted contemporaneously with this statement.

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## PERSONAL EXPLANATION

### HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. TIBERI. Mr. Speaker, on January 27, 2004, the flight I was scheduled to travel on from Columbus, OH to Washington D.C. was cancelled due to weather. As a result, I was unable to cast a vote on Rollcalls 6 and 7. Had I been able, I would have voted "yea" on H.R. 3493 Medical Devices Technical Corrections Act of 2003 and H.R. 1385 to extend the authorization for the United States Postal Service to issue a special postage stamp to benefit breast cancer research.

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## HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Res. 492, a resolution honoring the contributions of Catholic schools and supporting the goals of Catholic Schools Week.

The accomplishments of Catholic schools and their tremendous impact on students and communities throughout the nation is evident in the Fifth Congressional District of Illinois, where schools like St. Ferdinand Catholic Elementary, St. Patrick High School, and Notre Dame High School for Girls provide a quality education while instilling values that will serve their students throughout their lives. These schools provide strong academic curriculums and engender significant parental involvement. They not only teach students the importance of academic achievement, but also provide a balanced perspective on life that promotes responsibility, justice and social service.

Catholic schools also promote ethnic and racial diversity. Increasing numbers of children in Catholic schools in my district come from our minority communities. Students in Catholic schools achieve exceptionally high graduation rates, with increasing numbers advancing to higher education and giving back to the community through volunteer service.

It is also important to recognize that the Catholic school experience fosters more than just scholastic excellence. It provides spiritual guidance to students by encouraging fundamental ideals and an appreciation for family values, community service, and faith in their own lives. This, in turn, shapes Catholic school students into leaders of tomorrow.

I want to take this opportunity to applaud the recent accomplishments of two teachers at a Catholic school in my district—Mother Theodore Guerin High School in River Grove, Illinois—who have been recognized for their outstanding service to their students and to their community. Sister Adelaide Ortegal received the Dr. Nathan Jones Special Achievement Award last October. This honor is awarded to educators for their outstanding work with African-American students. Sister Ortegal has taught Art for thirty years and is the sponsor of the African-American Club at Mother Guerin.

I also want to recognize Mary Stephany, a social science teacher at Mother Guerin who has been chosen as an Ambassador to Chicago's Field Museum for 2003–2004. In this role, Ms. Stephany will be a liaison for her school, serve on education advisory committees to the museum, and mentor other teachers.

I thank these two outstanding individuals as well as all of the dedicated Catholic school teachers in my district for their love of learning and their devotion to their students.

Mr. Speaker, I support this important resolution and encourage Catholic schools in my district and across the United States to continue contributing to the development of strong moral, intellectual and social values in America's young people. I thank my colleague, Representative VITTER, for introducing this resolution, and I thank the National Catholic Educational Association and the United States Conference of Catholic Bishops for their sponsorship of Catholic Schools Week.

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## TRIBUTE TO MARK JOSEPH LUMER

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. CRAMER. Mr. Speaker, I would like to take this opportunity to recognize Mr. Mark J. Lumer of Huntsville, AL, for his 28 years of outstanding service in supporting the U.S. military, in particular, our soldiers in Kosovo, Bosnia, Afghanistan, and the Middle East. He is the Contracting Executive at the United States Army Space and Missile Defense Command, USASMDC, in Huntsville, AL. I stand today to applaud Mark Lumer for his many years of service and loyalty in North Alabama's role in supporting our soldiers in the field.

Mark Lumer has risen through the ranks of the Federal Government and earned his current position as the Principal Assistant Responsible for Contracting at the USASMDC Contracting and Acquisition Management Office with offices in Washington, DC; Huntsville, AL; Colorado Springs, CO; and Kwajalein Missile Range in the Marshall Islands. As the Director of Contracts, he oversees over $14 billion in active contracts, annual expenditures of about $2 billion and a staff of approximately 80.

Mark Lumer achieved the highest distinction in his field as a member of the Senior Executive Service when he was recognized by President Bush in 2001 with the "Presidential Meritorious Rank Award." In 2000, the Secretary of the Army presented Mr. Lumer with the "Decoration for Exceptional Civilian Service," the Army's highest civilian award. In addition, he has been recognized nationally for his contributions to the small business industry located in historically underutilized business zone (HUBZone) areas and received an award from the President of the National Institute of Severely Handicapped for his innovative contracting techniques that substantially increased job opportunities for handicapped individuals.

A native of New York, residing in both Virginia and Alabama, Mark Lumer has made Huntsville his home away from home. He has taken an active role in the Huntsville community serving as a board member of the U.S. Space and Rocket Center Foundation and the Space Center Museum Committee. In addition, Mark Lumer is a leader in the Huntsville community as a much sought after speaker for local organizations such as the Huntsville Association of Technical Societies, Huntsville Chapter of the National Contract Management Association, and the Huntsville Association of Small Business in Advanced Technology.

Among his many contributions to North Alabama, Mark Lumer is most recognized for his support to the small business community to include minority and women-owned businesses. He is also an advocate for historically black colleges, universities, and minority institutions and ensures grants are awarded annually to these schools through local programs such as the Education and Employment for Technological Excellence in Aviation, Missiles, and Space.

I join his family, his wife Gail, his son Michael, his son-in-law Mo, his daughters Anne and Sarah, and friends and co-workers in congratulating him on a job well done. On behalf of the people of Alabama's 5th Congressional district, I want to express my gratitude to Mark for his extraordinary service to our community and our Nation.

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## HONORING COLONEL J. THOMAS MANGER, FAIRFAX COUNTY POLICE CHIEF

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. MORAN of Virginia, Mr. WOLF, and I rise today to honor Chief Tom Manger for 27 years of dedicated service to the Fairfax County Police Department (FCPD.)

The FCPD is the largest local police department in the Commonwealth of Virginia, with 1,300 sworn and 500 civilian members. Manger first joined the FCPD in 1977 as a patrol officer. He quickly rose through the ranks, demonstrating great commitment to the safety and security of Fairfax County and the greater Washington, DC metropolitan area. Manger was promoted to deputy chief in 1995 and to acting chief in 1998. On January 10, 1999, the Fairfax Board of Supervisors appointed him chief of police.

Through impressive organization and development efforts, he brought officers closer to the people they serve, making community policing a top priority. Moreover, he held the department to the highest ethical policing standards, instituting a number of new policies to increase FCPD accountability to the public. Fairfax County's crime rate is the lowest in the country for a jurisdiction over one million people.

Over the past few years, Chief Manger has faced challenges ranging from hurricane flooding to anthrax scares. Under his leadership, the FCPD received the Fairfax County Human Rights Commission award for combating bias crimes. In 2002, when sniper shootings shocked the nation, Chief Manger tirelessly worked to capture and convict the two snipers for the murder of FBI employee Linda Franklin.

Throughout his accomplished career, Chief Manger has received numerous awards, including the Silver Medal of Valor. He significantly contributed to the FCPD tradition of excellence and will be greatly missed. We extend our heartfelt thanks for nearly three decades of service to Fairfax County and wish him the best of luck as police chief in Montgomery County, Maryland.

Mr. Speaker, Fairfax County's loss is Montgomery County's gain. Chief Manger is an outstanding police chief, and a shining example to all others in his field. We ask that our colleagues join us in applauding Chief Manger.

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## MARATHON VARSITY FIELD HOCKEY TEAM, NEW YORK STATE CHAMPIONS

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to congratulate the Marathon Varsity Field Hockey Team for their outstanding performance this season. Winning the State Championship will remain a vivid moment of victory of each one of the team's members—for without their collective talent and dedication—it would not have been possible.

The long list of season accomplishments is truly something to take pride in. Breaking the state record with 68 consecutive wins, making the lady Olympians third in the nation with such an amazing winning streak, brings pride not only to Marathon but brings pride to the entire state of New York.

Head Coach Karen Funk deserves special praise for leading this fine group of student athletes to the highest possible achievement in the New York State Class C conference. Through Coach Funk's leadership these young ladies have proven that hard work and dedication on the practice field and in the classroom can produce champions on the playing field and in academics.

The 2003 Marathon Field Hockey Team: Ashley Abbatiello, Caitlin Barber, Shanna Barrows, Nikki Billings, Staci Billings, Rebecca Bliss, Grace Chrysler, Megan French, Jamie Gofgosky, Brittni Griep, Danielle Griep, Katie Gutchess, Leslieann Gutchess, Stefanie Hatch, Ashley Holbrook, Emily McDonald, Theresa Parker, Jacki Rose, Margo Stone, Frankie VanDeWeert, Sarah Veninsky, Katie Yudiciatis, Coach Karen Funk, JV Coach Patti Trabucco, JH Coach Sue Malmberg.

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## IN HONOR OF CALIFORNIA STATE SENATOR BYRON D. SHER

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

Ms. ESHOO. Mr. Speaker, I rise to honor California State Senator Byron Sher, the most highly regarded environmental legislator in California, who will be retiring this year after representing San Mateo and Santa Clara Counties in the California State Legislature for nearly a quarter century. Senator Sher will be honored on Friday, January 30, 2004 by the San Mateo County Democratic Party for his extraordinary public service.

Senator Sher began his public service in 1965 when he was elected to the Palo Alto City Council where he served for nine years, including two terms as Mayor. He was a Commissioner of the San Francisco Bay Conservation and Development Commission from 1978 to 1980, and served on the Committee on Environmental Quality for the National League of Cities and the League of California Cities. His work on these bodies would serve him exceedingly well in years to come.

Byron Sher was elected to the California State Assembly in November, 1980, where he served with distinction as a leader on environmental policy for over fifteen years. He was then elected to the Senate in 1996 in a special election to represent the 11th District, which is geographically and culturally diverse, spanning from Belmont to San Jose, and which includes major portions of the South San Francisco Bay and the San Mateo County Coast.

Throughout Senator Sher's legislative career, he has been regarded as the premier legislator on environmental issues. He is not only the first Chairman of the Senate Environmental Quality Committee, he is also the author of countless benchmark laws that have led the State of California to enact some of the most significant environmental protection policies in our Nation. Among the laws he has authored are the California Clean Air Act, the Integrated Waste Management Act, and the Safe Drinking Water Act. He has strengthened the State's timber regulations with his Surface Mining and Reclamation Act and been at the forefront of computer recycling programs to ensure that the dangerous byproducts of the information age, such as mercury, don't contaminate our landfills and water supplies. Senator Sher also authored the Nation's first law to prevent toxic contamination of water supplies from leaking underground storage tanks. Virtually all his legislation is considered the gold standard for environmental conservation and protection laws throughout our country.

Senator Sher is also considered one of the foremost experts on consumer protection and government ethics. He has consistently been ranked one of the State's top ten legislators for intelligence and integrity by the California Journal Magazine. Despite the many demands on his time, Senator Sher continues to serve as a member of the Steering Committee of the National Council on Competition and Electric Services, as a California Commissioner on the National Conference of Commissioners on Uniform State Laws, and as a member of the Wildlife Conservation Board.

Byron Sher has also been an important part of the academic community. He was a Fulbright Research Scholar in New Zealand and held academic teaching positions in law at Southern Methodist University, the University of Southern California and Harvard Law School before coming to Stanford University. At Stanford, Senator Sher's passion for the rights of his fellow citizens could be seen in the coursework he taught as a professor of law: Consumer credit, consumer protection, as well as contract and commercial law. At Stanford he's been Chairman of the Human Relations Commission and the Faculty Senate, and was a member of the University Budget Priorities Advisory Commission.

Mr. Speaker, I'm proud to call Byron Sher my friend and my colleague in public service. This quiet, humble, decent and brilliant man is a source of great pride to the Democratic Party, to our mutual constituents, to all Californians and to our entire Nation. I ask my colleagues to join me in honoring and thanking Senator Sher for his lifetime of extraordinary service to California and our country. Because of him and his distinguished service, we are unmistakably a stronger and a better Nation.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 29, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### FEBRUARY 3

9:30 a.m.

Armed Services

To hold hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.

SH–216

Foreign Relations

Business meeting to consider pending calendar business.

SD–419

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine fund operations and governance relating to current investigations and regulatory actions regarding the mutual fund industry.

SD–538

Budget

To hold hearings to examine the President's fiscal year 2005 budget proposals.

SD–608

2 p.m.

Governmental Affairs

To hold hearings to examine workforce issues relating to preserving a strong United States Postal Service.

SD–342

### FEBRUARY 4

9:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar items.

SD–366

Foreign Relations

To hold hearings to examine AIDS and hunger.

SD–419

Governmental Affairs

To continue hearings to examine workforce issues relating to preserving a strong United States Postal Service.

SD–342

Indian Affairs

To hold hearings to examine President's fiscal year 2005 budget request.

SR–485

10 a.m.

Budget

To hold hearings to examine the President's fiscal year 2005 budget proposals.

SD–608

Finance

To hold hearings to examine the Administration's Health and Human Services budget priorities.

SD–215

Judiciary

To hold hearings to examine the nominations of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, William S. Duffey, Jr., to be United States District Judge for the Northern District of Georgia, and Lawrence F. Stengel, to be United States District Judge for the Eastern District of Pennsylvania.

SD–226

2:30 p.m.

Banking, Housing, and Urban Affairs

Economic Policy Subcommittee

To hold hearings to examine national flood insurance repetitive losses.

SD–538

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

SD–366

### FEBRUARY 5

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the Office of the Comptroller of the Currency's rules on national bank preemption and visitorial powers.

SD–538

Health, Education, Labor, and Pensions

To hold hearings to examine maintaining confidence in consumer products relating to mad cow disease.

SD–430

### FEBRUARY 9

10 a.m.

Governmental Affairs

To hold hearings to examine the Department of Homeland Security's budget for fiscal year 2005.

SD–342

### FEBRUARY 10

9:30 a.m.

Armed Services

To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.

SR–325

10 a.m.

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of Energy.

SD–366

2 p.m.

Veterans' Affairs

To hold hearings to examine the Adminstration's proposed fiscal year 2005 Department of Veterans Affairs' budget.

SR–418

### FEBRUARY 11

9:30 a.m.

Indian Affairs

To hold hearings to examine the President's fiscal year 2005 budget request.

SR–485

### FEBRUARY 12

10 a.m.

Budget

To hold hearings to examine the President's fiscal year 2005 budget proposals.

SD–608

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of the Interior.

SD–366

### FEBRUARY 24

2 p.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.

SH-216

### MARCH 2

9:30 a.m.

Armed Services

To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.

SH-216

10 a.m.

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.

SD-366

### MARCH 4

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

### MARCH 10

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH-216

### MARCH 18

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.

345 CHOB

### MARCH 25

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

### SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

# SENATE—*Thursday, January 29, 2004*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

## ADJOURNMENT UNTIL 1 P.M., MONDAY, FEBRUARY 2, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will stand adjourned until 1 p.m., Monday, February 2, 2004.

Thereupon, the Senate at 11 o'clock at 10 seconds a.m., adjourned until Monday, February 2, 2004, at 1 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

# HOUSE OF REPRESENTATIVES—*Friday, January 30, 2004*

The House met at noon and was called to order by the Speaker pro tempore (Mr. BARTLETT of Maryland).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*January 30, 2004.*

I hereby appoint the Honorable ROSCOE G. BARTLETT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Dr. Ronald F. Christian, Pastor, Evangelical Lutheran Church in America, Fairfax, Virginia, offered the following prayer:

Almighty God, this day we acknowledge Your presence in our world, our Nation, and in our communities and lives.

We are made aware of Your majesty through the arts, in music, and nature's beauty which surrounds us. We seek Your guidance for our work, for our decisions, and for our families. And we rely on Your mercy for our failures, for our greed, and for our selfish choices.

This day, O God, may our concern be more directed to others than ourselves. May our help provide hope for any in despair. May our work for justice be blessed by Your righteousness. And may Your peace, which supersedes any treaty created by human will, be found in our lives and passed on to others through our deeds.

Bless, we pray, peacemakers, artisans, poets, protectors, defenders, public servants, ministers, officials and all who heed the call to serve and to save the common good. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PAKISTAN'S NUCLEAR PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise today to urge my colleagues and the Bush administration to once again take a look at Pakistan through a critical and analytical lens.

Pakistan is one of our strongest allies in the war against terror, yet I am deeply disturbed by our supposed ally's involvement in supplying nuclear technology to North Korea, Iran, and Libya. There is ample evidence of these ties, and I find it very convenient that President Musharraf takes a position of denial and that he blames everyone besides the Pakistani Government.

Mr. Speaker, we must understand that Musharraf's response to these serious international violations of transferring nuclear weapons to rogue nations is simply inadequate. By blaming the scientists involved, and by detaching the Pakistani Government's role in preventing further transfer of nuclear equipment, Musharraf is insulating himself, when in fact he should be proposing steps to ensure the world that Pakistan will no longer be participating in such criminal activities. As an ally in the war against terror, we deserve such assurances, commitment and action from Pakistan that their programs to assist in nuclear proliferation have been terminated.

Unfortunately, Musharraf is in denial about his country's participation in aiding such countries as North Korea, Iran, and Libya; but the denial must come to a close immediately. The same situation was true regarding Pakistani fundamentalist infiltration into Kashmir. While cold-blooded murders of innocent Kashmiri citizens were taking place on a daily basis, President Musharraf for years denied that he was providing anything but moral support to the infiltrators.

While the murders have continued, Musharraf has recognized that infiltration is a problem that requires his intervention, and he has pledged to end terrorism in Kashmir. Although Kashmiri citizens continue to endure terrorism and infiltration at the Line of Control, the situation seems to have improved to a certain degree since the cease-fire between India and Pakistan and the countries' plan on holding talks within the next several weeks.

Mr. Speaker, my point is that the issue of Pakistan transferring nuclear equipment requires as much focus and intervention on President Musharraf's part.

In contrast to the situation in Pakistan, I wanted to take a moment to highlight India's nuclear program. In reflection of what I saw earlier this month during my visit to India, I applaud the government for maintaining an open nuclear science program. The three most important ways in which India's program is a model to be emulated by Pakistan are the following: first, India's program is defensive in nature; second, it is civilian controlled; and, third, technology is shared in accordance with international nuclear transfer laws.

As a result of India's nuclear policies, India has a strong defense relationship with the United States and a strong science partnership with the United States. In fact, a recent agreement between the United States and India would call for increased exchange of scientists, particularly in the area of nuclear technology. Moreover, as part of a new space and nuclear cooperation agreement between the United States and India, the two countries will work as partners to bring stability to South Asia and the world, including efforts to end proliferation of weapons of mass destruction.

Mr. Speaker, I include for the RECORD a statement that was made jointly by the President of India and by the President of the United States in that regard.

### NEXT STEPS IN STRATEGIC PARTNERSHIP WITH INDIA

In November 2001, Prime Minister Vajpayee and I committed our countries to a strategic partnership. Since then, our two countries have strengthened bilateral cooperation significantly in several areas. Today we announce the next steps in implementing our shared vision.

The United States and India agree to expand cooperation in three specific areas: civilian nuclear activities, civilian space programs, and high-technology trade. In addition, we agree to expand our dialogue on missile defense. Cooperation in these areas will deepen the ties of commerce and friendship between our two nations, and will increase stability in Asia and beyond.

The proposed cooperation will progress through a series of reciprocal steps that will build on each other. It will include expanded engagement on nuclear regulatory and safety issues and missile defense, ways to enhance cooperation in peaceful uses of space

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

technology, and steps to create the appropriate environment for successful high technology commerce. In order to combat the proliferation of weapons of mass destruction, relevant laws, regulations and procedures will be strengthened, and measures to increase bilateral and international cooperation in this area will be employed. These cooperative efforts will be undertaken in accordance with our respective national laws and international obligations.

The expanded cooperation launched today is an important milestone in transforming the relationship between the United States and India. That relationship is based increasingly on common values and common interests. We are working together to promote global peace and prosperity. We are partners in the war on terrorism and we are partners in controlling the proliferation of weapons of mass destruction and the means to deliver them.

The vision of U.S.-India strategic partnership that Prime Minister Vajpayee and I share is now becoming a reality.

Mr. Speaker, let me say in conclusion, in order for there to be peace and stability in the South Asia region, it is necessary for President Musharraf to move Pakistan forward by taking responsibility for its reprehensible actions, such as transferring nuclear technology and infiltrating Kashmir. Until President Musharraf's leadership is applied and he is not only willing to accept responsibility but turn his words into actions, our safety continues to be in jeopardy.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

## ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Tuesday, February 3, 2004, at 12:30 p.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6466. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Yucatan Peninsula; Addition to the List of Regions Considered Free of Exotic Newcastle Disease [Docket No. 02-036-2] received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6467. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lactic Acid, n-Butyl Ester, (S) and Lactic Acid, Ethyl Ester, (S); Exemption from the Requirement of a Tolerance [OPP-2003-0341; FRL-7338-4] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6468. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sulfuryl Fluoride; Pesticide Tolerance [OPP-2003-0373; FRL-7342-1] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6469. A letter from the Under Secretary, Department of Defense, transmitting A report on the implementation of the recommendations submitted by the Defense Task Force on Domestic Violence, pursuant to Public Law 107—248 section 8148(c) (116 Stat. 1572); to the Committee on Armed Services.

6470. A letter from the Secretary of the Air Force, Department of Defense, transmitting notification that the Evolved Expendable Launch Vehicle (EELV) Program exceeds both the 15 percent and 25 percent Nunn-McCurdy Program APUC and PAUC thresholds, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

6471. A letter from the Under Secretary, Departent of Defense, transmitting Approval of Captain Arthur J. Johnson to wear the insignia of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6472. A letter from the Director, Procurement & Industrial Base Policy, Department of the Army, transmitting the Department's final rule — Foreign Acquisition (RIN: 0702-AA38) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6473. A letter from the Director, Procurement & Industrial Base Policy, Department of the Army, transmitting the Department's final rule — Solicitation Provisions and Contract Clauses (RIN: 0702-AA39) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6474. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Free Trade Agreements-Chile and Singapore [DFARS Case 2003-D088] received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6475. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Implementation of the Equal Access to Justice Act in Agency Proceedings — received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6476. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule — Biological Products; Bacterial Vaccines and Toxoids; Implementation of Efficacy Review [Docket No. 1980N-0208] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6477. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule — Pediculicide Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph [Docket No. 2002N-0058] (RIN: 0910-AA01) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6478. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Revisions to South Carolina State Implementation Plan: Transportation Conformity Rule [SC-50-200405(a); FRL-7614-7] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6479. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Indiana [IN 144-4; FRL-7611-5] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6480. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revisions; 1-Hour Ozone Control Programs [Region 2 Docket No. NY65-270, FRL-7610-7] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6481. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2004 [FRL-7615-3] (RIN: 2060-AM01) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6482. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6483. A letter from the Secretary, Department of State, transmitting convening of a Accountability Review Board to examine the October 15, 2003 attack on a U.S. Embassy Tel Aviv motorcade in Gaza, which resulted in the wounding of one and deaths of three DynCorp personnel, pursuant to 22 U.S.C. 4834(d)(1); to the Committee on International Relations.

6484. A letter from the Secretary, Department of Commerce, transmitting pursuant to Section 6 of the Export Administration Act of 1979, as amended, the Department's 2004 Report on Foreign Policy-Based Export Controls, as prepared by the Department's Bureau of Industry and Security (BIS); to the Committee on International Relations.

6485. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Lifting of U.N. Sanctions Against UNITA [Docket No. 031219324-3324-01] (RIN: 0694-AC86) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6486. A letter from the Deputy Secretary, Department of Commerce, transmitting the semiannual report on the activities of the Inspector General for the period April 1, 2003 through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6487. A letter from the President, African Development Foundation, transmitting a letter fulfilling the annual requirements contained in the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6488. A letter from the Chairman, Consumer Product Safety Commission, transmitting in accordance with the Accountability of Tax Dollars Act, the Commission's Audited Financial Statements for FY 2003; to the Committee on Government Reform.

6489. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6490. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6491. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6492. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6493. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6494. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6495. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6496. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's annual report on the Government in the Sunshine Act for Calendar Year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6497. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6498. A letter from the Chairman, Federal Election Commission, transmitting the report in compliance with the Federal Managers Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

6499. A letter from the Comptroller General, General Accounting Office, transmitting the Office's Performance and Accountability Report for FY 2003, pursuant to 31 U.S.C. 719; to the Committee on Government Reform.

6500. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Senior Executive Service Pay and Performance Awards (RIN: 3206-AK32) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6501. A letter from the Chair, Federal Election Commission, transmitting the Commission's final rule — Travel on Behalf of Candidates and Political Committees [Notice 2003-24] received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

6502. A letter from the Office of Independent Counsel, transmitting the 2003 annual report for the Office of Independent Counsel-Barrett, pursuant to 28 U.S.C. 595(a)(2); to the Committee on the Judiciary.

6503. A letter from the Deputy Under Secretary for Intellectual Property and Deputy Director of the Patent and Trademark Office, Department of Commerce, transmitting the Department's final rule — January 2004 Revision of Patent Cooperation Treaty Application Procedure [Docket No. 2003-P-021] (RIN: 0651-AB61) received October 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6504. A letter from the Deputy Assoc. General Counsel for Regulations, Department of Homeland Security, transmitting the Department's final rule — Implementation of the United States Visitor and Immigration Status Indicator Technology Program ("US-VISIT"); Biometric Requirements (RIN: 1651-AA54) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6505. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Civil Monetary Penalties — Adjustments for Inflation [USCG-2003-15486] (RIN: 1625-AA73) received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6506. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Comments on UNICOR Business Operations: Clarification of Addresses [BOP-1115-I] (RIN: 1120-AB15) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6507. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Water Quality Standards for Puerto Rico [FRL-7613-2] received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6508. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — NASA Grant and Cooperative Agreement Handbook — Central Contractor Registration (RIN: 2700-AC95) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6509. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — NASA Grant and Cooperative Agreement Handbook — Investigative Requirements (RIN: 2700-AC74) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6510. A letter from the Secretary, Department of Veterans Affairs, transmitting the Special Medical Advisory Group's Annual Report to Congress for FY 2003, pursuant to 38 U.S.C. 4112(a); to the Committee on Veterans' Affairs.

6511. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2004-2) received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6512. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-1) received January 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6513. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Electronic Delivery of Form 1099 and Form 5498 Payee Statements [Notice 2004-10] received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6514. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Prohibited allocation of securities in an S corporation. (Rev. Rul. 2004-4) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6515. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Correction of User Fee in Appendix A of Rev. Proc. 2004-1 — received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6516. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit Allocation Certifcation; Electronic Filing [TD 9112] (RIN: 1545-BC90) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6517. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-9) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6518. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural, and Miscellaneous [Notice 2004-9] received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6519. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories. (Rev. Rul. 2004-7) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6520. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Sidney L. Olsen and Miriam K. Olsen v. Commissioner 48 T.C. 855, supplemented, 49 T.C. 84(1967), acq. 1968-2 C.B.2 [Docket Numbers: 1713-65, 1714-65, 1715-65, 1716-65, 3328-65] received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6521. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Adjusted Gross Income Defined (Rev. Rul. 2004-1) received Janaury 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6522. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Adminsitration's final rule — Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Administrative Review Process; Video Teleconferencing Appearanced Before Administrative Law Judges of the Social Security

Administration (RIN: 0960-AE97) received December 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6523. A letter from the Director, Congressional Budget Office, transmitting a report on "Unauthorized Appropriations and Expiring Authorizations," pursuant to 2 U.S.C. 602(f)(3); jointly to the Committees on the Budget and Appropriations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1417. A bill to amend title 17, United States Code, to replace copyright arbitration royalty panels with a Copyright Royalty Judge, and for other purposes; with amendments (Rept. 108–408). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. ACEVEDO-VILÁ, and Mrs. CHRISTENSEN):

H.R. 3750. A bill to provide for the correct treatment of territories and possessions in the health care service supports under the Communications Act of 1934; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 3751. A bill to require that the Office of Personnel Management study and present options under which dental and vision benefits could be made available to Federal employees and retirees and other appropriate classes of individuals; to the Committee on Government Reform.

By Mr. PAYNE:

H. Res. 509. A resolution honoring and recognizing the achievements of Thurgood Marshall and encouraging Congress to award him the Congressional Gold Medal; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1043: Mr. COOPER.

H.R. 1117: Mr. CHOCOLA.

H.R. 1563: Mr. WHITFIELD and Mr. TOWNS.

H.R. 3066: Ms. HOOLEY of Oregon, Mr. ROGERS of Michigan, Mr. PENCE, Mr. DEMINT, Mr. SMITH of Washington, Mr. BAIRD, Mr. PAUL, Mr. BISHOP of Utah, and Mrs. MYRICK.

H.R. 3171: Mr. JACKSON of Illinois.

H.R. 3420: Mr. GEORGE MILLER of California, Mr. DEUTSCH, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. WAXMAN, and Mr. KILDEE.

H.R. 3573: Mr. UDALL of Colorado and Mr. COX.

H.R. 3728: Mrs. TAUSCHER, Mr. OTTER, Mr. CALVERT, and Mr. THOMPSON of California.

H. Con. Res. 86: Mr. CUMMINGS.

H. Con. Res. 310: Mr. HALL.

## PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

53. The SPEAKER presented a petition of Wisconsin Commercial Ports Association, relative to Resolution #02-03 authorizing funding for modernization of lock and dam infrastructure on upper Mississippi and Illinois rivers' inland waterways transportation system, as also approved by the Brown County Harbor Commission and the Brown County Board of Supervisors; to the Committee on Transportation and Infrastructure.

54. Also, a petition of the Mayor and Council of Mayfield Village, Ohio, relative to resolution 2003-14 urging the President and Congress of the United States to take enact measures to respond to the adoption of the Breast Cancer Patient Protection Act of 2003 to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require health plans to provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; jointly to the Committees on Energy and Commerce and Education and the Workforce.

# EXTENSIONS OF REMARKS

## PERSONAL EXPLANATION

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. ROGERS of Kentucky. Mr. Speaker, on Wednesday, January 28, I was unavoidably detained due to the inclement weather and was not present for votes on S. 1290, a bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted. Had I been present, I would have voted "yea" on Rollcall No. 10 and "nay" on Rollcall Nos. 8, 9, and 11.

## PERSONAL EXPLANATION

### HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. KOLBE. Mr. Speaker, yesterday, I was unavoidably detained and missed the vote on the Baldwin of Wisconsin substitute amendment to S. 1920 (No. 8). I intended to vote "nay."

## HONORING JOHN W. LAKE

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today on behalf of Representative DOOLEY, Representative NUNES and myself, to honor John W. Lake on the occasion of his being distinguished as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. This designation will be bestowed upon Mr. Lake at the annual conference of this organization.

Selection for this distinction is reserved for "special individuals who have, over a period of time, demonstrated consistent commitment and uncommon excellence in the furtherance of education and leadership in California agriculture." The mission of the California Agricultural Leadership Program is to enhance the long-term viability of California agriculture through leadership development, which in turn benefits the people and the communities that agriculture serves.

A native Californian, John graduated from the University of California, Santa Barbara in 1970 with a Bachelor of Arts degree in Mechanical Engineering. He also completed 1 year of graduate work in Mechanical Engineering at Cal Poly, San Luis Obispo. In 1974, Mr. Lake began his career with Rain for Rent, working his way through the Engineering and Manufacturing Departments and management of Lake and Lake International, irrigation subsidiaries of Western Oilfields Supply Company. He founded Lake Leasing Company in 1983, Rain for Rent's agricultural irrigation equipment financing division. John has served as President and Chief Executive Officer since April of 1990.

Since its beginning in 1934, Western Oilfields Supply Company/Rain for Rent has evolved and expanded in its product offering and the markets it services, providing solutions to temporary liquid-handling problems. Their products and services cover a wide variety of industries, including, but not limited to: construction, petro-chemical, municipal, environmental, agricultural, and other industrial businesses that are serviced by 47 branches and 650 professionals nationwide. During John's tenure as President, the company has expanded into the tank, pump and specialty rental markets.

Mr. Lake is active in the Cal Poly San Luis Obispo Advisory Council, the California Agricultural Leadership Program, the Fellowship of Companies for Christ International, Quest Club, Idaho Irrigation Association and Safari Club International. John and his wife, Sheila, have two sons and attend Fruitvale Community Church in Bakersfield, California.

Mr. Speaker, I rise today along with Representative DOOLEY and Representative NUNES to pay tribute to John W. Lake as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. I invite my colleagues to join me in wishing John many years of continued success.

## INTRODUCTION OF THE PACIFIC INSULAR AREAS RURAL TELEMEDICINE ACT

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Ms. BORDALLO. Mr. Speaker, today I am introducing the "Pacific Insular Areas Rural Telemedicine Act" to provide for better treatment of Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) in the health care service supports under the Communications Act of 1934, as amended by the Telecommunications Act of 1996. This bill amends the Act to re-designate the "urban area" for Guam, American Samoa, and the CNMI to be Honolulu, Hawaii. This bill also seeks to define the maximum allowable distance for the Pacific Insular Areas to be the distance between the capital cities of each jurisdiction and Honolulu, Hawaii. Finally, this bill would specify that the urban rate to be used for rate comparison purposes for the rural health care support mechanism will be the urban rate for Hawaii.

The Rural Health Care Program (RHCP) is a universal service support mechanism that provides reduced rates to rural health care providers for telecommunications services related to the use of telemedicine and telehealth. Currently, the RHCP can fund up to $400 million annually to ensure that rural health care providers pay no more than those in urban areas for the same or similar telecommunication services. This support is determined based on mileage or a comparison of urban and rural rates.

Under the mileage based support, the RHCP will pay the difference in charges between the standard urban distance (SUD) for each state and the maximum allowable distance (MAD). Under the urban/rural rate comparison, the RHCP will support the difference between the rural health care provider's charges and what the rural health care provider would have been charged if it were located an urban area of the state.

The designation of an "urban area" and "rural area" determines which health care providers and carriers are eligible for support under the RHCP. In their initial rulemaking for the RHCP, the Federal Communications Commission (FCC) designated the urban areas for these Pacific insular areas to be Tutuila in American Samoa, Agana in Guam, and Saipan in the CNMI. These designations were made despite the fact that none of these cities have a population of over 50,000, the threshold used by the FCC in making an urban area designation for a state. By defining the jurisdictions' capital cities as the "urban area" for the RHCP, the health care providers in these Pacific insular areas have been informed that the RHCP telecommunication discounts would only be applicable to interconnecting health care facilities in remote locations within their jurisdictions. For Guam, there are no health care facilities that would benefit from this definition. For American Samoa and the CNMI, the only health care facilities that would qualify are those located on remote islands within the political boundaries of their territories.

The health care providers in the Pacific insular areas reflect the size, remoteness, and economic status of their communities. They seek access to advanced medical facilities, specialists and health professions education programs to better serve their rural and remote communities. The populations of these Pacific insular areas are approximately 57,000 for American Samoa, 155,000 for Guam, and 69,000 for the CNMI. These jurisdictions, in their entirety, are classified as "rural areas" and qualify for the rural development programs of the U.S. Department of Agriculture. The FCC designation of the capital cities of these jurisdictions as "urban" has prevented the HCPs in these remote, rural areas access to much needed services.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The FCC has recognized that its current regulations may disadvantage health care providers in the Pacific insular areas. In 2002, the FCC issued a Notice of Proposed Rulemaking (NPRM) to review the rural health care universal service support mechanism and requested comments how to address this issue. Comments submitted by the health care providers in Guam, American Samoa, the CNMI and telecommunications carriers that service these jurisdictions, and by Federal agencies and other programs providing health services raised the need to redesignate their "urban area" to enable the maximum allowable distance to be based on their geographic location. The governments of these jurisdictions specifically requested that their urban area be re-designated to the closest urban area with advanced medical facilities. Honolulu, Hawaii is the closest urban area to each of these jurisdictions with advanced medical facilities as well as an accredited medical school. However, the FCC, in its recent Report and Order, indicated that it is beyond their statutory authority under 47 U.S.C. 254(h)(1)(A) to designate an urban area outside of a state, whose definition includes the territories and possessions, as the benchmark for comparison for the insular areas.

The residents of Guam, American Samoa, and the CNMI contribute to the Universal Service Fund and represent the types of communities that were envisioned to be served by the RHCP. The health care providers in the Pacific insular areas are in need of telecommunication connections with health care providers and with health professions education programs outside of their jurisdictions in order to obtain needed specialty services and access to advanced health professions education and continuing education programs. However, the current costs of these telecommunication connections are too high to make the connections feasible. The Rural Health Care Program, the program that was designed to serve rural communities and which would make such a critical difference in these jurisdictions, currently does not benefit those most in need.

In closing, I want to thank my colleagues, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, Mr. ACEVEDO-VILÁ, and Mr. ABERCROMBIE for cosponsoring this bill. I urge support for this legislation so that we may provide for fair treatment of the Pacific insular areas in the health care service supports under the Communications Act of 1934. Designating Honolulu, Hawaii as the "urban area" for Guam, American Samoa, and the CNMI is the most logical, sensible, and possible approach to resolve the deficiencies in the implementation of the RHCP for these jurisdictions. I look forward to working with the leadership in moving this legislation.

## IN MEMORY OF SANDY ELSTER

### HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Ms. HARMAN. Mr. Speaker, I rise to say goodbye to a dear friend and neighbor.

Earlier this week, I received news that local activist and businessman Sandy Elster passed away at his Venice, California home at age 86.

Sandy was a true progressive, who cared intensely about policy. He volunteered for my first congressional campaign and was generous with both his time and ideas. He was unafraid to speak out, whether he agreed or not with my positions. Indeed, I know that many of my views were shaped by the discussions we had during our bike rides and brunches along our coastal bike path.

Sandy was known, in particular, for his environmental activism. In recent years, he was a consultant to the Metropolitan Transit Authority to develop a non-polluting, mass transit system. He drove one of the first electric cars, the EV–1, made by General Motors, and later became an advocate for the hybrid Toyota Prius and persuaded his friends to buy it.

Sandy also led local efforts to protect the California least tern, a small gray and white seabird that was added to the endangered species list in the mid–1970s. After moving to Venice in the early 1970s, he helped cut through red tape to erect a fence around a plot of sand about half the size of a football field to keep dogs, cats and other predators away from tern eggs and chicks. Today, the least tern population is stable and growing because of his stewardship.

I know that one of his proudest accomplishments was seeing then-President Ronald Reagan sign the U.N. Genocide Convention—an agreement whose ratification he spent many years working to secure. But beyond making genocide a crime under international law, he believed it important that our citizens know the horror of genocide, its roots, and the need for vigilance. During the 1980s, he was instrumental in the campaign that resulted in legislation to require California's public schools to teach about genocide to students in seventh through 12th grade.

It's emblematic of Sandy's active life that the service to his memory was held at the Beverly Hills Tennis Club. He was an avid tennis player and biker, and I found it challenging to keep up with him.

My thoughts are with his spectacular wife and partner of 56 years, Ernestine, and his family. Sandy was very special.

## HONORING DR. JOE SABOL

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today on behalf of Representative DOOLEY, Representative NUNES and myself, to honor Dr. Joe Sabol on the occasion of his being distinguished as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. This designation will be bestowed upon Mr. Sabol at the annual conference of this organization.

Selection for this distinction is reserved for "special individuals who have, over a period of time, demonstrated consistent commitment and uncommon excellence in the furtherance of education and leadership in California agriculture." The mission of the California Agricultural Leadership Program is to enhance the long-term viability of California agriculture through leadership development, which in turn benefits the people and the communities that agriculture serves.

In 1963, Joe received his Bachelor of Arts degree in General Agriculture from California State University, Fresno. He obtained his M.Ed. in 1965 from University of California, Davis and his Ph.D. in 1976 from Colorado State University. Dr. Sabol came to Cal Poly San Luis Obispo in 1972 to teach Agricultural Education. He later became Associate Dean and the Dean of the College of Agriculture, as well as Project Director of the Costa Rica E.A.R.T.H. Project. He was named Director of Outreach Services in 1993 and currently teaches within the College. Among his special teaching projects Joe counts the Mexican Ag Education Program, the Pakistan Project, an Advisor's Workshop for Vocational Student Organizations, and the Victorian (Australia) College of Agriculture and Horticulture.

Joe has been involved with the Western Region American Association of Teacher Educators in Agriculture, the FFA Alumni Association, Farm Bureau, the San Jose Unified School District Agriculture Program, and the California Agriculture Teachers Association. He has been named an honorary CFFA Member, Honorary State Farmer with FFA and Grange Youth Booster of the Year for California. In 1987, Joe received the Honorary American Farmer Degree at the National FFA Convention and has been recognized as a "Teacher of Teachers" for 10 consecutive years.

Mr. Speaker, I rise today along with Representative DOOLEY and Representative NUNES, to pay tribute to Dr. Joe Sabol as an Honorary Alumni Member of the California Agricultural Leadership Foundation's California Agricultural Leadership Program. I invite my colleagues to join me in wishing Joe many years of continued success.

## HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

SPEECH OF

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Mr. KUCINICH. Mr. Speaker, I would like to show my support for House Resolution 492, honoring the contributions of the 8,000 Catholic schools in our nation.

I would also like to recognize the delegation of students, teachers, and parents who make the National Appreciation Day for Catholic Schools a special day by visiting Capitol Hill offices throughout this day. Their commitment to creating exceptional education opportunities and maintaining quality Catholic schools ensures that Catholic students will continue to benefit from their schooling for years to come. When the 2.5 million students currently enrolled in Catholic schools graduate, an overwhelming percentage of them will attend college. This is a clear sign of the powerful and positive impact Catholic schools are having on millions of our nation's children.

I am a proud graduate of Catholic schools and have a first hand knowledge of the important role Catholic schools can play in the formation of hard-working, caring, and well educated Americans by teaching discipline, pride, and instilling a life-long love of learning in their students. I am so grateful to the priests, nuns and lay persons who taught me at St. Peter's Elementary, Holy Name Elementary, Parmadale, St. Aloysius Elementary, St. Colman Elementary and St. John Cantius High School. Their thirst for knowledge and desire to share it with others has played a critical role in my own life.

Providing quality educational opportunities for all children is one of the most important goals of our country. Catholic schools, parents, and teachers across the nation play a critical role in achieving this end, and I again congratulate them for their ongoing contributions to education.

## PASSIONATE COMPASSION

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. FRANK of Massachusetts. Mr. Speaker, I am increasingly distressed by the trend of public policy at the federal level. For years people blamed federal deficits and increased federal spending on excesses in programs that seek to alleviate poverty and meet the needs of lower income people. Today, from the standpoint of those of us who care about social justice, we have the worst of both worlds—a steeply increasing deficit at the budget level while the percentage of national resources devoted to meeting the economic needs of the poorest of our citizens decreases.

I try to keep this issue constantly in focus, and I am greatly aided in doing so by one of the most dedicated fighters for social justice I have even met—Mark A. Sullivan, Jr., the Executive Director of Citizens for Citizens, an excellent community action program based in Fall River, Massachusetts, with responsibilities in much of the southeastern part of our state.

Mark Sullivan is a man of very considerable talent. His intelligence, commitment, and organizing skills could have led him to a number of lucrative careers. He has instead for the past thirty years stayed at his post in trying to fight poverty and economic deprivation.

Sadly, his job had been made much harder in recent years by the distorted budget priorities being followed by the current administration and Congressional majority. Too often people here vote for cuts as if they were dealing with abstractions without understanding the terrible human consequences of their efforts. No one I know does a better job of trying to make these impacts clear than Mark Sullivan, and in a recent excellent article in the Fall River Herald News, by Deborah Allard-Bernardi, Mr. Sullivan gives one of the expositions at which he excels about the negative effects of what we have been doing.

Because in my mind no issue is more important than reversing this trend of cutting back on the help we give to the neediest among us, I ask that this important discussion by Mark Sullivan in the Fall River Herald News be printed here.

[From the Herald News, Jan. 22, 2004]

CFC DECRIES LACK OF FUNDING

(By Deborah Allard-Bernardi)

FALL RIVER.—If society doesn't see the invisible man, it's not looking for him, according to Mark A. Sullivan Jr., executive director of Citizens for Citizens Inc.

Actually, it's not just the invisible man Sullivan is worried about, but an entire society of poor people including the elderly, single women and children as well as men. He says they . . . by the very entity that is charged with caring for them: the government.

"Low-income people are off the radar screen," said Sullivan at a press conference Wednesday. "People in this country are locked into being poor."

It's been cuts after cuts for CFC and other agencies that provide food, fuel assistance, housing, day care and other core services to the needy. CFC's most recent plight is a new unemployment formula that is threatening to close its Head Start program before its usual summer hiatus.

The increased unemployment charges that CFC must pay to stay in business as a nonprofit organization rose on Jan. 1 from $125,000 a year to $255,000 a year. Sullivan said unemployment insurance rose from 4.9 percent for the first $10,800 each employee makes to 8.2 percent for the first $14,000.

Coupled with a $63,000 deficit to the Head Start program, which Sullivan said CFC discovered about eight months into the fiscal year, it's devastating news for the anti-poverty organization.

"We'll have to shut down Head Start early," said Sullivan.

He said unless there is some other solution, Head Start will close in June, about two weeks early. The program serves 410 children in Greater Fall River and Taunton.

All 110 employees would be laid off. Sullivan said that even this solution will adversely affect CFC because it will have to pay higher rates when employees collect unemployment benefits.

"We're being squeezed by every aspect of government," said Sullivan.

But Sullivan said he isn't surprised. After being employed at CFC for 30 years, he said it gets worse every year. There's a constant increase in need and a lack of funding. The newest victims of poverty, according to Sullivan, are the elderly and children.

Currently, 62 percent of Greater Fall River CFC clients receiving fuel assistance are elderly. He said 34 percent of those eligible for the program have already exhausted their benefits, and it's only mid-January. CFC pays up to $490 per family for heat during the winter season, which runs until April.

Feeding the hungry has also gotten more difficult. With a cupboard that is almost always bare shortly after being filled, CFC handed out more than 4,000 bags of groceries during the month of December.

"We're getting more and more people with less and less money," said Sullivan. "The tragedy of this is (most of) our new clients are elderly."

Sullivan condemned the way the government allocates funding and what it views as important. He laughed at the phrase "jobless recovery" when it is used to describe an economy that some say is getting better.

"How can you have a recovery when people have no jobs?" asked Sullivan, who is passionate about helping the, needy and angered by what he calls "double talk" and unfulfilled promises by government officials.

"A budget is the reflection of the morality of a society. It's getting kind of scary what we deem as important," said Sullivan.

With a one-third cut in discretionary spending by the federal government, Sullivan said that what is considered discretionary is what funds core services that help the poor and working poor stay warm and fed.

"Discretionary spending is what saves poor people from being destitute," said Sullivan.

The losses and cuts in core poverty programs, along with the increases in rent and prescription drugs, are just too much for many families to handle, according to Sullivan, who admits that he has no solution.

"The poor are falling in the cracks and they need a way out," said Sullivan. "I do wish people would start becoming concerned."

Sullivan has also seen a decline in charitable donations to CFC and other nonprofit organizations. He said the middle class is the societal section that has always donated the most, but even it is feeling the pinch lately and giving less, if at all.

"Those are the people who used to take care of the poor. They're having a hard time taking care of themselves now." said Sullivan.

## CONGRATULATING NORTHROP GRUMMAN'S LAKE CHARLES MANUFACTURING CENTER FOR RECEIVING THE 2003 LOUISIANA PERFORMANCE EXCELLENCE AWARD

### HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. VITTER. Mr. Speaker, I rise today to recognize the hard working employees at Northrop Grumman's Lake Charles Manufacturing Center located in Southwest Louisiana. Recently the Louisiana Quality Foundation named the Lake Charles Manufacturing Center as the winner of its 2003 Louisiana Performance Excellence Award, the foundation's highest quality honor.

The Louisiana Performance Excellence Award is an annual recognition of Louisiana organizations that achieve high levels of performance excellence and excel in the application of outstanding quality principles. Organizations that serve as role models for quality, customers satisfaction and performance excellence are considered for this award.

This facility is a business unit of Northrop Grumman's Integrated Systems sector. This sector is a premier aerospace defense system integration enterprise. Integrated Systems designs, develops, produces, and supports network-enabled integration systems for government and civil customers worldwide. Most importantly, Integrated Systems helps fight the War on Terrorism by delivering the best value solutions, products and services that support our military missions in the areas of intelligence, surveillance and reconnaissance, space access, battle management command and control, and integrated strike warfare.

I come to the floor of the House of Representatives today to personally commend and recognize the men and women of Lake Charles Manufacturing Center for this well-deserved award that acknowledges their level of talent and commitment to performance excellence. Louisiana has a talented workforce, and some of the most productive employees in the Nation. This Center truly exemplifies the solid work ethic for which Louisiana is known.

Again, congratulations to the employees of Northrop Grumman's Lake Charles Manufacturing Center for receiving this much deserved award.

## REMEMBERING SEBASTIAN GARAFALO

### HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. SIMMONS. Mr. Speaker, when I first ran for Congress many people from across eastern Connecticut came forward to introduce me to their communities. One of those who was instrumental in offering his wealth of experience, good humor and knowledge—before, during and after the campaign—was Sebastian Garafalo, of Middletown, Connecticut. Seb was a good friend and a devoted public servant. Sadly, Seb Garafalo died on Wednesday, January 21. He was 71.

To appreciate Seb's political wisdom and his warm personality you need to know that Middletown is a city in which Democrats outnumber Republicans by a margin of 3 to 1. Seb was a Republican, yet he was a former town councilman and a four-term mayor. Seb won his first mayoral race in 1983. He won two more consecutive terms, lost in 1989, and was elected mayor again in 1991. How did he do it? Well, Seb once said, "It's easy, sometimes I vote their way."

Those of us who work in politics know it's much more than that. Seb was first of all a "people person." He liked people and he liked helping them. Second, while Seb was proud to be a Republican he always wanted to do the right thing for his community. Seb put his constituents first and his politics second.

He also served as co-chair of Middletown's 350th anniversary celebration and until July, when his cancer finally slowed him down, he was on the high school building committee.

Seb had a sincere smile, a warm handshake and his goal was always to bring folks together in common purpose. That's as good a definition of public service as I have ever heard. You see, Seb believed in the old adage: From what we get, we make a living; from what we give, we make a life.

The Hartford Courant wrote, in Seb's obituary, "Mr. Garafalo's three decades serving Middletown were marked by his listening to others and leading with his heart."

That tells you a lot about Seb Garafalo; about why he was important to his community and why he will be deeply missed.

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## SUPPORTING ISRAEL'S NATIONAL DAY TO COMBAT ANTI-SEMITISM

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to lend my support for the efforts of our close ally, Israel, in the fight against the scourge of anti-Semitism worldwide. It is fitting and appropriate that Israel has chosen January 27th to raise the issue of anti-Semitism because it marks the day that the Auschwitz death camp was liberated by the Allies. Many of our European friends and allies also held Holocaust remembrance and public education events yesterday.

The painful lesson that the Jewish people learned after World War II was that the logical conclusion of anti-Semitic thought and ideology inevitably leads to anti-Jewish violence. People who are consumed by hatred are almost never content to keep their hatred to themselves. Organized, systematic doctrines of hatred are not just differing opinions. Instead, these anti-Semitic ideologies usually contain an exhortation to action, and that action almost always includes vandalism and violence.

The lesson for the rest of the world is that racial hatred and religious extremism usually starts with the Jews, but if left unchecked, continues to engulf all other peoples and religious views that do not comport with the spewers of hatred. Untold millions of Slavs, Roma, disabled persons, political dissidents, and other so-called "undesireables" marched alongside the Jews into the death camps. They realized all too late, as the saying goes, that first the Nazis came for the Jews, but then they came for them too; no one was left to stand up for their rights. If Europeans and Americans had had more courage to stand up to the fascists and communists who argued that human rights must be subservient to the whims of totalitarian ideologies, perhaps the mass genocides could have been averted.

The painful lessons of World War II are just as relevant today. Even now, we find that the suicide bombers who gleefully hurtle themselves into oblivion in the attempt to kill Israelis and Jewish Americans have been steadily fed a rich diet of anti-Semitism. We have learned that the September 11th bombers emerged from an extremist Wahhabi totalitarian world view in which all those who don't subscribe to their own views are not worthy of human rights, and can be killed at will. Not only that, but the Wahhabi extremists behind 9/11 actually believe that their hatred is divinely justified and required by God.

Regardless of whether my colleagues always agree with the policies of the State of Israel, it is foolish in the extreme to believe that if somehow the United States suddenly abandoned our most loyal ally in the Middle East, that somehow the Wahhabi extremists and Osama Bin Laden supporters would suddenly stop trying to destroy the United States. And yet right after September 11th, there were stories popping up all over Europe and around the world that made the argument that America got its comeuppance that day for its years of staunch support for Israel. This argument is a subtle expression of anti-Semitism in that it implies that support for Israel and the Jews is a crime, and that massacring thousands of innocent civilians can be justified as punishment.

These extremists surely have a systematic doctrine of hatred that starts with hatred of the Jews, but it by no means ends with the Jews. As far as these extremists are concerned, the very values and beliefs America holds dear are blasphemy and punishable by death. I say this because there is a strategic nexus involved here. Israel's fight against anti-Semitism is America's fight against the extremists bent on our own destruction. If we do not join the battle against the rising tide of anti-Semitism both here and abroad, the legacy of that neglect will be a disaster for the U.S. Anti-Semitism is a cancer, and like cancer it will spread until it is either stopped, or it kills you. In a very real sense, anti-Semitism is like the canary in the mine. It alerts you that trouble lies ahead.

I have been actively engaged in the fight against anti-Semitism and have both written and supported legislation designed to expose anti-Semitism. Last summer, I offered an amendment to the State Department Authorization Bill for fiscal years 2004 and 2005 (H.R. 1950) calling on the State Department, the Administration, and the General Accounting Office to expand an ongoing investigation and audit of schools run in Palestine by the United Nations Relief and Works Agency (UNRWA).

Incredibly, the U.S. provides one-third of UNRWA's budget even though this agency has failed to take appropriate measures to combat terrorism and fix its broken education system. For instance, UNRWA continues to use anti-Semitic textbooks that glorify martyrdom and deny the legitimacy and existence of Israel as a Jewish state. If children continue to be brainwashed to hate and incited to commit violence in UNRWA schools, then there is no real hope for peace in the region. These UNRWA schools are like greenhouses that are used to grow the next crop of suicide bombers. We must work to change the school curriculum so that it teaches peace and tolerance between Muslims and Jews.

Last summer, I also called for and chaired a Congressional forum after a terrible attack that left 16 people killed and more than 80 wounded after a suicide bomber blew up a Jerusalem city bus during the afternoon rush hour. Ms. Sarri Singer, a New Jersey native, was on the bus and gave moving testimonies at the forum that highlighted the plight of innocent, suffering victims subjected to these awful terrorist attacks.

Unfortunately, anti-Semitic violence and hatred is not limited to the Middle East; in the last year other parts of Europe have also experienced a rise in anti-Semitic acts. In June 2003, I led a State Department delegation, along with former New York City Mayor Rudy Giuliani, to a special conference in Vienna of the Organization for Security and Cooperation in Europe (OSCE).

The conference addressed the rise in anti-Semitic acts both in Europe and North America, and discussed ways to combat this problem. In addition, both this summer and last, I introduced special resolutions at the OSCE Parliamentary Assembly that called upon all 55 member nations to redouble their efforts to combat anti-Semitism in Europe, the United States, and Canada.

After returning from Vienna, H. Con. Res. 49, a resolution I authored to condemn anti-Semitism in Europe and around the world, passed the House on June 25 by a 412–0 vote. H. Con. Res. 49 calls upon lawmakers, law enforcement officials, and educators to amplify their efforts to counter violence and hatred against the Jewish people and their faith. Specifically, the resolution calls upon all nations to aggressively investigate, prosecute, and punish incidents of anti-Semitic violence, discrimination, and destruction of property.

My resolution and the Vienna conference have spurred several nations to act, including Germany, who agreed to host a follow-up conference on anti-Semitism next year in Berlin. The symbolism of this gesture is obvious, as the former center of Nazi Germany will host a conference to address how countries can fight the scourge of anti-Semitism. I will continue to tirelessly push governments and elected officials to speak out against anti-Semitic acts when they occur as well as to vigorously prosecute the perpetrators of these hateful acts. And I am looking forward to attending this follow-on Berlin conference and working to continue the effort to roll back the tide of anti-Semitism.

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## HONORING THE SERVICE OF PAUL IGASAKI

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. HONDA. Mr. Speaker, I rise today to honor the eight years of service Paul Igasaki provided to the United States Equal Employment Opportunity Commission (EEOC).

Mr. Igasaki's tenure as a commissioner and Vice Chair of the EEOC started in 1994, when he was nominated by President Clinton and confirmed by the United States Senate, and his second term began in 1998. During his nearly 1 year as acting Chair, Mr. Igasaki convinced Congress to pass one of the largest increases in funding for the EEOC. This increase allowed the perpetually underfunded agency to fill staffing needs throughout its regional offices, implement mediation programs, extended outreach to underserved communities and begin creating a national networked information system.

At the EEOC, Paul Igasaki was one of the architects in creating the EEOC's more strategic approach in taking on cases, which prioritizes the most egregious cases as well as those that may prevent future cases of employment-related discrimination. Mr. Igasaki's recommendations to overhaul the EEOC's case processing system and create the National Enforcement Plan helped reduce the agency's backlog of cases by 70 percent.

The EEOC was extremely fortunate to have someone with Paul Igasaki's experience serve on the Commission. As executive director of the Asian Law Caucus in San Francisco, one of the Nation's premier Asian American and Pacific Islander legal advocacy organizations, Mr. Igasaki spent several years handling issues such as employment discrimination and sexual harassment cases, as well as wage and hour issues, hate crimes, voting rights, housing, immigration and immigrant rights and other civil rights concerns. Litigating these issues at the Asian Law Caucus prepared him for the work that he would do with the EEOC.

Mr. Igasaki enhanced his Congressional advocacy skills with the Japanese American Citizens League serving as their Washington, D.C. Representative. Clearly, the major legislative victory for the Japanese American community was the passage and signing into law of H.R. 442, the Civil Liberties Act of 1988. This measure provided an apology and symbolic payments from the U.S. government to Japanese Americans for the wrongful deprivation of their civil liberties during World War II.

Serving as Washington Representative, Mr. Igasaki advocated for the appropriations to fund payments promised in the Civil Liberties Act of 1988. Without these symbolic payments to individuals who suffered the loss of their civil liberties, many would view the Civil Liberties Act as a hollow gesture. Among other critical issues, Mr. Igasaki also worked with Congressional offices, the Department of Transportation and the White House to resolve unequal enforcement of antiquated maritime law against Vietnamese American fishermen in California.

While I think of my friend Paul Igasaki as a Californian, he truly learned the art of politics and its role in improving people's lives in his hometown of Chicago, Illinois. In the Windy City, he served as executive director of the Commission on Asian American Affairs; prior to that position, he was legal counsel and advisor to the Mayor on Asian American community affairs.

After receiving his Juris Doctor, from University of California, Davis and his Bachelor of Arts from Northwestern University, Evanston, Mr. Igasaki was the first staff director of an American Bar Association project that increased private sector civil legal services to poor clients in Chicago. This service came at a time when federal funding for such services was greatly reduced.

Mr. Speaker, I am honored to pay tribute to my good friend Paul Igasaki for his great service to this nation and look forward to his continued success in the fight to protect our civil rights and civil liberties.

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## HONORING SGT. EDMOND L. RANDLE, JR. OF 2ND BATALLION, 20TH FIELD ARTILLERY REGIMENT, 4TH INFANTRY DIVISION

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 30, 2004*

Mr. MEEK of Florida. Mr. Speaker, President George Bush made his highest profile reelection pitch yet with his annual State of the Union speech. His aides said that President Bush planned to defend the war in Iraq unapologetically. He was likely also to talk "at length" about the Middle East and Afghanistan and assure Americans that their Government is winning the global war on terrorism.

Oddly, unlike last year, the President's aides had not described what the President would say about Iraq's Weapons of Mass Destruction—the chemical and nuclear weapons that President Bush so confidently and urgently assured us last year that Iraq was developing and stockpiling;

The weapons of mass destruction President Bush said threatened the very lives and homes of the American people;

The weapons of mass destruction that President Bush told us last year was the reason this Nation had to go to war.

But on Saturday in Iraq, a remote-controlled bomb, planted on an access road and made up of two 155 mm artillery rounds and other explosives, was detonated killing three fine U.S. soldiers, two Iraqi civil defense workers, and wounding two other American soldiers. The blast was so powerful that it flipped the 30-ton Bradley over and set it afire.

The number of U.S. service members who have died since the Iraq conflict began on March 20th reached 500 with that blast.

The 500th young American to die was from my district in Miami, Florida, Sergeant Edmond Randle, Jr.

Pentagon officials reported to me that Sgt. Randle of 2nd Battalion, 20th Field Artillery Regiment, 4th Infantry Division died with two others of his comrades in Taji, Iraq. He has joined 502 other Americans who have given their lives in defense of our country, and on behalf of its citizens.

I visited Karla Randle-West, Edmond's mother and Hattie Hightower, his grandmother, in Carol City, Florida where Edmond grew up. I prayed with them, and they told me a little about the son who would have turned 27 this coming Saturday. Like many of our courageous soldiers, he was pragmatic and ambitious, joining the Army 3 years ago to raise money in order to continue studying at Florida A&M University, my Alma Mater.

He was a pharmacy student in one of the most challenging programs in the Nation. His mother told me that he also played the trumpet in the Marching 100, one of the best marching bands in the world. He gave up his music scholarship to pursue a degree in Pharmacy and took a job in order to pay his tuition and expenses.

He found out that the Army would pay for college tuition if he joined and served for 4 years. He signed up, and though initially worried, embraced his deployment to Iraq as a means to help out his fellow man. His family described him as a caring and sympathetic person who often looked for ways to help out other people.

On Saturday, that was exactly what he was doing, helping people. He and his mates were conducting a surveillance sweep for roadside bombs north of Baghdad when the attack occurred. He died alongside a fellow Floridian, Private First Class Cody Orr, and a Texan, Specialist Larry Polley, Jr. They were all brave soldiers, soldiers who put themselves in harm's way to honor their commitment to the United States of America. They were soldiers who chased an often faceless enemy to protect men, women, and families they will never know. Unfortunately, they were among 503 Americans who gave the ultimate sacrifice while proudly defending the Red, White, and Blue.

Reaching that threshold underscores the dangers still facing U.S. forces in Iraq as President Bush's administration prepares to seek help from the United Nations in building a new Iraq, after shunning the world organization for months.

Sgt. Randle was to return home to his family in March, when another mother's son would likely replace him. As it is, his cousin is soon to be deployed himself. Certainly, it would make Sergeant Randle's death, the death of the other 502 soldiers; the wounds and injuries of 2,893 others, and the countless civilian casualties of no importance were we to pull out of Iraq without an established government with some form of democratic identity.

But, we should expend every energy, every diplomatic means, and every world resource to make the turn-over of power to the Iraqis happen as quickly as possible, so that we can bring our troops home. In the meantime, I would continue to hope that the supplemental appropriations given to the Pentagon last Fall would purchase the jammers that might have prevented the remote detonation of the bomb that killed Sgt. Randle.

Edmond Randle represented everything about the American soldier that we look up to—he was a talented musician, dedicated student, and much-loved son and grandchild. He was also a brave and honorable soldier in the United States Army. He will be missed by his family, his friends, and his fellow troops.

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## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

SPEECH OF

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted:

Mrs. MALONEY. Mr. Chairman, with more than 1.6 million annual bankruptcies, America needs real bankruptcy relief.

In the past, I have voted for the bankruptcy bill that is on the floor.

But today I cannot, because the majority has once again shown its allegiance to the most extreme elements of the anti-choice movement and removed the bipartisan, negotiated Schumer amendment.

The bill on the floor is an especially devious attempt to pass the bill without the Schumer language, now inserting the entire bill into Chapter 12 bankruptcy relief for farmers.

By doing so, the Majority is holding up much-needed bankruptcy reform and relief for struggling farmers hostage to appease anti-choice extremists.

But for the lack of the bipartisan Schumer language I would support the bill. The idea at the heart of the bill, that debtors who can pay their debts should, is a fair one. The reforms in the bill are long overdue and consumer spending is so important to the economy that it saddens me that the Majority decided to play games rather than pass needed reform. Without the bill, all consumers who pay their bills on time suffer as they experience higher credit costs than they otherwise would. This legislation is also important because it includes legislation dealing with the netting of financial contracts. As derivatives continue to play a larger role in the economy, this netting legislation grows in import.

The purpose of the bankruptcy code is to help provide a fresh start to the "honest but unfortunate debtor."

With over 4,100 acts of violence at our nation's clinics, it is clear that these criminals are not honest, but instead are violent criminals who are getting away with their efforts to injure and intimidate women.

Without this provision, if someone hurts or kills someone outside an abortion clinic, he or she can file for bankruptcy and avoid paying any judgements made against them. In other words, they are not held financially responsible for violating the law.

If we strip this provision from bankruptcy reform, we send a message to criminals that they can continue to trample on the rights of American women and use violence to do so.

We must stop these people from violating the law and must stop them from finding shelter in bankruptcy.

I urge a "no" vote on this bill which is a shameless attack on a fair, bipartisan compromise and an unjust assault on America's farmers and women.

# SENATE—*Monday, February 2, 2004*

The Senate met at 1 p.m. and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain Reverend Clint W. Decker, Clay Center Wesleyan Church, Clay Center, KS.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Father in heaven, holy is Your name. I seek Your blessings on behalf of our Nation and its leaders. May our Senators draw near to You and experience Your unconditional love. May each seek Your divine guidance for the hard decisions they face today.

Grant us all a holy desire to study scripture, pray, and seek Your plan for our lives. In Your unfolding mercy, strengthen marriages, sustain vital relationships, and grant peace to each and every home.

God, bring a spiritual awakening across this land that every citizen of this great country would know Your love and mercy as it transforms their lives, heals their wounds, and creates hope in hungry hearts.

I pray this in the name of Jesus, my Lord. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, February 2, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WAYNE ALLARD, a Senator from the State of Colorado, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. ALLARD thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business until 2 p.m. At this juncture, I ask unanimous consent that we extend morning business, with the time equally divided, until 3 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. At 3 p.m. the Senate will resume consideration of the motion to proceed to S. 1072, the highway funding bill. Last week we attempted to reach a consent agreement to begin consideration of the highway bill today. Unfortunately, there was an objection to proceeding; therefore, I filed cloture on the motion to proceed. That cloture vote will occur at 5:45 p.m. today. I hope cloture will be invoked and the Senate will be able to begin consideration of this important bill this evening. This is a major piece of legislation which will not only secure America's infrastructure but also create jobs. There will be a lot of discussion and debate. I anticipate that this bill will take both this week and next week—that is the next 2 weeks—to complete.

Having said that, we need to begin the debate and allow the Senate to work its will on the amendments offered. Several of the committees are continuing their efforts on their respective pieces of this highway bill today and tomorrow, but that should not delay us from beginning to consider this important measure. As I have said, there will be adequate time to consider this bill on the floor, and Members will have the opportunity to offer amendments.

On another subject, last week the Senate passed the pension rate reform bill by a large bipartisan vote of 86 to 9. The vote in the House on their version of the bill was 397 to 2. Now it is time for us to appoint conferees and to go to conference to reconcile the differences. The Senate bill has been passed. The House bill has been passed. Now we want to appoint conferees so we can go to conference and reconcile those differences.

Unfortunately, there has been an objection on the other side of the aisle to proceeding. I again urge the Democratic leadership to allow us to appoint conferees so we can begin the process. The large bipartisan vote on passage of this legislation in this body as well as in the House indicates we are all willing to work together, and I hope we can continue and progress toward a conference of agreement.

On another note, I remind my colleagues that on Wednesday of this week, President Aznar of Spain will address a joint meeting of Congress. President Aznar will begin his speech at 11 a.m. Therefore, Members are asked to gather in the Senate Chamber at 10:40 so that we may leave as a body for the House Chamber to hear that address.

## IMPORTANCE OF S. 1072

Mr. FRIST. Mr. President, I would like to take a few minutes to comment on the importance of proceeding to the highway bill which will be the focus of this institution over the next 2 weeks. At 5:45 today we will have the cloture vote on the motion to proceed to the highway bill. I do hope cloture will be invoked and we will be able to begin consideration of this vitally important bill.

In the next few moments, I want to share why I believe this bill is so important to us, to the American people and, thus, we need to invoke cloture. There is broad support for this legislation here in the Senate as well as all across America. We will spend the next couple of weeks considering it on the Senate floor. A number of Senate committees are involved in this important bill, including the Environment and Public Works Committee, the Commerce Committee, the Banking Committee, the Finance Committee—all have vital and critical pieces of this bill. We will work through their various committee amendments over the next 2 weeks.

It is key that we focus our full attention on this legislation. America's transportation infrastructure is crucial to our vibrant economy, to our growing economy today. America is interlaced with over 4 million miles of roads and highways. Our transportation infrastructure is estimated to be worth more than $1.75 trillion. The interstate highway system has often been called the greatest public works project in history. Every $1 billion we invest in transportation infrastructure generates more than $2 billion in economic activity and creates more than 47,000 new jobs.

Our roads, our ports, our railroads are vital to America's economic success. We know this well in my home State of Tennessee where companies

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

such as Federal Express, Averitt Express, and U.S. Express are located. The success of these companies is dependent on the quality of our Nation's infrastructure.

Around the Nation, America's transportation infrastructure is deteriorating badly and becoming painfully overcrowded. America's roads especially are not keeping up. You can ask any American commuter. There is bumper-to-bumper traffic, not just during rush hour but all day long. Indeed, in our Nation's urban areas, traffic delays have more than tripled over the past 20 years. That is not just in the larger cities—New York, Atlanta, Los Angeles. In Raleigh-Durham, commuting time has gone up nearly 25 percent in 10 years. In Charlotte, traffic congestion has added 39 additional commuting hours per year, the equivalent of nearly an entire week stuck in traffic.

In Tennessee, traffic congestion has increased in all our major metropolitan areas. In my hometown of Nashville, commuters drive an average of 32 miles per day. Metropolitan planning organizations are struggling to meet demand.

It is estimated that Americans suffer through more than 3.6 billion hours in delays and waste over 5.7 billion gallons of fuel per year just sitting in traffic. These transportation delays ripple through our Nation's economic sector and result in lost productivity, lost wages, and lost jobs.

We cannot ask our fellow citizens to join the great American workforce and then stand idly by while our roads decay and that daily commute to work stretches from minutes into hours. It is a jobs issue. This bill is a quality-of-life issue, and it is a serious safety issue as well. More time on the road translates into more accidents: 41,000 travelers are killed each year on our worsening roads, and over 3 million people are injured.

As our highways become more and more congested, drivers begin to take alternate routes on town streets, which we know exposes them to even greater danger. Passing the highway bill is lifesaving. It will save an estimated 4,000 lives each year by simply improving our roads and educating the public about road safety. In Tennessee, our State highway department is investing in measures to reduce traffic-related fatalities. States across the country will need additional resources to make similar improvements.

Passing the highway bill will also improve the mass transit system that is so vital to our thriving urban centers. With new and modernized vehicles and facilities, mass transit is gaining in popularity. The Department of Transportation reports that from 1997 to 2000, passenger mileage on mass transit increased by 125 percent. More people are using trains more frequently not just to get to work but to run errands and to travel. Passenger mileage on trains has gone up 16 percent. But like our roads, our transit system is not keeping up. Average rail operating speeds have actually declined since 1997 as trains are older and we are using slower rail systems. As daily commuters can testify, trains are getting more and more crowded as well.

The Department of Transportation warns that as the Nation's population continues to increase and more people live in urban areas, the need for investment in transit infrastructure will continue to grow.

Finally, the bill we have before us that we will begin to consider is the result of a long bipartisan process. It is based on more than 2 years of work, including 13 hearings and testimony from over 100 witnesses. The highway bill is a fair and comprehensive package that will benefit the entire Nation. From highways and bridges to bike paths, this bill will make our transportation safer, more efficient, and will stimulate job creation. Indeed, it is estimated that the highway bill under consideration will add a whopping 2 million jobs to the economy.

Our vast and interconnecting highways are emblematic of our great American spirit, our love of adventure, and our drive toward the unknown. Our highways, our bridges, our roads, our ports, and our trains are in fact very much the physical expression of the very name we bear, uniting the States of America. I urge my colleagues to take swift action to pass this legislation. We must work together to continue to move America forward.

I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF THE DEMOCRATIC LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

## PASSING S. 1072

Mr. DASCHLE. Mr. President, I commend the distinguished majority leader for his statement on the importance of the legislation that will soon be pending. He and I have had a number of discussions about the legislation and the need to proceed. I applaud him for his leadership in making sure the Senate has an opportunity to complete its work on this bill at the earliest possible time. He has very persuasively articulated why this legislation is important not only for the State of Tennessee but for the country. I will have a lot more to say about the bill in the coming days. But I hope that in spite of the differences there may be with regard to allocation, priorities, and policy, we can find a way to work together on this bill and complete our work perhaps as early as a week from this coming Friday. I think it is doable.

I have pledged to the distinguished majority leader that we are going to do all we can to complete our work in that timeframe. That will take cooperation and it will take efficient use of the next 2 weeks. I think it is doable. I am very hopeful that by working together we can recognize this is one of the most important opportunities not only for our investment in infrastructure, but for the creation of good jobs and what it can mean in the longer term for the economy. This is a good moment for all people involved. I just hope we seize the moment and do all we can to successfully complete our work.

## CONGRATULATING SOUTH DAKOTA NATIVE ADAM VINATIERI OF THE NEW ENGLAND PATRIOTS

Mr. DASCHLE. Mr. President, I congratulate a South Dakota native, Adam Vinatieri, on yet another Super Bowl-winning field goal.

These are the kinds of heroics South Dakotans and New England Patriot fans have come to expect from Adam. Growing up in Rapid City, Adam lettered in football, soccer, track, and wrestling for the Central High School Cobblers. He was a 4-year letterman as a place-kicker at my alma mater, the South Dakota State University Jackrabbits. He actually set the school record for points scored.

In the last 30 years, only twice has the Super Bowl been won by a last-second field goal. On both of these occasions, the kicker was Adam Vinatieri.

Once again—and certainly not for the last time—he has brought pride to his State and joy to Patriot fans everywhere. I congratulate him.

I thank the Presiding Officer, and I yield the floor.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with the time until 3 p.m. equally divided between the two leaders or their designees, with the Senator from Florida, Mr. GRAHAM, controlling the time allocated to the minority. The Senator from Nevada.

Mr. REID. Mr. President, we want to make sure Senator GRAHAM has all the time he needs for the remarks he wishes to make. He is going to be finished around 2 o'clock, and then time will be controlled by either Senator DASCHLE or his designee. You said all time would be controlled by the Senator from Florida.

The ACTING PRESIDENT pro tempore. That is correct, and the remainder of the time will revert to the leader.

Mr. REID. I ask unanimous consent that be the case.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Chair recognizes the Senator from Florida.

## THE NEED FOR INTELLIGENCE REFORM

Mr. GRAHAM of Florida. Mr. President, as Chairman of the Senate Select Committee on Intelligence during most of the 107th Congress, I worked with colleagues from the House and Senate to accept the responsibility of reviewing the horrific events that struck our Nation's symbols of commerce and security on September 11, 2001, claiming the lives of nearly 3,000 Americans. From New York City and the Pentagon to a field in rural Pennsylvania, 9-11 demonstrated the vulnerabilities of our free society.

But in my view, and after the careful review of the Intelligence Committees, the most tragic aspect of this day never to be forgotten is that it could have been prevented. Had our intelligence agencies been better organized and more focused on the problem of international terrorism—particularly Osama bin Laden—September 11th would have been prevented.

I also have concluded that, had the President and the Congress initiated the reforms that our joint inquiry recommended, we might well have avoided the embarrassment of the flawed intelligence on weapons of mass destruction—or the misleading use of that intelligence—which formed the basis of our war against Iraq.

Surely, the people of America would be safer today had these reforms been undertaken.

So today, and in remarks in the next 2 days, I would like to review with my colleagues the conclusions of the House-Senate joint inquiry.

We have learned that intelligence failures played a central role in the events of 9-11. Let me illustrate some of those failures:

The Central Intelligence Agency, CIA, was tracking two of the hijackers and knew that they had been to a summit meeting of terrorists in Malaysia in early January of 2000. However, the CIA failed to inform the Federal Bureau of Investigation, FBI, the Federal Aviation Administration, FAA, the Immigration and Naturalization Service, INS, or Customs officials that these individuals were on their way to the United States. The result is that when they arrived on a commercial airliner in the United States in order to execute their dastardly plan, they were welcomed into our country by unwitting entry agents.

These same two hijackers were living with an FBI asset, but the informant failed to ask basic questions. Others in the FBI recognized the danger of Islamic extremists using airplanes as weapons of mass destruction, but their warnings were ignored by superiors. Still others failed to understand the legal avenues available to them that may have allowed available investigative techniques to be used to avert the 9-11 plot.

Current national security strategy demands more accurate intelligence than ever before:

> Terrorists must be found before their strikes. This will require intelligence agents capable of penetrating their cells to provide intelligence early enough to frustrate the terrorists' intentions;
>
> If preventive or pre-emptive military actions are to be a central part of our national security strategy, to maintain its credibility of those actions with the American people and the world, will require the support of the most credible intelligence;
>
> If we are to frustrate the proliferation of weapons of mass destruction, America must provide an intelligence capability for all of those regions of the world which are suspect.

Now, as never before, intelligence matters.

In responding to the events of 9-11, Congress created a joint committee consisting of the House and Senate Intelligence Committees. A bipartisan, bicameral panel of this type had never before been formed in the 213 years of the U.S. Congress. Our effort reflected the unique circumstances and the national unity we all felt in the immediate aftermath of 9-11.

One of the principal reasons for conducting the inquiry in this way was to give our recommendations the maximum credibility, above the usual cries of partisanship that frequently taint the work of congressional committees. The importance of our task cannot be understated. We sought to identify the problems in the intelligence community that allowed the 9-11 attacks to go undetected and propose solutions to those problems.

In the end, we were successful in identifying the problems because we all understood how much was at stake and that our enemy would not rest while we attempted to fix our problems. We were less successful in securing consideration of the solutions from the intelligence agencies, the White House, and the Congress.

The fact that we conducted this bipartisan, bicameral inquiry and submitted recommendations creates a new heightened level of congressional responsibility. If the terrorists are successful in another attack in the United States, the American people will demand to know what the institutions of government learned from 9-11, and how the intelligence agencies, the White House, and the Congress used that knowledge to harden the United States against future terrorist attacks. Congress was largely able to avoid accountability for 9-11. Mark my words: There will be no avoidance of responsibility for the next attack.

There will be no avoiding responsibility for the President. September 11, 2001, was a wake up call—it told us we had severe deficiencies in our intelligence community. If 9-11 was a wake up call, the failure to find weapons of mass destruction in Iraq was a report card on how far we have come since 9-11 in correcting the problems in our intelligence community. The grade we received on that report card is F. The President and Congress have failed to initiate the reforms recommended by a series of review panels and our bipartisan, bicameral joint committee of inquiry.

This failure of the President and the Congress has contributed to yet another intelligence failure.

What troubles me more than the President's unwillingness to make the necessary changes is his unwillingness to even admit that our Nation has a problem. Just last week, the President responded to questions about the inaccuracies of his statements about Iraq's WMD capability by saying he has "great confidence in our intelligence community." How can he have great confidence in our intelligence community after it has been proven confused before September 11 and completely wrong on the threat posed by Iraq?

The expected appointment by the President of a commission to review the intelligence on which the war in Iraq was predicated is not an excuse to delay reform of America's intelligence community. Rather, I am concerned that it appears as though the goal is simply to avoid political accountability and embarrassment. America continues to be in a state of denial. A White House aide was quoted over the weekend as saying, "We cannot afford another one of those"—referring to the public outcry after the misstatement of intelligence in the 2003 State of the Union speech.

It has now been more than a year since the joint inquiry made its recommendations. This is a good time to review the progress made in implementing those recommendations and to identify critical areas of reform that have not yet been addressed. Unfortunately, this is not going to be a report card that we would like to show to our parents—or to our voters. There has been little accomplished with regard to most of the recommendations.

The joint inquiry report made nineteen recommendations for reform. Today I would like to discuss those recommendations that fall into the category of specific actions to combat terrorism.

In speeches on Tuesday and Wednesday, I will deal with those that involve intelligence community reform and those that deal with the FBI and the

Foreign Intelligence Surveillance Act process.

Of the nineteen recommendations, there are six that contain specific actions to combat terrorism. Recommendation No. 2 directs "the National Security Council to expedite their efforts to examine and revamp existing intelligence priorities." It further directs the President to "take action to ensure that clear, consistent, and current priorities are established and enforced throughout the Intelligence Community. Once established, these priorities should be reviewed and updated on at least an annual basis to ensure that the allocation of Intelligence Community resources reflects and effectively addresses the continually evolving threat environment. Finally, the establishment of Intelligence Community priorities, and the justification for such priorities, should be reported to the House and Senate Intelligence Committees on an annual basis."

It was very clear from the work of the joint inquiry that the intelligence community had not adapted or changed its intelligence priorities to reflect the changing nature of the world. While some modifications had been made since the end of the Cold War, our intelligence priorities remained states like Russia, China, Iran and Iraq. In spite of the fact that George Tenet, the Director of Central Intelligence, had declared war on al-Qaida in 1998, al-Qaida was not at or even near the top of the intelligence priority list on September 11, 2001. Only on September 12, 2001, did al-Qaida become priority number one.

It was also clear from our investigation that there was no formal process for regularly updating and reviewing intelligence priorities to ensure that they reflected changes in the security environment. Bureaucratic inertia worked to keep old priorities on the list long after they should have dropped down in favor of emerging threats. While George Tenet may have recognized that non-state actors like al-Qaida needed more attention, this was not widely known or accepted throughout the Intelligence Community that he heads. When asked if he was aware that George Tenet had declared war on al-Qaida in 1998, a former director of the National Security Agency, NSA, our Nation's electronic eavesdropping agency, responded that yes, he was aware that George Tenet had said that, but he did not think it applied to him or his organization.

A formal process that was clearly understood throughout our government would have prevented some of the problems we identified. One example involves the Predator unmanned aerial vehicle, a pilotless drone capable of long-duration flight and armed with high resolution cameras and an ability to fire missiles at targets on the ground. The Predator has proven to be one of the most effective intelligence collection assets we have in the war on terror. Unfortunately, it took far too long to build the Predator because of internal disputes in the administration. This type of aircraft was not a priority for the Air Force and its production was therefore delayed several months. The lack of established and accepted intelligence priorities was a major cause of the delay in fielding the Predator.

This issue of setting new priorities was also raised by the National Commission on National Security in the 21st Century, also known as the Hart-Rudman Commission. This Commission, which issued its final report in February of 2001, included a recommendation that "the President order the setting of national intelligence priorities through National Security Council guidance to the Director of Central Intelligence."

Unfortunately, at the time the Joint Inquiry issued its report almost 2 full years after the Hart-Rudman Commission had made its recommendation sufficient progress had not been made in setting national intelligence priorities. Therefore, we included a recommendation on this point. Our investigation determined that the failure to have clear, consistent and current intelligence priorities that were understood by the entire intelligence community was a significant contributing factor to the failure of intelligence on 9-11.

Since the joint inquiry issued its report, some progress has been made in establishing a systematic process for establishing intelligence priorities. However, it is not clear that these priorities are being communicated to the domestic intelligence agencies responsible for our security here at home.

Recommendation No. 3 focuses its directive on the counter terrorism components of the intelligence, military, law enforcement, and homeland security agencies, which will be key in counter terrorism. This recommendation directs the National Security Council to "prepare, for the President's approval, a U.S. government-wide strategy for combating terrorism, both at home and abroad, including the growing terrorism threat posed by proliferation of weapons of mass destruction and associated technologies."

There should be an intelligence component of this strategy that identifies domestic and foreign based threat levels, programs, plans and budgets to address the threat posed by Osama bin Laden and al-Qaida, Hezbollah, Hamas, and other international terrorist groups. The strategy should include specific efforts to improve human intelligence, better utilize technology to analyze and share data, enhance domestic intelligence, maximize the effective use of covert action, which is action taken by the United States Government where the role of the United States is hidden, develop programs to deal with terrorist financing, and facilitate the ability of CIA and military special operations forces to conduct joint operations against terrorist targets.

The joint inquiry found that there was no commonly agreed-upon approach among the federal agencies for dealing with terrorism. Each agency or department seemed to have its own ideas about fighting terrorism, and they were all independent actors. Success in the war on terror will require a coherent, coordinated effort that can only be accomplished by having everyone work toward a common goal outlined in a national strategy. Prior to 9-11, the CIA was trying, albeit unsuccessfully, to penetrate foreign terrorist organizations and disrupt their operations. Unfortunately at the FBI, fighting the war on terror meant calculating the threat by counting the number of known terrorists, not how many were estimated to have been placed in American communities. The FBI was waiting for acts of terror to occur and then trying to arrest and convict the guilty party.

The need for a national strategy to combat terrorism has been the subject of several other commission reports. The Gilmore Commission, also known as the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, in its second report in December of 2000, recommended that "the next President should develop and present to the Congress a national strategy for combating terrorism within one year of assuming office."

The broad recommendation to develop a national strategy, as well as what should be included as specific components of that strategy, is broadly supported by virtually everyone who has analyzed our intelligence capabilities.

In addition to the recommendation of the Gilmore Commission calling for a national strategy to combat terrorism, other commissions have made recommendations that are consistent with the full joint inquiry recommendation on developing a national strategy. For instance, the Hart-Rudman Commission, the Gilmore Commission, and the Bremer Commission, also known as the National Commission on Terrorism, in its report of June 2000, all made recommendations calling for improving and intensifying our human intelligence efforts with respect to terrorism.

We should remember that until the hijackers stood up on those four airplanes and took control, it was as if their plot had been undetected. It was as if their conspiracy represented no violations of American laws or regulations. Good intelligence is our principle line of defense against these types of terrorist plots. Only by penetrating these organizations and by bringing together all available raw intelligence into cohesive analytical products will we ever be able to feel confident that we can avoid future tragedies. That is the only way we will get the timely, accurate intelligence that is required to disrupt sophisticated modern terrorist organizations like al-Qaida. Improving our human intelligence capability must be Job Number One in responding to global terrorists.

Penetrating these organizations will require a new, more aggressive human intelligence capability. Osama and his cohorts are unlikely to turn up at an embassy cocktail party. We must be capable of getting human sources close to the leaders of these organizations. John Walker Lindh was a misguided California college student who became a member of al-Qaida and even met Osama bin Laden. Unfortunately, John Walker Lindh did not work for the CIA.

The Bremer Commission includes a recommendation to increase funding for technology development to exploit terrorist communications, and devotes an entire section to improving efforts to attack terrorist financing. The Gilmore Commission recommends improving technological applications to enhance analysis and dissemination, as well as improving domestic intelligence collection.

In response to the good work done by the Gilmore Commission and the recommendation of our Joint Inquiry, a national strategy to combat terrorism was issued by the Bush Administration in February of 2003. It is difficult to understand how a President who claims that defeating terrorism is the principle mission of his presidency took 17 months to produce a strategy to accomplish that mission. And even the strategy that was produced is inadequate when it comes to defining the intelligence components of that strategy. Instead, it calls on the intelligence community to review its capabilities and make recommendations for improvement. Why would it take 17 months to task the intelligence community to do such an assessment?

The strategy that was produced after this long delay does not meet the requirements published in the recommendation of the joint inquiry. The Bush administration's strategy is not so much a strategy as a list of objectives. What is lacking is clear guidance on how we can achieve these objectives. What is also lacking is a level of specificity that will allow all agencies in our government to work towards this common set of priorities and goals through the common strategy.

Recommendation No. 4 calls for the establishment of a National Intelligence Officer for Terrorism on the National Intelligence Council. The National Intelligence Council works directly for the Director of Central Intelligence and is responsible for providing coordinated analysis of foreign policy issues for the President and other senior policymakers. To date, no such position has been established. The lack of a central coordinator for terrorism analysis has been a continuing shortcoming in the Intelligence Community. While there are some outstanding individuals doing analysis on terrorism in several of the intelligence community's component organizations, there is no single focal point for policymakers to direct analytical requests on terrorism.

A more recent example of the need for an NIO for Terrorism is the debate over Iraq's connection to al-Qaida. While the CIA consistently reported that they had uncovered no reliable evidence of any links between Saddam Hussein and al-Qaida, others in the government—particularly at the Defense Department and the White House—made repeated statements about a solid link. Implementing this recommendation would give us a point of ultimate accountability.

The joint inquiry found that there was some confusion as to who to go to with intelligence queries on terrorism, and there was no arbiter within the community to help reconcile various approaches or conflicting analyses of terrorism. We found too much miscommunication and an inability to identify who was responsible with regard to terrorism analysis. There was no individual who could coordinate a National Intelligence Estimate on terrorism, something that may have helped bring the seriousness of the threat posed by al-Qaida to members of the intelligence community outside of CIA. A National Intelligence Estimate is the highest level of intelligence analysis produced by the intelligence community and represents the best estimate of the entire intelligence community.

Without the establishment of this position, there is also a lack of outreach to academia and the private sector on terrorism issues, something that is needed in this critical fight. We have national intelligence officers for each geographic region as well as several crosscutting issues, such as conventional military issues, strategic and nuclear programs, and economics and global issues. It is a sign of the continuing lack of organizational restructuring to deal with the terrorist threat that we still have no national intelligence officer for terrorism, yet we have one for economics. This should not be very hard to do, yet one full year after issuing our recommendations it has not been done.

Recommendation No. 18 of the joint inquiry report calls on Congress and the administration to ensure the full development within the Department of Homeland Security of an effective all-source terrorism information fusion center. This center should have full access to all terrorism related intelligence and data, participate in the intelligence requirements process, and "integrate intelligence information to identify and assess the nature and scope of terrorist threats to the United States in light of actual and potential vulnerabilities."

One example of an intelligence fusion center that functions effectively is the Joint Interagency Task Force South in Key West, Florida. This organization fuses intelligence information from a wide variety of sources in a single facility which is jointly manned by military, law enforcement, intelligence and foreign government officials. What makes this organization particularly effective is that it is able to directly control operational activity to respond immediately to the intelligence it gathers. If it identifies a ship traveling toward the United States that it believes is carrying illegal narcotics, it can direct a Coast Guard vessel to intercept and search that ship.

The failure to bring together all the available intelligence on terrorism and to analyze it in a way that is most useful in preventing attacks was most evident in our inquiry. The FBI had smart agents working in field offices throughout the country who identified troubling trends, such as an unusual interest in flight training among some foreign visitors. Unfortunately, the FBI was not organized in a way that allowed all intelligence on terrorism to go to a central location so that it could be analyzed as a whole. That problem was compounded by the fact that there was little to no information sharing between the FBI, responsible for counterterrorism within the United States, and the CIA, responsible for foreign intelligence collection outside the United States of America. Too much fell through the cracks.

This recommendation was directly supported by the legislation, passed by Congress and signed by the President, that established the Department of Homeland Security. That legislation authorized an intelligence component in the new Department to do exactly as was recommended by the joint inquiry, including the requirement that this new intelligence component have full access to available intelligence information. Senators SHELBY, LIEBERMAN, and Thompson deserve particular credit for their efforts to ensure that the new Department of Homeland Security have a robust intelligence organization. The intelligence component of the Department of Homeland Security was envisioned to be the one place where our domestic vulnerabilities are evaluated and mapped against all threats to the homeland. The idea was that the threats could come from a variety of sources, not just terrorists, and one agency needed to be responsible for having the entire picture on its radar screen.

Unfortunately, the administration has chosen to gut the intelligence function at the Department of Homeland Security. The position of director of intelligence for the new department has been vacant for much of the time the department has been in existence. This is indicative of the lack of attention and significance it is given. The staff is totally inadequate for the mission outlined in the legislation that established the department.

Instead, the administration has chosen to create a new organization at the CIA called the Terrorist Threat Integration Center, TTIC. While this new organization may address some of the problems that we have identified, it does not meet the requirements set out in the legislative authorization, nor does it meet the criteria set out in the Joint Inquiry recommendation.

Finally, I would like to address Recommendation No. 19 of the joint inquiry report. This recommendation calls on "the intelligence community, and particularly the FBI and CIA, to aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activity targeting the United States and U.S. interests. The FBI and CIA should aggressively and thoroughly pursue related matters developed through this Joint Inquiry that have been referred to them for further investigation."

Mr. President, this may be the most important—and at the same time, the most troubling recommendation. Significant evidence of foreign government involvement in the 9-11 attacks was uncovered by the joint inquiry.

It is incomprehensible why this administration has refused to aggressively pursue the leads that our inquiry developed. One example of the failure to pursue leads that point to foreign government involvement is the refusal of the FBI to aggressively follow the money trail that flowed from officials of a foreign government to at least some of the terrorists. In spite of being provided evidence by our committee, the FBI and the administration refused to use all the law enforcement tools at their disposal to follow the money trail. Why would the administration not use all of its available powers to track this money? In addition, the question of whether other terrorists were getting similar support was not pursued. Therefore the extent of the involvement of the foreign government has never been fully investigated. Recent press reports indicate that there is even more suspicious activity than was known at the time we issued our report.

Another example of the failure to aggressively pursue the sources of foreign support of terrorism is reported on Page A14 of today's Washington Post. A panel which was established by the United Nations to pursue sources of support of al-Qaida has been disbanded. Our government joined with Russia and Chile to sponsor a resolution at the United Nations that disbanded the panel investigating al-Qaida's financing.

We are talking about the possible involvement of foreign governments in the 9-11 attacks. If a government was involved in those attacks, we should leave no stone unturned to identify the extent of that involvement and hold those responsible accountable. There should be no sanctuary from justice for those involved with terrorists, no matter who might be embarrassed by such revelations.

I wish I could be more specific in discussing the involvement of foreign governments in the 9-11 plot. Unfortunately, the administration will not allow me to do so. After 7 months of effort to de-classify the report that we filed on December 20, 2002, the CIA, the FBI and other agencies decided to keep significant portions secret. In particular, there are 27 pages that were virtually completely censored. These are pages 396 through 422 from Part Four of the report, which is entitled, "Finding, Discussion and Narrative Regarding Certain Sensitive National Security Matters."

This censorship is troubling for a number of reasons. First, it reduces the information available to the public about some of the most important government actions—or to be more accurate, inactions—prior to September 11. Second, it precludes the American people from asking their government legitimate questions, such as:

> Was there a reason that some, but not all, of the terrorists were receiving foreign support while they were in the United States?
>
> Or is it not more likely that they were all receiving similar support?
>
> What evidence do we have that the infrastructure of support that existed prior to 9-11 has been dismantled?
>
> Or is it not more likely that such an infrastructure is still in place for the next generation of terrorists?
>
> How many trained operatives of al-Qaida, Hezbollah, and other international terrorist organizations are there inside the United States of America?
>
> What are the skills and capabilities of these operatives?
>
> What was the scale and skills of Iraqi operatives inside the United States prior to the war in Iraq and at the current date?
>
> What was the comparative threat to the people of the United States of Iraq and the trained agents of international terrorists placed inside our country?
>
> Has the number, skill set, funding or ability to avoid disclosure of international terrorist operatives within the United States of America been enhanced by support from foreign governments?
>
> How professional and aggressive have been the efforts of agencies such as the FBI and the CIA in answering those questions?
>
> And, how was the information that our government might have had prior to September 11th utilized after September 11th to enhance the security of our homeland and American interests abroad?

Unfortunately, almost 2½ years after the tragedy, the administration and the Congress—in the main—have not initiated the reforms necessary to reduce the chances of another 9-11. Given the seriousness of that situation, some of what was withheld from this report bordered on the absurd. For examples of the absurdity, some of the information censored from these pages actually appears in other parts of the report. Let me cite three examples.

First, much of the censored information about Omar al-Bayoumi is available on pages 173-175. Mr. Bayoumi was an employee of the Saudi Civil Aviation Authority and a suspected Saudi intelligence agent based in California. He had extensive contacts with two of the Saudi hijackers, Khalid al-Mihdhar and Nawaf al-Hazmi. The same day that Bayoumi picked up the hijackers at a restaurant in Los Angeles, he had attended a prior meeting at the Saudi consulate in Los Angeles. Bayoumi cosigned a lease for the two hijackers, paid their first month's rent, hosted a welcome party for them, helped them get driver's licenses and flight school applications. He also introduced them to others who served as their translator and in other support roles.

Second, much of the censored information about Osama Bassnan, another Saudi national who was a neighbor of the two hijackers in San Diego, which appears on pages 175 through 177.

Third, much of the information about a San Diego business manager which was censored also appears on pages 179 and 180.

I would note that the declassified sections of the report point out that, despite public assurances from U.S. officials that Saudi Arabia has cooperated in counter terrorism efforts, the Joint Inquiry received testimony that Saudi officials in fact "had been uncooperative and often did not act on information implicating Saudi nationals."

What this indicates is that in the months following the release of our recommendation that the administration "aggressively" address the foreign government involvement in 9-11, the Bush administration not only failed to pursue and investigate foreign government involvement, the administration misused the classification process to protect the foreign governments that may have been involved in 9-11. There is no reason for the Bush administration to continue to shield make-believe allies who are supporting, either directly or indirectly, terrorists who want to kill Americans.

The recommendations we have made here are consistent with recommendations made by other bodies that have been formed to analyze our intelligence structure over the last decade. The political reality is that there is a broad agreement that these reforms need to be made, yet there is institutional resistance that has been too great to overcome.

Congress has assumed responsibility for reform of the intelligence community. Now is the time to act so that we might receive the appreciation of the American people for reducing the likelihood of another tragedy like 9–11. The consequence of inaction will be legitimate, strong and unavoidable criticism should we be struck again.

If 9–11 was not a big enough shock wave to overcome the resistance to change, what will it take?

I ask unanimous consent that The Washington Post article "U.N. Dissolves Panel Monitoring Al Qaeda" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### U.N. DISSOLVES PANEL MONITORING AL QAEDA

#### GROUP HAD CRITICIZED SECURITY COUNCIL

(By Colum Lynch)

UNITED NATIONS.—The U.N. Security Council quietly dissolved a high-profile independent U.N. panel last month that was established more than 2½ years ago to prevent the al Qaeda terrorist network from financing its war against the United States and its allies, U.S. and U.N. officials said.

The move comes six weeks after the panel, headed by Michael Chandler of Britain, concluded in a stinging report that a number of Security Council sanctions against al Qaeda had failed to constrain the terrorist network.

But Security Council members have denied the move was retribution for the panel's conclusions, saying that the quality of the group's work was uneven and that the group had outlived its usefulness.

The 15-nation council on Friday adopted a new resolution sponsored by the United States, Russia and Chile that would replace Chandler's panel with what they say will be a more professional body. The new panel is expected to keep monitoring the global war against terrorism but would be subject to closer Security Council coordination and oversight.

The dispute underscores the challenge of managing an international counterterrorism operation through an organization whose 191 members are frequently criticized for failing to cooperate. It also reflects growing frustration among members that sanctions have done little to interrupt the flow of money and arms to al Qaeda.

Chandler criticized the decision, saying it would undercut the United Nations' capacity to combat al Qaeda. He suggested that his panel's demise was a result of pressure from influential U.N. members who had been singled out in his reports for failing to take adequate measures to combat al Qaeda.

"A number of people were uncomfortable with our last report," Chandler said. He said that the Security Council was sending the wrong message and that one of the "key elements" of a successful counterterrorism strategy is "a strong independent monitoring group."

Chandler's five-member panel—the monitoring group on al Qaeda—was established in July 2001 to ensure compliance with an arms embargo against the Taliban and a freeze on its financial assets for harboring Osma bin Laden. The mission's mandate was expanded after the Taliban fell in January 2002, granting it broad powers to monitor international compliance with a U.N. financial, travel and arms ban.

Chandler's reports have provided periodic snapshots of the international campaign against terrorism, often highlighting failings in governments' responses to the al Qaeda threat. In August 2002, after a lull in al Qaeda activities, Chandler provided a prescient forecast of the network's resurgence. "Al Qaeda is by all accounts 'fit and well' and poised to strike," the report warned. It was followed by deadly strikes in Bali, Indonesia; Casablanca, Morroco; and Saudi Arabia.

"The group functioned very well, providing hard-hitting reports to the Security Council which painted a picture of what was really going on," said Victor Comras, a former State Department official who helped write the Dec. 2 report.

"I am at a loss to understand why the United States is one of the main players in redrafting the new resolution and allowing the monitoring group to lapse," he added. "The United States was the greatest beneficiary of the monitoring group because it gave them a lever to name and shame" countries that failed to combat terrorists.

One U.S. official said that last thing the United States wants is to "muzzle" the United Nations. But he said that although Chandler's panel was effective "at getting headlines," his propensity for antagonizing member states could ultimately undermine U.S. efforts to harness the United Nation's support in its anti-terror campaign. Chandler's group "did a good job," said James B. Cunningham, the deputy U.S. ambassador to the United Nations. "But we are trying to make the committee more effective."

Some U.S. and U.N. diplomats said Chandler needlessly alienated potential allies and constituents at the United Nations, including some in the United States. Chandler's 2002 report irked Bush administration officials by casting doubt on the success of the U.S.-led effort to block al Qaeda financing. The Bush administration also challenged the veracity of Chandler's assertion in an earlier report that the Treasury Department had ignored warnings from SunTrust Banks that a key plotter in the Sept. 11, 2001, terrorist attacks had previously transferred large sums of money to an account at a Florida bank branch.

Chandler infuriated officials from Liechtenstein, Italy and Switzerland with the Dec. 2 report that illustrated how two U.N.-designated terrorist financiers, Youssef Nada and Ahmed Idris Nasreddin, lived, traveled and operated multimillion-dollar businesses in their countries in violation of U.N. sanctions.

Liechtenstein's U.N. ambassador, Christian Wenaweser, one of Chandler's sharpest critics, complained that the Chandler investigation was shoddy and that he failed to adequately acknowledge his government's role in helping build the case against two alleged terrorist financiers. "We don't question the usefulness of the monitoring group. Quite the contrary. But they have to have a clear mandate and guidelines on how they should and shouldn't do their work," Wenaweser said. "They didn't bother to verify basic facts; they got some things wrong. Travel dates. Spelling of names. Some of the stuff was silly."

Chile's U.N. ambassador, Heraldo Muñoz, the U.N. terrorism committee's chairman, said the new eight-member panel—called the Analytical Support and Sanctions Monitoring Team—would give "more teeth" to U.N. anti-terror efforts by strengthening the committee's expertise in finance and border controls, and improving its capacity to analyze terrorist trends.

"I would like a monitoring team that is efficient, that is independent and that can closely collaborate with the committee," Muñoz said.

Mr. GRAHAM of Florida. Thank you, Mr. President.

I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I ask unanimous consent I be allowed to speak for up to 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## OUT-OF-CONTROL DEFICIT

Mr. GREGG. Mr. President, we are about to take up a new spending bill in the Senate involving transportation funding for the United States. This bill, which is an important bill, comes to the Senate in a fiscally unsound condition. That is regrettable. What is even more regrettable is that this is the continuation of an unfortunate line of legislation which has come to the Senate and which has been passed by the Senate and passed by the House. In some cases, not passed by the Senate but at least passed by the House, and has significantly expanded spending at the Federal level, which has in turn dramatically aggravated the national deficit. This is unfortunate.

To recap some of the bills, we had, for example, the agriculture authorization bill, which included basically a conversion to an entitlement scheme of most of the agricultural programs and dramatically increased spending in those accounts well above what we would have budgeted on the discretionary side.

That was followed, of course, by the most significant piece of spending legislation in my career in Government, the most significant piece of legislation from an entitlement standpoint since the Medicare bill was originally passed back in the late 1960s, early 1970s period, and that was the Medicare prescription drug bill. That bill included $400 billion—as represented, at least—of new spending over 10 years, which was unpaid for, and which had, after it is outside the 10-year budgeting window and got into the real terms of how that bill was going to affect national spending, had a price tag of somewhere between $6 and $8 trillion of unpaid-for spending.

I did not support the Medicare prescription drug bill because I felt it was the largest generational tax increase in history, basically raising significantly the benefits for one generation which will have to be paid by a younger generation. That means the younger generation is going to have to increase their taxes significantly to support the older generation, my generation, the baby boom generation, by the tune of $6 to $8 trillion. Thus, I did not support that bill because I did not think it was fair to the younger generation to put this tax bill on them without substantive reform in the bill which would control the costs of Medicare. We passed this bill only 2 or 3 months ago.

Now we learn the original estimates of the bill, which were $400 billion over 10 years, were misstated. It now appears the bill is going to be projected at costing $500-plus billion. That amount also is probably misstated. That is probably a conservative number. At the time the Medicare bill was debated in the Senate, there were some Members who said the accurate reflection for the 10-year period was closer to $700 billion, but the debt was not being correctly stated and, scoring being scoring, the bill came in at $395 billion. Ironically, if it came in at $401 billion, it would have been out of order, but it came in at $395 billion so it was in order.

Now we learn 3 months later it really was $500-plus billion. That is just in 3 months. Imagine, if it jumped $100 billion, or 25 percent in 3 months, at the end of a year, if you project that number out, it will jump—that is a progressive geometric number—somewhere around 200 percent by the end of this year. Hopefully not.

In any event, the fact that we were misled, the fact that this number is so high is unfortunate. The problem is, it puts in place structural spending which is out of control and which has to be paid for by one generation in order to support the next generation, which is unfair for our generation to do to our children unless we put in place reform. And there was no significant reform. That was the most egregious act I have seen in my career in Congress or in Government in the area of fiscal responsibility, because of the inappropriateness of one generation passing a tax increase on to another generation.

That bill, which was a huge bill, was then followed by the Energy bill. The President of the United States asked for an $8 billion Energy bill. I supported an energy bill. We need an energy bill. It should be based on expanding conservation. It should be based on expanding renewables. It should be based on expanding supply. I am one of the few Senators from the Northeast who aggressively voted for all three of those areas. However, when the President asked for $8 billion, I thought that was reasonable and it was a budgeted figure.

What happened? The Energy bill came back in the Senate at $24 billion which was $16 billion over what the President asked for. Due to a group of Members, fiscal conservatives and people concerned about some of the technical aspects of this bill, it did not make it through a filibuster issue.

Now it is up to $31 billion. It just keeps going up and up and up. Those costs have to be passed on, once again, to our children, because we are basically financing the cost of that Energy bill on our children's backs through deficit spending. It is totally inappropriate that a bill that was supposed to be $8 billion ends up at $31 billion.

Those bills are three egregious examples in the area of spending control, now to be followed by a fourth, it appears. Presently, we have the Transportation Equity Act for the 21st Century, known as TEA-21, which basically funds the construction of highways, rail, and intermodal transportation in this country. This area of activity for governance is generally accepted to be an important part of our job as stewards of our country. We must maintain a strong infrastructure. I certainly believe that. So to accomplish that when TEA-21 was passed a few years ago, there was a 40 percent increase in funding over the previous funding bill, ISTEA.

The theory was that we would take the money from the trust fund, which was paid in through the gas tax and other related taxes, and fund transportation in this country to the full extent of the amount of money we were taking in from the users of the highways and the users of the transportation system. That was a reasonable approach.

There is no reason we should be taking money from the gas tax and using it for other exercises in Government, other needs in Government, whether they are justified or not, such as investments in agriculture or investments in small business or investments in education. It is appropriate that we should use the user fee, which is the gas tax, to support the construction of highways.

The whole concept of the transportation bill was: We would pass a transportation bill which funded the construction of highways in this country and intermodal transportation at the level that the transportation system was supporting itself, basically through the gas tax and other revenue sources.

We budgeted for that as a Congress, and then it was sent to committee. Regrettably, what we have seen come out of committee is something entirely different. What the budget suggested we spend in this area—depending on how you account for this—is either $221 billion or $255 billion. Mr. President, $221 billion is basically what the revenues are coming in from the highway fund, but we could have gone up to $255 billion if the total spending could be paid for by legitimate sources of income into the trust fund. Unfortunately, what happened when this bill came back was we ended up with a $318 billion bill. This represents a $93 billion increase over present funding under TEA-21. In fact, the Senate position is conservative compared to the House's position because the House is looking to pass a bill which represents something like $375 billion for this six year period of spending.

These numbers are staggering. There are going to be a lot of numbers thrown around this body in the next few days on this bill, but no matter how you account for it, it is fairly clear this bill is over the budget by somewhere between $30 and $70 billion, depending on where it ends up, maybe even more. That is inexcusable.

There will be an attempt to mask this. In fact, the Finance Committee will report out language which tries to accomplish that. They took a whole series of different taxes which are now flowing into the general fund, and they moved those taxes over to the trust fund, thus claiming the trust fund had revenues. They do not mention the fact, of course, that aggravates the general fund because if the money is not going to go into the general fund, then that becomes a deficit event.

Again, it is not absolutely clear, because we have not gotten all the numbers yet, which is one of the reasons we should not be bringing this bill up yet, but it appears we are talking somewhere in the vicinity of $20 to $40 billion of gamesmanship here by moving revenues out of the general fund into the highway fund, and by claiming revenues from sources which do not pay revenues in. It appears that is a game that is being played.

It is staggering when you think about it that we would have the chutzpah as a Congress to call up a bill that is $30 to $70 billion over the budget and in deficit when the deficit was just reported as being $520 billion—or projected to be that much for next year—and $477 billion for this year. It is as if there are blinders on in this institution on the issue of spending.

Unfortunately, it is a bipartisan problem. That is why I guess it is happening so often. The Agriculture bill was a bipartisan bill. The Medicare bill was a bipartisan bill. The Energy bill was a bipartisan bill, and it appears that this highway fund has enough of a bipartisan majority to ram it right through this Senate, as fiscally irresponsible as it is.

The problem is this: We can build all the roads in the world, but if we do not do them in a fiscally responsible way, then our children are not going to be able to afford cars to drive on those roads. Their quality of life is going to be reduced because we are adding to the deficit, and that means we are adding to their tax burden every time we do this. That debt burden translates into a reduced quality of life for future generations.

We have put forward as a Congress a legitimate benchmark for legitimate spending in the area of TEA-21. The budget had in it a proposal to significantly increase TEA-21 spending, I think by something like 30 or 40 percent. But that has been ignored. It has been claimed that that amount is not enough. No. We have to go ramming past that and propose a bill on the floor of the Senate that is $93 billion over last year's spending and $30 to $70 billion over what the budget called for. And that is just the start.

There is a game being played here besides the fact that most of the revenues for the additional funds which are claimed to be offset here are illusory, which is so outrageous that it gives smoke and mirrors a bad name. That is just the start because we all know what is going on. There is an agreement, a sub rosa agreement, if you wish, between the people who are supportive of this bill in this body and the people who want more spending in the other body that this figure that comes out of the Senate is irrelevant, that the final number is going to be a lot higher than the Senate number. As I mentioned, the House is already talking about numbers in the high 300s, and the representation we hear is we will be closer to the House number coming out of conference than the Senate number, which is already grossly inflated as far as cost.

So I just simply lay this marker down. We are going to have to start getting serious about this deficit. We have not so far as a Congress, but we are going to have to because it is our job. It is our job to be stewards not only of today but of what we pass on to tomorrow.

If we are going to be good stewards, then we have to be fiscally responsible. I hope others will take a serious look at this bill before they vote for it. Before they even vote to go to it, it would be nice if we actually knew what was going on and how many more games are going to be played before we go to the bill in its substantive form. We should certainly be willing to ask that much before we have cloture on the motion to proceed.

But, in any event, as we debate the language of this bill and the purposes of this bill—which are well intentioned, and which can be paid for at a reasonable price—we need to keep in mind that this is one part of a series of bills that have not been fiscally responsible, and we have to start someplace in being responsible in managing the dollars of this country effectively. The other horses are out the barn door, with the exception of energy, although there is some talk that they are going to attach energy to this bill.

This is the only item that is before us so far, but it is a big one. Therefore, we should take a hard look at it. Before we move it out of this body, we should try to bring it back in line with our budget and with the realities we face as a country, which is that we are spending a lot more money than we can afford as a Government.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

Mr. INHOFE. I thank the Chair.

## SAFE TRANSPORTATION EQUITY ACT OF 2003—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will resume consideration of the motion to proceed to the consideration of S. 1072.

Mr. INHOFE. Madam President, we are about to begin discussion on the cloture motion we will be voting on this afternoon. It could be considered by many people as the most significant piece of legislation we will be dealing with this year or maybe even in a 6-year period. The current extension of TEA-21, passed in 1998, expires on February 29. We have to act. We have no other option. Some might argue that we can do another extension, but another extension without Senate action on a 6-year bill sets us up for not doing a reauthorization bill this year at all. That is just not acceptable.

The President has released his fiscal year 2005 budget, and I believe it misses the mark with transportation funding. He proposes funding $256 billion on highways and transit, approximately $55 billion under the Bond-Reid amendment that we agreed to with a plurality of 79 votes.

Earlier today we heard from Senators who believe that S. 1072 proposes a level of spending that is too high, that we need to bring it into line with the President's numbers. I disagree. I strongly support the President on virtually everything he is doing, but in this case I do not agree. We have a crisis in the country in terms of our infrastructure and we must meet this crisis. We need to stick with the Bond-Reid level and need to get the bill done now.

For those who want to wait to do a bill, we caution you that putting this off only makes it harder. The current extension is spending down the trust fund balance. If we do another extension, the balance will be spent down even further, which means we will have little choice at that point but to increase fuel taxes. In my mind, indexing fuel taxes was probably a fiscally responsible position at one time because it does preserve the purchasing power of our transportation dollars. But I also understand the political realities. I know it is not a viable option at this time.

This bill does not assume an increase in fuel taxes. Due to the good work of Chairman GRASSLEY and Ranking Member BAUCUS, both of whom I met with this morning—and both have been real champions in working diligently to make this happen—the deficit is neutral in this bill.

Don't fool yourselves into believing that delaying action on this bill is saving money. The exact opposite is true. For instance, our transportation infrastructure will continue to deteriorate. Thirty-two percent of our major roads are in poor or mediocre condition. Thirty-nine percent of our bridges are structurally deficient or functionally obsolete. As much as I hate to admit it, my State of Oklahoma ranks last of all 50 States, which is not too complimentary to the idea that I am the chairman of this committee. The cost to address these issues only increases the longer we wait.

In addition, the economic consequences escalate because poor infrastructure contributes to congestion, which means lost productivity to the tune of $76 billion.

Additionally, another delay to enacting a 6-year comprehensive bill will frustrate our State departments of transportation in their own programs. They need the assurance and security of a stable Federal program in order to make their individual programs work. As you well know, they have worked on these programs now for not just months but well over a year anticipating that we would have this reauthorization underway.

Finally, we are missing an opportunity to create jobs. For every $1 billion invested in Federal highway transit spending, 47,500 jobs are created. We estimate that S. 1072 will impact the overall job growth by 700,000 jobs. To the construction worker, our bill would generate over 2 million opportunities for employment. In other words, when one job ends, there will be another opportunity available so the construction worker can move from one job to another thereby avoiding unemployment. I think that is a good thing and one each of us in this Chamber should be willing to roll up our sleeves and work to get done. I anticipate that is exactly what we are going to do.

In addition to a job creator, spending on transportation makes good economic sense. For every $1 billion in transportation expenditures, the gross domestic product increases by $1.75 billion. Furthermore, transportation investments improve freight mobility which in a "just in time" delivery business model is critical to growth.

I recognize for those who believe this bill should be stopped for budgetary reasons that my arguments may not meet with a receptive ear, but I do want you to understand that voting no on cloture means you are voting no on addressing the repair and rehabilitation needs of our 50-year interstate system which is at the heart of the economic engine of the Nation. Voting no on the cloture motion would be voting no on the creation of over 2 million employment opportunities and no to 700,000 new jobs. It would be voting no on addressing congestion problems which cost the economy $76 billion annually and voting no on increases to gross domestic product.

Finally, if we are able to proceed to S. 1072, I will be asked by many of you to help you with individual needs in your States. I am happy to do that. I want to do that. But before I can help you, you need to help me.

I ask you to vote yes on the cloture motion so that when the need comes up in your State and you have a need to meet a crisis, or you have special project needs, we will be helping each other. I think we all understand that.

Some people who have actually read the legislation we are going to be considering are still saying that perhaps it is not meeting the environmental goals or it is not meeting the public participation. I think this is one of the major strong points of this legislation. We have spent a lot of time—and I have to tell you that the ranking member, JIM JEFFORDS, along with KITT BOND, and of course HARRY REID, the Senator from Nevada, have all been very cooperative—in working out things. There are some things in this bill that I don't like, but compromise has been the name of it.

For example, on the environmental issues, it requires metropolitan planning organizations and State transportation planners to consult during regional planning with agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

It expands the number and types of environmental and resource agencies participating in the environmental review.

It provides a new opportunity for environmental and resource agencies to participate in the development of the environmental review schedule.

It establishes a new obligation for the lead agency to consider the needs of environmental and resource agencies when developing the review schedule, including the responsibilities of resource agencies under applicable laws, resources available to environmental and resource agencies to conduct the review, and the sensitivity of the national and historic resources that could be affected by the projects.

It provides a new opportunity for environmental and resource agencies to participate in the development of a project's purpose and needs statement.

It provides a new opportunity for environmental and resource agencies to participate in development of the project alternatives to be reviewed.

It provides new opportunities for transportation planners to consider transportation land use and environmental plans when conducting the environmental review.

It creates a new obligation by the lead agency to make available promptly to environmental and resource agencies information useful to an environmental review.

I was around back in 1991 serving in the other body when we put together ISTEA. It is a very comprehensive bill. I was also involved on this committee in 1998 when we were putting together TEA–21. But in none of those efforts and in none of that legislation were the environmental concerns met as well as we are meeting them here.

The same is true with public participation. Those of us who serve in the Senate are constantly inundated at our townhall meetings by people saying they do not have the opportunity to participate in these things. We are correcting that. We think that people and other governmental agencies should be a part of it.

There is a specific new section devoted to improving public involvement in transportation planning and projects, directing State and metropolitan transportation planners to hold public meetings at convenient and acceptable locations and times, to employ visualization techniques to describe plans, and to make public information available electronically such as the World Wide Web.

There are new opportunities for public comment on specific environmental factors considered by metropolitan planning organizations and States during the transportation planning. We know this is true when we go back to our States. They tell us that in their department of transportation—I am sure in North Carolina, in Nevada, in Oklahoma—if they have the chance to plan in advance to have this comprehensive bill in front of them—not just another extension—they then can make their long-term plans get much more from the construction dollars.

I reemphasize that there is nothing we are going to do in this Chamber which is going to provide more jobs than will be provided by this bill. That is why it is so important that we defeat cloture and get on with this and get it done in the next 10 days or so.

I compliment the leaders on both the Democrat and Republican side, and particularly Senator REID, the assistant minority leader, for his cooperation in helping us to make this a truly nonpartisan and bipartisan effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, it is with a certain amount of sadness that I worked on this matter this weekend and looked over all the past history of the surface transportation legislation. The sadness comes because Pat Moynihan is not here. When we started working this bill last year, I asked Senator Moynihan to come visit with me and my staff. He did. He came with that smile. I always had the feeling with Senator Moynihan that no matter the subject he always knew more than I did. He had a lot of humility. Even though he knew that he knew more than most anyone he dealt with, he never flaunted that great mind that he had.

The legislation we have before us today is basically what Pat Moynihan envisioned for our country. Serving with him on the Environment and Public Works Committee—which I did for my tenure in the Senate—was like going to school and not having to take the test. Senator Moynihan was wonderful. He would talk about the great Robert Moses of New York and the planning that he did.

I hope that all of us as we proceed through this bill will understand the greatness of Pat Moynihan, and what he has done for our country.

Everywhere in the Nation's Capital there is evidence of Pat Moynihan. I worked in Washington, DC, as a Capitol policeman, going to law school. And when I worked here as a Capitol policeman, Pennsylvania Avenue was a slum. During the Kennedy inauguration, Pat Moynihan recognized that and said we should do something about it. He was just a bureaucrat at the time. But he proceeded from that time to help develop the Pennsylvania Avenue Development Corporation. Now you can go up Pennsylvania Avenue to the White House and it is one of the most beautiful streets in the world because of Pat Moynihan.

I hope we proceed through this legislation recognizing what a wonderful man Pat Moynihan was. One cannot stop but think of the things he did, including the Ronald Reagan Building. For 50 years that was a big hole in the ground. In the Nation's Capital we had this big nothing. Pat Moynihan said: We cannot spend enough money on that; we will build a building there. That is a building that Ronald Reagan, I am sure, in his own way, is proud of. There is not a more beautiful building in the Nation's Capital, with the exception of maybe the Library of Congress, than the Ronald Reagan Building. That is Pat Moynihan's. It is his.

Mr. INHOFE. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. INHOFE. Is the Senator aware that Patrick Moynihan was born and raised in my city of Tulsa? He was the first one when I came here—not to the Senate but to the other body—to whom I came over to talk. We developed a very close relationship. Someone could wonder, how could this be—you have one who is a dedicated liberal, one who is a dedicated conservative, having that affection.

When I was elected to this body in 1994, his office was next door to me. I confess right now before all these people, when the bells rang for a vote, I would go and look down the hall and wait until Daniel Patrick Moynihan was coming up so I could walk and talk with him on the way over. He was just a remarkable person. There is a lot of dedication to him in what we are doing today.

Mr. REID. I appreciate very much the Senator from Oklahoma recognizing the goodness of this man. He is absolutely right. I am sure the Senator learned a great deal in those walks from the Russell Building over here.

I remember Senator Moynihan and I sat together on a bus going from the airport to the funeral of the great John Chafee. During the entire trip, he pointed out, as we traveled to Rhode Island—Providence, I think is where the funeral was—all the architecture, the history of the buildings, as we drove up to the beautiful church. And when we got to the church, he told me all about that church.

I wish I had the recall of Pat Moynihan. I wish I had 20 percent of the recall ability of Senator Moynihan. He had such an ability to communicate. As Senator Bumpers said, upon the publication of Senator Moynihan's 15th book—or whatever it was—you have written more books than I have read.

He was a great man. I have my heart full. Part of it is gratitude for knowing a man such as that, that there are great ones on this Earth. Pat Moynihan was a great one.

About 50 years ago, one of the really fine Presidents we have had, a Republican, President Dwight David Eisenhower, presided over the creation of the Interstate Highway System. On that occasion, he said:

> The Nation badly needs new highways. The good of our people, of our economy and of our defense, require that construction of these highways be undertaken at once.

President Eisenhower continued:

> We have fallen far behind in this task. . . . Today there is hardly a city of any size without almost hopeless congestion within its boundaries and stalled traffic blocking roads leading beyond these boundaries.

President Eisenhower said what we needed to do in this legislation: If there was ever a time in the recent history of this body when we had to do something on a bipartisan basis, it is this bill. People stuck in traffic are Democrats and Republicans. It is equal opportunity, whether you are stuck in traffic in Las Vegas, Phoenix, St. Louis. There are people of both parties stuck in that traffic, losing valuable time. If they were not stuck in that traffic, they would make our country more productive.

Why did President Eisenhower feel so strongly about an interstate highway system? He felt that way because, as a young major, he was asked in the 1930s to bring a convoy of military vehicles across the country. It was at that time he realized there was no easy way to do it. The roads were hopeless. There was no way you could travel this country, even for military purposes, easily. At that time he realized something needed to be done, and when he became President, that was one of the first things he pushed.

People who are complaining about the cost of this bill, Republicans and Democrats, should understand that the highway bill President Eisenhower originally sponsored was also criticized as being too costly. This bill is not too costly. One of the compromises the Senator from Oklahoma worked out with Senator JEFFORDS and me is that it is as small as it is. If it were up to Senator JEFFORDS and this committee, it would be bigger. It is because of the chairman of the committee that it is as small as it is. I hope everyone who criticizes the Senator from Oklahoma, Mr. INHOFE, understands he did yeoman's work.

As we speak, the House is talking about a bill bigger than ours. They criticized President Eisenhower for a bill being too big and they criticize us for a bill being too big. In my opinion, the bill is too small.

Part of the reason for President Eisenhower's bill, the Interstate Highway System, has been completed. We have many more different responsibilities now than we had then. In recent years, we have done some very good work with highway transportation.

Going back to 1982 when I first came to Washington, we had the Surface Transportation Assistance Act. This bill established the mass transit account, the highway trust fund. The reason that became important was, people came to the realization that for every vehicle we keep off our highway system, it saves money. It was determined that it would be good if we became partners with the mass transit folks and worked together on legislation. That was what we did in 1982 and that is what we are doing now. That is why it is such good news that the Banking, Housing, and Urban Affairs Committee, that handles mass transit, has agreed on a proposal.

Senator INHOFE, Senator JEFFORDS, and I met today with the chairman of the Finance Committee and the ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, and they have agreed to that. That is really important. That started back in 1982. At that time, there was an 85 percent minimum return provision. That means for every dollar put into the highway trust fund in a State such as North Carolina, there was a guarantee they would get at least 85 percent of the money they put in. Some States got more than that, but 1982 was the first time there was a minimum return provision. One of the controversies in that bill was an increase in the Federal gas tax from 4 to 9 cents per gallon. It was a good bill and passed.

In 1987, 5 years later, we had a bill called the Surface Transportation and Uniform Reallocation Assistance Act. It was not a very sexy name but it got the point across. It increased the speed limit, which was so important for States such as Nevada, from 55 miles per hour to a higher speed. It worked out well and we hope that continues to be OK. In a State such as Nevada—800 miles from the top to bottom, 500 miles across—you need to be able to travel in a safe manner on an interstate highway system faster than 55 miles per hour.

It also included a provision requiring States to spend a specified minimum amount for environmental purposes. That was the first time the highway bill had really taken that into consideration. So that was important.

Congress felt so strongly about this that President Reagan vetoed this bill. It was overridden by the House and the Senate. That does not happen very often, but the Presiding Officer, who was part of the administration during that time, recalls that.

In 1991, we had the Intermodal Surface Transportation Efficiency Act, ISTEA. That is where the name comes from—ISTEA. This created the Congestion Mitigation and Air Quality, CMAQ, program, which has been a program that the environmentalists love, and some who are not as environmentally sensitive do not like it. But these programs were established then and dealt with air quality.

With the interstate system largely complete, as I indicated earlier, ISTEA shifted the Federal program from capital construction to focus on people and the movement of goods. This is where Senator Moynihan was so good. It also expanded the transportation decisionmaking process to include local officials, stakeholders, and citizens. And that passed.

It seems as if it was just a short time ago when, in June of 1988, we passed TEA–21, the Transportation Equity Act for the 21st Century. This continued the basic policy structure established in ISTEA. It dramatically increased funding of the Federal Surface Transportation Program and established important budgetary protections or firewalls to guarantee highway and transportation spending. And, for the first time since 1982, we increased the minimum return to 90.5 percent, which was very important.

I also want to make sure the record is clear from this Senator's perspective of the contributions to highways and transit, and basically good government, that came from John Chafee. I have been so fortunate. I worked through all these bills that I have talked about, and I have had the very good fortune to work with Senator Stafford, as chairman of the committee, the great Senator from Vermont; Senator Moynihan for a short time; Senator BAUCUS; Senator Chafee; and these men set a high level that we who are now trying to move this bill must meet.

But Senator Chafee was such a good friend to me personally. He did so many things to help me in my political career. Even though he was a member of the other party, he went out of his way to always try to make me look good. I will always be indebted to him and his family, and that includes LINCOLN, for all the good things that Senator Chafee did for me. Even though I was closer to Senator Moynihan than I was to Senator Chafee, I felt such a kinship to Senator Chafee and cared a good deal about him, and his imprint is also on this legislation. Senator Moynihan could not have done much of what he did without Senator Chafee working with him.

This bill we have before the Senate is good legislation. It is imperfect. This legislation that is before this body is imperfect legislation, but it is the best we could do. For 50 States, having a formula that you put into a computer and do your computer run which comes out as good as this one says a lot for the great work of our staffs.

As Senator INHOFE has said, I would like to do different things in this bill. If I had been the person dictating what was in this bill, it would be different than what we have in it. But, frankly, I am down the totem pole. You have the chairman and ranking member and the subcommittee chairman and then me, but I did have some input in this measure. I think what we have come up with, as I indicated, is far from being perfect, but I think it is good legislation. And that is what legislation is all about.

Legislation is the art of compromise. I have been fortunate that a number of measures I have introduced are now law in this great country. I have never ever gotten everything I wanted. Everything that is now law that I introduced had to be changed. Anyone who is of the mind that they are going to get what they introduced is wrong because it just does not happen. I have never known it to happen.

This legislation we have been given by the two leaders we have 2 weeks to finish. If we do not finish it in 2 weeks, I am sorry to say what might happen. What might happen is this bill will be pulled, and we will have to extend the highway program for a year. That does not help any State. No State is helped with that program. Every State gets hurt. So we have to move and move quickly on this bill.

At the birth of the interstate system, safety and the efficient movement of people and goods framed the national transportation debate. Fifty years later, as President Eisenhower indicated, that is still the talk, the same speech. You could give the Eisenhower speech today on the floor of the Senate, and if we did not tell you it was 50 years old, you would think it was being given by someone who wrote it today. Fifty years after President Eisenhower's interstate highway system, safety and efficiency remain our foremost objectives.

This year, traffic congestion will cost Americans more than $67 billion in lost time and productivity—$67 billion in lost time and productivity—and it will waste almost 6 billion gallons of fuel. I cannot imagine 6 billion gallons of fuel. I do not know where you would put all that, but that is how much is wasted, which only increases our dependence on foreign oil.

As for safety, traffic accidents last year killed 42,000 people. We can reduce the toll of traffic congestion. We can save lives by making our highways safer. We have a responsibility to keep working on these problems and to find meaningful solutions.

The bill currently before this body represents a major commitment to maintain and improve our national transportation infrastructure. It also creates jobs.

Again, there has been controversy over there not being enough jobs created during the 3 years that President Bush has been President. Those people who are trying to damage this bill should understand this legislation will create hundreds of thousands of jobs, some say as many as 2 million jobs.

The majority leader of the Senate was here today, and he said for every $1 billion we spend in this highway bill, $2 billion will be created by other things, the offshoot of this legislation. We know for every $1 billion we spend on infrastructure development, 47,000 high-paying jobs are created. We know that. And these are well paid, skilled jobs for Americans.

This bill is also a referendum on improving our quality of life. No other measure will we debate in this Congress that has the potential to so dramatically impact every facet of our everyday lives.

I thank my colleagues, the entire committee, but especially Senator JEFFORDS, Senator INHOFE, and Senator BOND for working to craft a bipartisan package that continues the intermodal legacy of its predecessors, ISTEA and TEA–21.

Our proposal does not make dramatic changes to the core program structure because it does not need to. The groundwork has already been laid. During a year's worth of reauthorization hearings, the committee learned that the basic structure does work.

This package refines and improves the current program to ensure that our investments have the maximum impact on improving our surface transportation system.

Nevada is the fastest growing State in the Union and has been for more than a decade. Clark County—that is where Las Vegas is located—has experienced the bulk of that growth. This growth represents unique challenges but also opportunities.

The bill before the Senate provides resources and programs that encourage the effective management and operation of our Nation's transportation system. The continued success of that system is essential to fast growing metropolitan areas such as Clark County, where traffic congestion and air quality are serious issues.

This legislation also places a renewed emphasis on safety by consolidating the various safety initiatives spread through the Federal highway program into new core safety programs. One of the aspects we have worked on includes something called the Safe Routes to School Initiative. It was felt that we wanted to do everything we could to have kids walk to school, ride bicycles to school. Why do they have to have a bus pick them up and drop them off at their door? One of the things we are doing is creating safer routes for children. If they want to use a bike or walk, we have bike paths and sidewalks.

This is important because, for example, in Clark County, we have opened, in the last 2 years, 18 schools a year, a total of 36 schools. By opening one new school a month we can't keep up with the growth in Clark County. We have high schools that are approaching 5,000 kids. So the safer routes to school program will help promote healthy living by making it safer for children to walk or ride to school on bikes, not cars and buses. I am pleased this package moves the Nation's surface transportation program forward without jeopardizing our natural environment.

One of the things we did in this bill, which was difficult, States have complained about. Originally back before 1982, some States were barely getting 80 percent of what they put into these trust funds. We moved it to 85, 90.5. And now with this bill, the formula now before the Senate, every State, by the end of this legislation, will get 95 percent of what they put in. That is very difficult. It goes without saying that some of the States who were getting more than a dollar in years past, a lot of them continue to get more than a dollar, but some of them don't. The State of Nevada, under this formula, gets less than a dollar. But in fairness, the formula is a formula. It wouldn't have been right for the formula to be any different for me than it is for others. So this is fair. We have made it so every State at the end of this bill will get at least 95 percent.

In this legislation every State will get a percentage increase. This legislation is not perfect, but it is about as fair as we could do. I have worked with my staff the last 4 or 5 days to say, could you come up with something. I had a few problems with the legislation. Come up with something. I will talk to Senator INHOFE because we might have a formula that may be better. We couldn't come up with one. I wish we could have, but we couldn't. But what we have done here is the best we could do. The vast majority of the States will do extremely well compared to what they did in the past.

As with any compromise, this is not perfect. It is inevitable that some States will not be completely satisfied with the results, but it is important to note every State benefits from the growth in this program.

We worked hard to create a funding mechanism that allows all 50 States plus the District of Columbia to benefit from program growth while addressing several competing fundraising priorities: Donor versus donee, old versus new, urban versus rural. These have all been put in this formula, and we have come up with what is as fair as we think we can do. The bill before us accomplishes that goal.

Once more, let me emphasize, every State benefits from the growth in the program. So again, I extend my appreciation to my colleagues—the chairman of the subcommittee, the chairman of the full committee, and Senator JEFFORDS, the ranking member—for the good work they have done. We are all going to have to be vigilant. I hope those who want to change the bill come here and offer amendments. I hope they do it as soon as possible. We hope to get to this bill tomorrow. We are hopeful and confident the motion to proceed should be overwhelmingly approved. I can't imagine anyone voting against this.

I was told by the person who asked me to object on their behalf on the motion to proceed that that Senator was concerned about the transit portion of the bill. That has been taken care of. The chairmen of the two committees have signed off on this. I hope we can move forward on this very quickly.

Again, I am glad we are here. What we do on this legislation will set a tone for the rest of this legislative year. I hope we can permit it. I should be more confident, like the players in the Super Bowl and the coaches: We are going to finish this legislation.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, I reextend my appreciation to the Senator from Nevada for all the help he has been. His expertise is well known in this Chamber, and he has been on the opposite side of me probably more than on my side. I like it this way better.

I would like to amplify a couple things Senator REID talked about. I think it is significant, when you talk about where we are now relative to where we were in TEA–21, the last 6-year reauthorization. Our average is 35.6 percent higher. The average State is higher than it was in TEA–21.

In the comments he made about a computer run, I know this is kind of complicated to explain to people because it is the only way I think you can come up with something that is very fair. Prior to this, in previous years under TEA–21, we had the 1104 table which was a minimum guarantee. That was a percentage that each State had that was a percentage of the total growth. It was purely politically driven.

I don't like the way some of these things come out of the computer. But when this came out, I agreed with Senator REID, there is not a better way of doing it. I will give an example. I was talking to one of the Senators from Pennsylvania who was complaining about perhaps not getting the share they should have gotten. So I did a comparison.

My State of Oklahoma—I hope no one from Oklahoma is listening right now—is 70,000 square miles. Pennsylvania is 46,000 square miles. My State of Oklahoma has a population of 3.5 million. They have 12.2 million. The historic rate of return since we came in to the first bill, through Senator Moynihan, has been .87 percent. Pennsylvania has been 1.16 percent. This is the key: the total miles. Unfortunately, I don't have this less toll roads, but I will explain the difference.

If you take the total amount of miles in my State of Oklahoma, it is 112,000 miles. The total number of miles in Pennsylvania is 119,500 miles, but that includes toll roads. We all know Pennsylvania has a lot of toll roads. So when you take them out, I am quite sure the number of miles we refer to in this legislation would be more than Pennsylvania. And yet if you look back historically, in 1998, Oklahoma received $351 million; Pennsylvania $1.16 billion. In 1999, Oklahoma received $413 million; $1.3 billion for Pennsylvania. It goes on consistent with that.

What I am saying is, even under the formula we are looking at right now, Pennsylvania is getting back about three times the amount. Again, there are other factors. I am sure we will be talking about those from State to State. But it shows it is very difficult to come up with something that is fair. There is not one State that will not be able to go back to their people and say how well their State is doing under this.

I don't sound like a conservative Republican when I am talking this way, but this is one area where conservatives believe Government has a function, a strong role, and that is to build infrastructure. We have not been doing a good job of it. I know this because I spent 8 years in the other body. During that time, I was on the committee called Public Works and Transportation. It is strictly transportation, not like EPW, which is environment, all the regulatory agencies, and transportation. So it is just about half the jurisdiction. But during that time, we watched what was going on, and I was right on top of it.

When I came over to this body in 1994, I became chairman of the Clean Air Subcommittee. I kind of left the transportation part. When we came back and I became chairman of the Transportation Infrastructure Subcommittee, all of a sudden I realized what had happened in the 4 years I had been detached from transportation.

When you talk about the number of vehicles that are traveling, the number of trucks, the number of congestive stops, where you have to sit and idle your engine—we are handling all of these things in this bill. I think during that 4-year period we did a bad job. We didn't do what we should have done. Quite frankly, in 1998, I wasn't real happy that we weren't really meeting the problem. A computer run is tough. You have to consider that some States are fast growing States, such as Nevada, big States such as California, Florida, Texas, and some of them would be complaining that they are not doing too well. It is because you have to have a ceiling, a growth ceiling. If you have a growth ceiling and they are getting back an inordinate amount of money, it bumps into that ceiling. At the same time, you have donor and donee States. If you take Texas and Pennsylvania, both of which might argue they are not treated fairly, if you make a change in one, it is making an adverse change in the other. I think we have to say we have done a good job when you look at this.

One thing I think is important to talk about is the public views. I think the general feeling is that we spend too much money in Washington, and I think we do. But when it comes to their views on transportation investment, it is totally different. In January, last month of this year, Zogby International conducted interviews of a thousand likely voters chosen at random nationwide. That is a pretty big sampling, as those of us know who read these polls. It is about twice the size of the average poll.

Eighty-seven percent of those interviewed said the Nation's highway and public transit network is very important to the Nation's economy; 83 percent agreed that President Bush and Congress should do more to help create jobs for those Americans who want to work, even though the latest Government statistics suggest that the U.S. economy is rebounding; 69 percent favored boosting Federal spending on transportation projects during 2004, and that is significant—69 percent of the Americans favor boosting the amount of money of Federal spending on transportation projects during 2004 as part of the transportation or jobs creation initiative, as well as part of the transportation needs and infrastructure needs. I think that is very significant. According to the same pollster, that is how nearly 70 percent of American voters responded.

In a survey they conducted a year before, they said they believe America is facing a transportation capacity crisis. That is what I was saying we were observing a year ago—that our Nation's roads, airports, and mass transit systems are struggling to handle a growing population economy. Fifty-six percent overall, and 79 percent of young women with children, said traffic congestion is depriving them of more time with their families or for leisure activities than it did just 5 years ago. That is significant.

These are social problems that exist because we are not doing an adequate job. These answers should not surprise anyone. It says that, since 1982, the U.S. population has grown almost 19 percent, the number of registered motor vehicles has increased by 36 percent, and vehicle miles traveled has ballooned 72 percent. Surprise, over the past 20 years, we have added less than 5 percent to road capacity and even less than that to public transit. So we added even 5 percent less to road capacity in spite of the fact that the population has grown 19 percent and the motor vehicles have increased by 36 percent.

Just take that as one statement, one statistic, and that justifies everything we are doing in trying to beef this up. It proves that what we are doing now is inadequate, but it is the best we can do under the circumstances.

Forty-eight percent of those surveyed by Zogby described the condition of the roads in their local communities as either fair or poor. That was the assessment of 75 percent of Hispanic Americans.

The survey polled a random sample of a thousand likely voters nationwide—the margin of error is plus or minus 3 percent—and highways and public transit are consistently important to Americans. They said in a commentary accompanying the survey that highway safety and efficient public transit are also high priorities. Overcrowded roads are not only a concern for commuters but also for Americans who are nervous about another terrorist attack.

Other key findings: 80 percent think the Nation's highways and public transit network is extremely important or very important to the U.S. economy. The fact is, I commented in my opening remarks that this is by far the biggest jobs bill that we can be considering at any time. That is what 80 percent of Americans say.

Nearly 8 in 10 also agree that an investment in highways, bridges, and public transit should be considered an important element in homeland security and national defense. We know this administration is very concerned about national security and homeland defense. I am glad they are. We are overdue in addressing these issues. The people agree with that, also.

Nearly 90 percent feel it is important that their representatives in Congress fight to ensure sufficient Federal funding for transportation improvement projects in their local areas. That is interesting because this is at a time when people are complaining about the amount of money we are spending.

Two-thirds of Americans say roads and public transit systems play a highly important role in their everyday lives. We are concerned about congestion. I am in my State of Oklahoma. I am sure it is the same problem in North Carolina and virtually in every State.

One of the foremost authorities in putting together, consolidating the concerns has been the Texas Transport International; that is the Texas Aggies' group that put together something that they conduct annually—not just in Texas but throughout the country—as to what we are going to do about congestion. They said, less than a year ago, that 59 percent of the Nation's roadways today are experiencing significant traffic congestion compared to only 34 percent in 1982.

Fully two-thirds of the major roads in the 75 U.S. urban areas are congested during peak travel periods, compared to only one-third in 1982. That is double. Both figures will increase without additional investment. The average number of hours per day with congestion that might be encountered on urban roads has risen from 4.5 hours in 1982 to about 7 hours in 2001.

The average annual delays per peak road traveled in 75 urban areas is 60 hours. That is significant because, when you have delays, you are also talking about pollution and about leaving cars running and trucks running, polluting the air, using up the fuel. We have an energy crisis in this country to start with.

Traffic congestion is now responsible for 5.7 billion gallons of wasted motor fuel. The total cost of traffic congestion to the U.S. economy and lost productivity and wasted motor fuel in 2001 was almost $69.5 billion, or putting it down so we understand it, that is $528 per person. I think sometimes we throw around figures of billions and trillions and it is difficult to understand, certainly, for people who are not spending this much time studying these things in Washington. That $69 billion equals $528 per person.

Shortly, I am going to talk about some of the other areas of the bill specifically, section by section. At this point, I will yield the floor because I understand the senior Senator from Texas has comments she would like to make.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I thank the chairman for allowing me to speak on this legislation because let me say that I hope in the end I will be able to support the bill.

At this point, I could not possibly do that because of the inequity to Texas. Let me say that I know the chairman is working with other Members to try to come up with solutions, and I hope I will be able to support the bill in the end.

Most of the goods that drive our economy ride on our Nation's highways in large part because over the past 50 years the Federal Aid Highway Program has assisted the States in producing one of the world's finest highway and mass transit networks.

The majority of that system was designed in the 1950s to meet the needs of a rapidly growing nation to connect to new population centers in the West. Today, there are other critical needs to be addressed different from those in the 1950s, particularly the amount of trade that is stemming from NAFTA and the increased burden on our infrastructure that NAFTA produces.

Although strong trade partnerships with our neighbors—Mexico and Canada—have provided substantial national benefits, the resultant traffic is devastating to our Nation's infrastructure.

Back in the 1950s, our smaller States and Western States needed the extra help at the expense of States such as Texas. But now, I think, every State has more of an ability to contribute to its own infrastructure. The ability to contribute is much more equal today than it was in the fifties when there were huge inequities in the amount of national infrastructure.

The State that has borne the greatest burden in the entire life of the Federal Aid Highway Program has been my home State of Texas. We are the single largest donor State. Since 1956, Texas has contributed over $5 billion more to the program than the State has received in funds to build its own highways. In fact, there has never been a year that Texas received more in highway funding than it sent to Washington.

Texas has the most highway miles of any State in our Nation. Therefore, the people of Texas, obviously, buy more gasoline and, therefore, contribute more to the tax. Over the past 12 years, Texas and other donor States have made good progress. In 1998, Texas received only a 76-cent return on every dollar sent to Washington, a loss of $1.7 billion. Current law guarantees us 90.5 cents on the dollar, but this is still very inequitable.

Though we expected to equalize more this year, hoping to get up to 95 cents at least, that has not happened. I cannot possibly support the highway funding formula in this bill. I am concerned that in an effort to limit costs, the committee created a new class of superdonor States.

It appears that Texas, California, and Florida have been designated to shoulder the burden of the Nation's transportation network at the expense of their own. I have to object to this new superdonor category.

The bill before us distributes $227 billion in highway funds using a formula that will hold six States—Texas, California, Arizona, Colorado, Florida, and Maryland—at a 90.5 cent rate of return for 5 years. So for every dollar our constituents send to Washington, they get 90.5 cents back. Only in the final year, the sixth year, does that increase to the level of 95 cents. If Texas were to receive 95 cents for all 6 years, the formula would provide Texas an additional $700 million over this period.

These superdonor States have one aspect in common: They are the fastest growing States in America. Ironically, the formula in the bill offers the least relief to States whose needs are most pronounced, States whose cities and populations are developing most rapidly. Three of these six also are on the Southwest border, so we have the added burden of infrastructure needs from NAFTA in addition to being high growth states.

The committee thinks we should like this legislation because while the total spending grows 36 percent, Texas will see a 42 percent dollar increase compared to 6 years ago. However, our increase has little to do with the formula but is caused by Texas buying more gas and paying more taxes into the highway trust fund.

In 2002, Texas contributed 9.11 percent of the total dollars in the trust fund, up from 8.27 percent 4 years earlier. Buying more gas allows us to contribute more funds. We do grow in dollars returning to the state, but we don't grow as much as we are putting in. We keep the same rate of return, 90.5 cents on the dollar, until the sixth year.

Ever since the 1993 passage of NAFTA, it is these fast-growing superdonor States that are the major trade gateways to the United States. Eighty percent of NAFTA traffic travels through my home State of Texas. But while the entire Nation benefits from that resulting commerce, Texas bears the brunt of maintenance and upkeep on our highways, and those costs are not insignificant.

To its credit, the committee did, for the first time, create a border and a corridor fund that represents some of that added burden on the States on our northern border with Canada and our southern border with Mexico. I commend the chairman and thank him for adding those funds.

However, the $1 billion for each of those funds which, by the time Texas gets its fair share, will still not bring us up anywhere close to the $700 million we are losing by not being treated like other donor States.

In 2002, over 4 million trucks hauling 18 billion pounds of cargo entered from Mexico through 24 commercial border crossing facilities. Over 3 million of those trucks, or 68 percent, entered through Texas.

In addition to commercial traffic, 90 million personal vehicles from Mexico also traveled through the Southwest border States. So Texas now with a bigger infrastructure burden is getting less percentage of what it sends to Washington than almost all of the other States.

I am just hoping the chairman will work with us, not to create a new superdonor State category. I hope we don't break precedent and create this new sort of stepchild in donor States that will also be used for other formulas for other kinds of State aid.

I understand small States have the ability to have more votes in the Senate. I understand small States may believe they should have more of a piece of the pie than the larger States. However, representing a large State as I do, I just have to say I think we are all much more equal in capacity now than States have ever been before, and the concept that there should be donor and donee States should be going by the wayside.

I am not saying we would want to do something that cuts people off precipitously or hurts people immediately, but I think we ought to be in a phasedown of the entire donor-donee State strategy or attitude because I think every State should be able to decide, getting 100 percent of what it sends to Washington, what it wants the money spent for. If we are going to have a Federal highway system, we all want it to be a good system, and perhaps there should be some donor capacity. But a 10-cent-on-the-dollar donation seems to me to be too high. I hope the chairman will work with us to create all donor States equal, to create everyone at least at a 95-percent rate of return. The House bill treats all of the donor States the same. Donee States do vary all across the board. But we have never made a new class of donor States, and I hope we will not do it in this bill.

I hope the chairman will work with those of us who believe there should be a much more equitable funding formula so that I can support the good provisions in this bill.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. As we talked about before, there are always problems in formulas. There are so many things to consider, as we outlined, such as fast-growing States, large States, small States. I would have to say to the senior Senator from Texas, we in Oklahoma are kind of in the same situation as Texas. We have always been a donor State. We are just delighted to look down the road and see that there is a light at the end of the tunnel and that we are getting to the point where we will all have a minimum of 95 percent. I can remember when that number was at 77 percent and then 80 percent and then 90.5 percent and now up to 95 percent.

This is one of the difficulties. The Senator from Texas is from one of the three largest States and it is a fast-growing State. In my opening remarks, I mentioned that to come up with a formula, as the Senator from Nevada has said, it is a very difficult thing, because there are fast-growing States. There has to be a ceiling but there also has to be a floor. There has to be consideration for donee and donor.

I thought it was kind of interesting, during the remarks of the Senator from Texas, that the Senator from Nevada came over and said, I wish we were doing as well as Texas on percentages.

Later on we are going to have full-size charts.

Mrs. HUTCHISON. Madam President, could I offer to make that trade to the Senator from Nevada on a percentage basis? I will trade him right now.

Mr. INHOFE. Later on we are hoping we are going to have larger charts to be able to show one for every State, but this one which I will hold up—I hope everyone will be able to see it—if we take under TEA–21 the average in the State of Texas was $2.1 billion. That is the average of each year for a 6-year period. Starting in 2004, they would go up to $2.6 billion; 2005, $2.8 billion; 2006, $2.9 billion; and going on up at the end of 2009, it would be $3.6 billion, almost $3.7 billion, which is a huge increase, of course, over previous years.

I recognize there will be a lot of States that are not going to be happy with their formulas. It is those people who try to find a better formula, after we put all of our resources together and spent a year doing this, who have had a very difficult time coming up with something that is going to be any better.

Quite frankly, I spent some time in Texas. I held a field hearing in Texas. I talked to them and hopefully they are going to be very pleased with the massive increases, the percentage increase. For the State of Texas under this bill over TEA–21, the previous 6-year authorization bill, is 42 percent. Now the average increase is 35.6 percent. So Texas is way above the average increase and way above the average amount of the average States.

I recognize there are problems with any formula, but those are some facts we are dealing with and things we had to consider. It is always difficult when representing 50 States, as we were in the committee. I would like to have done a lot better for my State of Oklahoma. I know Senator SANTORUM talked to me about some of the problems in his State. When we look at the State of Texas and the State of Pennsylvania, where there is a donee State that is dissatisfied, the only way that can be improved would be to do something to lower the ceiling in the other States. So it is a difficult thing to deal with.

I certainly will yield to the Senator from Texas.

Mrs. HUTCHISON. Madam President, I do understand the difficulty of dealing with these formulas, and I am sure the chairman of the committee and the ranking member tried in every way to please as many people as they possibly could. It just seems wrong to create a new level of super donor State. Yes, we have increased to 42 percent instead of the average 36 percent, but that is because our people are putting more in the highway fund because we are buying more gasoline. Therefore, of course, our rate of increase would go up. We are still in the same position of sending a dollar to Washington and getting 90.5 cents back until year 6. It is just hard to see that a donee State has more infrastructure burden than a State like Texas which not only has the most highway miles but has 80 percent of the traffic from NAFTA.

I would love to take the chairman of the committee to I-35 where it is a parking lot from Austin to Dallas. It takes more time to drive from Austin to Dallas than it does to fly from Austin to Washington. It is just ridiculous. It is a parking lot, and that is because it comes from Mexico through Texas and we do not have the capability to expand at the rate the traffic is expanding on that NAFTA corridor.

As I said in my statement, the chairman did create a real border corridor fund that will be helpful, but it still does not nearly make up for the deficit we are sending in this new super donor State capacity to Washington. It is $700 million we could be spending on our own infrastructure trying to meet these needs if we could get 95 cents on the dollar back so every donor State would be equal.

I know it was hard. I absolutely appreciate that. Unfortunately, representing Texas for 10 years, I have been in a lot of the formula fights, and small States tend to win. I know the Senator from Oklahoma has been a donor State and knows how it feels, so he probably understands how I feel right now. I just hope in the end we can see that we will get to 95 cents either through the help of the border corridors or in the formula in some way to acknowledge we should not be a super donor State with all of the problems we have.

Mr. INHOFE. Reclaiming my time, there is a lot of truth to what the Senator says. One thing that needs to be clarified, and we have asked the staff to do it because it has not been done before, is to see—I mean, we are in the same situation. The State of Texas today is getting back 90.5 percent. We are getting back 90.5 percent. It is kind of an interesting study that is being conducted right now to determine how much of the money—when the Senator says Texans pay in so much and get back so much, a lot of the fuel that is being purchased, subject to excise tax, is not purchased by citizens of Texas, particularly talking about a corridor going through. I know when I am down there, I purchase a lot of fuel. That same I-35 goes through my State of Oklahoma. A lot of the NAFTA traffic is traffic that is not Texas traffic, but they are purchasing fuel there. It would be interesting to know whether or not the citizens of my State of Oklahoma or the citizens of State of Texas are actually getting back perhaps more than they are paying in in fuel revenues.

Mrs. HUTCHISON. That would certainly be an interesting study to have. I would also point out that part of the purpose of the gasoline tax is to maintain highways for use, and even if it is someone like the Senator or someone using the highway for NAFTA purposes, they are using the highway and it is the wear and tear that must be maintained.

Mr. INHOFE. I thank the Senator from Texas.

I do not see others waiting to be heard. As we all know, tonight, in about an hour and 25 minutes from now, we will be having a cloture vote. Is that correct, Madam President?

The PRESIDING OFFICER. Yes, that is correct.

Mr. INHOFE. Between now and then, we will have a chance to hear from a lot of people, and as they come in I would be glad to have them heard on this subject. In the meantime, I will make a statement that I would otherwise be making after the cloture vote. I am hoping the cloture vote will be successful and we can move right on to this very significant vote. In the meantime, I am inclined to want to share a few things that are in this bill, which I would be glad to do at this time, and then yield to any Senator who comes in who may want to be heard.

I ask the Chair to go ahead and recognize the Senator from Massachusetts now, if he wishes to be recognized. Mine is going to be a rather long statement. We will go ahead and move to that when the Senator from Massachusetts is through.

### CONGRATULATING THE NEW ENGLAND PATRIOTS

Mr. KENNEDY. I thank the Senator.

Madam President, the matters before us are of enormous importance to this country, and certainly to my State. These issues dealing with road transportation and mass transit are basic, fundamental to our Nation's infrastructure and our economy. We are going to be focusing on this over the next several days. We are very much looking forward to it. There is an incredible need for attention to these important investments.

But I welcome the opportunity to take just a moment or two at this time to recognize the extraordinary success last evening, when the New England Patriots played the Carolina Panthers. Some 80 million Americans watched that extraordinary game.

I have a resolution which will give me a great deal of pleasure to offer in behalf of myself and my colleague and friend, Senator KERRY, who is not here physically but joins with his enthusiasm to urge favorable consideration of this resolution which is meant to congratulate the New England Patriots for their dramatic victory in yesterday's Super Bowl. It could not have been more exciting.

With 7 seconds remaining in the game, the score tied, Adam Vinatieri kicked a 41-yard field goal to clinch the Patriot's second Super Bowl success in the past 3 years. Mr. Vinatieri is making a trademark of kicking the winning field goals in Super Bowls. Two years ago, his 48-yard field goal won the game as time expired.

I also congratulate Tom Brady, the youngest quarterback in National Football League history to win two Super Bowls. He had another outstanding day with 350 yards passing and had 3 touchdown passes. Mr. Brady's performance gave him his second Super Bowl Most Valuable Player trophy in 3 years.

The Patriots had a remarkable season. They tied the Miami Dolphins' record in 1972, winning 15 straight games. Much of the credit goes to the man named Coach of the Year, Bill Belichick, and his two outstanding assistant coaches, Romeo Crennel, who produced the No. 1 defense in the National Football League, and Charlie Weiss, who produced the team's outstanding offense.

Among the Patriots' heroes of last night's game, and for the entire season as well, was the offensive line. They did an outstanding job of protecting quarterback Tom Brady. In fact, they allowed no sacks of the quarterback in the Super Bowl or in any of the other games in the post-season playoffs. Truly a remarkable record.

I want the Senate to adopt the pending resolution commending the Patriots on their dramatic victory in a game that will surely rank as one of the most exciting Super Bowls ever.

I notice in the chair the wonderful Senator from North Carolina, Mrs. DOLE. I commend, certainly, her enthusiasm for her team. She has reminded me of that enthusiasm and her very strong support. I commend the Carolina team for showing extraordinary sportsmanship and competitiveness and just a superb performance by that team.

If it is agreeable, I believe the resolution is at the desk. I believe it has been cleared.

The PRESIDING OFFICER. We do not have the resolution at the desk.

Mr. KENNEDY. Madam President. I will call for consideration of the resolution at a later time. We will do that, under prior agreement, at a time, as I understand it, that will be later in the afternoon.

Mr. INHOFE. Will the Senator yield?

Mr. KENNEDY. Mr. President, on another subject, I want to address the Senate for just a few moments on one of the important aspects of the President's budget. The President's budget should be looked at, not only for what it contains, but also for what is not included in the budget.

Mr. INHOFE. Will the Senator yield so I can make a parliamentary inquiry?

Mr. KENNEDY. Yes.

Mr. INHOFE. Madam President, I am very interested in hearing the remarks of the senior Senator from Massachusetts. However, we are right now debating the cloture motion. While I think it is perfectly appropriate to talk about the game last night, I hate to get into another subject when we only have an hour and 20 minutes to be talking about our cloture motion.

I, first of all, ask the Senator if this is something that could be postponed until after that motion.

Mr. KENNEDY. I know we just heard my good friend from Texas talk about the Border Patrol and the commission that has been established.

Mr. INHOFE. Which is on this bill.

Mr. KENNEDY. It is on this bill. I am conscious of that. I will not take a great deal of time, but I am not familiar with restrictions. I inquired of the Chair to be able to work out a suitable time to be able to speak. I don't intend to take much time.

The PRESIDING OFFICER. Debate has to be relevant to the pending measure.

Mr. KENNEDY. Well, I will make it to be.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent the quorum call be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Under the rules, it is my wish, as the chairman of the committee, that we get to this very important bill. The Senator from Massachusetts has agreed, if he could be recognized, he would keep it down to 10 minutes. That would be acceptable to me, if it is acceptable?

Mr. KENNEDY. That will be fine. I ask to be notified when I have 30 seconds left.

### THE BUDGET

Madam President, the President's budget that was submitted today, which is really the declaration by the administration with regards to defense and national security, but also is extraordinarily important in terms of health policy and education. There is probably not a more important document that is submitted by any President than the budget item indicating a nation's priorities. So that is why I wanted to be able to just take a few moments on one particular aspect of it, and that is the state of our economy and how this budget addresses the state of that economy or how it failed to do so.

I just wanted to share with the Senate the strong sense that we are in a jobless recovery. This economy may be fine for Wall Street, but it is bad for Main Street. I have certainly seen that in the last weeks or months that I have had a chance to get around this country. I saw it up in the State of New Hampshire, where every new job is paying 35 percent less than the jobs that had disappeared. I saw that down in New Mexico, where you still have 78,000 workers who are waiting for an increase in the minimum wage and the new jobs are paying 23 percent less.

It is the same in Arizona, in Michigan, in South Carolina, and across the country. South Carolina has lost tens of thousands of jobs. So I was interested about what is in this budget, or what would fail to be in this budget, with regard to American workers.

One of the principal concerns that I find from families while traveling across this country is the failure of the Senate to respond to the problems of those who are unemployed with the extension of the unemployment insurance. There are 90,000 workers a week who are losing their unemployment compensation. There is virtually nothing in this legislation that deals with that. The unemployment compensation fund has nearly $20 billion.

The proposal that has been offered by Senator CANTWELL and others would provide for some 13 weeks of unemployment compensation. It has been rejected by the other side more than 12 different times.

Look at this chart. It shows the average number of out-of-work Americans who are running out of unemployment benefits and not finding jobs. The average monthly rate from 1973 to 2003 was 150,000. The estimate for January 2004 is 375,000. And there is not one word in here to recommend that we have a temporary extension of unemployment compensation.

These are all hard-working Americans. They are not eligible for the unemployment compensation fund unless they have paid into it. They have paid into it. And we are finding objection from the other side to providing some relief for these workers. I can't believe that.

Second. I ask unanimous consent to have printed in the RECORD a New York Times editorial from Friday that makes this very point I have just made. I will quote part of it.

> The pernicious joblessness bedeviling the nation is spawning a new category of Americans dubbed "exhaustees"; the hundreds of thousands of hard-core unemployed who have run through State and Federal unemployment aid. According to the latest estimates, close to 2 million Americans, futilely hunting for work while scrambling for economic sustenance, will join the ranks of exhaustees in the next six months. They represent a record flood of unemployed individuals with expired benefits—the highest in 30 years—who are plainly desperate for help.
>
> The emergency program cries out for immediate renewal.

I ask unanimous consent that full editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [From the New York Times, Jan. 30, 2004]
>
> EXHAUSTING FEDERAL COMPASSION
>
> The pernicious joblessness bedeviling the nation is spawning a new category of Americans dubbed "exhaustees": the hundreds of thousands of hard-core unemployed who have run through state and federal unemployment aid. According to the latest estimates, close to two million Americans, futilely hunting for work while scrambling for economic sustenance, will join the ranks of exhaustees in the next six months. They represent a record flood of unemployed individuals with expired benefits—the highest in 30 years—who are plainly desperate for help.
>
> President Bush and the Republican-controlled Congress are doing nothing to help these people. Washington showed no qualms last month in allowing the expiration of the emergency federal program that had offered an extra 13 weeks of help to those who exhausted state benefits. Historically, such help has been continued in periods of continuing job shortages.
>
> A year ago, the aid was extended an extra year by Republican leaders. But now, the G.O.P.'s election-year talk is of a recovery rooted in the tax cuts weighted for affluent America. Tending to the exhaustees clearly mars that message.
>
> The emergency program cries out for immediate renewal. It costs $1 billion a month, money that is available from the federal unemployment fund.
>
> In January alone, 375,000 unemployed people are running out of state benefits with nothing to help them through to spring, according to estimates of new federal data by the Center on Budget and Policy Priorities, a capital watchdog group. Without action, the exhaustee toll will mount.
>
> Many will slip into the limbo of the more than 1.5 million Americans who have given up looking for work in the inert employment market. These amount to the flatliners, industrious people overlooked on the administration's screen of spiking recovery indexes.

Mr. KENNEDY. Madam President. I also want to mention one other item that is included by reference. That is the item of the President talking about his overtime provisions.

Again, he has indicated his support on the overtime provisions that will effectively eliminate overtime coverage for 8 million Americans—primarily firefighters, policemen, and nurses, who are the backbone for homeland security.

I have said here a number of times that I was not only strongly objecting to the administration's proposal but I particularly object to the inclusion in the administration's proposal that talked about training in the Armed Forces which can make a worker overtime ineligible. That, I thought, was the cruelest part of the proposal.

We have American service men and women who are in Iraq, in combat, or in the National Guard and Reserve. Many of them will be coming right back and will return to the civilian job market. Yet if they are going to have the training in the Armed Forces, they could be ineligible for overtime. I have said that before on the floor of the Senate.

My good friend Secretary Chao—and I see the former Secretary of Labor presiding over the Senate—wrote a letter to Speaker DENNIS HASTERT. She pointed out we shouldn't worry about the fact of the military.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> SECRETARY OF LABOR,
> *Washington, DC, January 27, 2004.*
>
> Hon. J. DENNIS HASTERT,
> *Speaker of the House of Representatives,*
> *Washington, DC.*
>
> DEAR MR. SPEAKER: I write to provide you with the facts to correct the record following last week's Senate floor debate on the Consolidated Appropriations Act with regard to the Department of Labor's proposed revision of the Fair Labor Standard Act's overtime exemption regulations. I also would like to thank you for your support and leadership on the important issue.
>
> The recent allegations that military personnel and veterans will lose overtime pay, because of proposed clarifications of the Fair Labor Standards Act (FLSA) "white-collar" exemption regulations, are incorrect and harmful to the morale of veterans and of American servicemen and women. I want to assure you that military personnel and veterans are not affected by these proposed rules by virtue of their military duties or training.
>
> First, the Part 541 "white collar exemptions" do not apply to the military. They cover only the civilian workforce.
>
> Second, nothing in the current or proposed regulation makes any mention of veteran status. Despite claims that military training would make veterans ineligible for overtime pay, members of Congress should be clear that the Department of Labor's proposed rules will not strip any veteran of overtime eligibility.
>
> This has been one of many criticisms intended to confuse and frighten workers about our proposal to revise the badly outdated regulations under the FLSA "white collar" exemption regulations. It is disheartening that the debate over modernizing these regulations to meet the needs of the 21st Century workforce has largely ignored the broad consensus that this rule needs substantial revision to strengthen overtime protections.
>
> The growing ambiguities caused by time and workplace advancements have made both employers' compliance with this rule and employees' understanding of their rights increasingly difficult. More and more, employees must resort to class action lawsuits to recover their overtime pay. These workers must wait several years to have their cases adjudicated in order to get the overtime they have already earned. In fact, litigation over these rules drains nearly $2 billion a year from the economy, costing jobs and better pay.
>
> I hope that this latest concern will be put to rest immediately. Once again, I assure you that military duties and training or veteran status have no bearing on overtime eligibility. We hope that future debate on this important provision is more constructive. If we can provide further assistance in setting the record straight, we would be pleased to do so. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.
>
> Sincerely,
>
> ELAINE L. CHAO.

Mr. KENNEDY. Madam President, let me quote a couple of parts of it. This is the letter to the Speaker by Secretary Chao stating "that military personnel and veterans are not affected by these proposed rules by virtue of their military duties or training."

That is what she says.

However:

> Proposed section 541.301(d) states that "training in the armed forces" can make a worker an overtime ineligible.

This is new language. It is not in the current regulations. The only purpose is to take away overtime for veterans. Either it is in there or it is not in there. It happens to be in the regulation.

She states:

> First, Part 541 "white collar exemptions" do not apply to the military. They cover only the civilian workforce.

No one is claiming that the rule affects the military force. The issue is the veterans who leave the military to work in the civilian workforce would lose overtime protections because they have had training in the Armed Forces. Then it goes on:

> Second, nothing in the current or proposed regulation makes any mention of veterans status.

No. But the proposed regulation, for the first time, addresses "training in the armed forces." Veterans who work in the civilian workforce who typically have received such training.

It isn't the people who are in the military. We agree with that. It is after they get out that they are going to be subject to this. If they don't want it in, they ought to have another rule that eliminates that.

I want to bring to the Senate's attention the understanding of the National Association of Manufacturers.

> Bush overtime proposal denies overtime to veterans.
>
> The overtime proposal explicitly states that training in the armed forces can disqualify workers from overtime protection. Many employer groups encourage the Bush administration to deny overtime protection to more categories of work, such as veterans.

Look at these comments from the National Association of Manufacturers.

> NAM applauds the department for including this alternative means of establishing that an employee has the knowledge required for the exemption from overtime protection to apply. For example, many people who come out of the military have the significant knowledge based on work experience.

There it is. Veterans who go in and have that specialized training which is so necessary not only for their security but the security of their squad members or their company members, their platoon, or whatever it might be, they get that. When they come back as a member of the National Guard and return to the civilian workforce, bang, zippo, their employer comes up and says, This is what the rule is. This is what the regulation is, the letter from the Secretary notwithstanding.

We are going to make an effort to eliminate that whole overtime rule because we do not believe the men and women who are the heart and soul of homeland security, who are the firefighters, police, nurses, and others ought to be carved out from overtime protections. There are many problems with our economy today, but one of them is not that our firefighters and policemen and nurses are getting paid too much.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. KENNEDY. I thank my friend. I will take time at another time to go through the various provisions of the budget dealing with education and health. I think it is important that the American people understand exactly what those provisions do and don't do for the American people.

I thank the floor manager.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I appreciate the Senator from Massachusetts using the time. He has a concern about the extension of unemployment benefits, and we are all concerned about that. A lot of that would be alleviated with the passage of the transportation bill. This is the largest jobs bill we will be considering this year, or perhaps in a 6-year period. It is very significant.

Madam President, one of the goals for reauthorization of TEA–21 has been to increase the rate of return to donor States. We have talked about that. We have had several bills in the past in which we wanted to achieve that. In this particular one, we achieved it to a smaller degree in TEA–21. But in this reauthorization, we want to further increase the return to donor States without negatively impacting the growth of donee States. That is where we get into the problem with the State of Texas and the State of Pennsylvania. If we do one, we will negatively impact the other. Our goal has been to streamline the project delivery process to create greater flexibility for States to spend their highway safety dollars in the areas of greatest need.

Most Members agree that in Washington we do not have all the answers. The Presiding Officer would admit readily that people in North Carolina know about the needs in North Carolina greater than we do. That is one good thing about this program; we do leave a lot of it to the States. We do more than that in this reauthorization. I have talked to people in a number of States, including people in the State of Texas, who are very pleased with the idea that they are getting more flexibility. This bill recognizes they have a better idea of the needs of their State. I certainly know that to be true in the State of Oklahoma.

Finally, the goals were to focus attention on freight movement. This has not been considered. Freight movement is the responsible party for a lot of the congestion referred to by several speakers so far, causing trucks to idle, cars to idle, time wasted when pollution carries on where we are paying for additional gasoline but nothing is moving.

Although the proposed bill before the Senate addresses each of these areas, it has not covered all the reforms I would like to cover. However, it is a good start. We made a good start. It has been in the spirit of cooperation. Historically, when we reauthorize a highway bill, it is not partisan. As we worked together, Senator JEFFORDS, Senator REID, Senator BOND, and myself, in many hours of putting together our best ideas, there were things I would have preferred to have in here that are not here. This is a good start.

The Federal aid highway system is a key component to America's continued economic growth. The free flow and movement of goods, safety for travelers, advancement and use of technology, and security of our borders and freight corridors are essential to our economic stability. Our investment in this critical infrastructure is not only required for people in goods movement but almost the foremost link in creation of jobs and opportunities for all Americans and represents the largest investing in discretionary programs.

I remember seeing that familiar square-shaped sign "Men Working" and someone very creatively inserted "Not"—"Men Not Working." It is clear, each day we fail to enact a comprehensive 6-year reauthorization of the highway program, we continue to erode the ability of our economy to grow.

Many colleagues share my strong desire to get this bill passed and sent to the President by February 29. On February 29, the extension we have on TEA-21 expires. No State benefits by prolonging the process through temporary extensions of the current program. It disrupts planning; it disrupts the ability to plan ahead on the availability of workers to get the very most out of it. It is very important we do that. The proposal before the Senate provides the framework for transportation investments needed to accomplish our shared goal of creating new and better economic opportunities.

The centerpiece of our bill is the new Equity Bonus Program which replaces the Minimum Guarantee Program. The Equity Bonus Program increases the minimum rate of return for donor States while ensuring fair treatment to donee States, about which we have been talking.

All donor States reach 95 percent return on highway trust funds by 2009. That is a huge increase. We remember when it used to be 77 percent and 80 percent. In addition to the fact that we are going to get everyone up to 95 percent return in this bill, all States take home more money than they did under TEA-21. Unlike the current Minimum Guarantee Program, which is in place right now, where the table in section 1104 governed what your State received each year in Federal highway dollars, under the Equity Bonus Program the formulas are the driving force, not the politics.

The 1104 section approach, or minimum guarantee, is an approach that was purely politically driven. A lot of people were outraged about it. But they sat down and said we will put some percentages here until we reach 60 votes and we can pass a bill. But that is not fair. Certainly, we correct that situation in this bill.

We allow the formulas to work. We recognized there would be some inequities if we allowed the formulas to be the sole factor in distributing dollars to the States. Therefore, we subjected States to growth ceilings in each year; that is, there is a ceiling. So we get the fast-growing States that will not have more than they would be entitled to at the expense of those that are currently donee States. This accomplishes the two goals and keeps the costs of the Equity Bonus Program affordable and ensures that donee States are still able to grow.

We also recognized that States with lower tax bases have an added challenge to adequate funding of their transportation system. We define these States as States with low population or low population densities and low income. We guaranteed these States at least their TEA-21 rate of return.

Finally, large donor States do not reach 95 percent until 2009. This is a concern for some of the Senators from Florida, California, and Texas. This is because the growth ceilings prevent them from growing too fast at the expense of large donee States. This means they bump into the ceiling. For instance, if we were to increase the growth ceiling in any year to move the large donor States to 95 percent sooner, the increased costs would be at the expense of the large donee States such as New York and Pennsylvania.

Since releasing this plan on January 21, I have heard from both large donor State members who are concerned their States do not reach 95 percent until 2009 and donee State Senators who believe their States do not grow as much as they would like. Both sides raise valid concerns. But the cold reality is, in order to get the bill through the Senate—we are talking about S. 1072, on which there will be a cloture vote an hour from now—it has to take care of both donor and donee States.

So there have to be compromises. We have made compromises. As the Senator from Nevada said, there are a lot of things he believed he cannot get for his State that he believed he should have, and the same is true for my State of Oklahoma.

After working on this for over a year, JIM JEFFORDS, KIT BOND, HARRY REID, and I decided the most fair, reasonable, and logical way to balance donor and donee needs was by creating ceilings and floors. Both benefit but both have to give up some growth in order to help others grow.

In order to get this bill off the floor, we have to have 60 votes, which means a balance between the donor and donee States. This proposal achieves that.

Another new initiative is establishment of a new core funding category for safety. With highway fatalities approaching an unacceptable 43,000 a year, Congress has the responsibility to make the roads safer. That is why we call this SAFETEA. The purpose of the new highway safety improvement program is to increase the visibility and effectiveness in funding for safety projects in such a way as to produce a dramatic reduction of highway fatalities and injury.

SAFETEA also addresses the significant challenges involved in intermodal connectivity by creating a set-aside from the National Highway System Program for the completion of "last mile" connections. One of the frustrating aspects of freight congestion is the need to complete the last connection between port terminals and highways or the connection between freight rail and highways. This has never been addressed in the previous authorization bills. This proposal not only identifies a funding source for intermodal connectors but also creates room at the planning table for freight interests and concerns.

Additionally, this bill lowers the threshold level for assistance under the Transportation Infrastructure Finance and Innovation Act, TIFIA, from $100 million to $50 million, which I think all four Members thought was a dramatic improvement, to make some structural changes to the program designed to make this financial tool more usable to States.

Freight congestion is not the only mobility issue. Personal mobility is also a problem in both urban and rural areas. Reports indicate that on a nationwide scale, road congestion costs the U.S. economy about $67 billion annually, including 3.6 billion hours of delay and 5.7 billion gallons of gasoline that is wasted. Here we are with a fuel crisis, an energy crisis in this country, and we are wasting 5.7 billion gallons of fuel.

The committee bill also proposes to give States and localities increased "tools" to deal with this problem, by permitting and encouraging the use of innovative techniques such as "hot" lanes for single occupants who pay a toll to ride in high-occupancy lanes as well as variable toll pricing, which uses varying peak-hour pricing to control congestion during regular high-volume periods. We have tried to do this in the past. We are just being more innovative in carrying this further.

SAFETEA establishes the Intermodal Passenger Facilities Program, which provides grants for making necessary connections between various modes of transportation. Current surface transportation programs fail to address the importance of intercity bus services. In my State of Oklahoma, many people are using the intercity bus services to travel between our two largest cities, Tulsa and Oklahoma City, and our rural areas.

In many cases, this type of service is the only link rural communities have to larger urban areas where connections can then be made to both national and international destinations. Specifically, this provision would encourage the development of an integrated system of public transportation facilities through intercity bus facility grants.

I see that the ranking member of the Environment and Public Works Committee, Senator JEFFORDS, is in the Chamber. I am sure he has a few remarks to make. If I could finish with this before I get into the section-by-section analysis, would that be acceptable with the Senator.

Thank you. I will go ahead and do that at this time.

During the 107th Congress, we all experienced a cold dose of reality when the revenue aligned budget authority—that is, RABA—was negative for the first time. Hysteria hit. We were all concerned at that time. The principle that dollars into the trust fund should equal dollars out is fiscally sound and responsible and something I strongly support. However, to maintain consistency in the program, we need to even out the swings in revenue projections.

Last year, we learned that unless the mechanism to predict future revenues is more realistic, the potential consequences can be disastrous. Some will argue that we should not allow negative RABAs. I disagree. As I stated earlier, I strongly support the principle of "dollars in equals dollars out." If we continue to rely on the system of revenue projections, we must accept the negatives along with the positives. While the pay-as-you-go system of funding highways may be cumbersome, it is also an important fiscal principle we should retain.

At the same time, we can and need to make improvements to RABA to make it more reliable in the future. This bill does that by modifying the RABA calculation so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent on the levels of actual receipts to the highway trust fund.

We strengthen stewardship of highway trust fund dollars by requiring project management plans and annual financial plans to be submitted for all Federal aid projects above $1 billion or more and requiring annual financial plans for all projects receiving $100 million or more in Federal aid funding. Both of these items were raised in last year's hearings on reauthorization as areas needing additional oversight. I might add that even the States came in and were supportive of this idea.

As our system ages and becomes functionally obsolete, extensive reconstruction will need to occur. Typically, these projects are very large in scope and I believe require careful oversight to ensure proper management of funds and fewer opportunities for surprises in the construction process. These changes are designed to give us the information needed to accomplish critical oversight.

Colleagues, the bill in front of you represents the culmination of Senate efforts for reauthorizing critical transportation infrastructure needs across America. This bill aims at funding all States equitably and generously, increasing the safety of drivers and pedestrians on our roads, streamlining environmental review processes while protecting critical natural resources, improving program effectiveness and efficiency, and preparing for the transportation needs of the future.

I ask my colleagues to consider the significant level of effort put into the preparation of this bill by the several committees involved, the administration's recommendations, and stakeholder input. I believe this bill does that.

I would like to make one comment. We do have a vote coming up in 50 minutes from now, and we have several people who want to be heard. I would only say we have been talking a lot about formulas. As most of us know—but sometimes it does not come out forcefully—there are other funds that are going to be available. About 7 percent of the amount that would be in formulas would be found in projects. Anyone who wants this bill should consider voting for cloture so we can get on the bill. We would expect them to certainly support this motion if they have an interest in projects for their States.

At this time I will just repeat one thing I said earlier when the Senator, Mr. JEFFORDS, was not in the Chamber. We have been talking about how Senator JEFFORDS, Senator BOND, and, of course, Senator REID and I have been working very closely, together with our staffs, to get to the point where we are now. So I publicly thank the Senator from Vermont for all the hard work he has put into this bill and for the cooperative method of how we have come to some compromises. Perhaps neither one of us is really excited about it, but we know that is the art of compromise.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I thank the Senator for his very kind words. I certainly reciprocate and acknowledge the amount of cooperation we have had, especially that our staffs have had working together, which has greatly stimulated all of us to recognize we have a good bill and we are going to get it done.

I would also like to announce to the Senator that I just left the Finance Committee, and we voted out—as was expected—favorably the money to get it done. So we are ready now to proceed to it tonight, and hopefully we will.

Chairman INHOFE and I are urging a "yes" vote, of course, to move the transportation bill to the Senate floor where it can be fully debated and amended. This bill will strengthen our Nation's transportation system, create hundreds of thousands of jobs, and improve the safety of our transportation system.

Our Nation's roads and bridges and transit systems need immediate attention. Passage of the bill will provide essential Federal funding to the States so they have the resources needed to maintain and improve our transportation infrastructure. We cannot afford to wait any longer to make much-needed investments in our transportation infrastructure.

Fortunately, unlike many other bills, our transportation bill will be fully offset and paid for. The Finance Committee did a tremendous job working this out. As I said just a moment ago, they passed it.

Let us not forget that each time you go to the gas pump, you are paying for this bill. Our transportation bill better spends the gas taxes you are currently paying. We do not increase the Federal gas tax; we better spend that tax to help States, counties, and cities address their transportation needs.

A 6-year bill will allow us to better spend the gas taxes and fund State efforts to reduce congestion, improve transit programs, repair dangerous bridges, and improve freight mobility. A 6-year bill will create over 2 million new, high-paying jobs. That is 2 million high-paying jobs.

Chairman INHOFE is absolutely correct; since the bill is deficit neutral, putting off our bill until next year will only make matters worse. So let's do it now.

An extension simply means that urgent highway and bridge repair costs will be more heavily borne by States and local governments than by the Federal Government. A simple extension means commuters will spend more time stuck in traffic. A simple extension means visits to the grocery store or the doctor's office or the drugstore or the restaurant will take longer.

Thirty-two percent of our major roads are in poor or mediocre condition. Almost 30 percent of our bridges are in bad shape. We have to address these problems, and our transportation bill will help get that job done.

We are asking for a "yes" vote to move this bill to the Senate floor for a full debate on its merits, and we hope to do it soon. It will be open for amendment, and the chairman and I will work with all Senators in this effort. Do not forget, the EPW bill increases the amount of funding for each and every State. And every State gets more than they did last time. I think that is correct.

Chairman INHOFE has been a very forceful leader in this massive undertaking to reauthorize our Nation's transportation laws. He has thoughtfully devised an innovative plan that balances the interests of the great majority of donor and donee States.

That is a tough one. Chairman INHOFE is to be commended for his creativity and energy in crafting major aspects of the bill, which the EPW Committee is putting before the Senate.

As head of the Subcommittee on Transportation, Senator BOND has worked closely with Senator INHOFE and led the charge to obtain a strong level of funding for this effort.

Senator HARRY REID, the ranking member of the subcommittee, and I have worked together with Senators INHOFE and BOND throughout the Committee process and stuck together at the Committee markup to protect and enhance the passage of the bill.

History should also record that many fine staff worked long hours and proposed some excellent approaches for our consideration. They have done a tremendous job.

Before I conclude I would like to mention my old friend John Chafee. Six years ago, Senator Chafee was the Chairman of the EPW Committee. He moved this massive bill with the grace and the tenacity that was his trademark.

John Chafee was a giant in this body, and he is missed very much today by all those who had the wonderful opportunity to work with him and shared his expertise.

I can only hope that we all draw on the lessons of bipartisanship, of cooperation and of consensus that John taught us.

To sum up, we are asking for a yes vote to get this bill to the Senate floor for a full debate on its merits.

Our Nation needs this bill and needs it now.

I thank the Chair.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I would like to take a few moments to raise some questions about the wisdom of invoking cloture on this bill at this time. I am concerned that this is a deficient bill in a very fundamental sense.

One, it is deficient because one of the key parts of this bill, public transit, has not yet been voted out of the committee of jurisdiction. So we are dealing with a bird which is missing its right wing and a significant number of tail feathers. I believe we ought to wait until we can see the full program before we vote cloture on proceeding on this bill.

Second, the Finance Committee has just voted on the legislation relative to how to finance this bill. I will have to say, I am very concerned about the approach we are taking. Essentially the approach is, by whatever words you wish to use to describe it, to take money from the general revenue fund and use it to replace funds which historically have come from the users of the transportation system.

At a time when we just received a budget from the President that is over $500 billion in deficit—I repeat, $500 billion in deficit for this next year—to be further adding to the deficit by stripping out funds which would otherwise have gone to general revenue seems to me to be more than reckless.

Even if you accepted the proposition that it was all right to use general revenue to finance highway and transit purposes, the key portions of these funds come from what I would call, charitably, "funny money sources." As an example, we use the closure of certain tax loopholes, which even have names such as the Enron tax loophole. That is probably a very good thing to do. The problem is, we have already done it twice before. We used the same set of tax closures of loopholes to finance the jobs bill. That is the bill that relates to international taxation and has been precipitated by the fact that the European Union declared—supported by the World Trade Organization—a portion of our taxation of international transactions to be illegal. And if we don't provide an acceptable alternative, we face the prospect of very significant retaliatory tariffs against our products. So there is going to be a lot of impetus to get that bill passed.

The second bill which uses these same items is the CARE bill which is the charitable giving legislation that I know has a significant amount of support. Since we can't use the tax loophole closures more than once, are we making the decision that we are going to do it for the highway bill and, therefore, have it unavailable for the jobs bill and the CARE bill?

Mr. McCAIN. Will the Senator yield for a question?

Mr. GRAHAM of Florida. I yield, yes.

Mr. McCAIN. Has the Senator seen the size of this bill?

Mr. GRAHAM of Florida. Yes, I have observed it. And I might say, it will be somewhat larger when the public transit section and the financing section are added.

Mr. McCAIN. Has the Senator seen the first bill that we passed in 1956? This is the bill that was passed in 1956. This is the bill in 2004. How far we have come.

How far and disgraceful a path we have tread with this porkbarrel-laden piece of overspending at a time when we have all-time deficits.

I urge my colleagues—in fact, I urge the managers of the bill—to look at what they did in 1956 to fund the highways in the United States and what they are trying to do now which is wasteful and disgraceful. I wonder if my colleague would have a look at that.

Mr. GRAHAM of Florida. I look forward to doing so.

Let me make my last point with which you might not agree. I think we need to establish what are we trying to do with this legislation. We are not just passing a piece of legislation in order to shove money out the door. When we passed TEA-21 5 years ago, I made on this floor a prediction which saddened me but has come to pass: that is, that as a result of TEA-21, our highways, our bridges, and our public transit systems are in worse shape with greater congestion than they were the day we passed TEA-21.

Why is that? It is because we have either inadequately funded those basic parts of our American infrastructure or, if we did adequately fund them, the resources were not distributed to where the needs were the greatest.

Let me cite a few examples. According to the U.S. Department of Transportation's conditions and performance report, which is prepared every other year to measure the needs of the Nation's highways and transit system, let me quote from that report:

> Capital investments by all levels of government between 1997 and 2000 remain below the "cost to maintain" level. Consequently,

> overall performance of the system has declined.

That same report estimates that over the 6 years of TEA–21, the quality of the highway system has degraded by 6 percent and that 29 percent of America's bridges are considered structurally deficient.

On the issue of congestion, there is a study which was done by the Texas Transportation Institute, I believe, at Texas A&M University. This was what they had to say about congestion:

> In 2001, 5.7 billion gallons of fuel were wasted as a result of congestion; 3.5 billion hours of lost productivity resulting from traffic congestion.

Those hours and gallons lost cost the Nation $69.5 billion, a $4.5 billion increase from the year 2000. The estimate is that if we appropriate the funds that are currently being suggested, that loss in gallons of gasoline and productivity will rise to $90 billion by the year 2009.

Mr. President, we have lots of deficits in this country. We are talking today about the deficits in our budget. We talk regularly about the deficits in our trade balance. But we have another deficit, and that is the deficit in our basic infrastructure. While it is not as graphic and we do not get a report on it as frequently as we do on the trade deficit or the fiscal deficit, it is just as pernicious and maybe even more so.

If you ask yourself the question, how is the United States of America going to compete in a global economy which worships at the altar of lowest unit cost of production and be able to maintain American living standards, that will be a major challenge for the next generation of the American public and their political representatives.

Mr. REID. Will the Senator yield for a question?

Mr. GRAHAM of Florida. I will conclude first and then I will take a question. I believe two of the fundamental parts of being able to answer that question are that the United States needs to have the best educated population on earth so that we can continue to generate the innovative ideas and the efficiency in production that has hallmarked our economy.

Second, the key responsibility of the public sector is to maintain an infrastructure that will be as efficient as possible. Those are two of the keys to American productivity which will allow us to compete in the global economy and maintain an average income and standard of living that is dramatic and above the rest of the world. In my judgment, this legislation will not achieve that objective, while at the same time adding to our national deficit.

For those reasons, I believe we should take more time with this legislation, see what comes out of the Banking Committee for public transit, be able to understand the implications of the financing program that was just reported by the Finance Committee, and what is going to be required in order to avoid another 6 years of degradation of our basic public surface transportation system.

Mr. REID. Will the Senator yield for a question?

Mr. GRAHAM of Florida. Yes.

Mr. REID. It is my understanding that the Senator from Florida is concerned about, for example, the bridges. Of all the bridges we have in America, about a third of them are in disrepair. The Senator is aware that some of these bridges are in such bad condition that school buses won't drive over them. They stop the bus and have the kids walk across and the bus comes across and they load it up again. The Senator, from the statements I have heard him make before the committee on which we serve together, statements I have heard him making over the years, and in his experience as the Governor of Florida, indicates to me that he thinks we should do something about these bridges, as an example.

The Senator may be aware that prior to 9/11, I introduced legislation called the American Marshall Plan. The resolution has been passed by the National Council of Mayors and other organizations in the States saying we need to do something with our infrastructure separate and apart from the regular highway bill we do every 5 or 6 years.

Is the Senator in a position to say in addition to the work being done on this highway bill, we need to look at other parts of the infrastructure, including water, sewer, and bridges? Does the Senator acknowledge that?

Mr. GRAHAM of Florida. Absolutely. I am privileged to serve on the Environment and Public Works Committee with our distinguished colleague from Nevada, and we both know the state of our water and sewer systems are even worse than our transportation system, in terms of their degradation and inadequacy, and with every year that passes, that degree of decline further accelerates. So we have many needs in America to reverse the decline of our infrastructure so that we cannot only have a quality of life today—water systems that will serve our people's needs, highways that are not excessively congested and are safe to drive on but also are absolutely fundamental to our economic well-being.

Mr. REID. I also ask this question to my friend. The Senator is aware that my legislation—after 9/11, other things got in the way and nothing happened with that. Is the Senator aware that the Banking Committee, which does mass transit—they have agreed on a mass transit bill. Is the Senator also aware that the Finance Committee has agreed—in fact, they have probably done that by now because they were meeting this afternoon—to make sure that bill is funded properly, as is our highway bill? Is the Senator aware that that has taken place?

Mr. GRAHAM of Florida. As a member of the Finance Committee, I can say that the Finance Committee has just voted out a financing program to support this legislation. We were not informed as to what the Banking Committee's number would be for public transit. It was estimated that it would be $36.6 billion over 6 years. I don't know if that is the final number that the committee recommended.

Mr. REID. Let me ask a final question. The Senator is aware that the State of Florida, for example, in this highway bill, will wind up getting $3,138,589,000, which is a growth rate of some 40 percent, and that the fiscal year 2003 number the people of Florida got for a return on the dollar they put in was the minimum, 90.5 cents. At the end of this bill, Florida will go to 95 percent; that is, they will get 95 cents back for every dollar. I think the Senator would acknowledge that is an improvement over the last bill for the State of Florida.

Mr. GRAHAM of Florida. I don't deny that this legislation is better than it has been. I make two points: One, it is not enough to keep pace with the annual demands on the system, both for maintenance and to avoid increasing congestion. Every survey I have seen, including those I just cited, give statistical validation to that.

The second concern is that we are going to be adding to one of the other deficits in this country, which is our fiscal deficit, by diverting money which otherwise would have gone into general revenue in order to pay the cost of both the highway and the public transit system.

Finally, the specific elements of that transfer from general revenue to the transportation fund are extremely questionable. I mentioned one set of so-called tax loophole closers that we have already spent before. How much confidence can we have that this bill is going to get to the finish line before the jobs bill or the charitable giving bill, so that this essential part of the financing package is still available? I think it is a high risk. I say that to someone who knows something about high risk. I think it is an unstable platform on which to place our Nation's transportation funding.

Mr. REID. What I hear the Senator saying is that the Senator has no question with the amount of money being spent in this bill, the Senator has some question how it is being financed?

Mr. GRAHAM of Florida. No. Even if we provide adequate financing to assure that this level will be allocated, I think we are doing as we did 6 years ago with TEA–21, assuring that whoever is here in 2009 is going to be facing a transportation system that has been further degraded.

Mr. REID. Mr. President, I do say this to my friend, and I ask that he respond: We have programs that are funded in this bill that were the property of Senator Pat Moynihan, principally, that I think are certainly far from being perfect, but they are the best programs we have had during the lifetime of this legislation.

I say to my friend, with the fact that we have 2 weeks to complete this legislation—we bring it up now or the majority leader said we wouldn't be able to do it—I would think doing this highway bill is so much more important than not doing it, that it is easier to weigh that on the scale of legislative necessity.

Mr. GRAHAM of Florida. I think that self-imposed standard that we have to do this in the next 2 weeks is unacceptable. This has to be done, yes, but it ought to be done when we have had an opportunity to view all the pieces and understand the implications of all the pieces. By trying to do this between now and what happens to be President's Day is arbitrary and does not serve the interests of our public and does not serve our ability to represent our constituents.

Mr. DODD. Mr. President, may I inquire, those of us who would love to be heard on this——

Mr. REID. Will the Senator yield? Mr. President, we have a vote scheduled at a quarter to 6. There are Senators who want to speak before the vote. I apologize to everyone for having taken the time with Senator GRAHAM. We have 25 minutes remaining. I wonder if Senator DODD can indicate how much time he wants.

Mr. DODD. Ten minutes.

Mr. INHOFE. Will the Senator yield?

Mr. REID. Yes.

Mr. INHOFE. I suggest, we have 24 minutes and we have three people to be heard, including the Senator from Connecticut. That is 8 minutes apiece. Does the Senator object to speaking for 8 minutes?

Mr. DODD. No.

Mr. REID. Mr. President, I ask unanimous consent that Senators DODD, BOND, and THOMAS be recognized for 8 minutes in that order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend all of my colleagues who worked on this legislation. This is a difficult bill. I have been around this institution long enough to know that when you have highway bills and formulas, it is always complicated. We are seeking perfection, and we are never going to achieve it. I admire those who serve on these committees and have to work on these issues to try to put these bills together. I begin on that note.

I also thank my colleague from Florida who knows a lot about transportation issues and has worked on these issues a long time. I associate myself with his remarks.

I am concerned about this bill. I have talked with my colleagues about it. I wish to say publicly that I am grateful to the distinguished Senator from Vermont, the Senator from Nevada, and others who spent some time talking with me about this bill and what happens to my State.

Obviously, we all begin by looking at what happens to our States in a bill such as this. Connecticut receives, under the present version of this legislation, the smallest increase of all of the 50 States, a 10-percent increase. I am deeply worried that we are no longer discussing a bill that was once rooted primarily in the notion of need and are now moving into a different consideration for how these dollars will be spent.

My State is a donor State. It contributes more each year in tax revenues to the United States than we receive back in funding.

As a small State, we do not contribute more than we get back in terms of gasoline tax revenues. My State is 100 miles long. The average vehicle can cross my State with about 3 gallons of gasoline.

Yet I think everyone is aware geographically where my State is located. It is a thoroughfare. Millions of vehicles literally every year pass on the Northeast corridor through my State.

So with the wear and tear on our highways, the tremendous congestion, the huge volume of transportation that occurs, it is unfair to make allocations solely based on gas tax revenues.

I particularly note, as I look at the managers' amendment, that there is a provision that provides for a floor of a 35-percent increase for States with a total population density of less than 20 persons per square mile, a total population of less than 1 million people, as reported in the decennial census conducted by the Federal Government 2000, or a median household income of $35,000.

There are seven States that fall into that category. Where is the need? Those States receive a 35-percent increase in funding, regardless of whether there is any traffic, or whether there has been any deterioration in road conditions at all. Here we are taking seven States which have fewer than 20 people per square mile, a population of less than 1 million people, or a median income of less than $35,000, and yet they get a 35-percent increase. But a State such as mine that has cars and trucks passing through all night long and all day long believes that these highways are critically important to our economy and well-being. I am troubled by how this formulation is being considered.

It is worthy of note that when we first wrote the highway bill, to which Senator MCCAIN referred, back in the 1950s, it was called the National Defense Interstate Highway System. Few people today would deny the indispensable role that the Nation's highways, as well as mass transit systems, play in homeland security.

I can say to my colleagues, I am sure they are aware of this, that on September 11, 2001, one of the reasons my State was able to contribute as much as it did to the devastation in New York is because of that National Defense Highway System that Dwight Eisenhower authored back in the 1950s. It allowed for our first responders to get into New York City, as well as for people to flee that city, which is exactly what Dwight Eisenhower had in mind when we created the National Defense Highway System.

Today, as we talk about the needs of my State and others—by the way, there are a variety of States throughout the Northeast and Midwest that I don't think do as well as they should be doing under these formulations. I know this is a work in progress, and I know we are not done yet. I say that with the full knowledge of those who helped us work on it.

I felt it necessary this evening, as we prepare to vote on cloture, knowing these formulas can get locked in and once they are locked in, it is awfully difficult to change them. Trying to add discretionary funding here and there may be satisfactory to some, but we are looking at a 6-year bill where economic development and congestion is so incredible.

Tonight, one could go on Route 95 in my State and see that it is a parking lot. It isn't just between peak hours; it is getting that way all day long every day because of the tremendous congestion.

As the Senator from Florida pointed out, we need to know what the mass transit piece of this legislation is going to be. I am pleased things seem to be moving in the right direction, but it is going to be awfully difficult to try to explain to people why certain States are just so limited in their ability to get the resources necessary to see to it that they can replace the older infrastructure to accommodate the tremendous demand that is building up in our region of the country.

I hope we will take a look at some of these formulations. I say with all due respect to the seven States that are going to automatically get 35 percent, show me your need. If you have a need, I will listen, but if you are merely going to get a 35-percent increase because you have less than 20 people per square mile, population of less than 1 million, or median income of less than $35.000, how do you justify getting a 35-percent increase when the need doesn't exist? When there are other parts of the country that have tremendous need, how can you justify that we are only getting a fraction of that increase over the next 6 years?

That is not how this ought to work. If we are going to start making decisions in this country on these kinds of formulations, then those of us who come from donor States, who contribute far more than we get back, are going to have to start making that kind of calculation on every issue that comes along.

It strikes me that in too many cases the States getting the most out of this bill as presently crafted are the ones that contribute the least when it comes to Federal dollars, and those that contribute the most get back the least. We need to consider that as we move forward.

Again, I appreciate immensely the work my colleagues have done in writing this legislation. It is not easy. I know that. I am grateful to them for giving me an ear when I talk about these issues and share my concerns that come from not only my State but a region of a country that runs as a belt across the Midwest and Northeast.

I know my colleagues are cognizant of that. I am not telling them something of which they are unaware.

Certainly, as we talk about a highway bill for the next 6 years, as well as transit when it comes along, we need to have formulations that are, as they historically have been, based on need, and not on a formulation that is going to disregard it.

Whatever time I may have remaining, I yield it to my colleague from Missouri who, if I have another minute or so, I will give him those minutes to use as he sees fit.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Senator from Connecticut for his understanding. He and I have worked together on many issues, and it is not easy. Certainly, this one is not easy. There is no question that we are not seeking perfection. We understand the problems that all States face. Over the 6 years, this bill actually winds up giving, as best I can figure, the State of Connecticut 20 cents more on every dollar they put in than the money we get back in the State of Missouri. So we have given at the office, and we are attempting to achieve equity.

Nobody is going to be 100 percent happy, but this is one where there has been tremendous cooperation, over better than a year, among Chairman INHOFE, Ranking Member JEFFORDS, my colleague, the subcommittee chairman, and Senator REID, trying to listen and develop a framework that is fair and that deals with the pressing needs that this Nation faces.

I commend the chairman of the Senate Environment and Public Works Committee, JIM INHOFE, along with Senators REID and JEFFORDS, for a job well done.

The Finance Committee has been working hard. I gather they have done a good job to come up to the level that was originally contained in the Bond-Reid amendment in the Budget Act. We thought this was the minimum we needed because there are such pressing needs for highways. Obviously, everybody knows good highways lessen congestion. Everybody knows that they are the guidelines to economic development. If we do not have good highways, we cannot keep and grow good jobs. So it is vitally important for the long-term future of the State.

In my State, it is really a safety issue. We are a very wide, broad, and tall State with lots of traffic through it. In many of these areas, the two-lane highways are carrying traffic that is designed for at least four lanes nowadays. Safety in this authorization is for the first time given a prominent position, being elevated to a core program.

We have more than three deaths a day on Missouri's highways, and at least one and maybe more than those are attributable to the conditions of our highways. I know this happens in other States. That is why I am delighted that the administration, in laying out the title SAFETEA, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, has emphasized safety because good roads and highways are a matter of safety.

I think this bill does mirror the administration's proposal continuing our commitment to the motoring public's safety. This is accomplished by providing much needed funding to reduce highway injuries and fatalities, all without the use of mandates. Funding for good highways and bridges is absolutely essential and a key component of our bill will go a long way toward saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements. These include roadside obstacles and unmarked or poorly marked roads that may constitute a danger to motorists, bicyclists, pedestrians, and other highway users.

We know in Missouri that inadequate roads not only lead to congestion, therefore more pollution, they delay, deny, and derail economic development opportunities, but they also kill people. When you have traffic—10,000, 15,000, 20,000 cars a day—on a narrow, two-lane road, you are going to have people passing when they should not and they run into other people head on.

We heard testimony from the administration that nearly 42,000 people are killed on our roads and highways each year. We need to make an investment to reduce that loss. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure but also to the general safety and welfare of our constituents.

On the question of equity, our bill is the best we can come up with in the real world to achieve equity among all of the States. Some of us have been donor States for a very long time, getting back far less than the dollar we put in. There are other States that have consistently received more. As a result, this bill tries to achieve some equity by getting all States to a 95-cent rate of return, at least by the end of the authorization.

There are 24 States: Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington. At the same time, we wanted to make sure that every State got an increase. So every State gets at least a 10-percent increase over the amount of funds that they were getting in TEA-21, and we put a lid on so that some States would not take an undue share. I think the top rate is about a 42-percent increase. So in that framework, we have come up with what we think is equity.

My home State of Missouri, as many of the donor States mentioned, has some of the worst roads in the Nation. It has about the third worst roads in the Nation, with 59 percent of its major roads in either poor or mediocre condition, requiring immediate repair or reconstruction. We also have the second worst bridges in the Nation.

I take my hat off to the chairman of the committee because I understand his State may be the one State that ranks in worse shape than Missouri does on both of these. As my colleagues will notice, Missouri is very much in the middle ranks of those getting an increase.

During the reauthorization of TEA-21, donor States did not think it was feasible to achieve the 95 percent rate of return. Under our proposal, we are able to get them there. However, I am aware that some of the donor States are concerned they hit our growth caps and do not achieve a 95 percent return in 2004.

We were unable to bring donor States up as early as we might have wished due to our budgetary constraints, and balancing the needs of the donor States with the needs of the donee States. But as donor States grow, the donee States see a gradual decline. To bring greater equity between the States, I am proud to announce that all States will grow not less than 10 percent over TEA-21.

This bill also addresses important environmental issues that were part of a compromise, worked out with great input from all sides. To ease the transition to new air quality standards, the conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage. We think that is very important.

We know there are lots of different ideas on this bill. We tried to accommodate all of those ideas. We had ideas and requests coming in over the transom, through the window. We met people on the floor. Our staffs worked together to try to balance all of these needs. Clearly, there are going to be a number of amendments. I hope our colleagues will work with us because there is a real desire, on the part of the chair and the ranking member of both the full committee and the subcommittee, to give a hearing to these. If there are important issues that need to be dealt with, we want to get the votes and move forward so we can, we hope, get the bill signed before the current authorization expires at the end of February.

Regarding a sufficient level of growth, the administration proposed, in my view, an insufficient level of growth for our Nation's aging infrastructure. The reason for offering the Bond-Reid amendment was because the administration's SAFETEA proposal came in at a mere $200 billion for highways.

During last year's budget debate, I, along with Senator REID, offered an amendment to fund highways at $255 billion over 6 years, which was supported by a vote of 79 to 21. I am pleased to report that the bill we have before us follows the Bond-Reid amendment providing a 31-percent increase in funding over TEA–21. While this is not as high as some might have wanted, we are able to achieve this goal without raising fuel taxes.

In this bill, I think all of us are concerned about jobs as well as the benefits that good highways and bridges bring if we are to get people to work this summer, which I think is very important because we still do not have enough people working. We need to get the authorization so it can get out to the highway departments so they can make their contracts for the coming year.

I do not need to tell my colleagues, because I think everybody has heard it too many times, that the Department of Transportation estimates that for every billion dollars in new Federal investment, there are 47,000 jobs created. We want to see those jobs created this year. Accordingly, in 2009 our comprehensive 6-year bill at $255 billion will sustain over 2 million new jobs.

According to the Associated General Contractors, the same $1 billion investment yields $500 million in new orders from manufacturing and $500 million spread through other sectors of the economy. Construction pay averages at $19 per hour, 23 percent higher than the private sector average. Failure to enact a 6-year bill yields the loss of 90,000 jobs.

Another accomplishment of our package will ensure transportation projects are built more quickly because environmental stakeholders will be brought to the table sooner. Environmental issues will be raised earlier and the public will have better opportunities to shape projects. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays.

The bill also ensures that transportation projects will not make air worse in areas with poor air quality, while giving local transportation planners more tools and elbow room to meet their Federal air-quality responsibilities. The bill will put transportation planning on a regular 4-year cycle, require air quality checks for projects large enough to be regionally significant and reduce current barriers local officials face in adopting projects that improve air quality.

This comprehensive package is a good step forward to addressing our Nation's needs in infrastructure development and improvement.

I thank my colleagues from the Finance Committee, and others. I urge everybody to work with us. The managers of the bill will be doing their best to expedite it. I appreciate the time. I urge my colleagues to support the motion for cloture and to move to the bill.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I think this is one of the most important issues we have had before us. As we look to a year with relatively short time to work on issues, with a large number of issues out there, I think it is important for us to deal with this and to deal with it promptly. I am delighted that we are going to have it up to date and be able to work on it over the next week or so.

I have not heard all of the discussions. I am sure I understand what most of them have been because I have been on the Finance Committee. We have finally come to an agreement as to what the funding level will be and what the sources of funding will be. It follows very closely what we came out with in the Environment and Public Works Committee, of which I am also a member. So I am very pleased with what we are doing.

Does it suit everybody? Of course not. There are all kinds of discussions about funding source. The funding source is not entirely the gas tax. But the way we work it out, all that additional funding does come from something related to transportation, so I think it is a justifiable way to put this in a spending arena that will help accomplish the things we need to do. I cannot think of anything more important.

We have been in a CR since September. I don't know what you heard from your transportation departments at home, but they feel as if they can't move forward, can't do contracting, can't plan on what they need to be doing in the future until they get more assurance of where we are. So it is imperative that we do something here.

I can't think of anything more important to our lives, unless it is energy, than transportation. To be able to go with our families, do our work, protect our country—all these things are related, of course, to travel and the highway bill.

The interstate system is 50 years old. The Senator from Arizona was talking about the little bill that passed 50 years ago. Times have changed substantially and I believe there is a more comprehensive approach to travel that combines the spending of all levels of Government, which amounts to over $100 billion annually, when you talk about all of them put together. So our share is not the largest, but it is more than we have had in the past.

It is a critical time. It is a critical situation. We need to move. As I said, I know there are different views and I understand that. There are decisions that have to be made in this bill in terms of distribution of funding, not only among States, but what is used for mass transit, what is used for pathways, and a number of other safety projects and things of that kind.

But, really, our responsibility is to come to an agreement and move forward here and then bring it to the House and get this done. I think, of course, it is also one of the big economic features before us. It creates lots of jobs immediately. But more importantly, it strengthens the whole economic structure so we can develop with other kinds of jobs.

I know there is the case about there being donors. Let me talk about a larger State that does pretty well. We have thousands of miles of roads, 27,000 miles of roads, and relatively few people. But lots of people who do not live with us are going through. This is a Federal highway system and it has to move throughout the country. So the decision as to appropriating and adjusting the money among the States is not an easy one. Certainly not everybody agrees with how we are going to do it.

In any event, I am not going to take more time. We have learned a great deal about it. Again, one of the most important aspects we have to deal with is the funding that is related to the tax that is assessed on gas. We made some changes on some of the others.

I urge Senators to pass this bill.

Mr. INHOFE. Will the Senator yield? I understand the Senator, in addition to being on the committee I chair, is also on the Finance Committee. Would he care to report on what has just transpired in the last hour or so?

Mr. THOMAS. We have passed a bill there to bring it to the floor. The funding is very close to what the chairman used in our Environment and Public Works Committee.

As we said, the direct amount from gas funding was somewhat short, but we used some other things, dollars that were related, and scooted them over from other expenditures into this bill so we are offsetting the costs. We find ourselves with the amount of money pretty much as laid out by the chairman and the chairman's committee. I appreciate very much what he has done and certainly hope we can move forward.

Mr. INHOFE. I further ask, since I am chairman of the committee, if the Senator who has the floor now will yield to me for a few comments.

Mr. THOMAS. Certainly.

Mr. INHOFE. I see Senator THOMAS, from a State such as Wyoming, falls into a category we are taking care of in the formulas. That is low-yield or low-population States. They have to be looked after. As he points out, people are driving through, yet they don't have the population base to be supporting large amounts of revenue to pay for the roads.

On the other hand, we see Senators such as the Presiding Officer now, from the State of Texas, one of the fastest growing, largest States. He certainly has problems. So being very careful to try to take care of all these diverse needs in establishing a formula to put together something that would take care of the large States, we put in a ceiling and we put in a floor. We put something in there for donee and donor States. It is a very difficult formula.

I remind my colleagues who might not feel this is a fair approach to it, to remember, to recall when we tried to do this before under TEA–21, we had a purely political system. Everybody got a percentage of the amount of money that was there and it was all driven by politics. Once they received 60 votes, they didn't care what happened. We are not doing that. We have a formula that takes care of all these needs.

I saw the senior Senator from Pennsylvania coming through just a moment ago and there have been some complaints from that State. I compare that to my State. My State is 20 percent larger than the State of Pennsylvania, yet we have roughly the same number of miles of roads. Yet under this formula, he is receiving some $3 for every $1 we receive. That doesn't look like I do a very good job for my State of Oklahoma. Nevertheless, it is a reality that we have to consider all these things.

If you look at some of the compromises we have made, we had four principals who spent more time than anyone else drafting this bill. They were, of course, myself as chairman, Senator JEFFORDS as the ranking member, Senator REID as the ranking member on the subcommittee, and Senator BOND on the Transportation and Infrastructure Subcommittee, subcommittee chairman.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. INHOFE. I will conclude by urging my colleagues not to waste any more time. We need to get to this. We should have done this back on September 30. I urge colleagues that we invoke cloture and get right to the bill.

Mr. KOHL. Mr. President, it is with great disappointment that I rise today to express my objection to moving forward on the bill before us, SAFETEA. The cloture vote that we will have in the next few hours is the first step towards debating a bill with which few in this body are completely familiar. Essential elements of the bill came out of the Finance Committee today, and Senators have clearly not had enough time to review these proposals and to assess the effect on their States. I believe that debating and voting on this legislation this week would be irresponsible, and potentially damaging to many States, including the State of Wisconsin.

The leadership has made it clear that they intend to push this measure through under artificial time constraints. Yet, members of the Environment and Public Works Committee were not given essential information before the transportation bill was brought for a vote on November 12, 2003, and now Members of the Senate will be debating a formula we haven't seen and are told we can't change. The unknowns, at this point, outnumber the areas of understanding. Many Senators still haven't seen crucial information from the Finance and Banking Committees. Questions of how to pay for this bill and how transit funding will be distributed among the States were debated in Committee as recently as today. I fail to see how we are acting responsibly to vote on legislation the same day it comes out of Committee.

I want to make my self clear. I support a 6-year authorization of transportation dollars. And I support a bill that would be funded at the levels the Senate supported in last year's budget resolution, and that is fiscally responsible. During every previous authorization, I have fought to give my State equitable—equitable, not favorable—treatement under the various formulas. I could not, in good conscience, move forward with a bill that would be a step backwards for my State.

I understand that moving forward today does not eliminate all the opportunities to alter this bill and make it better. However, the complexities of the formulas that the Senate will be dealing with require additional time for review. I am particularly troubled by possible effects on Wisconsin of the proposed amendment dealing with the distribution of highway funds among the States. This formula was not released until just over a week ago, and yet this is what determines every State's level of transportation funding for the next 6 years. This amendment contains the new "equity bonus" program, dictating the State's percentages of formula funding. The State of Wisconsin is a loser under this formula. According to charts from the Federal Highway Administration, Wisconsin's rate of return will drop to $.95 by the second year of the bill, and remain there for 4 years. I understand that the formulas involved are complicated and difficult to alter. In my mind, this provides all the more reason granting Senators additional time to review and amend them.

A 6-year authorization bill should not move forward under an arbitrary time limit. As a Senator whose State could be harmed by this legislation, I will use all the procedural tools at my disposal to give myself more time to understand and amend the bill. In addition, I will use any legislative means to fix the inequities that exist in the proposed formula amendment. I am hopeful that the leadership will work with me in the coming weeks to protect my State and advance the best possible reauthorization bill.

### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion. The clerk will report the motion.

The legislative clerk read as follows:

### CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, transit programs, and for other purposes:
>
> Bill Frist, James M. Inhofe, John Cornyn, Susan Collins, Craig Thomas, Pat Roberts, Conrad Burns, Thad Cochran, Norm Coleman, Richard Shelby, Mike Crapo, Robert F. Bennett, George V. Voinovich, Ted Stevens, Lamar Alexander, Lindsey O. Graham.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1072 shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce tha the Senator from Utah (Mr. BENNETT), the Senator from Montana (Mr. BURNS), the Senator from Minnesota (Mr. COLEMAN), the Senator from Nevada (Mr. ENSIGN), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Iowa (Mr.

HARKIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Rhode Island (Mr. REED) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The yeas and nays resulted, yeas 75 and nays 11, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—75

Alexander
Allard
Allen
Baucus
Bayh
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dole
Domenici
Dorgan
Enzi
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—11

Akaka
Dodd
Feingold
Graham (FL)
Gregg
Hutchison
Kohl
Kyl
McCain
Specter
Sununu

NOT VOTING—14

Bennett
Biden
Burns
Coleman
Durbin
Edwards
Ensign
Harkin
Hollings
Kerry
Lieberman
Murkowski
Reed
Stevens

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. HARKIN. Mr. President, I would like today's RECORD to indicate that I am necessarily absent due to a delayed incoming flight to Washington. Had I been present for the vote on the motion to invoke cloture on the motion to proceed to consideration of the highway funding bill, I would have voted yea.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. DURBIN. Mr. President, on Senate rollcall vote 7, to invoke cloture on The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (S. 1072), I was absent due to a delayed flight. If I had been present for the vote I would have voted in the affirmative, to invoke cloture and proceed to the bill.•

Mr. INHOFE. Mr. President, first of all, I thank all the main principals involved: Senators JEFFORDS, REID, BOND, and the entire committee. I think it was a very good vote. I think we are going to be able to move on to the biggest jobs bill probably in the last 10 years. I thank my colleagues for their strong support.

Mr. JEFFORDS. Mr. President, I commend the Senator from Oklahoma. I have been through this before, but this was the most expeditious and well-run operation I have been involved in, and I think we are moving toward a successful result.

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1072, the highway bill, at 10:30 a.m. on Tuesday, February 3.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. What is the parliamentary situation?

The PRESIDING OFFICER. We are postcloture on a motion to proceed to the bill.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Is the Senator wishing to speak in morning business?

Mr. ALEXANDER. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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## TWO SUPER BOWLS

Mr. ALEXANDER. Mr. President, I rise to propose that we turn the Presidential nominating process over to the National Football League, except for Super Bowl half-time shows. Then maybe we can have a second Super Bowl, where anything is possible and everyone can participate.

Take the example of our colleague Senator KERRY's team—I am sure the Senator from Vermont will be quick to point out it is the team of many Senators from New England—the New England Patriots. Last night, they became the Super Bowl champions.

On September 12, in the season's first game, the Buffalo Bills trounced the Patriots 31 to 0. If this had been the first-in-the-Nation Presidential nominating caucus, the Patriots would have been toast. You know the pundits' rule: Only three tickets out of Iowa. The Patriots certainly didn't look like one of the three best professional football teams. Then, the Washington Redskins defeated the Patriots, as unlikely as it would have been for DENNIS KUCINICH to upend Senator KERRY in New Hampshire. But in the National Football League, upsets don't end the season. The Patriots played 14 more games. They won them all. Yesterday, they beat the Carolina Panthers in the Super Bowl for their 15th consecutive win.

The National Football League schedules 20 weeks of contests over 5 months to determine its champion. The Presidential nominating process, on the other hand, uses the equivalent of two preseason games in Iowa and New Hampshire to narrow the field to two or three—and sometimes they effectively pick the winner.

The NFL wasn't always so wise. In the 1930s, league owners rearranged schedules after the first few games so that teams that were doing well could play one another. This was good for the Chicago Bears, for example, but not for the league. Fans in other cities quit going to the games—just as voters in most States have quit voting in Presidential primaries.

Bears owner George Halas and others created today's competitive system in which almost any one of 32 teams can hope to make the playoffs. Green Bay can make it because the league makes sure that even smalltown teams have enough revenue. Prime-time television opportunities are rotated. Each Monday, senior officials in the league's New York office grade every call and no call to second-guess even the instant replays.

Professional football has become America's game because it symbolizes the most important aspect of the American character: If you work hard and play by the rules, anything is possible. As a result, 8 of 10 of the most watched network television shows have been Super Bowls; 98 of the 100 best watched cable television games have been NFL games.

Every September, the NFL fields 32 teams, almost all with a shot at the playoffs. Every 4 years, the Presidential nominating process does well to attract a half dozen credible candidates for the biggest job in the world. All but half are effectively eliminated after two contests. If professional football were Presidential politics, Sportscenter would pick the Super Bowl teams after 3 or 4 preseason games.

These two steps would fix the Presidential nominating process:

No. 1, spread out the primaries. Twenty-eight primaries are crammed into 5 weeks after New Hampshire. Congress should assume the role of Paul Tagliabue. Create a window between February and May during which primaries may be held every 2 weeks. Iowa and New Hampshire could still come first, but they would become off-Broadway warmups and not the whole show.

The second step that would fix the process would be to allow more money—to raise their first $10 million, let candidates collect individual "start-up contributions" of up to

$10,000. Today's $2,000 limit makes it impossible for most potential candidates to imagine how to raise, say, $40 million. During 1995, when I was a candidate and the individual limit on contributions was $1,000, I fattened 250 fundraisers in that 1 year to collect $10 million. The combination of the new $2,000 limit, the increased coverage of new cable channels, and the growth of the Internet have made it easier to raise money.

Still all but Senator KERRY was short of cash after New Hampshire. Put it this way: The Packers would never make it to the playoffs under the revenue rules of Presidential primaries.

Mr. President, 45,000 Iowans voted for JOHN KERRY in the first caucus. About 83,000 New Hampshirites voted for him in the first primary. More Americans actually attended last night's Super Bowl game in Houston, TX, than voted in either Iowa or New Hampshire. Ninety million others watched the Super Bowl game on television.

Perhaps we should learn something from America's game about how to pick a President. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## "A TRUST BETRAYED"

Mr. DASCHLE. Mr. President, a recent article in the January 26, 2004 edition of TIME Magazine entitled "A Trust Betrayed" has again reminded the Nation of the shameful and illegal manner in which the United States treats Native Americans.

A pending class action lawsuit alleges that the United States owes over $100 billion to some 500,000 Native Americans. For over 100 years, the Department of Interior has served as the trustee for the proceeds from the leasing of oil, gas, land and mineral rights on Indian land, yet the Department cannot tell us how much is owed or to whom it is owed. This money is desperately needed to address basic human needs and stimulate economic development.

There are important legal issues at stake. The concepts of sovereignty, treaty rights, and government-to-government relations all come into play.

Indian trust reform is also a civil rights issue. We are becoming a much more diverse country. How can Hispanic Americans, or African Americans, or anyone else, trust the United States if we are still breaking our legal obligations to our first Americans?

I commend this article to the attention of my colleagues, and once again urge the Department of Interior to provide the accounting required to all Native Americans.

I ask unanimous consent to print the article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Jan. 26, 2004]

### A TRUST BETRAYED?

### NATIVE AMERICANS CLAIM THE U.S. MISMANAGED THEIR OIL AND GAS LEGACIES IT PROMISED TO PROTECT

(By Marguerite Michaels/Shawnee)

Ruby Withrow remembers the happy days she spent as a young child on her grandfather Moses Bruno's 80-acre homestead near Shawnee, Okla. There the extended Bruno family, members of the Potawatomi tribe, tended large gardens of vegetables and fruits and raised chickens, hogs and cows. On Sundays the whole family attended the Sacred Heart Catholic Mission just down the road. But all that changed soon after oil was discovered on the Bruno property.

Lease agreements were arranged with oil producers, wells were dug, and pumping began in 1939. But family members say Grandpa Bruno never knew how much oil and gas were being taken out of his land or how much money he was due from their sale. All his royalty payments went into a trust fund managed by the Bureau of Indian Affairs (BIA). If Bruno needed to buy something, he had to appeal to the local BIA agent, and he was rarely given cash. When the he wanted to buy a cow, the price was deducted from his account and given directly to the seller. When he bought groceries, he paid for them with a BIA voucher.

The wells were plugged just 28 months later—Bruno family members say the wells' operator never gave a reason for ending production—but in that short time, they say, the soil was ruined, and the Brunos were able to grow hardly anything on it. Younger family members moved away to find jobs, and the old folks limped along on public assistance until 1960, when Bruno and his wife Frances died within a month of each other. Their heirs decided to sell what remained of the land the next year.

Such stories are common among Native Americans. Like legions of others, Bruno acquired his holdings under the Dawes Act of 1887. Its allotment program was an effort by Congress to break up the tribal structure by encouraging self-sufficiency among the Indians. The Dawes Act mandated that the land given to Natives be managed by the Department of the Interior's local BIA agent and promised that any profits from the property would be held in trust for its owners. The problem, say hundreds of families like the Brunos, is that the owners received relatively little of the money coming to them.

Over the past decade, many of the families have begun actively pursuing what they say is their rightful legacy. In 1996 Elouise Cobell, a member of the Blackfeet tribe, filed a $135 billion class action against the U.S. government, claiming that billions of dollars belonging to some 500,000 Native Americans and their heirs had been mismanaged or stolen from accounts held in trust since the late 19th century. Through document discovery and courtroom testimony, the Cobell case revealed mismanagement, ineptness, dishonesty and delay by federal officials, leading U.S. District Judge Royce Lamberth to declare their conduct "fiscal and governmental irresponsibility in its purest form."

The BIA holds 11 million acres in trust for individual Native Americans. Money from timber sales and agricultural and oil leases of this property is distributed under the same program that dealt with Moses Bruno. Five years ago, his descendants began tracking their patrimony. Their experience shows how difficult it can be to prove past wrongs and have them redressed.

Family members say Moses Bruno was never allowed to see his oil and gas account ledgers. It might not have done him much good if he had been, given that, like many Indians of his generation, he had never learned to read and could write only his name. When his eldest son Johnnie argued that the government was robbing him blind, the older man insisted that the Indian-agency people would never cheat him.

After World War II, Bruno's children tried to sue the oil company for saltwater damage to their soil caused by the pumping from the wells. "But even though my dad Johnnie took photos," says Ruby Withrow, 69, "we couldn't prove Moses had not allowed the salty runoff. There was no paper trail at that time." Nor was there money to pay for a lawyer. Over the years, family members looked for documents that could prove the bureau had treated Moses Bruno badly. They went to the National Archives in Washington, visited historical societies in Oklahoma and requested records from BIA offices in Shawnee and nearby Anadarko, Okla. Always they were told that few records were available.

The Cobell case reassured the Brunos that others had had similarly unhappy experiences with their BIA trust funds and motivated them to dig deeper for documents to support their complaints. Finally, after a 16-hour marathon on the Internet in the fall of 1998, Dana Dickson, Ruby Withrow's daughter, discovered on an obscure Indian arts-and-crafts site a link to Oklahoma Indian—agency files located at the regional National Archives in Fort Worth, Texas. A family delegation immediately made the trip. "I'll never forget the first time we went down there," says Dickson's cousin Johnnie Flynn. "Dana and I were pulling file after file. One of them was Moses Bruno's. It was three inches thick. I stopped and looked over at my mother and my Aunt Ruby. There were tears streaming down their faces."

They found grocery receipts and bills from JCPenney for socks at 15[cents] a pair and a coat for $14.66. The purchase order from the Indian agency for Moses' first car was there, as were numerous voucher slips endorsed with his tentative, spidery signature. Most important, there were pages of ledger sheets detailing his individual BIA money account.

More than half a dozen visits later, Moses' grandson Leon Bruno has accumulated enough photocopies of documents to fill 19 loose-leaf notebooks. Papers show that Moses' entire 80-acre allotment first came under an oil lease in 1923. Six years later, according to BIA documents, 20 of those acres were sold to two local white men for $1,311, or $65.55 an acre. The family has found contradicting government estimates of the land's royalty value at the time, ranging from $50 to $400 an acre. And documents are unclear about whether Moses Bruno understood before the transaction was completed that the land was being sold. A well was drilled on these 20 acres in 1933 and still pumps to this day.

In 1931 Bruno got permission from the BIA to withdraw 20 separate acres of his allotment from the trust, and he began selling percentages of his oil and gas royalty interest. Four wells were eventually drilled on the remaining BIA-controlled 40 acres and pumped from march 1939 to the end of 1941. It was the practice then for oil companies to send royalty-payment checks for Indian-owned property directly to the superintendent of the local BIA office. Each day the Shawnee office made a deposit via certified mail to the Federal Reserve Bank in Oklahoma City, Okla. The deposit sheet listed the source of each check, its amount and the day's total deposits. Daily entries were also made in the office's cash-receipts journal, registering the payment to each individual Indian account on a ledger card.

Sorting through those old documents, with the lingering resentments the families have toward the BIA, can be confusing. When Dana Dickson began comparing the amounts posted to her great grandfather's ledger card with the sums on the deposit sheets for the same days, she discovered that 10% was routinely funneled from the oil check to a special-deposit account. Dickson and her relatives suspected that corrupt agents were taking the money for themselves. But Ross Swimmer, a Department of the Interior ombudsman working on behalf of Indian-trust beneficiaries, told TIME that the deduction, which was not exclusively to Moses Bruno's account, was simply a fee that the BIA charged for managing the oil and gas properties held by the trust funds.

Nearly two years after the elder Brunos died in 1960, a Shawnee bureau agent suggested that the family sell its remaining 40 acres, along with the property's mineral rights. "[The minerals have only a] nominal value," the agent wrote in a letter to the regional BIA office in Anadarko. The family signed off on the sale, netting a $3,022.50. In 1982 a new oil well was drilled on that land and is still pumping.

The Bruno family acknowledges the pressure the BIA was under during the oil-boom years. In the 1935 annual report of the Shawnee agency, the superintendent called his office "woefully undermanned," handling 1,500 Indian money accounts with only one clerk, who had no modern account machines. "Maybe there were some mistakes made," says Leon Bruno. "[But] a lot of what went on was deliberate." The family estimates that Moses Bruno earned a total of $35,000 from his oil and gas leases. The production figures the descendants unearthed, on just one well on the land that was sold in 1993, amount to almost $70 million.

It is not clear whether the family will ever receive compensation for any miscalculations that may have been made on their land sales and oil leases. Elouise Cobell's class action has stalled in the face of the Department of the Interior's estimate that it would take five years and $335 million just to account for the money from land and mineral leases covering a period of more than 100 years. And Congress is balking at the expense—even though its committees have issued more than one report over the years about gross mismanagement of Native American trust funds. In December the Bruno descendants decided to withdraw from the Cobell suit and hired a lawyer to pursue their own.

"It's not about the money," says Moses' granddaughter Ruby Withrow, a nurse who administers a diabetes program for the Absentee Shawnee tribe. "I want some justice for a man who trusted the United States and was betrayed." The BIA has looked into the family's claims and says that while the records for Moses Bruno's account may not be complete, "no instance of malfeasance was found in the records that we examined." In a fax to TIME, the agency stated that "understandably, the family did not review these files with a historian's commitment to objectivity."

Still, the search for what happened to Moses Bruno's land has produced a new sense of equanimity for his family. There have been several meetings to bring all the descendants—some 200 plus—up to date on the stories the documents tell. Leon Bruno has started a nonprofit corporation, funded by garage sales, raffles and donations from family and friends, that he hopes will eventually allow the family to pay for an organized study of its Potawatomi culture and language. He and his wife Veta attend the annual gatherings of the nine Potawatomi bands, now scattered over several states. Leon has gone through the training and fasting that are required of those chosen as the tribe's honored fire keepers. And he has built a roundhouse on his property in Tecumseh, OK, where family members gather four times a year to light a sacred fire and pray for the memory of their ancestor Moses Bruno.

## HONORING MONROE SWEETLAND

Mr. REID. Mr. President, I would like to say a few words about a citizen of the great western part of America, Monroe Sweetland.

Monroe lives in Oregon, where he has enjoyed a wonderful life of public service. He has been a State Senator, a national leader of teachers, a journalist, and the publisher of a number of small newspapers.

He served in the Pacific with the Red Cross during World War II. After returning home he became the political director for the National Education Association in the western States.

He was a confidant of Eleanor Roosevelt and an ally of President Harry Truman.

His home in Milwaukie, OR, which was built in 1878, is a historic landmark. That isn't just because it is an old house, but also because of the many important people who visited him there.

The most famous visitor was President John Kennedy. In fact, I have been told that Monroe's wife Lillie was the person who suggested to JFK that a rocking chair would ease the pain in his back.

Others who visited Monroe and Lillie included Vice President Hubert Humphrey, Ambassador John Kenneth Gailbraith, and Senators Wayne Morse, "Scoop" Jackson and Estes Kefauver.

Monroe recently turned 94 years old. Although he has been legally blind for several years, he is fond of saying that he has lost his sight, but not his vision. As a former newsman, he still enjoys having the paper read to him by visitors.

He has been called the father of the modern Democratic Party in Oregon, and a founding father of Portland State University.

He is also responsible, more than any other person, for a very important piece of Federal legislation—the Bilingual Education Act of 1968.

That law opened the doors of education and opportunity to young people in the West and other parts of the country who are native speakers of Spanish.

Up until then, these students were often placed in classes where they couldn't understand what was going on, with disastrous results. But in the early 1960s a number of innovative programs began to spring up, including a successful one at Pueblo High School in Tucson.

In 1966, Monroe organized a symposium on the education of Spanish speaking children. Prominent educators and elected officials from Western States came together, and a consensus emerged that bilingual education was a realistic approach to the needs of Spanish speaking students.

U.S. Senator Ralph Yarborough of Texas credited Monroe for his decision to attend the symposium, which influenced him to sponsor the Bilingual Education Act of 1968.

Once the bill was introduced, Monroe Sweetland helped marshal support for it. He arranged witnesses for the hearings, and he persuaded the NEA to endorse it. Without his efforts, it would not have passed.

The Latino community in the United States has come a long way since 1968. But we are still fighting to provide better education opportunities for Latino students. As we continue to press onward, I hope we never forget the contributions of Monroe Sweetland and others who helped pass the Bilingual Education Act of 1968.

On a personal note, my long-time chief of staff Rey Martinez was nurtured in the ways of politics by Monroe. Rey would be the first to acknowledge Monroe's political acumen, and I would be the second. Oregon and our entire country are a better place because of this good man.

## HONORING OUR TROOPS

### DEATH OF SGT CORY R. MRACEK

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Cory R. Mracek, a fellow Nebraskan and sergeant in the United States Army. Sergeant Mracek was killed on January 27 when his patrol was attacked near Iskandariyah, Iraq. He was 26 years old. Sergeant Mracek served in the 3rd Battalion, 319th Airborne Field Artillery Regiment, 82nd Airborne Division, based in Fort Bragg, NC.

A resident of Hay Springs, NE, Sergeant Mracek was a dedicated soldier who was committed to his family and country. Sergeant Mracek enlisted in the Army after graduating from Hay Springs High School in 1995. His mother, Pat, said her son was a good soldier who "was very proud of his country," and loved serving in the Armed Forces.

In addition to his mother, Sergeant Mracek is survived by his father, James, and sisters, Stacy and Heather. Our thoughts and prayers are with each of them at this difficult time.

Sergeant Mracek and thousands of brave American service men and women confront danger every day in Iraq and their tremendous sacrifices must never be taken for granted or forgotten. For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Sgt. Cory Mracek.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Fort Wayne, IN, on March 29, 2002. John Runner, a 34-year-old gay man with disabilities, was found severely beaten in his home. He had also suffered substantial burns caused by hot bacon grease. Part of his brain had to be removed during emergency surgery. Law enforcement agents allege that Runner's cousin and roommate, Maurice Ellis, found Runner in bed with another man and an argument ensued. Investigators say that Ellis proceeded to beat and torture Runner over a 12-hour period. Runner was unable to defend himself due to his disability.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## THE FEDERAL BUDGET

Mr. VOINOVICH. Mr. President, I rise today to discuss an issue that I have been known to have some thoughts on from time to time and that is our Nation's fiscal situation and this body's approach to its budget responsibilities.

First, I would like to congratulate my colleagues for passing the Omnibus Appropriations bill. In this bill, we funded all of the President's priority items requested in the fiscal year 2004 budget and still restricted discretionary spending to $876 billion.

I recognize that many people were dissatisfied with this legislation. Some people believe Congress spends too little and last year my colleagues on the other side of the aisle offered amendments that would have added over $87 billion to total spending in fiscal year 2004. Other people believe Congress spends too much and asked President Bush to veto the Omnibus Appropriations bill because it contains too much "pork". It seems that neither extreme was pleased by the fiscal result, which may be the best indication we did the right thing. I will not claim the fiscal year omnibus is perfect. Nevertheless, this bill represents the best possible compromise between true fiscal discipline and Congress' desire to spend.

Unfortunately, this is our eighth consecutive year of compromising fiscal discipline and the American people are beginning to wonder when we will ever get our act together. The last time discretionary outlays authorized by Congress were lower than spending requested by the President was in 1996. According to the Cato Institute, real discretionary spending increases in fiscal years 2002, 2003 and 2004 are three of the 10 largest annual increases in the last 40 years. Also, the Congressional Budget Office reports that if current appropriations maintain the same rate of growth we have given them since 1999, we will increase discretionary spending by $2.7 trillion over 10 years and every penny of added spending will be reflected in the Federal deficit and debt.

Some people may take comfort in CBO's baseline projections that show the budget reaching surplus in 2013. Let me tell my colleagues these projections should not lull us into a false sense of complacency.

First, CBO itself explains the baseline projections must estimate the future paths of Federal revenues and spending under current laws and policies. The baseline is therefore not intended to be a prediction of future budgetary outcomes. Simply put, the CBO baseline projection assumes Congress will restrict the growth of spending to the rate of inflation, less than 3 percent a year and less than half its current rate of 7 percent. CBO also estimates that Congress will allow Federal revenues as a percentage of GDP to increase from 15.9 percent to 20.1 percent, almost a one-third increase.

Does anyone seriously believe Congress will restrict spending or increase taxes by the amounts required to meet the CBO projections? I wish I could say that I believed these projections but I outgrew fairy tales a long time ago.

Second, if we are honest with ourselves, many people just do not think deficits are important anymore, the commonly heard refrain from some of my colleagues is that Ronald Reagan proved deficits don't matter. Meanwhile, some people only seem to care about deficits when they get in the way of increased spending.

In 1995, the first year Republicans controlled Congress, spending grew by $25 billion. In 2004, with Republicans still in control of Congress, spending will increase by $224 billion. Essentially, the amount we increase spending each year has grown tenfold in just 9 years.

Well, I am here to tell you deficits are important. After 10 years as Mayor of Cleveland and 8 years as Governor of Ohio, I can tell you exactly why deficits are important. When a local or State government allows its finances to become dangerously unbalanced, creditors demand higher and higher premiums on municipal bonds until interest rates become unsustainable. Contractors withhold goods and services or demand strict payment terms as a condition of doing business. Taxes are often raised, which has a serious impact on businesses and families. Finally, government leaders are forced to make draconian cuts in public services. Families and businesses often seek better opportunities elsewhere, because their local government leaders cannot solve the problems or provide government services such as school maintenance, fire and police protection and hospital services.

This downward spiral is not limited to state or local governments. Entire nations in South America, Eastern Europe, Southeastern Asia and elsewhere around the globe have followed this well worn path to fiscal demise. As much as we may like to think our Nation enjoys special protection from the laws of economics, the fact is that sooner or later our own fiscal irresponsibility and indebtedness will catch up to us. No government is immune to the consequences of deficit spending. Every government, State, local or national, that steadily increases spending with no means to pay the bill sooner or later pays a terrible penalty.

I know full well the penalty governments pay for fiscal foolishness. I took over as Mayor of Cleveland just after the city had gone into default and it took us 7 years to dig out of that hole. The, when I became Governor of Ohio, I inherited a $1.5 billion debt and had to immediately make over 700 emergency spending cuts by executive order and cut spending four more times during my administration.

I am here to tell my colleagues that for the United States, that time is close at hand. Our Federal budget is in dire condition. We face a sea of red ink as far as the eye can see. And perhaps the worst thing about it is that few people in this body appear to recognize how bad our predicament is.

Since I came to the Senate in 1999, this body has increased Federal spending an average of 7 percent per year. If we maintain this pace, Federal spending will double every 10 years. Just 3 years ago, we enjoyed a Federal surplus and we now will suffer from major deficits for at least the next 5 years.

From the time I first arrived in Washington, I have worked hard to return the Federal Government to a balanced budget. For a short time, after hand-to-hand combat, we met our goal and for 2 years, fiscal years 1999–2000, we balanced the budget without raiding the Social Security surplus. Unfortunately, our success in balancing the budget was short-lived. In the blink of an eye we returned to spending the Social Security surplus and running large budget deficits. Today, instead of reducing our $6 trillion national debt, we are expanding it.

In 2003, this past fiscal year, we suffered a budget deficit of $375 billion. This means that we spent the entire $161 billion Social Security surplus, and on top of that we had to issue $375 billion in new debt. And, if we are honest about the numbers, next year, and the next decade, look even worse.

Thankfully, in the omnibus bill, we avoided adopting many of the irresponsible spending amendments offered by some members of this body. So many of my friends on the other side of the aisle keep talking about how bad the deficits are, while at the same time, they keep supporting proposals to spend more money which would require borrowing even more next year. Since I joined the Senate in January 1999, there have been 190 attempts to waive the Budget Act, 67 last year alone. It defies logic for any group of Senators to complain about the deficit when they are making 67 attempts to waive the budget act and increase spending. I shutter to think what our deficit would look like if all 67 attempts had been successful. I find it troubling that many of my friends on the other side of the aisle cry crocodile tears about the size of the deficit while making 67 attempts to waive the budget act.

The proposals we did not pass total $87 billion for fiscal year 2004 alone and would have cost over $494 billion over the next 10 years, all of which would have added to the deficit. In other words, if these amendments had been approved, next year's deficit would be $564 billion instead of $477 billion. Even at today's very low interest rates of less than 5 percent, these amendments would have added $1.7 billion in additional annual interest payments every year. Apparently some people see very little difference between paying $200 billion a year in interest and $202 billion; but where does it end? How much of our children's future and even our own secure retirement can we mortgage away?

Nevertheless, there is an optimistic message in these numbers. There may have been 67 efforts to waive the Budget Act in 2003 but only three were successful. For all its well publicized problems, the budget process is working. The super majority points of order, established to exert at least a small level of fiscal discipline, effectively prevented 64 of 67 efforts to increase spending.

I believe it is time to make the Budget Act even more effective. Therefore I will be working to include new points of order in the upcoming fiscal year 2005 budget resolution. These points of order will help end one of the most dishonest budget practices in Washington: the use of Social Security Trust Fund revenues to finance general government expenses.

One of the biggest problems here in Washington when it comes to the budget is getting the facts straight. For example, it is commonly thought—and reported in the media—that we only suffered a $375 billion budget deficit last year. However, this figure ignores the fact that we borrowed and spent $161 billion from Social Security surplus on top of the $375 billion we had to borrow from the private markets.

We spend the Social Security surplus and leave the so-called Social Security trust fund full of government IOUs. Then, we pretend the money just dropped from the sky, and ignore the fact that we borrowed more money—not from the private markets, but from future Social Security beneficiaries. Like most Americans, I think it is wrong to use this money to fund the day-to-day operations of the government. This is no way to manage the finances of our Nation. We must adopt budget process mechanisms that encourage fiscal responsibility, highlight the future consequences of our current decisions and limit the potential for bookkeeping chicanery that would make an Enron accountant blush.

But I am not under any illusions that simply tinkering with the budget rules will restore fiscal discipline. Congress has made an art form out of skirting the budget rules it sets for itself, and I have no doubt that we could come up with a number of creative ways to avoid these rules as well.

Instead, we need to give the American people the full picture about the budget outlook so that the political pressure will be created for Congress to play by the rules and restore fiscal discipline. Last year I worked closely with Chairman NICKLES and we were able to restore several important budget enforcement mechanisms such as: extension of supermajority enforcement of budget points of order; extension of discretionary spending limits in the Senate; extension of restriction on advance appropriations in the Senate; tighter restrictions on emergency spending legislation; and restoration of pay-as-you-go point of order in the Senate.

Also, as many of you know, last year I offered an amendment to the budget resolution requesting the CBO prepare a report describing the long term unfunded liabilities of the U.S. government. This amendment was approved by unanimous consent and CBO will shortly be providing us with this valuable information. I look forward to sharing this information with my colleagues. This year, I will go further and work to include a provision in the budget resolution directing CBO to include interest costs in its cost estimates for legislation. Many Members are surprised to learn that CBO does not factor in additional interest expense when it reports the cost of proposed legislation. It is as if we went to buy a house or car and completely ignored the financing costs and amortization schedule.

Today, our national debt stands at $6.8 trillion. If our new CBO figures come to fruition, we will add a cumulative deficit of $6.1 trillion from fiscal years 2004–2014, which would bring our debt up to a whopping $12.9 trillion. At this level, the interest payments on the national debt would exceed $600 billion, which is nearly twice as much as we currently spend on non-defense discretionary spending.

And who is going to end up paying for this debt? It won't be members of this body—no, instead it will land squarely in the lap of our children and grandchildren. I don't know any parents or grandparents who would think it was a good idea to run up huge personal debts that their children or grandchildren would have to pay at the time of their death, but that is exactly what we are doing with out Federal budget.

It is immoral to bequeath nearly $13 trillion of debt to our children and grandchildren. And most of the American people agree with me. I know this, because when people come into my office asking for money for a particular project, I always ask them the same question. That question is: is this particular priority worth putting your children and grandchildren further into debt? And it's remarkable, their attitudes immediately change, and many of them reconsider.

So the problem isn't that the American people aren't willing to sacrifice and make hard choices. The problem is that Congress hasn't had the guts to tell the truth about what we can and can't afford. We in Congress don't want to say no to anything. We want to have it all.

Over the past 10 years, Congress has increased spending at rates that would stagger the average family. Between 1995 and 2004 the growth in median income for wage earners in our Nation was 6 percent. There is not a single department in the entire Federal government that has been asked to restrict its growth in spending to less than 10 percent. The most frugal department, the Treasury, increased its spending by 10 percent or more than 1.5 times the level enjoyed by median income earners. The Department of Labor, guardian of the interests of the average workers, grew its spending by more than 99 percent or 16 times the increase earned by the workers it represents.

Those are the facts. Congress needs to wake up and smell the coffee. Unless we change course, start prioritizing, making hard choices, and stop spending like drunken sailors, we are going to saddle our children and grandchildren with a debt so large it boggles the mind.

I have no illusions about the enormity of the task at hand to restore fiscal discipline. It's a big job, but it is nothing short of a moral imperative. In order to avoid a total breakdown of the budget and appropriations process, President Bush will need to work very closely with Congress. Given the competing priorities in this body, it could be very difficult to increase Defense and Homeland Security by 9 percent while limiting the growth in domestic spending to only 1 percent. I am prayerful the Budget Committee will recognize the reality of these numbers and allocate sufficient funding to domestic budget function areas to gain the support of an overwhelming majority of Senators. To fail to do so would invite considerably more than 67 attempts to waive the budget act and if the budget is enacted with an arrow margin, I am not sure we will have the votes to defeat all of them.

And on top of all the pressure we face to increase spending, many of my colleagues would like to permanently extend the temporary tax reforms enacted last year, which would mean even less revenue than CBO has assumed in its most recent budget projections. So if we make these tax reforms permanent, we will need to either cut most of the spending in the discretionary portion of the budget or dig ourselves into an even deeper deficit hole.

Nor has anyone in the administration or in Congress seriously address the need to control mandatory spending. More than 55 percent of Federal spending consists of so called "off budget" mandatory entitlements. These mandatory programs may be off budget when we vote on appropriations bill but their costs weigh heavily on the budgets of future generations.

We have to recognize that everything we do this year will be measured against the backdrop of ever increasing deficits. It is time to take them seriously and begin to make the difficult choices needed to restore fiscal responsibility.

This will not be politically easy and I understand that. There is no shortage of important things the Federal Government could be doing across the Nation. And, I support many of those spending ideas.

But the simple, undeniable fact is that we can't have it all. We have to make hard choices.

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## FIDEL CASTRO

Mr. BUNNING. Mr. President, when we talk about national security and human rights and our support of democracy, much of our attention focuses on Iraq, other countries in the Middle East, or North Korea. But we cannot forget that just 90 miles off our shore, a dictator named Fidel Castro continues to stomp his boot down on democratic freedoms and human rights in Cuba.

After all, the cause of freedom for the Cuban people is no less important than the cause of freedom for millions in the Middle East and other parts of the world. And let me be clear to some of my fellow Americans, Fidel Castro is a ruthless dictator that jails, tortures, and even murders those that seek liberty and democracy in his own country.

Just ask Dr. Oscar Biscet's wife. In Spring of 2003, while the world's attention was on Iraq, Castro arrested Dr. Biscet and over 70 other Cuban advocates of democracy. Dr. Biscet and his peers did not promote violence in their quest for a free Cuba. They merely asked for the God-given right to speak freely, a plea for basic human rights, and the granting of free and fair election. Instead, Castro gave them harsh prison sentences. Amnesty International has adopted all of these men and women as "prisoners of conscience."

Dr. Biscet is now nearly a year into his 25 year sentence for peacefully opposing the Castro regime. In a letter smuggled out of jail to his wife in November of 2003, he described his imprisonment: "The characteristics of the cell violate the law. There are no windows. There are only walls. Always in darkness . . . The sky can't be seen." The International Committee of the Red Cross, which last inspected Cuban prisons in 1986, should be allowed back into Cuba immediately. Others suffer similarly in jail. In many cases Castro and his thugs have killed his own citizens and dissidents who advocated freedom or tried to be free.

While regular Cuban citizens suffer economic hardships, the regime in Havana has used tourism, foreign investment and commerce to strengthen its stranglehold over its people. Yet many member of Congress support trading with Cuba and lifting the travel ban. This approach will not bring democracy to Cuba.

Europe and Canada have never imposed the type of travel restrictions that the United States has imposed. The large increase in travel from people from these free countries has not led to democratic reforms in Cuba. Actually, the opposite has been happening. As Castro has collected cash from these foreign tourists, he has increased his repression.

The tourist trade in Cuba is controlled by Castro's totalitarian regime. A system of tourist apartheid has been implemented whereby ordinary Cubans are denied equal access to hotels, beaches, restaurants, clinics, and hospitals set aside for tourists. Meanwhile, tourists are put in hotels and enclaves that are literally walled-off from the rest of Cuba and every employee of those hotels must be hired through the Cuban government. Thus, the money spent at these hotels goes directly to feed Castro's government. The money tourists spend on hotels and meals is the same money used to pay Castro's thugs that imprison Dr. Biscet and other beacons of democracy in Cuba.

President Bush has been steadfast in his support for the freedom loving people of Cuba. He has threatened to veto any bills that loosen travel and trade restrictions with Cuba. He has taken a bold stand for the good of the Cuban people. The Senate has also acted. We passed S. Res. 97 calling for the release of Castro's political prisoners shortly after Castro jailed Dr. Biscet and his peers. Also, last summer we passed S. Res. 62 calling on various human rights organizations to take action in regard to the situation in Cuba.

The international community needs to address the situation in Cuba as well. Tragically, the United Nation's Commission on Human Rights that should be out front and center condemning these atrocities has Cuba sitting as a voting member.

We must continue to support advocates of democracy currently languishing in dirty Cuban jails with hardened criminals and murderers. More than at any time in our ongoing struggle to bring freedom to the Cuban people we need to provide a consistent, unified front. We need to support the Bush Administration's policies towards Cuba. We endanger lives and prolong the suffering of the Cuban people by supporting travel and trade with Cuba.

Not many people know that I once lived in Cuba. Before Castro took power, I played alongside many Cubans for a baseball team in Havana. I saw the beautiful Cuban beaches and got to know the country and its people well. I have fond memories of Cuba and my wife Mary and I would like to go back and visit someday.

But as long as good Cubans like Dr. Biscet and others are jailed by a ruthless dictator like Fidel Castro, I will not travel to Cuba I will wait until the day I can visit a free Cuba—A Cuba that respects human rights and free speech; a Cuba where children are not brainwashed under Castro's propaganda classes and where their spirits are free, where they can grow up without fear, and where they can grow up in freedom.

## ADDITIONAL STATEMENTS

### TRIBUTE TO THE ST. VINCENT DE PAUL COMMUNITY PHARMACY

• Mr. BUNNING. Mr. President, I pay tribute to the St. Vincent de Paul Community Pharmacy of Crescent Springs, KY on its outstanding dedication to the community.

The St. Vincent de Paul Community Pharmacy has been in operation for nearly 2 years now. Since then it has provided an invaluable community service by filling expensive drug prescriptions for the needy for free.

In this era of high costs for prescription drugs, it is very comforting to know that there are groups such as St. Vincent de Paul which are helping low-income people afford the prescriptions that they need. In its first 6 months of operation alone, the pharmacy has 2,000 prescriptions totaling $180,000 in value. These efforts are made possible by concerned citizens and volunteer pharmacists that dedicate their time to this worthy endeavor.

The people of northern Kentucky, and across the entire Commonwealth, can all be proud of the dedication and kindness shown by the people at the St. Vincent de Paul Community Pharmacy. In order for our society to continue to be at its best, we must have organizations like St. Vincent de Paul Community Pharmacy in our communities and our lives. Kentucky is in your debt, and you make us all proud.•

### DEPARTURE OF LESLIE BROWN FROM RECLAMATION

• Mr. SMITH. Mr. President, today I bid farewell and best wishes to Ms. Leslie Brown, who leaves the Bureau of Reclamation's Washington office after fifteen years of dedicated service.

For the majority of her 15 years at the Bureau of Reclamation, Leslie has served in their office of Congressional Affairs with distinction and efficiency and without regard to ideology or partisanship. During my tenure both as chairman and as ranking member of the Water and Power Subcommittee of the Energy and Natural Resources Committee, Ms. Brown worked closely with my staff to make sure that testimony was submitted in a timely manner. She always worked to ensure that we got the information we needed from Reclamation in order to address many of the water resources issues facing Oregon and the western United States. We will miss Ms. Brown at Reclamation. With her there, we always knew we could get the information and assistance we needed in a timely manner and always with a smile on her face.

While Reclamation and those of us in this body who work with that agency are sad to see her leave Reclamation, I am pleased that Ms. Brown will continue to work with the Congress from her new post in the Congressional Affairs office at the Department of Agriculture's Rural Development—where she will continue to help Congress address the needs of rural communities throughout the United States.

Mr. President, I ask you and others in this body to join me in wishing her good luck and thank her for everything that she has done for me, for Oregon, for the Energy and Natural Resources Committee and for the Senate.•

### HONORING MYRON EDLEMAN

• Mr. JOHNSON. Mr. President, I today publicly recognize Myron Edleman on his retirement from the Farm Credit Council. He has had the honor of representing farmers and ranchers in American agriculture since the mid-1980s when he was first elected to his first Farm Credit System entity board of directors. Over the years, the system configurations may have changed but Myron's service to the system remains as dedicated as it was when he first walked into a board room. He has served as an association director, a bank director and as representative on the Farm Credit Council. Additionally, he has been appointed to select committees, advisory committees, search committees and other system assignments too varied and too numerous to itemize. His tenure at Farm Credit has been mutually rewarding. He takes with him friendships and associations that he will forever treasure and leaves behind a legacy of commitment and effectiveness which few involved in the system have equaled.

Myron was born and grew up in Willow Lake, SD. He was an outstanding student at Willow Lake High School and served as valedictorian of his senior class. He lettered 16 times, once a year for football, basketball, and track. He was named to All-State teams in both basketball and football. Despite an opportunity to try out as a catcher for the Chicago Cubs, Myron instead opted for a football scholarship at Kansas State University. But his love, known even then, was ranching and instead of pursuing his college education, he returned to Willow Lake to go to into partnership with his father.

Returning to Willow Lake, he married his high school sweetheart, Jean Brower, raised three children, and was a vital part of this small South Dakota community. He served as an elder and a deacon of the Presbyterian Church and was a member of the Gideons. He served also on the Willow Lake Farmers Elevator board of directors for many years. He and his father worked together raising purebred Hereford bulls and today's Edleman Ranch is a fourth generation operation which he owns and operates with his eldest son, Marshall. Together they run a Red Angus commercial cow/calf operation. He is also involved with sons Marshall and Jason as joint owners of the Split Rock Cattle Company. Additionally, he is chairman of Beef Origins, a family-owned business which is involved in a computer based livestock identification program. Unexpectedly, Jean passed on in 1989.

Myron's in-depth knowledge of both the livestock and farming industries has proven invaluable in his ability to represent farmers and ranchers in a positive and effective manner. His ability to articulate that knowledge and share it in a meaningful way has also been essential to the success he has achieved as a director. And his unwavering commitment has been without peer. No matter how last minute the meeting, how inconvenient the conference call time or how many times flights had to be re-booked, Myron has always been there, on time and on top of the issues. Add to this mix his strong personal characteristics of honesty, integrity and a keen intelligence, plus a handshake that conveys not only strength but honor, and it is easy to see why Myron is widely regarded as the most respected and effective director in Farm Credit System.

Always able to separate his personal politics and opinions from his directorial duties, Myron has worked unceasingly for agriculture and those who are part of the industry in an unbiased and professional manner. His countless contributions will be missed not only by his colleagues and his friends, but by agriculture as a whole. We are grateful for his service and wish continued success for his future. Myron looks forward to spending his retirement with his wife Anne whom he married in 1992.

It is with great pleasure that I share his impressive accomplishments with my colleagues.•

### TRIBUTE TO BRIGADIER GENERAL WILLIAM T. BESTER

• Mr. INOUYE. Mr. President, I would like to recognize a great American and a true military hero who has honorably served our country for 35 years in the Army and Army Nurse Corps: BG William T. Bester. Brigadier General Bester has had a long and distinguished military career, which he began as a staff nurse before obtaining advanced education as a nurse anesthetist. He served at various medical facilities including Madigan Army Medical Center in Tacoma, WA, Okinawa, Japan and Fort Sill, OK. His tremendous leadership skills led to his selection as a nurse instructor at the Army Medical Department Academy of Health Sciences in San Antonio, TX, and as a nurse recruiter in Indiana. He also served as a personnel management officer at the Army personnel command in

Alexandria, VA, and as deputy commander for nursing at the medical facility at Fort Ben Harrison, IN. Brigadier General Bester served with distinction in a series of assignments as deputy commander for nursing at the Medical Department Activity, MEDDAC, at Fort Leavenworth, KS, deputy commander for nursing for the Sixty-seventh Combat Support Hospital, Wuerzburg, Germany, commander for Medical Task Force 67 assigned to provide comprehensive medical support to the National Support Element in Tazar, Hungary, during Operation Joint Endeavor, and finally commander, MEDDAC and director of health services, Fort Jackson, SC. In every assignment, Brigadier General Bester was recognized for his loyal, dedicated, and proactive leadership throughout the military community.

In 2000, Brigadier General Bester was appointed the twenty-first chief of the Army Nurse Corps. As chief, Brigadier General Bester planned, implemented and monitored all policy and programs for 3,415 Army nurses and over 13,000 reserve component nurses. He successfully implemented numerous recruiting and retention initiatives in his tireless pursuit to combat the impact of the nationwide nursing shortage on the nurse corps and the Army civilian nurse workforce. Brigadier General Bester was instrumental in obtaining congressional sanctioned direct hire authority for civilian registered nurses. This dramatically improved the fill rate of professional nurses in Army medical treatment facilities. With regard to recruiting Army nurses, Brigadier General Bester championed expansion of Reserve officer training corps nursing scholarships to almost 200 schools across the country and expanded the number of available slots for the Army Enlisted Commissioning Program for Nursing from 55 to 75. To meet the growing need for nurse educators and researchers, Brigadier General Bester and his Federal Nursing Service colleagues worked with the Uniformed Services University of the Health Sciences and Congress to successfully establish a Ph.D. program in nursing science and a perioperative clinical nurse specialist program at the Graduate School of Nursing.

As the Assistant Surgeon General for Force Projection and the Deputy Chief of Staff for Operations, Health Policy and Services, Brigadier General Bester shouldered the most complex policy and readiness issues. He consistently achieved positive results by fostering harmonious working relationships within the Pentagon and the Office of the Army Srugeon General. Brigadier General Bester was at the forefront of efforts to articulate the "medical position" to Army colleagues, Congress, TRICARE beneficiaries, and the sister services. He effectively oversaw and synchronized the conversion of the 91B and 91C Military Occupational Specialty into the 91W Future Medic—one of the most important and wide-ranging medical training initiatives of the past 20 years. Brigadier General Bester also championed the medical reengineering initiative changes to the medical force structure, quality management techniques for the Army Medical Department, improved civilian personnel hiring incentives, and improved Reserve component integration.

As commander of the U.S. Army Center for Health Promotion and Preventive Medicine, Brigadier General Bester effectively guided the only worldwide, medically matrixed health promotion and preventive medicine organization within the Department of Defense. He accelerated a transformation that enhanced the center's relevance to the Army and its ability to deliver effective support across the operational spectrum in the wake of the September 11, 2001, terrorist attack on America. His emphasis on deployment occupational and environmental health issues, and the provision of operationally focused, health risk assessment guidance to combatant commanders within an operational risk management framework, directly contributed to saving the lives and health of our deployed soldiers in Turkey, Afghanistan, Iraq, and the Persian Gulf.

Brigadier General Bester's accomplishments are eloquent testimony to his talent, dedication, loyalty, and determination to ensure that the best possible medical and preventive medicine support is always available to our soldiers, civilians, and family members. Brigadier General Bester has established a legacy of superior performance to be emulated by all, which reflects exceptionally on himself, the United States Army, the Department of Defense, and the United States of America. I extend my deepest appreciation on behalf of a grateful nation for his dedicated service. Congratulations to my friend, Brigadier General Bill Bester. I wish him Godspeed.●

## IN MEMORY OF SEBASTIAN GARAFOLO

● Mr. DODD. Mr. President, I speak in memory of the Honorable Sebastian Garafolo, who passed away on Wednesday, January 21, 2004 at 72 years of age.

Seb, as he was known, served the people of Middletown, CT for over 31 years, including four terms as one of its most popular mayors. This was no small feat. Seb Garafalo was a Republican who was the mayor of a city with three Democrats for every Republican. But his hard work and his kind spirit won him supporters and friends on both sides of the aisle. Seb Garafalo was a friend and a gentleman first, and a politician second.

From an early age, Seb Garafolo was an individual who wanted to make a difference. As soon as he graduated high school in 1951, he enlisted in the Connecticut National Guard. During the Korean War, he was called up to active duty and was stationed in Germany. He reached the rank of SSG before being honorably discharged. For many years to come, Seb Garafolo would be intimately involved in veterans' causes in Middletown, including the founding of the Middletown Military Museum, Inc. just this past year. Until the day he died, Seb Garafolo never forgot his military service and those with whom he served.

After years of participating in community organizations, from the Elks Lodge and the American Legion to the St. Sebastian Church and the Holy Name Society, Seb Garafolo began his formal public service when he was elected to the Middletown Common Council in 1973. In 1983, he was elected to his first term as mayor. He would hold that post until 1989, and then again from 1991 to 1993. Seb helped renovate Middletown's schools, roads, and parks, and took the lead on building a trash-to-energy plant. He even put his own life on the line when he wore a wire for the Middletown Police Department while meeting with individuals suspected of organized crime.

After his final term as mayor, Seb spent 6 years as Middletown's tax collector, and then was elected, once again, to the Common Council. In 2001, he closed out a long and accomplished career by serving as assistant district director for my friend and colleague Congressman ROB SIMMONS.

Seb's commitment to service was obviously extraordinary. And that kind of commitment extended to his private life as well. Seb was married to his high school sweetheart, Marie, and they had two sons, Michael and Joseph. When Seb was diagnosed with the disease that eventually would take his life, he was given six months to live. But he was determined to be there with Marie to celebrate their 50th wedding anniversary. So for 2½ years, Seb Garafolo fought cancer with that dream in mind. And just a few months before his passing, he and Marie did have that golden anniversary celebration.

On behalf of the United States Senate, I offer my thanks to Seb Garafolo for his years of service to the people of Middletown. And I offer my most heartfelt sympathies to Marie, Michael, Joseph, Seb's sister Josephine, his grandchildren and great grandchild, and to everyone who knew and loved him.●

## TRIBUTE TO JOHN A. WILLIAMS, SR. OF PADUCAH

● Mr. BUNNING. Mr. President, I pay tribute today to John A. Williams, Sr. of Paducah, KY for his diligence and commitment to the community in which he lives. Mr. Williams was honored for his civic work at the Paducah Area Chamber of Commerce Annual Dinner on Thursday, January 29, 2004.

In 1965, John A. Williams founded Computer Services, Inc., CSI, under the initiative to provide the finest bank date processing services in Western Kentucky and Illinois. CSI, which began with six employees and three customers, was an agreement of three Paducah banks to consolidate for the initiative. Mr. Williams continues as chairman of the board for CSI, which is now ranked as the fourth largest bank data processing company in the nation and continues to bring new technology and jobs to the region it serves.

Additionally, Mr. Williams has served on the board of every major business, civic, and cultural organization in Paducah. He is currently on the board of Paducah Power Systems, and has served on a number of Governors' Commissions for the Commonwealth.

The Paducah Area Chamber of Commerce named Mr. Williams Distinguished Citizen for his work in securing money for the Luther F. Carson Four Rivers Center, leading a campaign that raised more the $9 million for the performing arts center. The citizens of Paducah are proud of the beautiful, downtown Four Rivers Center and appreciate Mr. Williams and the other citizens that put so much time and energy into securing the funds for the center. The center opens at the end of February and will provide the entire region with a wide variety of entertainment, cultural, and educational programs.

Mr. Williams is a tribute to Paducah and the entire Commonwealth of Kentucky. I thank the Senate for allowing me to recognize him and the contributions he has made.●

## BILL WORKMAN

● Mr. GRAHAM of South Carolina. Mr. President, thank you for this opportunity to recognize the accomplishments of one of my constituents Bill Workman.

I rise to commend him for his previous work as Mayor of Greenville, SC from 1983 to 1995, his many years of tireless community activities, and his most recent position as vice president of South Carolina District Operations of Piedmont Natural Gas Company. He is scheduled to retire from this position in February 2004.

Mr. Workman also serves as president of the Greenville County Research and Technological Development Corporation and as charter chairman of the Greenville Area Development Corporation.

Over the past few decades, Greenville and upstate South Carolina have slowly been transformed from being a textile capital of the world to a much more diversified economy. Since 1985, engineering, telecommunications, retail and knowledge-based companies have joined manufacturing as major sources of new jobs. There is no doubt Greenville is now one of the Southeast regions' premier cities for business.

Bill Workman played a leading role in this evolution and has made many noteworthy contributions to Greenville and upstate South Carolina.

He served as a past president of the Municipal Association of South Carolina and is a recipient of the Order of the Palmetto, a graduate of Leadership South Carolina, and is listed in Who's Who in America. He was named the 1999 Nelson Mullins Business Person of the Year in Greenville and Volunteer of the Year for 2000-2001 by the South Carolina Economic Developers Association.

Mr. Workman is a graduate of The Citadel and served 2 years active duty. He has worked as a newspaper reporter for the Charleston News and Courier and the Greenville News. He later taught and served as dean of Allied Health Sciences at Greenville Technical College. He served 6 years on the school board of Greenville County and was a founder of the S.C. Literacy Association.

He served as executive assistant for natural resources and economic development for Gov. James B. Edwards. Mr. Workman's selfless efforts also include community economic analyses and siting studies involving hundreds of counties in North America.

He has two sons, three stepdaughters, and three grandchildren and is married to the former Patti Gage Fishburne of Walterboro.

We all appreciate his years of service to his community and wish him the very best in all his future endeavors. Mr. Workman may retire in February from his position with Piedmont Natural Gas, but as his past history has shown, he will never retire from his commitment to making Greenville a great place to live.●

## NTCA 50th ANNIVERSARY

● Mr. DORGAN. Mr. President, I rise today to honor the National Telecommunications Cooperative Association as they celebrate their 50th anniversary. I take great pride in the fact that BEK Communications Cooperative of Steele, ND is among the founding members of NTCA. Forming soon after the Rural Electrification Administration, REA—today known as the Rural Utilities Service—was granted authority to make loans to telephone companies, BEK and its fellow members in the National Telecommunications Cooperative Association, NTCA, have evolved from providing basic multiparty telephone service to offering a full array of advanced telecommunications services.

Rural telecommunications carriers owe a debt of gratitude to REA, and those who sought to expand its role. The idea of expanding the scope and authority of the REA, began in the late 1930s when REA Administrator John Carmody wrote:

> Personally, I have long felt there was a real opportunity for constructive assistance to rural people in the idea of Federal financing of farm telephone lines. It seems to me that the rural people have just as much right to up-to-date communication as they have to modern power. There's no question in my mind but that Government assistance will be required if the job is ever to be completed.

This idea remained just an idea until 1944 when Senator Lister Hill, a Democrat from Alabama, introduced legislation calling for the formation of the Rural Telephone Administration, modeled after the REA. Senator Hill was soon joined in his effort to bring telephone service to rural America by, Representative W.R. "Bob" Poage, Democrat from Texas, who introduced similar legislation calling for the expansion of the existing REA to make telephone loans.

Following 4 years of failed attempts, Congress finally succeeded in passing the telephone amendments to the Rural Electrification Act. On October 28, 1949, President Harry Truman signed the measure into law, which granted the REA the authority to make loans for the extension and improvement of rural telephone service.

Soon thereafter, the National Rural Electric Cooperative Association, NRECA, created a telephone committee, composed of representatives of newly formed joint electric-telephone cooperative organizations. By 1954, representatives from these co-ops, with the encouragement of NRECA, decided that the time had come to form a separate national organization to represent telephone cooperatives.

On June 1, 1954, eight companies, including my constituent then known as BEK Mutual Aid Corporation, along with: Buggs Island Telephone Cooperative, Chase City, VA: Mark Twain Rural Telephone Company, Bethel, MO; Mid-Rivers Telephone Cooperative, Inc. Circle, MT; Pineland Telephone Cooperative, Inc. Metter, GA: Winnebago Cooperative Telephone Association, Lake Mills, IA, Twin Lakes Telephone Cooperative Gainesboro, TN, and North Central Telephone Cooperative Lafayette, TN formed the National Telephone Cooperative Association, which was later renamed the National Telecommunications Cooperative Association.

BEK, whose name was formed by the initials of Burleigh, Emmons, and Kidder counties, was incorporated in 1952, and was one of the first recipients of telephone loans from the REA. In fact, the company received its first REA loan for $371,000 in April 1952 to purchase and upgrade its Hazleton, ND exchange. In 1954, REA approved a second loan for $1,499,000. This funding enabled BEK to expand their service territory with the purchase of several independent telephone companies and to begin the process of establishing modern dial exchanges. The Hazleton exchange became the first to be cut over to modern dial service on March 3, 1956. BEK continued to grow and prosper throughout the 1950's and 1960's. In April 1967, a third REA loan enabled BEK to begin upgrading its system to one party service. By June 10, 1977, all of BEK's 12 exchanges had been upgraded to one-party service.

What began as a dream in the minds of rural residents 50 years ago has evolved into a diverse, state-of-the art telecommunications company serving 6,000 members across 5,700 square miles in a six-county area. Today BEK Communications provides many basic and advanced services including: local and long distance telephone service, dial-up and high speed Internet access, using DSL & satellite technologies, advanced intelligent network features, ISDN, dedicated data circuits, voice mail, automated attendant functions, centrex and more.

BEK's success and its commitment to providing exemplary telecommunications services to its members is indicative of all the rural telecommunications carriers that make up the membership of the National Telecommunications Cooperative Association. NTCA's membership has expanded from eight members in seven States to 558 members spread across 45 States. These small rural telecommunications systems provide voice services to approximately 3,270,000 subscribers over a combined territory comprising some 40 percent of the geographic United States. On average, NTCA member-companies serve rural areas with a population density averaging between one to five customers per square mile, a sharp contrast from the Bell companies average of 130 customers per square mile. Today, NTCA member-companies on average serve 5,100 subscribers. In addition to their traditional voice offerings, most are also engaged in the provision of some combination of Internet, wireless, long distance, paging, and cable or satellite television services.

Through it all, NTCA members have maintained that local touch that can only be found by folks serving their friends and neighbors. With the financial assistance of the Rural Utilities Service, NTCA members remain on the cutting edge of technology by expanding broadband opportunities through such means as fiber-to-the-home projects in communities across this country. NTCA rural telecommunications companies continue to connect the heartland of America to the world. NTCA and its 558 member-companies should be commended for their ever present commitment to rural America.

Happy 50th Anniversary, NTCA.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## TRANSMITTING THE BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005—PM 62

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly to the Committees on Appropriations and on the Budget:

The Budget I am proposing for 2005 is a reflection of this Nation's goals and purpose, and advances our three highest priorities. First, America will prevail in the War on Terror by defeating terrorists and their supporters. Second, we will continue to strengthen our homeland defenses. Third, this Nation is building on the economic recovery that began in earnest in 2003 with policies that further promote growth and job creation. In addition, we will continue to strengthen the domestic institutions that best express our values, and serve the basic needs of all: good schools, quality and affordable health care, and programs that promote hope and compassion in our communities. In meeting these priorities, the Government must exercise fiscal responsibility by limiting spending growth, focusing on the results of Government programs, and cutting wasteful spending.

In 2003, America made great progress in the War on Terror. Afghanistan, which once was ruled by the repressive Taliban regime, now has adopted a new constitution, taking a fundamental step on the path to democracy. In Iraq, the remnants of the Ba'athist regime are being systematically rounded up, and Iraqis are assuming responsibility for their own security and future government. Libya has pledged to disclose and dismantle all of the regime's weapons of mass destruction programs.

These victories do not change a fundamental truth: Our Nation remains at war. In this war, which began on September 11, 2001, our citizens are the strategic targets of our enemy. We have responded in two significant ways: First, we have taken the offensive to hunt down the terrorists, deny them easy refuge, identify and seize their secret finances, and hold them and their sponsors to account. Second, we have moved to secure the Nation's homeland. In 2003, the new Department of Homeland Security began operations in the biggest reorganization of the Federal Government in half a century. Over this past year, we have taken steps to reduce the terrorist threat to Americans here at home, and protect American interests overseas. This Nation has committed itself to the long war against terror. And we will see that war to its inevitable conclusion: The destruction of the terrorists.

Our Budget reflects the continuing importance of providing for the defense and security of the American people. We will continue to provide whatever it takes to defend our country by fully supporting our military, which is performing with great skill and honor in our battles overseas. We also are providing the necessary resources to our law enforcement and emergency personnel at home to meet the new threats posed by terrorists.

Just as we have taken much-needed steps to strengthen our national security, we have also pursued an aggressive agenda to promote our economic security. In 2003, we worked with the Congress to accelerate much of the tax relief that had been passed in 2001, so that Americans could keep more of their paychecks and so that businesses would have more incentive to invest in new jobs and new equipment. As a result, our economy is strong, and growing stronger. Economic output in the third quarter rose at its fastest annual pace in nearly 20 years. More manufacturers reported rising factory activity than at any point in the last 20 years. American homeownership reached its highest level ever. Employment is on the rise. By cutting tax rates on investment gains and dividend payments, we promoted saving, capital formation, and investment—and Americans' holdings in the stock market rose by almost $3 trillion.

There is still more to do, however. We cannot be satisfied until every American looking for work has found a job. We must sustain the momentum of this recovery by making the tax relief passed in 2001 and 2003 permanent. We will continue to open markets abroad for American products. And as the economy improves, we will also confront the challenge faced by workers who must learn new skills to fill new jobs. As a Nation, we must help Americans develop the skills they need to succeed in a highly competitive, highly productive economy. And so this budget continues to support high standards in our schools and proposes a Jobs for the 21st Century initiative to ensure older students and adults can gain the skills they need to find work now.

Economic growth and good stewardship of taxpayer dollars will help us meet another important priority: Cutting the budget deficit brought on by recession and war. We must continue to evaluate each Federal program, to make sure that it meets its goals, and produces the desired results. I propose to hold discretionary spending growth below four percent, less than the average rate of growth of American family incomes. And spending unrelated to defense and homeland security will be held below one percent growth—less than the rate of inflation—while continuing to meet education, health care, and other priorities of this Nation. With this spending restraint and continue pro-growth economic policies, we can cut the deficit in half over the next five years.

Finally, this Budget addresses the needs of a great and compassionate Nation, whose values are strong, and whose institutions of hope are enduring. We are helping communities of faith pull the addicted out of dependency. We are lifting children out of a life of despair by making sure they have mentors, and we will continue to press for improvements in our schools, so that no child is left behind. We are extending hope and healing to millions suffering from the global epidemic of AIDS. We will begin to implement the benefits of our Medicare modernization and reform law, which will bring all our seniors coverage for prescription drugs. And we will make health care more affordable and extend the full benefits of our health care system to more Americans who currently have no health insurance.

Meeting these priorities will require hard work, skill, and the resources of a great Nation. Yet America has always risen to new challenges, and has always set new goals. Challenge and change have revealed the true strengths of this Nation and the enterprise of its people. And as 2004 begins, I am confident those gifts will serve us again, until our work is done.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 2, 2004.*

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6008. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the implementation of the Performance-Based Incentive System; to the Committee on Health, Education, Labor, and Pensions.

EC–6009. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department of Labor's Fiscal Year 2003 Annual Report on Performance and Accountability; to the Committee on Health, Education, Labor, and Pensions.

EC–6010. A communication from the Director, Office of Exemption Determinations, Employee Benefits Security Administration, transmitting, pursuant to law, the report of a rule entitled "Class Exemption for the Release of Claims and Extensions of Credit in Connection with Litigation" (RIN1210–ZA03) received on January 13, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6011. A communication from the Chairman, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled "Fees" (RIN3141–AA16) received on January 13, 2004; to the Committee on Indian Affairs.

EC–6012. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to law, a report relative to the implementation of machine-readable passports; to the Committee on the Judiciary.

EC–6013. A communication from the Under Secretary and Director, United States Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled "Changes to Implement the 2002 Inter Partes Reexamination and other Technical Amendments to the Patent Statute" (RIN0561–AB57) received on January 13, 2004; to the Committee on the Judiciary.

EC–6014. A communication from the Director, Regulations Management, Veterans Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Exclusions from Income and Net Worth Computations" (RIN2900–AJ52) received on January 13, 2004; to the Committee on Veterans' Affairs.

EC–6015. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District, Yolo-Solano Air Quality Management District" (FRL#7607–5) received on January 20, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6016. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Formaldehyde, polymer with a[bis(1-phenylethyl)phenyl]-w-hydroxypoly(oxy-1,2ethanediyl-; Tolerance Exemption" (FRL#7340–9) received on January 20, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6017. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Copper (ii) Hydroxide; Exemption from the Requirement of a Tolerance" (FRL#7341–1) received on January 20, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6018. A communication from the Chairman, Commodity Futures Trading Commission, transmitting, pursuant to law, the fiscal year 2003 Federal Managers' Financial Integrity Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6019. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sulfuryl Flouride; Pesticide Tolerance [Final Rule]" (FRL#7342–1) received on January 20, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6020. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lactic Acid, n-Butyl Ester, (S) and Lactic Acid, Ethyl Ester, (S); Exemption from the Requirement of a Tolerance [Final Rule]" (FRL#7338–4) received on January 20, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6021. A communication from the Secretary, LOCAL Television Loan Guarantee Board, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 2200 and 2201, LOCAL Television Loan Guarantee Program" (RIN0572–AB82) received on January 27, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6022. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Add Yucatan Peninsula to the List of Regions Considered Free of Exotic Newcastle Disease" (Doc. No. 02–036–2) received on January 27, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6023. A communication from the Chair, United States Access Board, transmitting, pursuant to law, a report relative to the Inspector General Act and the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–6024. A communication from the Chair, United States Access Board, transmitting, pursuant to law, a report relative to the Inspector General Act and the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–6025. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Office's Fiscal Year 2003 Inventory of Commercial Activities; to the Committee on Governmental Affairs.

EC–6026. A communication from the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, a report relative to the Federal Managers' Fiscal Integrity Act of 1982 and the Inspector General Act of 1988; to the Committee on Governmental Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DORGAN, Mr. LAUTENBERG, Mr. CORZINE, Mr. GRAHAM of Florida, Mr. DURBIN, Mr. DODD, Ms. COLLINS, Mr. LOTT, Mr. GRAHAM of South Carolina, and Mr. HAGEL)):

S. 2040. A bill to extend the date for the submittal of the final report of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes; to the Select Committee on Intelligence.

By Mr. MILLER:

S. 2041. A bill to provide that pay for Members of Congress be reduced following any fiscal year in which there is a Federal deficit; to the Committee on Governmental Affairs.

By Mr. GRAHAM of Florida:

S. 2042. A bill for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2043. A bill to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building"; to the

Committee on Environment and Public Works.

By Mr. SCHUMER:

S. 2044. A bill for the relief of Alemseghed Mussie Tesfamical; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 2045. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2046. A bill to authorize the exchange of certain land in Everglades National Park; to the Committee on Energy and Natural Resources.

By Mr. BOND:

S. 2047. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the compensation program established by that Act; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. KERRY, Mr. REED, and Mr. CHAFEE):

S. Res. 295. A resolution congratulating the New England Patriots on their victory in Super Bowl XXXVIII; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 741

At the request of Mr. GREGG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 894

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 976

At the request of Mr. WARNER, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Connecticut (Mr. DODD), the Senator from Oregon (Mr. WYDEN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1092

It the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1109

At the request of Mr. TALENT, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1109, a bill to provide $50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

At the request of Mrs. DOLE, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1630, supra.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 1786

At the request of Mr. ALEXANDER, the names of the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. LEAHY), the Senator from Iowa (Mr. HARKIN), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. DORGAN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from New Jersey (Mr. CORZINE), the Senator from Oregon (Mr. SMITH), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Vermont (Mr. JEFFORDS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1949

At the request of Mr. BIDEN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1949, a bill to establish The Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict reconstruction, and for other purposes.

S. 1999

At the request of Mr. DASCHLE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 1999, a bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs.

S. RES. 170

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 170, a resolution designating the years 2004 and 2005 as "Years of Foreign Language Study".

S. RES. 292

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. Res. 292, a resolution designating the week beginning February 2, 2004, as "National School Counseling Week".

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DORGAN, Mr. LAUTENBERG, Mr. CORZINE, Mr. GRAHAM of Florida, Mr. DURBIN, Mr. DODD, Ms. COLLINS, Mr. LOTT, Mr. GRAHAM of South Carolina, and Mr. HAGEL)):

S. 2040. A bill to extend the date for the submittal of the final report of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes; to the Select Committee on Intelligence.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LIEBERMAN. Mr. President, today Senator MCCAIN and I are introducing legislation to extend the life of the National Commission on Terrorist Attacks Upon the United States so that it can complete its critically important investigation into the causes of the September 11th terrorist attacks, which claimed the lives of nearly 3,000 innocent people.

Under legislation Senator MCCAIN and I authored in December 2001 to create the Commission, its final report was to have been completed by May 27, 2004. The Commission itself has asked for more time. So we are now proposing to extend that deadline until January 10, 2005 and to provide an additional $6 million for the Commission to complete its work. Senator MCCAIN and I are grateful to the Minority Leader, Senator DASCHLE, for joining us in this effort. We are also happy to have the support of Senators DORGAN, LAUTENBERG, CORZINE, GRAHAM, DURBIN, and DODD. In the House, Representatives FOSSELLA, SHAYS, HINCHEY and EMANUEL are expected to introduce companion legislation this week, and we welcome their support as well.

We want the Commission's final report to be as searching and complete as possible. We owe that to the memories of the 3,000 victims and their families. And we owe it to the Nation as a whole. In fact, our future security depends upon it.

George Washington once said we should look back "to derive useful lessons from past errors, and for the purpose of profiting by dear-bought experience." That is the precise mission of this Commission to better understand what went wrong so we can prevent such a catastrophic attack from ever happening again. The Commission simply needs more time to do that.

From the beginning, Senator MCCAIN and I have been motivated by the experience of the families of victims of September 11. Above and beyond the grief of their losses, they have endured terrible pain in not knowing the whole account of how something so horrific could have happened to them and those they loved. It was a tribute to the power of the families' message that our legislation creating the Commission passed the Senate on September 24, 2002, by a resounding vote of 90-8. And it is a tribute to the enduring power of their message that Senator MCCAIN and I are seeking this extension.

Last week, the Commission asked Congress for at least an additional 60 days to finalize its interviews, hearings, and report. The families, however, expressed concern that two months may be an inadequate amount of time to accomplish all that must be done. They have called for a seven-and-a-half month extension so the Commission can conduct all the public hearings it had originally intended to hold, so that it can conduct thorough reviews of the President's daily intelligence briefings—a process barely underway—and so that it has the time to deal with the Administration's anticipated objections to declassifying material in the final report. Indeed, the Commissioners I asked have confirmed that they can benefit from more than the minimum two months requested.

I have therefore been convinced by the families and the Commissioners that the extra time is necessary. But I would also warn the Administration that this extension is not an excuse to engage in additional dilatory tactics.

I add this warning because the Bush Administration has a long record of opposing this Commission and an equally long record of making its work more difficult. Ever since Senator MCCAIN and I first joined forces on this issue, we have faced White House intransigence. The President opposed the Commission for 10 months until the eve of a Senate vote he knew he would lose. During final negotiations over the details of the legislation, the White House negotiated to keep the Commission's duration as short as possible, rather than give it ample time to do a thorough job.

Once the Commission got underway, the Administration hampered the Commission's progress through slow document production and other stalling tactics, limiting the Commission's ability to proceed expeditiously with its investigation. Even now, the Administration is refusing to give the full Commission notes, taken by members of the Commission, that describe key White House documents. When one considers the obstacles generated by the White House, it is not in the least bit surprising that the Commission now needs additional time to finish the job.

I would note, however, that this extension does not preclude the Commission from releasing interim reports, as the original legislation establishing the Commission allows. Furthermore, the Commission is free to release its final report before the deadline, if it has completed its work. The Commission's hearings, questioning of witnesses, factual findings, and staff report issued last week proved exceptionally valuable in shedding light on some of the causes of the terrorist attacks. Future hearings and staff reports, no doubt, will continue to provide important new information about weaknesses in our defenses against terrorism.

Therefore, we encourage the Commission to continue to release its findings and recommendations as they become available, so that we can learn from the mistakes of our past as quickly as possible, and work harder to shore up existing vulnerabilities. Congress and the relevant federal agencies have a duty to develop new strategies and capabilities to deter and prevent future terrorist attacks, and expeditious reporting by the Commission will help enormously.

Major systemic problems have already surfaced, for example, that can point us in the right direction, or maybe even an entirely new direction, to address an array of vulnerabilities, particularly in our law enforcement and intelligence communities. Allow me to cite just a few examples from the Commission's work thus far to illustrate how many hands we will need, laboring in unison, to patch the breaches that remain in America's domestic security:

1. An immigration official at Orlando International Airport, Mr. Melendez-Perez, testified that on August 4, 2001, he turned away and sent home a suspicious, unresponsive, and belligerent Saudi national holding a one-way ticket with no departure plans and insufficient funds to stay in the U.S. and purchase a ticket home. This individual claimed that he was to meet a friend at the airport but would not name the friend. It turned out that one of the 9/11 hijackers, Mohamed Atta, was at the airport on that day. Amazingly, neither the FBI nor anyone else from the intelligence community has ever debriefed Mr. Melendez-Perez, even though the immigration inspector informed the FBI of the incident immediately after the 9/11 terrorist attacks.

2. The excellent performance of Mr. Melendez-Perez demonstrated that a

vigilant and well-trained officer can spot suspicious behavior in the course of a routine interview. But the Commission's hearings and reports also revealed how infrequently that occurs. Government officials admitted in public testimony that consular employees are not expected to screen for possible terrorists during interviews of visa applicants, nor are they trained to do so. The Commission discovered that many of the hijackers had passports that were fraudulently altered or had other suspicious indicators, but between 1992 and September 11, 2001, the federal government had not attempted to disseminate, to border security or other relevant employees, available information about the travel and passport practices of Al Qaeda or other terrorist groups. All of the hijackers' visa applications were incomplete, and several contained false statements that were easily identifiable. The hijackers entered the United States, often more than once, without incident, despite the fact that several of them had violated immigration law. Hijackers referred to secondary inspections for more detailed scrutiny were nevertheless admitted.

3. New information has been revealed about the abundant knowledge the intelligence community had about three of the 19 hijackers, who held a strategy session in Malaysia and were extensively tracked by U.S. and foreign intelligence services. The story fleshed out by the Commission underscores the fact that not only did the government fail to share information that might have kept the terrorists out of the country, but they also failed to share information that might have exposed the terrorists' September 11th plot. That is why I have focused personal attention on the Terrorist Threat Integration Center and the Directorate for Information Analysis and Infrastructure Protection at DHS to make sure that these new centers are receiving all intelligence information, mixing it together with skilled and intense analysis, and warning the relevant state, local, and federal officials of emerging terrorist plots.

4. All the evidence that consolidated watch lists might have prevented entry to some of the terrorists notwithstanding, the watch lists still haven't been consolidated despite numerous Administration promises to do so. The Commission learned from the Federal Aviation Administration that, prior to September 11th, the no-fly list created for the airlines had only 12-20 names on it, whereas the terrorist watch list at the State Department had tens of thousands of terrorists' names. We also learned that the no-fly list and the larger terrorist watch list are still not equal in numbers and that there are still terrorists on the larger list who might be permitted to fly if they evade other detection.

These disclosures demonstrate the Commission is accomplishing its assignment, and so it must be allowed to complete its investigation. I am certain the Commission will use the extra months wisely to complete a thorough investigation, continue its public hearings, interview all relevant government officials and complete a comprehensive final report for release as soon as possible.

It is a basic American principle that we must learn from the past in order to secure a better future. Our ability to counter, prevent, and defend against the next terrorist attack on our homeland depends in no small part on the Commission's ability to bring satisfactory closure to its work. If we only give the Commission the time, resources, and cooperation it deserves, the Commission's full, fair, and unflinching assessment of what went wrong will be of immediate value to our national security. And it will be of lasting value to the American people, who will finally discover the unvarnished truth.

I urge the Senate to approve this legislation in a timely manner so that the victims' families and the rest of America may have some measure of peace.

I ask unanimous consent that the text of the bill be printed in the RECORD.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2040

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.**

(a) EXTENSION.—Section 610(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 6 U.S.C. 101 note; 116 Stat. 2413) is amended by striking "18 months after the date of the enactment of this Act" and inserting "January 10, 2005".

(b) ADDITIONAL FUNDING.—Section 611 of that Act (6 U.S.C. 101 note; 116 Stat. 2413) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADDITIONAL FUNDING FROM THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—In addition to the amounts made available to the Commission under subsection (a), of the amounts authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177) and available in the Department of Defense Appropriations Act, 2004 (Public Law 108–87) for the National Foreign Intelligence Program, not more than $6,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title."; and

(3) in subsection (c), as so redesignated, by striking "subsection (a)" and inserting "this section".

Mr. DASCHLE. Mr. President, the Democratic and Republican commissioners on the blue ribbon commission investigating the September 11, 2001 terrorist attacks reached an important and bipartisan decision. They decided they needed more time—more time to get access to the documents and people that can help us understand what happened on that fateful day; more time to analyze this information so they can help us identify which corrective measures are needed to reduce the prospects for future 9/11s; in short, more time to do what they are required to do by law.

I come to the floor today to talk briefly about my views on this commission and its work, and to explain why I have joined with Senators McCAIN and LIEBERMAN to offer legislation to give the commission the time needed to complete its task and provide the families of the victims of 9/11 and all Americans with a complete and thorough report.

The importance of this commission's work cannot be overstated. This independent commission represents the last and perhaps best hope for our Nation to understand how 19 individuals were able to execute the most deadly terrorist attack on American soil in this Nation's long history.

How did these terrorists get into this country? What is the source of funding they used to carry out these activities? How did the hijackers get themselves, and apparently knives and mace, past airport security? How were they able to hijack four aircraft and drive them to such a deadly end? Why could our intelligence community and policymakers not do more to prevent these heinous acts? What can the Government and individual citizens do in the future to prevent similar attacks?

These are but some of the difficult questions the commission has to address. Given the importance of their task, one would think that all parties—Democratic and Republican, Congress and the White House—would quickly agree to provide the commission whatever it needs.

Unfortunately, in the days immediately after the commissioners made their request, it became evident some parties may not believe the commission should be provided the time it needs to do what is required by law.

Quoting from the New York Times on January 28:

> The White House and Republican congressional leaders have said they see no need to extend the congressionally mandated deadline . . . and a spokesperson for Speaker J. Dennis Hastert said . . . Mr. Hastert would oppose any legislation to grant the extension.

As unsettling as this position is, in hindsight, it should not be surprising to those who have followed the history of this commission. In the months immediately after the tragic events of September 11, 2001, President Bush and Vice President CHENEY personally appealed to me and to other Members of Congress not to establish a bipartisan blue ribbon commission.

Vice President CHENEY suggested to me that creating such an effort could detract from administration officials' efforts to get the terrorists responsible.

Fortunately, neither the families of the victims of 9/11 nor the American people accepted this argument. They understood, and properly in my view, that an independent investigation would enhance our efforts on the war on terror.

Far from endangering national security, an inquiry could actually help us pinpoint and correct flaws in our security and intelligence communities and identify the necessary corrective measures.

Despite the fact that the idea of a commission enjoyed the overwhelming support of the families of the victims and of the American people, the administration, and the House Republican leadership persisted in their efforts to see that this idea never took flight—in some instances, at the same time they were publicly professing their support for the commission.

For example, on the same day the White House spokesperson indicated President Bush supported the idea of a commission, his negotiators were on Capitol Hill vetoing a congressional agreement to establish one.

In October of 2002, the House and Senate Intelligence Committees announced they had reached a deal to include language to establish the commission in the intelligence authorization bill. The next day, the deal collapsed and negotiators involved laid the blame at the doorstep of the White House and the House Republican leadership.

According to the Washington Post, a senior Republican Senator said:

> The House Republican leadership weighed in against [the deal] and the deal collapsed. . . . It is no secret that the White House works through the House Republican leadership.

Again, the families of the victims and supporters of the commission were not deterred. In fact, this commission would not exist were it not for the dedicated efforts of the families of the victims. They pressed on, and in November of 2002, they prevailed.

Congress passed the legislation creating the commission and the President signed it into law. The commission was given until May of 2004 to do its work. We all knew at the time that this deadline was both arbitrary and highly ambitious, given the scope of the work involved. Subsequent actions would make meeting this deadline impossible.

The commission was immediately embroiled in controversy over the selection and subsequent resignation of Henry Kissinger, who the President selected to chair its work. But the obstacles placed in front of this commission were just the beginning. In light of the sensitive nature of much of the information the commission would be examining, getting the commission high-level security clearances was the first priority.

However, for a variety of reasons, a process that could have taken weeks stretched into months, thereby preventing the commissioners from examining numerous important documents.

Then came open resistance from the Bush administration to commission requests for access to documents and individuals the commissioners deemed vital to their inquiry. The commission quickly became bogged down in negotiations over which documents and individuals it would have access to and under what terms and conditions.

Many agencies flat out refused to provide access. Others insisted the administration minders be present when the commission questioned Government employees.

The commission was forced to resort to subpoenas to obtain information from several Federal agencies, and press reports is actively considering issuing others.

As recently as this past week, it was reported that the administration is still placing roadblocks in front of the commission's vital work. Over the weekend, it was disclosed that the White House is refusing to allow the commission access to notes its own members have taken on briefings received by the President.

As a result of the administration's repeated failure to cooperate fully and immediately with the commission and its important work, it has become increasingly clear that it cannot fulfill the immense task placed before it and comply with the deadline imposed on it.

In order to meet this deadline, commissioners tell us they would have to cut corners. Scheduled hearings would have to be canceled. Interviews with key officials would have to be scrapped. Time to analyze their information and write their report would be short. All of these reasons led the commission, wisely in my view, to request additional time. All of these reasons led me to join the families of the victims, as well as Senators MCCAIN and LIEBERMAN, to conclude we must do everything possible to meet their requests.

I hope those who have opposed the commission and its work in the past will step aside. I hope they will allow us to provide the commission with the time it needs to give the families and America the report it deserves.

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By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2043. A bill to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building"; to the Committee on Environment and Public Works.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation, along with Senator SANTORUM, to honor former President Ronald Reagan by naming the Federal Building and Courthouse in Harrisburg, PA, in his name.

President Ronald Reagan was a watershed force in 20th Century history. He was a master diplomat and statesman, largely responsible for winning the Cold War. His summits with former Soviet leader Mikhail Gorbachev were tours de force of negotiation and stagecraft. He was called "the great communicator" for good reason. He conveyed his message with power and precision, often convincing even his staunchest opponents to see things his way. His talents and his touch helped rally a Democrat-controlled Congress to support much of his legislative agenda, including bold fiscal reforms defying conventional wisdom that predicted more partisan stalemate. He ran for President on the slogan "Morning in America"—and delivered.

President Reagan also took bold steps on the social front. By transferring power from Washington to the States and cities, he showed that local governments can be laboratories for a wide range of public-policy experiments—with greater flexibility and sensitivity. The approach was in line with his general push from big government toward individual liberty.

To some, Ronald Reagan's greatest legacy was strengthening our national defense. The Berlin Wall toppled, it seemed, directly from his call. "Mr. Gorbachev, Tear Down This Wall!" The invasion of Grenada rescued American students and resulted in the overthrow of a Marxist government. His vision for a national missile defense system is leading to greater security for all of us.

President Reagan showed courage and charisma, even in crisis. As he was about to undergo surgery to remove a bullet that lay an inch from his heart, he told his wife, "Honey, I forgot to duck." The next morning, the President met with aides in his hospital room and signed a bill into law.

For these reasons and many more, I urge my colleagues to join us in bestowing this honor upon this great American.

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By Mrs. BOXER:

S. 2045. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mrs. BOXER. Mr. President, today I am introducing the Secure and Verifiable Electronic Voting Act of 2004.

The 2000 presidential election exposed a number of serious problems with the accuracy and fairness of election procedures in this country, as well as the reliability of certain types of voting technology. As a result of these irregularities, many eligible voters were effectively disenfranchised and thus deprived of one of their most fundamental rights. This is not acceptable in a democracy such as ours.

Our constituents demanded better and we responded.

In 2002, Congress passed the Help America Vote Act (HAVA). This important legislation sets Federal minimum standards for voting systems, including requiring that the equipment used is reliable, accurate, and accessible to all. It encourages the use of direct recording electronic voting systems to replace the outdated punch card and lever machines. It also requires that voting systems provide voters the opportunity to correct errors and that they produce a permanent record with a manual audit capacity.

However, HAVA does not go far enough. As we move our voting systems into the 21st century, we need to ensure the greatest level of accountability possible. Voters need to have confidence in the technology that they're using, and they need to be assured that their votes will be counted exactly as they are cast. It is imperative that any voting system certified by the Federal Government provides these assurances.

In my home State of California, we are already using touch-screen voting machines in some areas—28 percent of the precincts by the March primary. But, these machines currently do not leave any paper trail and cannot be verified for complete accuracy. We need an electronic voting system that is modern, secure, and verifiable. The State of California is taking these steps. Secretary of State Kevin Shelley has required the use of voter-verified paper audit trails and safety measures, such as manufacturer security, local testing of machines, and random audits of system software. These practices need to be in place nationwide.

My bill, the Secure and Verifiable Electronic Voting Act—the SAVE Voting Act would require that a voter-verified paper trail for each vote cast be in place for the November 2004 elections. What that means is this: after an individual votes, he or she will have the opportunity to review the vote on a piece of paper, before it becomes part of the official record. If there is a discrepancy, the voter will have an opportunity to change his or her vote before it is recorded in the official record. This paper record will then be the official permanent record used for any recount or verification.

The SAVE Voting Act would also create greater security standards by making sure that access to the software is limited to approved personnel who have had background checks. It would require that any software used is not transmitted over the Internet, that the Election Assistance Commission certifies any and all software used in voting systems, and that the certified code be made available to the public for review. These security measures help to ensure, up front, that the electronic voting systems we use are safeguarded.

The SAVE Voting Act would ensure that a permanent paper record is truly, a permanent paper record by banning the use of thermal paper. Thermal paper has many flaws, including the potential to fade or receive unintended marks, making the vote illegible.

Finally, recognizing the current cashed-strapped plight of the States, my legislation would provide immediate financial assistance to States to help cover the cost of adding printers to electronic voting systems.

In a democracy, the vote of every citizen counts. We must make sure that every citizen's vote is counted—and counted accurately and fairly so that the American people have confidence in the results. HAVA was a good first step. The SAVE Voting Act is the next step, and I encourage my colleagues to join me in this effort.

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By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2046. A bill to authorize the exchange of certain land in Everglades National Park; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, I rise today to introduce a bill with my colleague from Florida, Senator NELSON. Our bill is non-controversial and will allow the Department of the Interior and the South Florida Water Management District to perform a land exchange for the purpose of constructing the C-111 Spreader Canal Project under the Comprehensive Everglades Restoration Plan, known as CERP. Both the Department of the Interior and the State of Florida have approved the language of the bill, and Senator NELSON and I hope to expedite passage of the bill through the Energy and Natural Resources Committee and the full Senate.

CERP, which was authorized in the Water Resources Development Act of 2000, is the framework that guides our efforts to restore America's Everglades. It consists of over 60 major projects that will restore Everglades National Park and other areas of the greater Everglades ecosystem. The C-111 Spreader Canal Project is just one of the 60 component projects of CERP. The C-111 project will provide important environmental benefits to the Southern Glades and Model Lands and more natural sheet flow to Florida Bay while maintaining flood protection for surrounding agricultural and urban areas.

I am also pleased to report that Congressman MARIO DIAZ-BALART, who represents the relevant congressional district, and Congressman JIM DAVIS will introduce a companion bill in the House of Representatives.

2004 marks the beginning of the fourth year of CERP implementation and Everglades restoration. We have been hard at work getting through phase one—the planning and organizational phase of such an historic and monumental restoration project. We have now entered into phase two—building the projects that will deliver water to the Everglades and revive the dying ecosystem. As we continue to make progress on what has always been a bipartisan and bicameral project, I want to thank my colleagues for their support for the restoration of America's Everglades. I look forward to our continued work together to bring the River of Grass back to its former glory as the crown jewel of the national parks system.

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By Mr. BOND:

S. 2047. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the compensation program established by that Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I rise today to introduce legislation that will designate the former Mallinkrodt Nuclear Production Facilities in Missouri as a Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000. These facilities, which handled and processed highly radioactive materials during the Cold War, are located in Downtown St. Louis, Weldon Springs in St. Charles County, and Hematite in Jefferson County, MO respectively.

Energy workers at these sites handled and processed highly radioactive materials during the Cold War as part of the Manhattan Project and our nation's ongoing Atomic Weapons Program. The St. Louis Downtown or "Destrahan" Site operated from 1942 through 1958. From there, operations and most Mallinkrodt workers were moved out to the Weldon Springs Facility which operated until 1958. After that, work continued at the Hematite Facility in Jefferson County until 1969.

This legislation would add these facilities to the four existing Special Exposure Cohort (SEC) Sites across the country, which were written into the original EEOICPA. In addition to designating the existing SEC sites, the EEOICPA set up a process to add additional sites to the SEC list provided those sites meet certain criteria.

A Special Exposure Cohort (SEC) is comprised of a group of employees with specific cancers who worked at four specific nuclear facilities or participated in certain nuclear weapons tests, and who met other requirements under the EEOICPA. An SEC designation would provide former workers at these sites or their survivors with expedited compensation as opposed to requiring these workers to participate in the long, complex and cumbersome bureaucratic process known as dose reconstruction.

According to the National Institute of Occupational Safety and Health (NIOSH), there are two key statutory determinations required for adding a class of employees to the SEC. The first requirement is that it is not feasible to estimate with sufficient accuracy the radiation dose that the class of employees received. The second requirement is that there is a reasonable likelihood that such a radiation dose may have endangered the members of this class. After extensive research, which included several briefings with NIOSH, the Department of Energy, independent experts and former Mallinkrodt workers, I believe that there is strong evidence indicating that both statutory requirements for the SEC have been met with regard to the Mallinkrodt Sites.

In mid 2001, the Department of Energy (DOE) released a report indicating for the first time that the highly radioactive material plutonium was processed at the Weldon Springs Site. The report also stated that recycled uranium, another highly radioactive material, was processed at the site. Furthermore, in its recently completed site profile for the St. Louis Downtown Site, NIOSH admits that they have virtually no records or monitoring data on the workers at the site prior to 1948. NIOSH also stated that this could be a problem in calculating individual dose, thus requiring some assumptions to be made.

Both of the aforementioned issues, the presence of plutonium and the loss or destruction of individual monitoring records were reasons for writing the four existing SEC sites into the original EEOICPA.

In addition to these issues, long sought after documents from the former Chief Safety Officer for the Atomic Energy Commission (AEC) during the time described the Mallinkrodt St. Louis facility as one of the two worst plants with respect to worker exposures. Workers at this plant were exposed to excessive levels of airborne uranium dust relative to the standards in effect during the time, and many workers were exposed to as much as 200 times the preferred levels of exposure. NIOSH confirmed these intense levels at a recent presentation on the Mallinkrodt-St. Louis Site Profile when it described the operations at this plant as a "messy" or "dirty" operation in terms of levels of radionuclides present.

Finally, NIOSH has informed claimants who worked at these sites or their survivors that if they are not interviewed as a part of the dose reconstruction process, it would "hinder" NIOSH's ability to conduct dose reconstruction for the claimant and may result in a dose reconstruction that "incompletely or inaccurately" estimates the radiation dose to which the energy employee named in the claim was exposed. So NIOSH is basically saying that they are relying on a former worker's memory or any information a survivor might have. What if the former worker cannot remember what he was exposed to or was never told? What if the survivor has no idea as to what materials the claimant might have been exposed? Keep in mind. Most of this happened anywhere from 40–60 years ago.

All of the previously mentioned points are evidence that the health of these workers was endangered and that an accurate dose reconstruction is not feasible. Therefore, I believe that the Mallinkrodt sites in Missouri should be designated as a Special Exposure Cohort.

To make matters even worse, the Department of Health and Human Services first published the Notice of Proposed Rulemaking (NPRM) concerning the Special Exposure Cohort on June 25, 2002, and as of today, January 27, 2004, this rule has yet to be finalized. Many of these former Mallinkrodt workers have died while waiting for the proposed SEC rule to be finalized, including some claimants who were waiting for dose reconstruction to be started or completed.

This is simply unacceptable! The EEOICPA was intended to provide long overdue compensation to these workers within a reasonable period of time. These brave workers answered the call and helped our nation win the Cold War. It is now time for our nation to help them and provide them with the immediate compensation that they deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2047

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds that—

(1) energy workers at the former Mallinkrodt facilities (including the St. Louis downtown facility, the Weldon Springs facility, and the Hematite facility) were exposed to levels of radio nuclides and radioactive materials that were much greater than the current maximum allowable Federal standards;

(2) the Mallinkrodt workers at the St. Louis site were exposed to excessive levels of airborne uranium dust relative to the standards in effect during the time, and many workers were exposed to 200 times the preferred levels of exposure;

(3)(A) the chief safety officer for the Atomic Energy Commission during the Mallinkrodt-St. Louis operations described the facility as 1 of the 2 worst plants with respect to worker exposures;

(B) workers were excreting in excess of a milligram of uranium per day causing kidney damage; and

(C) a recent epidemiological study found excess levels of nephritis and kidney cancer from inhalation of uranium dusts;

(4) the Department of Energy has admitted that those workers were subjected to risks and had their health endangered as a result of working with these highly radioactive materials;

(5) the Department of Energy reported that workers at the Weldon Springs feed materials plant handled plutonium and recycled uranium, which are highly radioactive;

(6) the National Institute of Occupational Safety and Health admits that—

(A) the operations at the St. Louis downtown site consisted of intense periods of processing extremely high levels of radio nuclides; and

(B) the Institute has virtually no personal monitoring data for workers prior to 1948;

(7) the National Institute of Occupational Safety and Health has informed claimants and their survivors at those 3 sites that if they are not interviewed as a part of the dose reconstruction process, it—

(A) would hinder the ability of the Institute to conduct dose reconstruction for the claimant; and

(B) may result in a dose reconstruction that incompletely or inaccurately estimates the radiation dose to which the energy employee named in the claim had been exposed;

(8) the Department of Health and Human Services published the first notice of proposed rulemaking concerning the Special Exposure Cohort on June 25, 2002, and as of January 27, 2004, the rule has yet to be finalized; and

(9) many of those former workers have died while waiting for the proposed rule to be finalized, including some claimants who were waiting for dose reconstruction to be completed.

**SEC. 2. DEFINITION OF MEMBER OF THE SPECIAL EXPOSURE COHORT.**

Section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384*l*(14)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) The employee was so employed for a number of work days aggregating at least 45 workdays at a facility operated under contract to the Department of Energy by Mallinkrodt Incorporated or its successors (including the St. Louis downtown or 'Destrahan' facility during any of calendar years 1942 through 1958, the Weldon Springs feed materials plant facility during any of calendar years 1958 through 1966, and the Hematite facility during any of calendar years 1958 through 1969), and during the employment—

"(i)(I) was monitored through the use of dosimetry badges for exposure at the plant of the external parts of an employee's body to radiation; or

"(II) was monitored through the use of bioassays, in vivo monitoring, or breath samples for exposure at the plant to traternal radiation; or

"(ii) worked in a job that had exposures comparable to a job that is monitored, or should have been monitored, under standards of the Department of Energy in effect on the date of enactment of this subparagraph through the use of dosimetry badges for monitoring external radiation exposures, or bioassays, in vivo monitoring, or breath samples for internal radiation exposures, at a facility.”.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 295—CONGRATULATING THE NEW ENGLAND PATRIOTS ON THEIR VICTORY IN SUPER BOWL XXXVIII

Mr. KENNEDY (for himself, Mr. KERRY, Mr. REED, and Mr. CHAFEE) submitted the following resolution; which was considered and agreed to:

S. RES. 295

Whereas, on Sunday, February 1, Adam Vinatieri of the New England Patriots kicked the winning field goal with seven seconds remaining in the game to defeat the Carolina Panthers by the score of 32–29 in Super Bowl XXXVIII in Houston, Texas;

Whereas this victory is the second Super Bowl championship won by the Patriots in the past three years;

Whereas quarterback Tom Brady led the Patriots to victory in both those years, and was named Super Bowl Most Valuable Player in both years;

Whereas both of the Super Bowl victories were earned by the Patriots in the final seconds of the game on a field goal by Mr. Vinatieri;

Whereas the Patriots tied an NFL record by winning 15 consecutive games in the recent season;

Whereas Patriots Head Coach Bill Belichick and Assistant Coaches Romeo Crennel and Charlie Weiss brilliantly created successful game plans throughout the season, and Mr. Belichick was named the Coach of the Year in the National Football League;

Whereas extraordinary efforts by other Patriots players including Deion Branch, Troy Brown, David Givens, Ty Law, Willie McGinest, Richard Seymour, Antowain Smith, Mike Vrabel, and Ted Washington also contributed to the Super Bowl victory;

Whereas the New England Patriots offensive linemen, Matt Light, Joe Andruzzi, Dan Koppen, Russ Hochstein, and Tom Ashworth deserve great credit for protecting quarterback Tom Brady and for allowing no sacks of the quarterback in the Super Bowl game or in any of the other games in the post-season playoffs; and

Whereas Patriots owner Bob Kraft deserves great credit for his strong support of the team, and for his acknowledgement that the Super Bowl victory would not have been possible without the strong support of the millions of fans from New England.

*Resolved*, that the Senate of the United States congratulates the New England Patriots on winning Super Bowl XXXVIII.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, February 4, 2004, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, February 5, 2004, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: H.R. 1446 and S. 1306, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National memorial in the State of Pennsylvania, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled "DOD Contractors Who Cheat on Their Taxes and What Should Be Done About It." The Subcommittee's hearings will examine Department of Defense (DOD) contractors who are abusing the Federal tax system by either failing to file tax returns or not paying their taxes. A recently completed General Accounting Office review of DOD contractors found that 27,100 contractors owed $3 billion in back taxes. The purpose of the hearing is to identify the corrective actions that can be taken to ensure that DOD contractors pay the taxes they owe the Federal Government.

The hearings will take place on Thursday, February 12, 2004, at 9:30 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 224–3721.

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests for the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, February 12, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives; S. 1466, to facilitate the transfer of land in the State of Alaska, and for other purposes; S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes; and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Dick Bouts 202–224–7545.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Monday, February 2, 2004; to reconsider, pursuant to a unanimous consent agreement on October 1, 2003 the Chairman's Mark entitled, National Employee Savings and Trust Equity Guarantee Act. The Committee will also consider a Chairman's Mark entitled, Extension of Highway Trust Fund Provisions; and, S. 882, the Tax Administration Good Government Act of 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. INHOFE. Madam President, I ask unanimous consent to grant floor privileges to the following fellows for the duration of floor consideration of the bill:

Gregory Murrill, Heideh Shahmoradi, Laura Berry, Mitch Surrett, John Stoody, Wendy Parker, and William Boyd.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONGRATULATING THE NEW ENGLAND PATRIOTS

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 295, submitted earlier today by Senators KENNEDY, KERRY, REED, and CHAFEE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 295) congratulating the New England Patriots on their victory in Super Bowl XXXVIII.

There being no objection, the Senate proceeded to consider the resolution.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, backed by the heartiest fans in the world, the New England Patriots are once again the greatest football team in the Nation. I want to join so many others in commending the Patriots for their marvelous and miraculous season, in which the team overcame injuries and a slow start to end up with a fifteen-game winning streak and a second Super Bowl championship in three years. From the wise stewardship of Bob Kraft and Bill Belichick to the Tom Brady-led offense and the Ty Law-led defense, the Patriots are a team in the fullest sense of the word. Congratulations also to the Carolina Panthers, who mad Super Bowl XXXVIII one of the most memorable season-ending games in U.S. professional sports history.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. REED. Mr. President, on February 1, 2004, the New England Patriots defeated the Carolina Panthers, 32–29 in what has been already called one of the most exciting Super Bowls of all time. I commend the Patriots players, coaches and management for a thrilling victory. These Patriots have been a testament to successful teamwork, setting a wonderful example of self-sacrifice and unity, and showing us all what is possible when we work together, believe in each other, and collaborate for the greater good. The Patriots' embodiment of the team concept was needed to overcome the tenacious Carolina Panthers, who came back again and again in a spectacular effort.

The hard-earned victory in Super Bowl XXXVIII, the second in 3 years for the Patriots, was also their 15th consecutive win, putting the team in elite company as one of the greatest teams in NFL history. Amazingly, once again the New England region, and indeed, the entire country, were held on the edge of their seats as the Patriots kicker, Adam Vinatieri, won the game on a last second field goal. Indeed, Vinatieri has been a friend to my home State of Rhode Island, active in the Rhode Island Coalition Against Domestic Violence, D.A.R.E., and as a spokesperson for the Blue Cross & Blue Shield of Rhode Island's Teen Anti-Smoking Contest.

This Patriots team was led all season by their coach, Bill Belichick, who has masterminded victory after victory by stressing preparation, team work and adaptation. In the championship game the Patriots defense, arguably the team's best asset, was led by Ty Law, Mike Vrabel, Tedy Bruschi and the veteran Willie McGinest. Vrabel was particularly impressive as an "Ironman" playing on the offense and scoring a touchdown.

The Patriots offense was led by the Super Bowl MVP Tom Brady who time after time led his team back until finally placing them in position to win. Brady was helped on offense by clutch performances from Troy Brown, Deion Branch, Kevin Faulk and Antowain Smith. Ultimately it was the Patriots offense, cool under the pressure, that brought them a hard earned victory.

Let me also acknowledge a Rhode Island native on the New England team. A former Boston College standout, running back Mike Cloud, was an important part of the Patriots' winning season, scoring five touchdown and making critical plays. Cloud is a former Rhode Island Player of the Year and long before he helped the Patriots win their second Super Bowl, he helped lead Portsmouth High School to three consecutive Rhode Island Class A Championships. I am proud that he has had the opportunity to represent our State and play an important role in this victory.

Once again, my congratulations to the New England Patriots and their fans on their Super Bowl victory.•

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 295) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 295

Whereas, on Sunday, February 1, Adam Vinatieri of the New England Patriots kicked the winning field goal with seven seconds remaining in the game to defeat the Carolina Panthers by the score of 32–29 in Super Bowl XXXVIII in Houston, Texas;

Whereas this victory is the second Super Bowl championship won by the Patriots in the past three years;

Whereas quarterback Tom Brady led the Patriots to victory in both those years, and was named Super Bowl Most Valuable Player in both years;

Whereas both of the Super Bowl victories were earned by the Patriots in the final seconds of the game on a field goal by Mr. Vinatieri;

Whereas the Patriots tied an NFL record by winning 15 consecutive games in the recent season;

Whereas Patriots Head Coach Bill Belichick and Assistant Coaches Romeo Crennel and Charlie Wiess brilliantly created successful game plans throughout the season, and Mr. Belicheck was named the Coach of the Year in the National Football League;

Whereas extraordinary efforts by other Patriots players including Deion Branch, Troy Brown, David Givens, Ty Law, Willie McGinest, Richard Seymour, Antowain Smith, Mike Vrabel, and Ted Washington also contributed to the Super Bowl victory;

Whereas the New England Patriots offensive linemen, Matt Light, Joe Andruzzi, Dan Koppen, Russ Hochstein, and Tom Ashworth deserve great credit for protecting quarterback Tom Brady and for allowing no sacks of the quarterback in the Super Bowl game or in any of the other games in the post-season playoffs; and

Whereas Patriots owner Bob Kraft deserves great credit for his strong support of the team, and for his acknowledgement that the Super Bowl victory would not have been possible without the strong support of the millions of fans from New England.

*Resolved*, That the Senate of the United States congratulates the New England Patriots on winning Super Bowl XXXVIII.

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## NATIONAL SCHOOL COUNSELING WEEK

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## NATIONAL MENTORING MONTH

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of S. Res. 292 and S. Res. 294, and that the Senate proceed to their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 292) designating the week beginning February 2, 2004, as National School Counseling Week.

A resolution (S. Res. 294) designating January 2004 as National Mentoring Month.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the resolutions and preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc and that any statements relating thereto be printed in the RECORD, the above occurring with no intervening action or debate, with the consideration of these items appearing separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 292 and S. Res. 294) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 292

Whereas the American School Counselor Association has declared the week beginning February 2, 2004, as "National School Counseling Week";

Whereas the Senate has recognized the importance of school counseling through the inclusion of elementary and secondary school counseling programs in the reauthorization of the Elementary and Secondary Education Act of 1965;

Whereas school counselors have long advocated that the American education system must leave no child behind and must provide opportunities for every student;

Whereas personal and social growth results in increased academic achievement;

Whereas school counselors help develop well-rounded students by guiding them through their academic, personal, social, and career development;

Whereas school counselors were instrumental in helping students, teachers, and parents deal with the trauma of terrorism inflicted on the United States on September 11, 2001, and its aftermath;

Whereas students face myriad challenges every day, including peer pressure, depression, and school violence;

Whereas school counselors are usually the only professionals in a school building that are trained in both education and mental health;

Whereas the roles and responsibilities of school counselors are often misunderstood, and the school counselor position is often among the first to be eliminated in order to meet budgetary constraints;

Whereas the national average ratio of students to school counselors of 485 to 1 is more than double the 250 to 1 ratio recommended by the American School Counselor Association, the American Counseling Association, the American Medical Association, the American Psychological Association, and other organizations; and

Whereas the celebration of "National School Counseling Week" would increase awareness of the important and necessary role school counselors play in the lives of the Nation's students: Now, therefore, be it

*Resolved*,

**SECTION 1. DESIGNATION OF NATIONAL SCHOOL COUNSELING WEEK.**

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning February 2, 2004, as "National School Counseling Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning February 2, 2004, as "National School Counseling Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies and activities that promote awareness of the role school counselors perform within the school and the community at large to prepare students for fulfilling lives as contributing members of society.

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### S. RES. 294

Whereas mentoring is a strategy for motivating and helping young people succeed in life, by bringing them together in structured and trusting relationships with caring adults who provide guidance, support, and encouragement;

Whereas mentoring offers a supportive environment in which young people can grow, expand their vision, learn necessary skills, and achieve a future that the young people never thought possible;

Whereas a growing body of research shows that mentoring benefits young people in numerous ways, through improvements in school performance and attendance, self-confidence, attitudes and relationships with adults, and motivation to reach their potential;

Whereas mentoring is an adaptable, flexible approach that can be tailored to focus on helping young people with academics, social skills, career preparation, or leadership development;

Whereas over 15,000,000 young people in this Nation still need mentors, falling into a "mentoring gap";

Whereas mentoring relies principally on volunteer mentors, so mentoring programs must recruit even more volunteers in order to expand their program to help more young people;

Whereas, in an effort to begin closing the mentoring gap, this year Congress has significantly increased Federal grant funding for local mentoring organizations to $100,000,000;

Whereas the recipients of these grants and other entities carrying out mentoring programs all across the country will need an influx of volunteers to meet the growing demand for mentoring;

Whereas nonprofit groups and leading media companies have joined together to designate January 2004 as National Mentoring Month to recruit more mentors for young people; and

Whereas the month-long celebration of mentoring will encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement: Now, therefore, be it

*Resolved*, That the Senate—

(1)(A) designates the month of January 2004 as "National Mentoring Month"; and

(B) requests that the President issue a proclamation calling on the people of the United States and interested groups to observe the month with appropriate ceremonies and activities that promote awareness of and volunteer involvement with mentoring;

(2) praises individuals who are already giving their time to mentor young people; and

(3) supports efforts to recruit more adults as mentors, in an effort to close the Nation's mentoring gap.

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## MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2003

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 424, S. 1879, relating to mammography quality standards.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1879) to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

There being no objection, the Senate proceeded to consider the bill.

Ms. MIKULSKI. Mr. President, I am pleased that today the Senate will pass the Mammography Quality Standards Reauthorization Act of 2003, S. 1879. I am pleased to be sponsoring this bill with Senator ENSIGN and our bipartisan cosponsors. This important bill is about saving lives. That's what the Mammography Quality Standards Act (MQSA) does. Accurate mammograms detect breast cancer early, so women can get treatment and be survivors.

Mammography is not perfect, but it is the best screening tool we have now. I authored MQSA over 10 years ago to improve the quality of mammograms so that they are safe and accurate. Before MQSA became law, there was an uneven and conflicting patchwork of standards for mammography in this country. There were no national quality standards for personnel or equipment. Image quality of mammograms and patient exposure to radiation levels varied widely. The quality of mammography equipment was poor. Physicians and technologists were poorly trained. Inspections were lacking.

MQSA set Federal safety and quality assurance standards for mammography facilities for: personnel, including doctors who interpret mammograms; equipment; and operating procedures. By creating national standards, Congress helped make mammograms a more reliable tool for detecting breast cancer. In 1998, Congress improved MQSA by giving information on test results directly to the women being tested, so no woman falls through the cracks because she never learns about a suspicious finding on her mammogram. Now it is time to renew MQSA and lay the foundation to strengthen it even further.

The bill passed by the Senate today will extend MQSA for 2-years. This 2-year reauthorization of MQSA is important. It will give Congress an opportunity to consider in the next reauthorization expert recommendations from an Institute of Medicine, IOM, study and a General Accounting Office, GAO, report on several issues related to MQSA. I have been working with the Labor, Health and Human Services, HHS, and Education Appropriations Subcommittee to get these studies underway. The IOM study was included in the fiscal year 2004 omnibus appropriations bill. The HELP Committee also heard testimony in support of a 2 year reauthorization at its hearing last year on MQSA.

This legislation is also supported by groups including the American Cancer Society, the Susan G. Komen Breast Cancer Foundation, the National Alliance of Breast Cancer Organizations, Y-ME National Breast Cancer Organization, and the American College of Radiology Association.

I thank Senators GREGG and KENNEDY for their support and help in moving this legislation through the Senate. I hope that the House will move quickly to pass this important bill. It is estimated that over 217,400 new cases of breast cancer will be diagnosed and over 40,500 breast cancer deaths will occur in the United States this year. Early detection and treatment are important to reducing breast cancer deaths. Congress should pass this bill to reauthorize MQSA and extend this valuable program that helps save the lives of women and men with breast cancer.

Mr. ALEXANDER. On behalf of the leader, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1879) was read the third time and passed, as follows:

S. 1879

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Mammography Quality Standards Reauthorization Act of 2003".

**SEC. 2. TEMPORARY RENEWAL AND LIMITED PROVISIONAL CERTIFICATE.**

Section 354 of the Public Health Service Act (42 U.S.C. 263b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting "or a temporary renewal certificate" after "certificate"; and

(ii) in clause (i), by striking "subsection (c)(1)" and inserting "paragraphs (1) or (2) of subsection (c)";

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "or a limited provisional certificate" after "certificate"; and

(ii) in clause (i), by striking "subsection (c)(2)" and inserting "paragraphs (3) and (4) of subsection (c)"; and

(C) in the flush matter at the end, by striking "provisional certificate" and inserting "temporary renewal certificate, provisional certificate, or a limited provisional certificate"; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (4); and

(B) by inserting after paragraph (1) the following:

"(2) TEMPORARY RENEWAL CERTIFICATE.—The Secretary may issue a temporary renewal certificate, for a period of not to exceed 45 days, to a facility seeking reaccreditation if the accreditation body has issued an accreditation extension, for a period of not to exceed 45 days, for any of the following:

"(A) The facility has submitted the required materials to the accreditation body within the established time frames for the submission of such materials but the accreditation body is unable to complete the reaccreditation process before the certification expires.

"(B) The facility has acquired additional or replacement equipment, or has had significant personnel changes or other unforeseen situations that have caused the facility to be unable to meet reaccreditation timeframes, but in the opinion of the accreditation body have not compromised the quality of mammography.

"(3) LIMITED PROVISIONAL CERTIFICATE.—The Secretary may, upon the request of an accreditation body, issue a limited provisional certificate to an entity to enable the entity to conduct examinations for educational purposes while an onsite visit from an accreditation body is in progress. Such certificate shall be valid only during the time the site visit team from the accreditation body is physically in the facility, and in no case shall be valid for longer than 72 hours. The issuance of a certificate under this paragraph, shall not preclude the entity from qualifying for a provisional certificate under paragraph (4).".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Subparagraphs (A) and (B) of section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2)(A) and (B)) are amended by striking "2002" each place it appears and inserting "2005".

### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 108–132, Section 128, appoints the following individual to the Commission on Review of Overseas Military Facility Structure of the United States: Major General Lewis E. Curtis III, USAF (Retired).

### ORDERS FOR TUESDAY, FEBRUARY 3, 2004

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m., Tuesday, February 3. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then conduct a period of morning business until 10:30 a.m., with 30 minutes under the control of Senator GRAHAM of Florida and the remaining time under the control of the majority leader.

I further ask that the Senate stand in recess from 12:30 until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. ALEXANDER. On behalf of the leader, for the information of all Senators, tomorrow, at 10:30 a.m., the Senate will begin consideration of S. 1072, the highway bill. The bill managers will be here at 10:30 tomorrow morning, ready to work through opening statements and to begin the amendment process. Votes are possible during tomorrow's session.

Mr. REID. Mr. President, if my friend will yield, the opening statements have been pretty well completed. Senator INHOFE has given one, I have given one, Senator JEFFORDS has given one, and Senator BOND. We are the ones moving this bill through the Senate.

I hope everyone within the sound of our voices will understand, if people have statements that should be given on the bill, they should come forward and give them. Otherwise, I hope those with amendments can come forward and offer amendments.

I say to the Senate that we have a relatively short period of time to finish this bill. It is a very big bill, $255 billion, but the majority leader and the minority leader have indicated that we have only this week and next week to complete this most important legislation.

I say through the Chair to the distinguished acting majority leader, formerly Governor of one of the very big States population-wise in our country, Tennessee—a Governor understands more than anyone else, I believe, the importance of these highway moneys and what they mean to a State—if we don't finish this now and have to go to another year-long bill, it totally interferes with the ability of the highway planners to do their work.

I hope everyone understands that we have just a short period of time to complete this bill and that everyone will come forward if they have some problems with the bill, and if they want to change it some way, they can move on it as quickly as possible.

### ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ALEXANDER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Tuesday, February 3, 2004, at 9:45 a.m.

### NOMINATIONS

Executive nominations received by the Senate February 2, 2004:

#### NATIONAL INSTITUTE OF BUILDING SCIENCES

WILLIAM HARDIMAN, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006, VICE H. TERRY RASCO, TERM EXPIRED.

#### DEPARTMENT OF THE INTERIOR

SUE ELLEN WOOLDRIDGE, OF VIRGINIA, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR, VICE WILLIAM GERRY MYERS III, RESIGNED.

#### NATIONAL INSTITUTE FOR LITERACY

WILLIAM T. HILLER, OF OHIO, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006. (REAPPOINTMENT)

JUAN R. OLIVAREZ, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006. (REAPPOINTMENT)

#### UNITED STATES INSTITUTE OF PEACE

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007. (REAPPOINTMENT)

#### NATIONAL INSTITUTE FOR LITERACY

RICHARD KENNETH WAGNER, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006, VICE ROBIN MORRIS, TERM EXPIRED.

#### UNITED STATES PAROLE COMMISSION

ISAAC FULWOOD, JR., OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE MICHAEL JOHNSTON GAINES, RESIGNED.

#### IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

DWIGHT R. BRASWELL, 4728

JAMES N. CUTTER, 1511
JEFFREY G. GUILD, 1423
GERALD A. HOUGE, 7020
BOBBY V. PAGE, 6076
HOWARD D. STENDAHL, 3620
KAREN H. STOCKS, 6326

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

PAUL N. AUSTIN, 8007
ELIZABETH J. BRIDGES, 9722
LORRIE J. CAPPELLINO, 7384
KIMBERLY S. COX, 0269
NANCY A. DEZELL, 5238
KONNIE M. DOYLE, 5731
NORMAN J. FORBES, 8033
KATHRYN E. HALL, 3098
SUSAN R. HALL, 2695
JOANNE HENKENIUSKIRSCHBAUM, 9942
HARVEY K. HILLIARD, 7819
BARBARA JEFTS, 2918
THOMAS F. LANGSTON, 7926
SOLEDAD LINDOMOON, 3245
THERESE M. NEELY, 4956
JULIA E. NELSON, 1283
JOEL D. RAY, 8044
TERRI J. REUSCH, 5637
CASSANDRA R. SALVATORE, 0339
JUDITH SCHAFFER, 0497
ANGELA L. THOMPSON, 0339
FRANK B. THORNBURG III, 2640
FLORENCE A. VALLEY, 1672

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

EDWARD ACEVEDO, 5456
PAUL C. ACKERMAN, 6828
DARRELL E. ADAMS, 8575
DELANE A. ABANG AGUILAR, 6295
FRANK ALBANESE, 2380
RENITA D. ALEXANDER, 8931
KEITH R. ALLFORD, 3156
JOHN V. ALLISON JR., 8535
DAVID W. ALLVIN, 9319
MARK B. ALSID, 7727
TRACY A. AMOS, 5047
CRAIGEN B. ANDERSON, 2235
WARREN M. ANDERSON, 6160
JEFFERY S. ANTES, 4173
JAMES H. APPLEYARD JR., 9278
MICHAEL G. ARCHULETA, 8552
MATTHEW H. ARENS, 9941
JONATHAN A. ARNOLD, 0229
STEVE ASHER, 2949
BALAN R. AYYAR, 9976
MICHAEL R. BABCOCK, 5634
DONALD J. BACON, 8241
MARK A. BAGGETT, 67954
PENNY H. BAILEY, 9927
JEFFREY A. BAKER, 8566
MARK A. BAKER, 7224
SID P. BANKS, 8671
JAMES L. BAREFIELD II, 5984
WILLIAM R. BARRETT, 7401
BRYAN D. BARTELS, 4130
WILLIAM L. BASSETT, 6527
JAMES B. BEARDEN, 4759
ROBERT A. BEARDSLEE, 9505
KRISTIN D. BEASELY, 1667
JOSEPH D. BECKER, 4338
MICHAEL G. BEDARD, 7893
ERIC A. BEENE, 8082
DAVID C. BENDALL, 9785
ALLEN J. BENEFIELD, 1223
DONALD H. BERCHOFF, 5643
ROBERT J. BERTINO, 9515
ERIC H. BEST, 6776
SANDRA R. BIGNELL, 1675
GUILLERMO A. BIRMINGHAM, 6143
DOUGLAS S. BLACK, 5215
FRANCINE BLACKMON, 3137
RUSSELL J. BLAINE, 7239
DARRYL W. BLAN, 2213
ANDREW P. BOERLAGE, 3606
TIMOTHY L. BOONE, 3900
DAMON K. BOOTH, 9850
ANN L. BORGMANN, 2543
PHILIP A. BOSSERT JR., 6889
GREGORY T. BOYETTE, 2466
ROBERT K. BOYLES, 7264
PHILIP G. BRADLEY, 6335
WILLIAM S. BRADSHAW, 9227
TONJA M. BRICKHOUSE, 3159
HARRY BRIESMASTER III, 6341
ROBERT E. BRODERICK, 7824
CHARLES Q. BROWN JR., 9120
SCOTT A. BRUMBAUGH, 3217
DAVID J. BUCK, 2598
TIMOTHY S. BURKE, 5099
GREGORY J. BURNS, 0903
MICHAEL T. BYRNE, 5891
NELSON CABOT JR., 3141
EDWARD A. CABRERA, 8426
DAVID M. CALLIS, 4052
MARIANO C. CAMPOS JR., 0997
NEAL R. CARBAUGH, 9773
PATRICK T. CAREY, 5380
TIMOTHY S. CASHDOLLAR, 8302
MICHAEL D. CASSIDY, 4145
SEAN P. CASSIDY, 0089
DEVIN L. CATE, 5871
SHEILA G. CHEWNING, 5709
LARRY J. CHODZKO, 5347
BRENDAN G. CLARE, 2025
GREGORY C. CLARK, 8892
PAUL J. CLARK, 7465
HARRY W. CONLEY, 1016
PATRICIA K. COOMBER, 9358
CHRISTOF P. CORDES, 6564
JERRY R. COUICK, 9510
MARK C. CREWS, 3112
DENNIS M. CRIMIEL, 7603
THOMAS A. CRISTLER, 6191
CLINTON E. CROSIER, 8262
VINCENT F. DANGELO, 7708
JOHN M. DAVIDSON, 3355
JOHN R. DECKNICK, 0653
GODFRED N. DEMANDANTE, 7809
JAMES C. DENDIS, 1206
STEPHEN T. DENKER, 8246
LEE K. DEPALO, 5908
JEFFREY L. DERRICK, 5547
LLOYD D. DESERISY, 8468
NICHOLAS L. DESPORT, 5407
JAMES E. DETEMPLE, 5976
DEBRA A. DEXTER, 6523
ANTHONY R. DOMINICE, 9739
MATTHEW P. DONOVAN, 9195
KENNETH R. DORNER, 9134
DANIEL C. DOTY, 1736
EDDIE G. DOUGLAS, 6622
ROBERT E. DULONG, 6525
THOMAS J. DUPRE, 0039
ELIZABETH M. DURHAMRUIZ, 6957
WALTER B. EADY, 4417
DOMENICK M. EANNIELLO, 5988
GREGORY B. EDWARDS, 4674
DAVID C. EISENSTADT, 9561
HAROLD A. ELKINS, 3970
ARNEL B. ENRIQUEZ, 5790
WILLIAM L. ERIKSON, 8831
JOHN L. EUNICE III, 7101
LYMAN A. FAITH, 5269
ROBERT L. FANT, 9629
KEITH P. FEAGA, 0635
MICHAEL A. FERNANDEZ, 1384
BERNARD P. FERRIS JR., 9883
TERESA L. FITZPATRICK, 3642
KEVIN A. FOLEY, 7829
WAYNE C. FOOTE, 0015
DEWEY G. FORD, 1055
KEVIN A. FORD, 2955
MICHAEL E. FORTNEY, 9592
ANTHONY A. FOTI, 2261
KURT R. FOX, 9417
GEOFREY A. FRAZIER, 0498
ROBERT S. FREDELL, 2186
PHILLIP R. FREDERICK, 3685
JOHN M. FYFE, 5894
CARLA H. GAMMON, 6829
ANDREA M. GARDNERINCE, 8137
STEVEN H. GAWLER, 4983
MICHAEL L. GERMAN, 7181
RONALD J. GEVRY, 3042
THOMAS B. GIATTINO, 2167
MICHAEL K. GIBSON, 0193
ROBERT D. GIBSON, 9749
SCOTT K. GIBSON III, 6353
MARY M. GILLAM, 3873
SCOTT E. GILSON, 4022
BILLY J. GILSTRAP JR., 4142
THERESA GIORLANDO, 4025
AMANDA W. GLADNEY, 3549
DONALD L. GLEASON, 4840
BRYAN P. GLYNN, 7654
JOHN J. GOMEZ, 6320
GROVER M. GOSSETT, 4381
MICHAEL J. GRAHAM, 1345
DANIEL P. GRENIER, 2513
STEPHEN J. GRIFFIN, 6492
STEVEN L. GROENHEIM, 8394
JAMES J. HAMMES III, 1420
JAMES D. HARDEN, 5095
ANTHONY L. HARDIN, 7993
WILLIAM J. HARDING, 3808
JEFFREY D. HARKER, 3549
STEVEN B. HARRISON, 2447
DANA R. HARTLE, 1510
BRETT D. HASWELL, 3770
STEPHEN M. HASWELL, 5730
KELLY P. HAZEL, 8604
LERNES J. HEBERT, 5612
GARY N. HENRY, 0858
THOMAS N. HENSON, 8662
ALBERT HILL, JR., 7987
JEFFERY HILL, 7587
MICHAEL J. HIRKA, 4351
WILLIAM A. HITE, 7822
PATRICIA D. HOFFMAN, 1122
JOE L. HOGLER, 8744
MICHAEL D. HOLBERT, 2156
ARNOLD W. HOLCOMB, 7184
JOSEPH L. HOLLETT, 3875
JAMES C. HOLLINGSWORTH, 5947
BRUCE E. HOLLYWOOD, 2095
RICHARD J. HORAN, 3230
JOHN P. HORNER, 8286
JAMES C. HORTON, 2417
JEFFERY A. HOSKEN, 1861
MICHAEL P. HOWE, 0656
HAL V. HOXIE, 7325
PETER C. HUNT, 6088
CHARLES R. HUNTER, 7949
MICHAEL W. HUTCHISON, 4512
CHARLES K. HYDE, 6548
JOHN H. IDE, 6547
RICHARD A. INGALSBE, 0285
MARK E. ISRAELITT, 2322
DEAN C. JACKSON, 4486
RICHARD S. JACKSON, 8926
GORDON J. JACOBS, 9307
DENNIS L. JASINSKI, 3466
RONALD P. JENKINS, 7118
KIM M. JOHNSON, 0193
MICHAEL R. JOHNSON, 4922
LARRY D. JONES, 0081
THOMAS M. JONES JR., 9102
SETH M. JUNKINS, 4505
RICHARD D. JUSTICE JR., 1443
CHRISTOPHER A. KAPELLAS, 2927
JAMES D. KEELS JR., 2372
DONALD R. KELLY, 2735
JAMES M. KELLY, 8986
MARK D. KELLY, 5196
STEVEN S. KEMPF, 3152
KEVIN G. KERSH, 7314
KENNETH KESKEL, 8344
KEVIN J. KILB, 8683
RICHARD A. KLUMPP JR., 6825
TERRY T. KONO, 6460
MICHAEL F. KORCHECK, 0056
RANDALL J. KOSINSKI, 2369
MERRICK E. KRAUSE, 5033
JOHN T. KREGER IV, 6111
JAY M. KREIGHBAUM, 7643
JOHN J. KUSNIEREK, 5259
SAM M. KYLE JR., 3124
MICHAEL W. LAMB SR., 5045
ROBIN MIYOSHI LANDRY, 9284
MARK C. LANE, 6593
GLENN A. LANG, 6900
DAVID H. LANGAN, 0990
DENNIS LARM, 2119
PAUL L. LAUGESEN, 1571
WALTER H. LEACH, 8456
GORDON K. LEE, 0271
MARK A. LEE, 9133
TIMOTHY F. LINDEMANN, 4079
VICTOR E. LOFTON, 6320
MADELINE F. LOPEZ, 5804
ALVIN M. LOWRY JR., 6289
DOUGLAS W. LUHRSEN, 7397
TIMOTHY E. LYNN, 9198
JOHN F. MABE, 1015
STUART W. MABERRY, 3012
SALLY D. MACON, 0821
MERRILY D. MADERO, 9457
BRUCE H. MAGOON, 8349
WILLIAM A. MALEC, 7604
TIMOTHY R. MALINSKI, 8802
JAMES F. MARTIN JR., 3909
JERRY P. MARTINEZ, 4315
JOHN B. MARTINS, 1164
MICHAEL C. MATTEI, 2748
PETER M. MAUNZ, 3117
DENNIS O. MAY, 5805
EDWARD J. MCALLISTER III, 3564
MARK S. MCALPINE, 2016
JOHN M. MCBRIEN, 2823
WARREN J. MCCHESNEY JR., 9321
RICHARD A. MCCLAIN, 6742
SAMUEL J. MCCRAW, 7361
JEFFREY R. MCDANIELS, 6134
JOHN W. MCDONALD, 4227
DONALD W. MCGEE, 8584
PAUL H. MCGILLICUDDY, 1541
MARK T. MCKENZIE, 1983
MICHAEL E. MCKINNEY, 7780
MARK C. MCLAUGHLIN, 2670
THOMAS C. MCMULLEN, 4597
ROBERT D. MCMURRAY JR., 4300
JOHNNY MCQUEEN, 5131
JOHN M. MEEK, 3349
JAMES J. MERCER, 5224
JOHN E. MICHEL, 2358
DOUGLAS W. MILLER, 1519
RONALD K. MILLER, 8860
LISTON B. MOBLEY JR., 3911
MATTHEW H. MOLLOY, 5555
KEITH W. MONCRIEF, 0338
JAY A. MOODY, 0343
FREDERICK W. MOONEY, 0882
CHRISTOPHER L. MOORE, 6530
JEFFREY A. MORAGNE, 6207
ROBERT E. MORIARTY, 9371
WILLIAM S. MOSLEY, 9898
WILLIAM M. MULLINS, 0777
JOHN D. MURPHY, 5144
MICHAEL K. MYERS, 8022
RICHARD T. NAYLOR, 3468
KERMIT D. NEAL, 8203
ERIC G. NELSON, 3012
EVERETTE S. NEWTON, 4452
MARK M. NICKSON, 6138
MICHAEL J. NIEZGODA, 0476
DAVID W. NORSWORTHY, 8639
JOHN B. NORTON JR., 8163
MARK C. NOWLAND, 7372
ERIK L. NUTLEY, 5738
MICHAEL E. OBOYLE, 0188

MARC S. OKYEN, 7734
DAVID C. OMEARA, 7296
PEDRO R. OMS, 8067
JAMES ONEAL JR., 8493
DAVID L. ORR, 7050
GARY A. PACKARD JR., 1944
SUSAN T. PARDO, 1116
MOHSEN PARHIZKAR, 0877
JUDY F. PERRY, 6331
RANDY J. PETYAK, 2497
MICHAEL E. PHELPS, 1585
THOMAS G. PHILIPKOSKY, 7770
MICHAEL D. PHILLIPS, 6646
TRACY A. PHILLIPS, 7361
JENNIFER LYNN PICKETT, 2332
EDWARD PIEKARCZYK, 1762
RICHARD P. PIERCE, 2386
MICHAEL T. PLEHN, 1796
JAMES R. PLOTT, 1339
GERALD P. PLOURDE, 1223
STEPHEN C. PLUNTZE, 9253
MARGARET B. POORE, 2922
JOHN P. POWELL, 6583
LYLE D. POWELL, 1030
JAMES R. PULLIAM, 4952
THOMAS D. QUASNEY, 8147
LORI L. RAMIREZ, 6934
MICHAEL K. RANGER, 8796
JAMES M. RATTI, 0949
FRANCIS J. RECHNER, 3152
JACK L. REIMANN, 6231
ROCKFORD J. REINERS, 3359
GARY O. RENFROW, 7563
MICHAEL D. RETALLICK, 6338
CHARLES R. RICE, 6411
HAROLD H. RICE, 5365
DERRICK M. RICHARDSON, 4284
MARIE Y. RIGOTTI, 0893
JOHN S. RIORDAN, 2595
BYRON H. RISNER, 7063
JOHN R. ROBERTS, 2333
RANDY R. ROBERTS, 1777
WILLIAM E. ROBERTS III, 8143
KENNETH L. ROBINSON, 0441
STUART M. RODGERS, 3642
EUGENE A. ROHL, 5159
MICHAEL L. ROLLISON, 1127
JON A. ROOP, 6097
MICHAEL G. ROSAS, 9201
JAN L. ROSKO, 3129
SCOTT L. RUMPH, 3573
JOHN H. RUSH, 3019
ANTHONY J. RUSSO, 8358
TIMOTHY L. SAFFOLD, 0162
HENRY P. SANDERS, 2727
JAMES P. SAVOY, 8815
WALTER E. SCALES JR., 3670
RICHARD A. SCHIANO, 4750
MARCEL T. SCHMIDT, 6257
RAYTHEON K. SCOTT, 0417
ROBERT J. SCOTT, 0053
BRADLEY A. SEIPEL, 1824
STEVEN G. SEROKA, 0552
STEVI A. SHAPIRO, 5953
JAMES W. SHAW, 5098
STEVEN M. SHEPRO, 9400
MICHAEL R. SHOULTS, 0201
JAY B. SILVERIA, 0618
DAVID A. SIMON, 3468
MARK E. SIMPSON, 2028
JOSEPH M. SKAJA JR., 5576
MICHAEL J. SMIETANA, 6236
JAMES E. SMITH III, 4312
JEFFREY B. SMITH, 4331
JEFFREY S. SMITH, 6843
JOHN R. SMITH, 8034
KEVIN C. SMITH, 1408
MICHELE G. SMITH, 7640
PHILIP A. SMITH, 7970
STEPHEN A. SMITH, 1088
WILLIAM C. SMITH JR., 1161
BRADLEY D. SPACY, 7278
WILLIAM L. SPACY II, 5135
RICHARD S. STAPP, 4751
WAYNE E. STILES, 8748
ROBERT L. STINE JR., 6005
TIMOTHY W. STRAWTHER, 7326
ROBERT L. SWALE, 0880
ROCKY A. SWEARENGIN, 4519
ROGER W. TEAGUE, 5696
CHRISTOPHER J. THELEN, 5392
LINDA M. THOMAS, 3994
ROBERT D. THOMAS, 6917
PRESTON B. THOMPSON, 0150
WADE J. THOMPSON, 1817
LEWIS R. THRASHER JR., 9371
KENNETH E. TODOROV, 2544
JOHN J. TORRES, 1165
MICHAEL I. TRAPP, 3213
DOUGLAS E. TROYER, 9716
JEFFREY S. TURCOTTE, 2151
RICHARD D. TURNER, 8154
DUSTIN A. TYSON, 0649
WILKINS F. URQUHART II, 5025
LINDA URRUTIAVARHALL, 1626
RICKY T. VALENTINE, 1938
ELISE M. VANDER VENNET, 8013
GREGORY J. VANSUCH, 9426
MARY A. VEHR, 3783
THOMAS E. VEREB, 3107
MARK C. VLAHOS, 4005
KENNETH V. VOLMERT, 9232
VICTOR E. WAGER III, 6685
RICHARD J. WALBERG, 4830
RUSSELL K. WALDEN, 4845
REX J. WALHEIM, 7409
SCOTT G. WALKER, 0858
JACQUELINE S. WALSH, 6920
JEFFREY W. WANDREY, 9609
MARK E. WARE, 4021
RONALD L. WARNER JR., 1387
WILLIAM C. WATKINS, 9651
MARYANN P. WATSON, 1986
PAUL C. WAUGH, 6072
MARSHALL B. WEBB, 5567
STEVEN D. WERT, 7424
RICHARD L. WESCHE, 5921
RICHARD S. WILCOX, 4543
MARK A. WILKINS, 2090
IRA D. WILLIAMS JR., 3765
STEVEN W. WILLS, 8052
GERALD W. WIRSIG, 8647
JOHN B. WISSLER, 4648
JEFFREY S. WOOLSTON, 9034
THOMAS G. WOZNIAK, 9303
JONATHAN C. WRIGHT, 4460
PAUL D. WUEBOLD, 9159
LEE O. WYATT, 5119
RONALD M. YAKKEL, 1608
KEITH F. YAKTUS, 2302
JOHN D. ZAZWORSKY JR., 0597
ALBERT P. ZELENAK JR., 8179
SCOTT J. ZOBRIST, 2205

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED ION THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

MARK L. ALLRED, 3058
THOMAS G. CROSSAN JR., 4456
WILLIAM A. DRUSCHEL, 6422
RONALD A. GREGORY, 8147
TIMOTHY A. GUIDEN, 2654
DEAH T. HAGMAIER, 2185
KAREN J. KINLIN, 1459
CARLOS L. MCDADE, 2591
MAURA THERESA MCGOWAN, 7519
URSULA P. MOUL, 1377
NANCY S. RICHARDS, 6402
JEFFREY A. ROCKWELL, 0387
FLOYD M. RUSSELL III, 6759
JAMES C. SINWELL, 6419
ANTHONY L. STEADMAN, 7303
DANIEL M. VADNAIS, 2594
DAVID C. WESLEY, 7672
BARR D. YOUNKER JR., 9819

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

BRENDA R. BULLARD, 6524
DENISE L. BURTON, 7095
MICHAEL T. CULHANE, 9403
LINDA L. EBLING, 2898
JOHN M. KORLASKE, 3171
DEBORAH L. LARY, 8239
TIMOTHY R. MCCORMICK, 0996
CLARA L. NIELSEN, 1614
JOHN C. SELL, 4229
IVAN L. SHERARD, 4247
KELLY A. WING, 6915
THOMAS E. YINGST, 8224

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTION 624 AND 3064:

*To be lieutenant colonel*

JAMES R. AGAR II, 0256
JANE E. BAGWELL, 5746
RANDALL J. BAGWELL, 5269
MICHAEL R. BLACK, 8013
EUGENE E. BOWEN JR., 5679
STEVEN M. BRODSKY, 5529
JOHN P. CARRELL, 7275
LARSS G. CELTNIEKS, 7105
DAVID K. DALITION, 1632
DOUGLAS M. DEPEPPE, 4186
THERESA A. GALLAGHER, 2545
TYLER J. HARDER, 1696
CHARLOTTE R. HERRING, 3690
DALE N. JOHNSON, 3689
FRANCIS P. KING, 6658
CARL W. KUHN, 0834
MICHAEL O. LACEY, 6719
DANIEL A. LAURETANO, 2196
STEPHEN J. LUND, 5994
MICHAEL R. LUTTON, 3626
TIMOTHY C. MACDONNELL, 8472
MARK D. MAXWELL, 1764
MICHAEL J. MCHUGH, 8852
THOMAS C. MODESZTO, 1423
FRANKLIN D. RAAB, 3290
MISTI E. RAWLES, 7316
JAMES H. ROBINETTE II, 5471
PAUL T. SALUSSOLIA, 4464
RALPH J. TREMAGLIO III, 6917
DEAN VLAHOPOULOS, 0336
STEVEN B. WEIR, 5445
JOHN B. WELLS III, 0278
NEOMA J. WHITE, 0602
NOEL L. WOODWARD, 6020

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624

*To be major*

RANDY M. ADAIR, 2114
MARK F. BIRK, 2059
DAVID M. ELLIS, 7630
KENNETH L. KELSAY, 8664
KIRKLAND P. MARTIN JR., 0487
ANDREW N. SULLIVAN, 0414

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624.

*To be major*

JOSE GONZALEZ, 8886
EARL E. NASH, 9531
ROGER W. SCAMBLER, 0786
JEFFREY G. YOUNG, 9457

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624

*To be major*

EDWIN N. LLANTOS, 9714
MANUEL RANGEL JR., 2624
STEVEN J. SKIRNICK, 8777
MATTHEW E. SUTTON, 1710

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624.

*To be major*

THOMAS E. BLAKE, 8108
STEVE K. BRAUND, 4459
JAMES A. GRIFFITHS, 6192

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624

*To be major*

GERALD A. CUMMINGS, 1323
KEITH E. ENYART, 8083
JOHN M. MC KEON, 6366

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

PAUL J. SMITH, 3136

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

RICHARD D. BEDFORD, 7964
JAMES D. MC COY, 7186

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

SAMUEL E. DAVIS, 1143
SCOTT D. FRANCOIS, 5488
CHARLES B. SPENCER, 1195
DAVID H. STEPHENS, 0841

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

DONALD L. BOHANNON, 5852

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

PETER D. CHARBONEAU, 6588
RODNEY W. CLAYTON, 3857
STEVEN R. FREDEEN, 5480
BERNARD J. GRIMES, 7582
ROBERT L. HANOVICH, 7911
THOMAS MC MILLAN, 4353
JOHN A. TANINECZ, 4273

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

JOHN M. BISHOP, 8175

CARL F. DAVIS, 6551
DAVID R. GEHRLEIN, 5992
PHILIP W. GRAHAM, 3063
CARLTON D. HAGANS, 5309
JEFFREY P. RUPPERT, 3143
SCOTT E. SCHECHTER, 6187
TIM J. SCHROEDER, 0671
SCOTT A. SHARP, 1440
JOSEPH G. SINESE, 2603
JEFFREY W. SMITH, 2859

THE JUDICIARY

RAYMOND L. FINCH, OF THE VIRGIN ISLANDS, TO BE JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF TEN YEARS. (REAPPOINTMENT)

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 3, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### FEBRUARY 4

9 a.m.

Foreign Relations

To hold hearings to examine AIDS and hunger.

SH–216

9:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar items.

SD–366

Governmental Affairs

To continue hearings to examine workforce issues relating to preserving a strong United States Postal Service.

SD–342

Indian Affairs

To hold hearings to examine President's fiscal year 2005 budget request.

SR–485

10 a.m.

Budget

To hold hearings to examine the President's fiscal year 2005 budget proposals.

SD–608

Finance

To hold hearings to examine the Administration's Health and Human Services budget priorities.

SD–215

Judiciary

To hold hearings to examine the nominations of William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, William S. Duffey, Jr., to be United States District Judge for the Northern District of Georgia, and Lawrence F. Stengel, to be United States District Judge for the Eastern District of Pennsylvania.

SD–226

2:30 p.m.

Banking, Housing, and Urban Affairs

Economic Policy Subcommittee

To hold hearings to examine national flood insurance repetitive losses.

SD–538

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

SD–366

3 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine Mars exploration.

SR–253

### FEBRUARY 5

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine global warming.

SR–253

Foreign Relations

To hold hearings to examine Iraq stabilization and reconstruction.

SD–419

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the Office of the Comptroller of the Currency's rules on national bank preemption and visitorial powers.

SD–538

Finance

To hold hearings to examine the nomination of Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of the Treasury.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine maintaining confidence in consumer products relating to mad cow disease.

SD–430

2:30 p.m.

Foreign Relations

To hold a closed briefing regarding security preparations for 2004 Olympic Games.

S–407, Capitol

Judiciary

Immigration, Border Security and Citizenship Subcommittee

To hold hearings to examine evaluating a temporary guest worker proposal.

SD–226

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 1306 and H.R. 1446, bills to introduce the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania.

SD–366

### FEBRUARY 9

10 a.m.

Governmental Affairs

To hold hearings to examine the Department of Homeland Security's budget for fiscal year 2005.

SD–342

### FEBRUARY 10

9:30 a.m.

Armed Services

To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.

SR–325

10 a.m.

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of Energy.

SD–366

2 p.m.

Veterans' Affairs

To hold hearings to examine the Adminstration's proposed fiscal year 2005 Department of Veterans Affairs' budget.

SR–418

### FEBRUARY 11

9:30 a.m.

Indian Affairs

To hold hearings to examine the President's fiscal year 2005 budget request.

SR–485

### FEBRUARY 12

9:30 a.m.

Foreign Relations

To hold hearings to examine policy and programs relating to the State Department.

SR–325

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine Department of Defense contractors who are abusing the federal tax system by either failing to file tax returns or not paying their taxes.
SD–342

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of the Interior.
SD–366

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1466, to facilitate the transfer of land in the State of Alaska, S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives, S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.
SD–366

FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.
SD–366

MARCH 4

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 25

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

# SENATE—*Tuesday, February 3, 2004*

The Senate met at 9:45 a.m., and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Spirit of God, who brought creation out of the void, light from darkness, and order from chaos, everything under Heaven belongs to You. Lord, work with us to bring harmony where there is discord. Use our daily experiences of joy and sorrow, pleasure and pain, victory and defeat, for Your glory.

As enemies of liberty seek to create insecurity and fear, remind us that no evil can stop the unfolding of Your purposes and Providence. Thank You for leading us each day with Your merciful hands and for providing for our needs. You prepare tables of peace and confidence for us in the presence of our enemies, causing us to rejoice because of Your faithfulness.

Bless our leaders. Protect them with the shield of Your love. Fill their hearts with Your joy and give them Your peace. We pray this in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 10:30 a.m., with 30 minutes under the control of the Senator from Florida, Mr. GRAHAM, and the remaining time under the control of the majority leader.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, under a previous order, we will be in morning business until 10:30 a.m., as mentioned. At 10:30 we will begin the highway bill. As mentioned yesterday, it will be very important to address this bill and spend the appropriate time this week and through next week with the objective of completing this bill by the end of next week. It is a very important bill in terms of supporting our infrastructure throughout this country, in terms of providing that infrastructure to support our economy, and also to create jobs. It is a very important bill.

The relevant committees met yesterday. Some of those committee meetings will be affected by the closure of the office buildings today, but we will have further announcements on the committee meetings a little bit later this morning.

We will be here today, and I do encourage Members to make their opening statements today. We will have a comment shortly on the policy luncheons today within the next several minutes after I speak with the Democratic leader.

### RICIN FINDING

I will comment very quickly—because there are a lot of questions and a lot of news reports—as most people know, in midafternoon yesterday, a powder that was ultimately determined to be ricin was found in my personal office building. Everything was handled in a very appropriate way in terms of the screening tests that have been established, and ultimately, after a series of tests of what are called specificity and sensitivity tests, confirmatory results came back last night at around 9:30 that this was ricin.

There will be a lot of discussion in the news and around here as to what ricin is. As I mentioned last night, it is a type of what we call a toxin or a poison. It is not a virus, and it is not a bacteria, so a lot of people say it is not biological, but it is made from a castor bean. Somebody, in all likelihood, manufactured this with an intent to harm, and this is a criminal investigation that will be underway.

As everyone knows by now—or we hope they know—we made a decision, based on the procedures that are quite thorough and comprehensive, to close the three Senate office buildings today. Meetings have continued through the night and today over the course of this morning thus far. Further decisions will be made about reopening those buildings. The real purpose of that is that the mail be addressed in an appropriate way in those buildings.

Let me also say that all air sampling and all environmental studies today are negative with the exception of what was found in that single office at that site.

With that, I think I will stop to say we will have our activity here on the floor of the Senate. The Capitol Building is open today, and individual committee chairmen will be announcing what the plans are with hearings that were scheduled today in the Senate office buildings. Most of those will be closed.

At this time I will turn to the Democratic leader. We will likely be making other announcements over the course of the morning.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

## CONDUCTING SENATE BUSINESS

Mr. DASCHLE. Mr. President, let me first express the sentiment that I know is shared by the entire Senate family in expressing our concern and our admiration for Senator FRIST and his staff. Having been through this ordeal in another form a couple of years ago, I know the difficulty it presents personally to staff and to families of staff, and I know we are probably in a better position to confront these challenges today than we were 2 years ago. But we speak with one voice in expressing our concern for those staff and our optimism about our ability to successfully confront this challenge as we did 2 years ago.

I know this has been a long 24 hours for the majority leader. He had a late night the night before, and then last night it would not surprise me if he got no sleep at all. So he is working on little sleep, and I appreciate his report this morning.

Obviously, we have a number of decisions to make over the course of the day, and I will consult with him. I do hope, to the extent it is practicable, that we use this opportunity to continue the debate on highways. We do not have a lot of time, and I know each day is valuable from that perspective. But we also want to be practical, recognizing if the offices are closed, it will be hard for Senators and their staff to do work related to the highway bill. I look forward to consulting and working with the distinguished majority leader as we deal with the necessity this situation has presented to us.

Mr. President, I know colleagues on both sides of the aisle are interested in the schedule. I know the majority leader had announced that there will be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

caucus lunches. I want to make sure people understand, we will have our normally scheduled caucus lunch today. Both the Democrats and Republicans will be meeting. They will be held in the same location.

I yield the floor.

## PROVISION FOR EMERGENCY AUTHORITY

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to a resolution at the desk regarding emergency authority; provided, further, that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 296) was agreed to, as follows:

S. RES. 296

*Resolved*, That the Presiding Officer of the Senate may suspend any proceeding of the Senate, including a roll call vote or a quorum call, and declare a recess or adjournment of the Senate subject to existing authorities or subject to the call of the Chair, within the limits of article I, section 5, clause 4, of the Constitution, whenever the Presiding Officer has been notified of an imminent threat.

SEC. 2. When the Senate is out of session, the Majority and Minority Leaders, or their designees, may, acting jointly and within the limits of article I, section 5, clause 4, of the Constitution, modify any order for the time or place of the convening of the Senate when, in their opinion, such action is warranted by intervening circumstances.

The PRESIDENT pro tempore. The Senator from Vermont.

## COMMENDING THE MAJORITY AND MINORITY LEADERS

Mr. LEAHY. Mr. President, I will take a moment.

I commend both the Republican and Democratic leaders for opening the Senate today. I was recollecting, as I came in, we had another majority leader from Tennessee, Howard Baker—the Democrat leader was ROBERT BYRD; both distinguished friends and colleagues—and there had been an explosive device put outside the Capitol one evening, something that could not be done today because there are changes in our security. But the majority leader recessed that evening—it was going to be a late-night session. We adjourned a little earlier than we anticipated because we had worked out something and needed time for drafting and worked out a logjam we had, and there was an explosive device put out—and the distinguished Presiding Officer remembers this time very well because he was also serving here, as I was, at the time—blowing out both the Republican and Democratic cloakrooms. There would have been great casualties had we been there. The next morning, as I recall, nearly 90 Senators were sitting in their seats. We came back in basically to say: Nothing is going to close us down.

So I commend my dear friend from Tennessee and my dear friend from South Dakota for opening up this session. I think this is a symbol of democracy throughout the whole world. Certainly in our country, the most obvious symbol of democracy is this Capitol Building. Every time we stay open, as we have after 9/11 and everything else, it demonstrates the leadership of our two leaders but also of the devotion to democracy we see in this Chamber.

That is all I am going to say. That is why I am here this morning. I wanted to compliment both of the leaders for opening up this session.

The PRESIDENT pro tempore. The majority leader.

## SENATE STAFF AND THEIR FAMILIES

Mr. FRIST. Mr. President, I do want to briefly comment on the families of the individuals who were potentially exposed yesterday. It is an inconvenience because you are waiting for tests and you are doing screening tests that have a certain meaning in terms of sensitivity, specificity. We are waiting for results to get back, and you hear about the potential harm these poisons can do. I express my real sympathies to the families and the individuals affected.

We had a conference call. We were all together last night by telephone until the early hours of this morning. We had another conference call at 8:45 this morning, and we will continue to be in touch with all the people who could have potentially been affected. Again, we think about them and their families.

We will be having our policy lunches today. Both sides of the aisle will conduct their policy lunches in the usual fashion.

With that, Mr. President, I yield the floor.

The PRESIDENT pro tempore. Who seeks recognition?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, are we in morning business?

The PRESIDENT pro tempore. We are in morning business, with 30 minutes under the control of the Senator from Florida, Mr. GRAHAM.

Mr. DURBIN. Mr. President, I would be glad to yield to the Senator from Florida.

Mr. GRAHAM of Florida. I say to the Senator, when I take the floor, I am going to be here for about 30 minutes. If the Senator has something he would like to say prior to that, I will yield.

Mr. DURBIN. I thank the Senator from Florida for the forewarning.

I ask the Chair, the Senator from Florida is going to speak for 30 minutes. How much time would I be allocated in morning business?

The PRESIDENT pro tempore. One minute.

Mr. REID. Mr. President, if the Senator from Illinois will yield, I ask unanimous consent that the Senator from Illinois be recognized for up to 10 minutes, and that there be equal time on the other side to match that, if that is necessary.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

May the Chair inform the Senator from Nevada, under the previous order the remaining time will be under the control of the majority leader. The time for Senator GRAHAM has expired. The Chair suggests the Senate might consider its time.

Mr. REID. I appreciate the counsel of the Presiding Officer. Because of the events of last night, Senator GRAHAM's time was taken.

Mr. President, I think the time of the Senator from Florida starts at 10 o'clock.

The PRESIDENT pro tempore. The Parliamentarian informs me Senator GRAHAM will have to use his time now.

Mr. REID. He would have to use his time now?

The PRESIDENT pro tempore. Yes.

Mr. REID. I ask unanimous consent that the order now before the Senate be modified to allow the Senator from Illinois to speak for up to 10 minutes in morning business, and that like time be extended to the Republicans.

Mr. DURBIN. Reserving the right to object, I would be happy to yield to the Senator from Florida to go first, and I will follow him. That would be fine with me, 10 minutes after Senator GRAHAM.

Mr. REID. And that Senator GRAHAM be given his 30 minutes. I ask that my consent be modified.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

The Senator from Florida.

## INTELLIGENCE LESSONS

Mr. GRAHAM of Florida. Mr. President, yesterday I spoke to the Senate relative to my assessment of the responsibility for the attacks of September 11, 2001, some of the lessons learned from those attacks, and the status of the implementation of those lessons. I explained that my view was that those terrible events would have been prevented if our national intelligence community had been better organized and more clearly focused on the problem of terrorism. And if the Congress and the President had drawn on those lessons learned from the tragedy of 9/11 and initiated reforms of the intelligence community, we might well have avoided some of the embarrassments of the flawed intelligence on weapons of mass destruction or the misleading use of that intelligence which formed the basis of the war against Iraq. Today I would like to continue my discussion of those lessons that we should have learned and implemented.

As chairman of the Senate Select Committee on Intelligence for most of the 107th Congress, I had the honor of cochairing a bipartisan, bicameral committee charged with investigating the events of the intelligence community and their activities before and after the attacks of September 11. We set out to determine whether or not there was anything more we could have done to prevent the attacks and, specifically, if our intelligence community had problems that needed to be corrected.

The importance of our task was well understood. The 9/11 attacks were not the work of a crazed individual but, rather, were the result of a sophisticated plot carried out by a group of 19 terrorists and an undetermined number of facilitators who prepared for the execution of their plot over a period of almost 2 years. We can, we must, improve our ability to detect and disrupt plots of this nature. We can do so by ensuring that our intelligence-gathering networks are operating in an optimal manner and that any flaws in our intelligence community are addressed as quickly and effectively as possible.

Our committee identified a number of problems with our current intelligence-gathering system. We followed up with recommendations on how to fix these problems. By conducting this inquiry, making these recommendations, Congress not only assumed the responsibility for determining what happened before and after September 11 as related to our intelligence community, but it also assumed a responsibility relative to the implementation of the recommendations.

The American people will respond to future terrorist attacks by asking: What did we learn from the previous attack and how has that information been used to give the American people greater protection? They have the right to ask this question and we have an obligation to give them a good answer: What have you done with the information and the lessons learned? How have you implemented those lessons in a way to give me and the American people a greater sense of security?

So far, we have not made acceptable progress toward providing an answer to the American people. In fact, if we had to give it today, it would not be an answer of which we would be proud.

A large number of the problems identified by the joint inquiry and a series of commissions which preceded the joint inquiry have not been addressed. In my previous statement, I discussed those recommendations which related specifically to the issue of counterterrorism. This morning, I would like to address those recommendations which deal with the structure of the intelligence community.

Our national intelligence community is beset by a number of serious problems. There is a lack of leadership at the top and the absence of a coordinated national intelligence policy that gives us agencies with priorities, missions, and resources that do not necessarily complement one another.

As an example, in December of 1998, the Director of Central Intelligence, the man who has the statutory responsibility for the coordination of all of our various intelligence agencies, told senior managers of the CIA that he considered the United States to be at war with al-Qaida and that the intelligence community, all of its agencies, working in a coherent manner, should devote as many resources as possible to combating that terrorist organization.

While this statement might seem to be a positive step, a step in the right direction, our joint inquiry found that the DCI was either unable or unwilling to enlist other intelligence agencies in this effort. The troops either didn't hear or simply ignored the bugle call of war.

The lack of consistent, coordinated priorities is paralleled by a lack of consistent, predictable funding as well as the lack of internal accountability. This shortage of resources meant that the intelligence community simply did not have enough personnel to perform all the functions that were needed. This left the intelligence community ill-prepared to deal with the rapidly changing terrorist threat.

One of the reasons for the unpredictability and decline of funding of the intelligence community was the mistaken belief that the end of the cold war yielded a peace dividend for the American people when it came to defense spending, including a reduced need to spend money on intelligence.

Mr. President, in fact, the change from the single focus on the Soviet Union and its allies to the current world of diverse, constantly changing, emerging threats such as weapons of mass destruction and international terrorist groups has increased demand and, therefore, the cost of intelligence.

The first recommendation made by our commission urges the creation of a Cabinet-level director of national intelligence, appointed by the President and subject to Senate confirmation. We made this our first recommendation because we think it is the most important recommendation and one that can do the most to prevent another 9/11 tragedy. I gratefully recognize the excellent work of Senator FEINSTEIN in championing this issue.

The director of national intelligence would be responsible for establishing consistent priorities for all of our national intelligence agencies and assuring that these agencies work together, rather than independently, by coordinating budgets and resources and managing interagency relationships. We made this recommendation because of the obvious need for strong leadership in our intelligence community.

It is clear that prior to 9/11 our intelligence-gathering agencies had no comprehensive strategy for counterterrorism. Intelligence priorities were inconsistently formulated and applied throughout the various agencies and were not effectively leveraged through interagency coordination. The joint inquiry report offers specific details of FBI supervisors who thought there was no need to pay attention to Saudi citizens in the United States while at the same time the CIA was tracking suspected Saudi terrorists around the world.

The director of the national security agency, which is responsible for our electronic eavesdropping, described the problem of unclear priorities when he said: "We had about 5 number 1 priorities."

Although the Director of Central Intelligence is normally the head of the intelligence community, in practice he has functioned as the head of one of those agencies, the CIA, with limited influence over other organizations. The limited ability of the Director of Central Intelligence to mobilize other intelligence agencies in the war against al-Qaida is a tragic example of this point. Before 9/11, personnel in many intelligence agencies—particularly the FBI—had not even heard his statement on the topic, let alone acted upon it.

The DCI does have some budgetary authority, but it cannot be exercised effectively without the cooperation of the Department of Defense since many intelligence agencies are run through the Department of Defense. It is therefore necessary to appoint a strong director of national intelligence who is not the head of any specific intelligence agency. This is a recommendation which has been consistently made by citizens, commissions, and governmentally appointed commissions which have reviewed the intelligence community in the recent past.

So far, Congress and the administration have not acted on this first recommendation and indeed appear to be moving in the opposite direction. The recent creation of an Under Secretary of Defense for Intelligence will serve to further separate the Defense Department from the civilian intelligence agencies rather than improving cooperation. Legislation has been introduced to accomplish this necessary restructuring, but as of this date it has not had a hearing before the Senate Select Committee on Intelligence.

This is an issue which now sits upon the shoulders of the Congress. If we fail to act, we will be held accountable when the next preventable terrorist act occurs.

Another important recommendation was No. 11, which called for the recruitment and development of greater numbers of quality intelligence personnel. Obviously, the need for more counterterrorism training is a major part of this recommendation, as is the need for more linguists and an expanded intelligence community reserve corps that could provide relevant expertise when special circumstances arise.

The committee also recommends an expansion of education grant programs, such as the national security education program. Included among the suggestions for improving the workforce was one calling for legislation that instills the concept of jointness or interoperability among the various agencies. This is similar to the 1986 Goldwater-Nichols Act, which applied the concept of jointness to the military. One way jointness has been instilled in the military is by having service members serve tours of duty with another service or in a multiservice command. This reform is widely recognized as having substantially improved our military's ability to fight and win wars, as was so dramatically demonstrated in Iraq.

In the intelligence community, there is too much isolation among intelligence agencies and between those agencies and the users of intelligence. As an example, the intelligence community, having examined the likely means of attack by al-Qaida, identified hijacking of commercial airliners to be used as weapons of mass destruction as a particularly significant part of the arsenal of al-Qaida. However, the Federal Aviation Administration was not notified of this new form of threat. Therefore, the training and protocols of flight crews had been to not attempt to resist hijackers but, rather, to succumb until the plane was on the ground and then let other law enforcement and professionals attempt to negotiate with the hijackers, and that was the form of action that was still in place on September 11.

Possibly, had the FAA been aware of this new threat of taking command of a plane not for economic or political purposes but to use it as a weapon, airlines would have been better prepared to deal with this particular generation of hijackers. We need our intelligence community to substantially improve its capability in the same way that the military has.

By working and training on a joint basis, intelligence agencies can conserve resources and help personnel gain an appreciation for a wider variety of intelligence-gathering tactics and techniques. If this recommendation had been implemented earlier, it could have reduced our vulnerability.

Our joint inquiry found that a shortage of staff was a near universal problem for intelligence agencies before 9/11. For instance, at the CIA's counterterrorism center, employees were required to work extremely long hours with no relief. Overworking these critical personnel made them less effective and lowered their morale to the point where retention had become a problem. Problems similar to that of the CIA's counterterrorism center existed at the FBI, the National Security Agency, and the shortage of Arabic linguists at the National Security Agency became especially pronounced. Linguists continue to be in short supply, in part because qualified linguists cannot be trained overnight.

Counterterrorism training has been stepped up in other areas, but raising our capabilities to an adequate level will still require more personnel with enhanced and expanded training.

The Intelligence Authorization Act for Fiscal Year 2004 included pilot programs for training students who will form the future of the intelligence community.

No legislation regarding jointness has yet been passed despite the clear, positive results achieved by previous efforts in similar and relevant parts of the Federal Government.

The joint terrorism task forces set up by the FBI have had some success in bringing together officials from different agencies. It was one of these groups which was responsible for the capture of Zaccaria Moussaoui, the so-called 20th hijacker. If more of these task forces had been set up before 2001, and if those that did exist had all the personnel they needed to be effective, we can only imagine what might have been accomplished, what might have been prevented.

Recommendation No. 12 regards our national intelligence budget and suggests several measures to ensure our investments in intelligence provide maximum benefits. It calls for more flexibility in the budget to be accompanied by greater oversight and raises the idea of a cost-benefit analysis by an independent agency.

It also urges the President and the Congress to develop a budget that includes a sustained, long-term investment in counterterrorism to replace the unpredictable funding stream that currently exists. Providing the intelligence community with an adequate level of base funding would obviously increase budget stability and assist in long-term planning.

Contrary to that, for the past several years, counterterrorism programs have been funded primarily through supplemental appropriations which were often in response to a specific event, such as the September 11 tragedy, and therefore the supplemental appropriations varied greatly from one year to the next.

Intelligence officials who were interviewed by our joint inquiry were understandably critical of this system since it makes it more difficult to plan sustainable counterterrorism programs. This dynamic still persists, despite its obvious flaws, despite its obvious contribution to the increased—the unnecessarily increased—vulnerability of the American people.

There have been significant increases in our intelligence budget, but in 2003, a substantial portion of our counterterrorism budget still came from supplemental appropriations.

Another problem with the intelligence budget is the way it is tied to the Defense Department's budget. During the 1990s, we made significant cuts to the Defense Department budget, and the intelligence budget was cut proportionately.

While the end of the cold war meant we could reduce the size of our Armed Forces, intelligence requirements actually increased due to the diversification of the threat. In addition, greater budget stability in our efforts to fight terrorism would be better served by greater budget flexibility. It is currently quite difficult for intelligence officials to shift resources from one priority to the other as circumstances require. Even small adjustments require prolonged formalized approvals.

For instance, a number of CIA officials were aware of the need for more agents in Afghanistan prior to 2001 but were unable to reassign resources away from other priorities. The Director of the National Security Agency has discussed similar problems. The 2004 Intelligence Authorization Act permits the Director of Central Intelligence to authorize the employment of additional civilian personnel if he believes this is necessary.

This is a small step in the right direction, but more flexibility is still needed. This flexibility must be accompanied by increased congressional oversight.

It became apparent during the course of our joint inquiry that the intelligence community does not have a clear idea of how much money it spends on counterterrorism, and accounting methods vary among the different agencies.

In light of this, it seems appropriate that a cost-benefit analysis from an outside agency would be very helpful, but so far no real efforts have been made to undertake such a step.

Recommendation No. 15 suggests that the President and the Congress evaluate and consider revising the intelligence classification process. This task would pursue the twin goals of expanding access to important information and assuring that classified intelligence information is not disclosed inappropriately.

The current system of intelligence classification is not the result of a thoughtful, open debate, but is, rather, the product of a series of Executive orders rooted in cold war mentality and issued with little or no consultation of Congress.

Many people with extensive knowledge of the system have suggested there is a tendency toward too much secrecy and that this has had a predictably negative effect on the flow of information.

There was an interesting column recently in the New York Times talking about one of the core problems within the Government of Saddam Hussein prior to the war, and that was that all parts of that society practiced secrecy and deception; that the army deceived Saddam Hussein as to just what it was doing to prepare for war; scientists deceived Saddam Hussein as to the state of their development of weapons of mass destruction; Saddam Hussein attempted to fool the people of Iraq, and our intelligence agencies were fooled by all of the above.

Allowing an increase in a curtain of secrecy to fall over the information of our United States agencies will have the same effect the veil of secrecy did in Iraq, and that is to make us less secure, more vulnerable because we have not shared information in a way that can increase our security.

By treating so much of this information as treasure to be guarded, intelligence agencies can actually reduce the information's usefulness. By reducing biases toward excessive secrecy, Congress and the President can help make sure more information gets to the people who need it, particularly those such as first responders, local government, law enforcement officials, and Federal agencies, such as the Federal Aviation Agency.

There is a suspicion among many Americans—and I believe it is justified—that classification is being used to shield politically embarrassing information from public scrutiny, as was the case with the information on the role of foreign governments in the September 11 attack.

Unfortunately, little progress has been made so far in the task of reviewing the use of classified information, particularly in the area of intelligence. The Intelligence Authorization Act requires the President to report on the barriers to sharing classified information. Congress has not yet given serious consideration to this important topic.

Another very important recommendation issued by the joint committee, which has also been largely ignored, is recommendation No. 16, which calls for a new standard of accountability in the intelligence community. Given the continued and increasing use of intelligence information in our national policymaking, whether it is to fight terrorism, to determine the true capability of a potential adversary, or to reduce the proliferation of weapons of mass destruction, it is critically important that we have accountability mechanisms in place that review intelligence agencies' failures in order to learn from those mistakes. To date, no personnel in intelligence or other affected agencies has been sanctioned as a result of the tragedy of September 11.

It is also true that no one has been sanctioned for the apparently incorrect intelligence assessments upon which the case to go to war in Iraq was predicated. Weapons of mass destruction alleged to exist in Iraq have not been found and, according to David Kay, our lead investigator, it is unlikely they will ever be found. This raises in stark terms the responsibility of the President to determine who is accountable for intelligence failures and what should be the appropriate sanction of those responsible.

It is as though the chairman of the steamship company that owned the Titanic put all of the blame for the tragedy on the iceberg and declared that was the end of it; the captain of the ship would be let off scot-free.

At the same time, it is unclear if any rewards or recognitions have been given for outstanding performance in the intelligence community, outstanding performance such as that of those who contributed to the capture of Saddam Hussein.

If we want our intelligence agencies to be as good as they can be and they must and should be, then we must assure that they have systems in place to reward exceptional performance and to deal with bad performance appropriately. Currently, there are no systems performing this function and all attempts to bring accountability to our intelligence-gathering programs have been made in an ad hoc manner. We must demand that the intelligence community establish standards of accountability since reliable intelligence is critical to our security as citizens and our credibility as a nation.

The last recommendation I would like to address today is No. 17. This calls for the removal of inappropriate and obsolete barriers between intelligence and law enforcement agencies engaged in counterterrorism. It advises the administration to report to Congress regarding the removal of these barriers so that Congress can take whatever legislative actions are appropriate.

Our joint inquiry found that the various agencies engaged in counterterrorism have been surprisingly reluctant to share information with each other. Example: In the months before the September 11 attack, the CIA was aware of two terrorists associated with al-Qaida, Khalid al-Mihdhar and Nawaf al-Hazmi. These two terrorists had attended a planning session in Malaysia, a session at which both the attack on the USS *Cole*, which was to occur in November of 2000, and the attack on the World Trade Center, the Pentagon, and the failed effort that ended in a field in Pennsylvania had been discussed.

Both of these terrorists attended a planning conference for purposes of proceeding with those two terrorist attacks, and then acquired visas for travel to the United States, because the CIA had not informed law enforcement or border protection agencies of the threat posed by these individuals. The FBI and other agencies did not seem to have received this information which could have helped disrupt the 9/11 attack.

Similarly, the FBI prevented its agents from participating in an effort to track down these terrorists on the grounds that this was not a job for criminal investigators. The FBI was reluctant to share information regarding counterterrorism because of concerns about legal barriers preventing collaboration between intelligence and law enforcement agencies. These concerns sprang partly from an overly restrictive Department of Justice policy and partly from misunderstanding among agents regarding the law. Sharing of intelligence information with law enforcement agencies was seen as particularly difficult, almost taboo. This was a clear contradiction of the law that existed prior to September 11.

Legal considerations also seem to have impaired information sharing by the National Security Agency and the CIA as well. However, these agencies, particularly the CIA, were also motivated by an overly zealous desire to protect sources. While protecting sources and methods is certainly an important goal, these sources and methods are not very useful if we cannot effectively use the information they provide to us.

From a legislative point of view, significant progress has been made in this area. Congress has passed legislation removing legal restrictions regarding the sharing of intelligence information. Agency heads have updated obsolete and inappropriate guidelines. Intelligence community personnel now seem to have a much clearer picture of what methods and actions are available to them.

Unfortunately, while the legislative barriers to information sharing have been removed, the fact is that effective information sharing is still not taking place between intelligence and law enforcement, and this is a special problem between Federal intelligence and law enforcement agencies and State and local law enforcement.

I frequently hear complaints that agency culture, habit, and inertia, have preserved problems that should have been solved, making this yet another area in which the lessons of 9/11 have not been learned and not been applied effectively.

September 11 was a wake-up call. It alerted us to the fact that our intelligence agencies were not performing at the level required during this era of terrorism. We have just received our first report card. The report card is to tell us how well we have done since September 11 in applying lessons learned to the greater protection of the American people. We have received a grade of F. The false assertion of large stockpiles of weapons of mass destruction in Iraq demonstrates that we have not yet made the reforms to our intelligence agencies that are required.

The next report card will come when we have the next intelligence failure. The President and the Congress will both be held accountable if we have not acted on these necessary reforms to protect the safety of the people of America.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Florida for his extraordinarily enlightening and very helpful discussion in this series of speeches he is giving this week. I think we would all do well not only to listen but to read and to thoughtfully consider much of what he has shared with us. He speaks with experience and extraordinary credibility, and I applaud him for taking the time and making the effort that he has to bring this important issue before us in a meaningful way.

## IRAQ INTELLIGENCE COMMISSION

Mr. DASCHLE. Mr. President, the vital interest of our national security is critical to our understanding of the degree to which we can cope with the circumstances involving the intelligence failure we have now experienced over this past year or more. Two important voices have been added to the growing chorus, raising questions about the accuracy and the veracity of the allegations the administration used to take this country to war. Just yesterday Secretary Powell made clear the importance of the prewar claims, suggesting that the case for war was much weaker without the allegations of existing stockpiles of weapons. When asked whether he would have recommended an invasion last year if he knew then what he knows now, Secretary Powell said:

> I don't know, because it was the stockpile that presented the final little piece that made it more of a real and present danger and threat to the region and to the world.

A year ago this week, Secretary Powell made a lengthy presentation to the United Nations Security Council about the grave threat posed by Iraq's weapons of mass destruction. The Secretary of State did not speak of "weapons of mass destruction-related program activities," but of existing stockpiles—existing stockpiles of horrendous weapons and the means to deliver them. In large measure because of the alarming assertions by Secretary Powell and similar claims by President Bush, Vice President CHENEY, Secretary of Defense Rumsfeld, National Security Adviser Rice, and many other senior administration officials, a majority of Congress voted to give the President the authority to send troops to wage war against Iraq.

Late last month, Secretary Powell had something decidedly different to say. For the first time since his U.N. presentation he explicitly acknowledged the strong possibility his claims about Iraq's weapons were untrue, telling reporters on his trip to Georgia:

> . . . what the open question is: how many stocks [the Iraqis] had, if any? And if they had any, where did they go? And if they didn't have any, then why wasn't that known beforehand?

A few days later, Dr. David Kay, Chief Weapons Inspector in Iraq until a couple of weeks ago, told the Armed Services Committee here in the Senate the administration's prewar intelligence on Iraq was, in his words, "all wrong." While several nonpartisan experts have reached similar conclusions about our intelligence and raised concerns about the accuracy of the administration statements on this issue, hearing Secretary Powell and Dr. Kay, two of this Nation's most respected and knowledgeable officials, speak in this manner, has raised some questions at home and abroad about the foundation of the administration's case for going to war against Iraq.

Given the significance of these questions, a broad, thorough, nonpartisan review of both the intelligence community's assessment of the threats posed by Iraq and the administration's use of this information is essential to restoring the trust of the American public and the international community in this administration and in the intelligence system itself.

The reason is clear. The most effective means to counterterrorism and the many other national security challenges facing this Nation today is by gaining and maintaining the support of the American people and assembling a international coalition. Accurate, unimpeachable intelligence is one of the most crucial tools the President has at his disposal for rallying the American people and the world. If the President is to successfully convince Americans of the need to send daughters and sons into harm's way and urge our allies to support America's course of action, our intelligence must be seen as absolutely credible and accurate. National security experts of both parties have begun to warn that the lack of any weapons of mass destruction in Iraq after the administration's grave predictions in the runup to the war is undermining America's credibility, not only on Iraq but on other national security challenges as well.

For example, the United States increasingly believes that North Korea has used the last couple of years to create additional nuclear material and weapons. However, officials in South Korea and China have raised questions about these conclusions, in part by pointing to our intelligence community's failures in Iraq. This failure to reach a consensus on the threat posed by North Korea has greatly complicated efforts to effectively confront a nation that already possesses nuclear weapons and has been characterized as the world's greatest weapons proliferator.

Given these stakes, one would think the President would be the first to demand a full and complete accounting of the accuracy and use of Iraq prewar intelligence. Yet up until this past weekend, the President has stubbornly insisted there was nothing wrong with that intelligence or the alarming assertions that he and senior administration officials made in the days leading up to the start of the war in Iraq. In a remarkable about-face this past week, administration officials said publicly that the President will support the establishment of an independent commission, provided he appoints the commissioners and defines the scope of their work. As in other instances, the administration is apparently seeking to both convince the America public it supports a thorough investigation at the same time it stacks the deck against such an investigation effort ever occurring.

Although one of the major questions that needs to be addressed is whether senior administration officials exaggerated the nature of the threat to Iraq, the President is attempting to make the case that actions by these officials are best investigated by a commission whose members are appointed by and report to those very officials in the White House.

There is little reason to believe a commission appointed and controlled by the White House will have the independence and credibility necessary to investigate and bring closure to these crucial issues. Consider this: At the same time the Secretary of State was suggesting that it was an open question whether Iraq had any weapons of mass destruction and the chief weapons inspector in Iraq was concluding that Iraq did not have any stockpiles of weapons before the war, Vice President CHENEY was on national radio still suggesting that it was just a matter of time until such weapons could be found.

If the President's senior advisers are still arguing that the prewar intelligence was right, can the American people be certain that commissioners handpicked by the White House to undertake an investigation defined by the White House will follow the facts wherever they lead?

It would be a shame to have such an important commission start its work under the shadow of such doubt. We can avoid ever having to ask those questions by forming a truly independent commission that can rise above those concerns. I strongly believe the Congress can and should establish a truly independent commission to examine the collection, analysis, dissemination, and use by policymakers of intelligence on Iraq. Twice the Senate has voted to establish just such a commission that would be given access to all relevant information, appointed on a bipartisan basis by the congressional leadership of the House and Senate. I voted for this proposal both times.

Although supporters of this commission fell short both times, I continue to believe that after putting our troops in harm's way we owe it to them to get to the bottom of this question. We owe them a truly independent investigation, conducted in the same way that our Armed Forces carry out their duties every day in Iraq, with honor and with integrity. I fear the process being started by the administration is neither, but it is not too late to establish a commission of which we can all be proud.

I yield the floor.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. DASCHLE. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. First, I thank the Senator for an excellent statement.

Earlier today the Armed Services Committee had meant to meet. We were going to have Secretary Rumsfeld up before the committee. I intended to ask him two or three questions on the issue of intelligence, but since the Senator is on his feet now, I am wondering if he would be willing to respond to a question or two and help clear this up in my mind.

What we have now, as I understand it, is the intelligence agencies saying that they provided the intelligence to the administration and that they were not intimidated. I intended to ask the Secretary whether he was aware of the Defense Intelligence Agency's own intelligence report that stated—and I am quoting. This has been published. It was declassified and published in the news sources—this is the Defense Intelligence Agency:

> . . . there is no reliable information on whether Iraq is producing and stockpiling chemical weapons, or where Iraq has—or will—establish its chemical warfare agent production facilities.

That was in September of 2002. Yet a month later, just as Congress was about to vote, the National Intelligence Estimate stated very precisely that:

> Iraq probably has stocked at least 100 metric tons and possibly as much as 500 metric tons of chemical weapon agents—much of it added in the last year.

I was just wondering, if I can raise this point, here we have the Defense Intense Intelligence Agency giving one report. Then, if we look at the State Department Bureau of Intelligence, this is what the State Department Bureau of Intelligence concluded:

> The activities we have detected do not . . . add up to a compelling case that Iraq is currently pursuing what INR would consider an integrated and comprehensive approach to get nuclear weapons . . . INR considers the available evidence inadequate to support such a judgment.

The Department of State, Bureau of Intelligence.

Mr. KYL. Could we have regular order?

Mr. KENNEDY. Regular order. I believe I have the floor.

The PRESIDING OFFICER. The Senator may yield for a question but not for a statement.

Mr. KENNEDY. I am making the predicate. If the Senator from Arizona is not pleased with it, that is his problem.

The third intelligence report was the Department of Energy disagreed that the famous tubes were for nuclear weapons. The State Department's Intelligence Bureau also concluded that the tubes were "not intended for use in Iraq's nuclear weapons program."

Finally, Greg Thielmann, retired State Department official, who served as director of the Office of Strategic Proliferation and Military Affairs in the Bureau of Intelligence, said last July:

> Some of the fault lies with the performance of the intelligence community, but most of it lies with the way senior officials misused the information they are provided.

He said:

> They surveyed the data, and picked out what they liked. The whole thing was bizarre. The Secretary of Defense had this huge Defense Intelligence Agency, and he went around it.

I just ask, are these the kinds of questions that we hope an independent kind of commission might be helpful to resolve? When the administration's own Defense Intelligence Agency, the State Department agency, and the Energy Intelligence Agency came up with similar conclusions as Dr. Kay prior to the time the Senate voted on this issue, don't you think the American people are entitled to know what the facts are, not just the intelligence information made available but how it was used by the administration and by the President?

Mr. DASCHLE. Mr. President, I appreciate the question, as well as the predicate offered by the distinguished Senator from Massachusetts.

The answer is yes, I am troubled by one fact that is now undeniable. That fact is, we were given bad information, information that now is much clearer than it was 6 months or 12 months ago, information that many of our colleagues have used repeatedly on which to base decisions fundamental to their interpretation of circumstances and ultimately the vote they cast on the resolution committing this country to a course of action.

I was troubled by a report I read just this morning that there are many in the intelligence community who are becoming increasingly angered and frustrated that all of this responsibility has been put on their shoulders. The report by one intelligence officer was: "We did our job. We reported the information. It isn't us."

My question is, If it is not the intelligence community, who is responsible? Why did we get bad information? Was it the collection and analysis or was it the use of that information once it was collected and analyzed? We do not know the answer to that today. But we do know our best opportunity for collecting the answers to the questions posed by the Senator from Massachusetts is an independent counsel.

What does it say of the independence of those potential commissioners when someone is suggesting to them, we want you to take this job to investigate us; we want you to have the authority to investigate us, with the implication that the detrimental consequences of an adverse investigation could weigh heavily on the commission itself.

I don't think there is any doubt about the need for independence, about the need to look at past precedent when we have established commissions of this kind. We need to know beyond a shadow of a doubt that this commission will have the opportunity to go wherever the facts lead them.

The way the President and this administration are proposing this investigation be done flies in the face of past precedent, with that cloud that hangs over any investigation that could not be as open, honest, and ultimately successful as it needs to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding that under the previous unanimous consent I am recognized for 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

## U.S. INTELLIGENCE

Mr. DURBIN. Mr. President, I thank the minority leader, Senator DASCHLE, as well as my colleague from Massachusetts, Senator KENNEDY, for raising this timely and important question about intelligence. I also salute Senator BOB GRAHAM of Florida, who announced his retirement. His departure will be a great loss to this institution.

I was fortunate enough to serve on the Senate Intelligence Committee which Senator GRAHAM chaired, and I still continue that service. He was an extraordinary leader, not just on that committee but when it came to the policies of protecting America. His has been a clarion voice from the beginning that the war on terrorism continues unabated and should continue despite the diversion of Iraq. We still have a war on terrorism, much broader in scope, that has to be considered on a daily basis.

I come to the floor and want to be careful of the words I say. I do not want to disclose anything I have been told in the Senate Intelligence Committee. That is certainly the policy which should be followed by every member of that committee. We are given a rare opportunity to see the intelligence community and its work from inside. Because we are given that opportunity, we are warned not to share that information. So the points I am about to make relate exclusively to that information which has been made public and declassified. It raises an important issue.

All of this information points in one direction. What happened to the United States of America prior to the invasion of Iraq relative to weapons of mass destruction of that country represents, in my mind, the greatest failure of intelligence in America since the fall of the Soviet Union. Recall, not that long ago, when our intelligence community and those in charge of national defense and security failed to see the collapse of the Soviet Union, a superpower, our premier enemy for decades, until it actually happened. Despite all of the millions of dollars and thousands of people, we missed it.

Here we have a similar situation. Prior to our invasion of Iraq, we were told by the intelligence community they had identified—and this is unclassified, declassified information—they had identified 550 suspected sites within Iraq where we would find weapons of mass destruction. And the level of certainty for each of those sites was different, but for a discrete number of those sites the intelligence community told us: We believe that when we go into Iraq and go directly to this location, we will find weapons of mass destruction, nuclear weapons, chemical and biological weapons.

So I asked Dr. Kay—and others have as well—after you had completed your investigation, after you had looked at those sites, what did you find? And the answer was: Nothing, nothing whatever.

We accumulated this information; we said, through our intelligence sources, we have 550 known locations; and we were wrong in every instance.

How can that be? How can the intelligence community have missed it?

The second element, the unmanned aerial vehicles, flying over locations, mapping different things, viewing different locations, prepared, if necessary, to fire on hostile situations—these unmanned aerial vehicles were identified by the intelligence community and the administration as a threat not only to the Middle East but to the United States of America. We were told these unmanned aerial vehicles would be used to deliver chemical and biological weapons against the United States of America.

I can state now in published reports we know that the UAVs were not designed for this purpose. We missed it completely. Sadly, I can say there is additional information which has not been disclosed which also casts doubt on that conclusion.

Why is it important? Because Members of the Senate were called to the White House, asked to vote for the use-of-force resolution, and told that the reason for the necessity of an invasion was the unmanned aerial vehicles and their threat to the United States of America. They were given partial information—in fact, misleading information—about the danger associated with the unmanned aerial vehicles.

All of this raises serious questions, questions Senator DASCHLE and others have addressed. This is what it comes down to: This should not be a matter of either the Democrats in the Senate or the Republicans in the Senate protecting their President. I will say this: If an open, honest, independent investigation finds anything was done wrong under the Clinton administration leading up to this intelligence failure, so be it. If they find anything wrong in this intelligence operation under President George W. Bush was responsible for this breakdown, so be it.

The American people deserve an honest answer. They are more concerned about the safety and security of America than they are about the political safety and security of any President. And that is exactly the way it should be.

Now, more than ever, intelligence is critical. Since 9/11 we understand the war on terrorism and its success by the United States depends on solid intelligence, acted on responsibly by political leaders. We need to ask these hard questions, and we need the panel of an independent commission that will come up with the answers.

Senator JON CORZINE, my colleague from New Jersey, has been proposing this independent commission for months. I have supported it. Many have resisted it, saying we do not need it. Well, thank goodness, after Dr. Kay's report, even the White House has conceded we need this independent commission. I think, frankly, we need it now more than ever.

We need sound and solid intelligence gathering. We need it to be evaluated in a proper fashion, and we need the political leaders in America to deal with it in a responsible way. We must ask the hard questions, whether this has been done leading up to the invasion of Iraq, and continuing with our war against al-Qaida and terrorism elements all across the United States of America and around the world.

Mrs. BOXER. Will my friend yield for a question?

Mr. DURBIN. I am happy to yield to the Senator from California.

Mrs. BOXER. I thank the Senator very much for his clear, as usual, laying out of this issue. I want to pick up on the word "independent," "independent commission."

Does my friend agree that to get to an independent commission, all the members should not be appointed by the administration that has just been part of this error?

Mr. DURBIN. I say to the Senator from California, it is important that this be viewed as a nonpartisan effort. In order for that to occur, we either need to find those people who are beyond reproach from the political side or make certain there is an appointment on both sides, Democrats and Republicans working together.

Why in the world would we allow this commission to go forward under the shadow of suspicion that it has a partisan agenda? We do not need that. As a country, we do not need that. Once and for all, we need to turn to men and women who have served this country, and served it in terms of our national defense, and who have no political agenda, who are really focused on the defense of our country.

Mrs. BOXER. I would agree with that because otherwise I do not think the American people will trust the commission. If the commission were to be appointed by, say, the majority leader of the Senate—certain Members—and then the Democratic leader of the Senate, that is another example. We could get a couple from the House Democrats, House Republicans, and then the President, and not an artificial date: By the way, you can't come back and talk to us until 2005 after the election. The American people are very wise.

So I am really glad the President, as you said, has come around to say we need to take a look at this. But I think the way he is approaching this does not pass the smell test for a lot of my folks back home.

Mr. DURBIN. I say to the Senator from California, there is another element, and that is this matter involving former Ambassador Joe Wilson, and his wife, who was serving this country in an intelligence capacity and whose identity was disclosed to columnist Robert Novak as part of political retribution.

I can tell you, having spoken to people who have given their lives to the intelligence community, and risked their lives for America on a regular basis, they were angry and demoralized by this leak from the White House.

I think in order to get the proper answers to the important questions about the role of the intelligence community, we should try to make it as nonpartisan as possible, try to bring in the professionals who are viewed by both political parties as people of respect and people who ask the right questions, so the intelligence community will come forward with honest and objective answers.

The bottom line is not who wins this political battle in the hearts and minds of the American people. The bottom line is, who will win in terms of America's national security and defense. We need sound and solid intelligence now more than ever. The President's admission last week that there was a failure of intelligence leading up to the invasion of Iraq has really called on all of us to rise above party.

I think the Senator from California and the Senator from South Dakota are moving in the right direction toward an independent, bipartisan, and nonpartisan approach. I hope we do get this done quickly.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, there are 10 minutes allocated to the majority.

Mr. REID. Mr. President, I ask unanimous consent that the majority be given an extra 5 minutes in morning business; 5 minutes for Senator KYL, 5 minutes for Senator LOTT, 5 minutes for Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I express my appreciation to the assistant minority leader for that request.

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## INTELLIGENCE INVESTIGATION

Mr. KYL. Mr. President, I think we need to respond to some of what has been said here this morning because the implication is very disturbing. It is not just that some of the intelligence of the United States—and by the way, all of the other intelligence agencies around the world might not have been totally accurate—but that somebody might have been misleading us. That is the charge. That is the implication. It leads to this notion we could not trust the President to look into what might have been wrong with the intelligence, that there is a "shadow of suspicion" here.

Well, the shadow of suspicion is being cast by our colleagues on the other side by the innuendo that is throughout the comments they have been making here this morning and that we have read elsewhere. I think that is a very bad thing. Especially when our troops are fighting abroad trying to win this war on terror, to suggest that not only is the intelligence we are gathering not entirely accurate but that there were deliberate attempts by people in the administration to mislead the American people, and to mislead the Congress, that, I think, is what is very disturbing.

What are some of the strains of that? I heard one of them on the radio this morning: Well, Vice President CHENEY went down to the CIA and talked to them. He must have been trying to intimidate them to come up with some preordained conclusion to sort of cook the books a little bit.

There is no evidence of that whatsoever. David Kay has discounted that as a possibility. Nobody from the intelligence agencies, under questioning, has suggested that was the case.

Indeed, the question is, if the Vice President had not gone down to the intelligence agencies and asked the tough questions of the CIA people, and said, are you sure you are correct about this, then our friends on the other side would be complaining the administration did not even bother to doublecheck the information. So when politics are involved, you cannot win. But I do not think we should allow these suspicions from the political side of things to dictate the kind of action we take.

Another question: Secretary Powell went to the CIA. I think he spent something like 3 days with them, with these people going over and over and over the evidence, saying: Are you absolutely certain of this? And remember, before he made his presentation to the United Nations, he took some of the material out, some of the material he did not think was verifiable, that they could not nail down well enough. He wanted to make sure what he took to the United Nations was solid.

The Vice President and the Secretary of State are not the only people who have been involved. We have intelligence from other countries, such as the Israelis, the British. We have the United Nations itself, and the inspectors who came back with their reports.

At the end of the day, the reason why the international community passed resolutions asking for Saddam Hussein to comply with his commitment to come clean on what he had was because the whole world thought he had these weapons of mass destruction.

Now, since then, we have not been able to find everything. We have found some things. But one of the things we have not found are the chemical artillery shell warheads. We thought those were going to be used against our troops. Every day the war occurred, we were briefed on the so-called red line, the point at which we thought the Iraqis were going to shoot artillery shells with chemical weapons at our troops. Our troops had to put on all the heavy equipment in order to try to fight through that if, in fact, the attack occurred, and there was some surprise when it did not occur. We had to, of course, bomb the warehouses we thought it was in. We bombed the artillery pieces. We sent millions of leaflets to the commanders saying: Don't you dare fire chemical weapons at our troops or we will take you before the criminal court when this is all done. We disrupted their command and control, and we thought that is what prevented them from firing those artillery shells. But the point is, we thought they had them. We thought they were going to be used against our troops.

This was not a matter of the President or the Vice President or anybody in the administration trying to mislead anybody. Maybe the intelligence was not entirely accurate, but I urge my colleagues on both sides of the aisle, in conducting this debate, to try to do it from the higher plain, not from the suspicion that the President of the United States is trying to deliberately mislead the American people, but to acknowledge maybe there was something wrong with part of our intelligence and that is worth looking into.

That is precisely what the President has said he wants to have done because obviously he is just as concerned about this as anybody else is. It is for that reason he has asked for an investigation into the intelligence to find out whether it was correct, if it wasn't, why not, and what can we do about that in the future.

I urge my colleagues, in conducting this debate, let's do so from a higher plain than one in which we sow the seeds of politics and blame and suspicion, as has been done around here. We can conduct this debate on a much higher plain than that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I believe I have 5 minutes under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I thank Senator KYL and Senator REID for making sure we have this time. I, too, think we need to sober up a little bit and look at the facts of what is involved.

First, it is an election year. Politics will come into play in everything we do. I don't mean that necessarily critically of us or either side. It is a fact. I suspect that it is having a hand in what we are seeing now.

Secondly, the fact is, we do have some problems with our intelligence community. It is not new. It didn't come up over the last 10 months or the last 10 years. It probably goes back to the mid-1970s when we had the Pike and the Church commissions that forced changes in the intelligence community from which we have never quite recovered. That is when we started getting away from human intelligence and relying on satellites and computers and technology. That is a big problem.

We can go back and point to things we didn't know or information we should have had back in the 1980s and 1990s that we didn't have. For us to take a look at our intelligence community and ask questions about why they have not done some things or they have gotten some things wrong is perfectly legitimate. The most important question should be, what are we going to do about it? Instead of pointing the finger of blame, trying to put some scalp on the wall and say: We nailed somebody because this information may not have been completely accurate, we should ask: What did we know? Did we need to know more? Were there inaccuracies? If so, what were they, and what are we going to do about it? Do we need to completely reconstruct our intelligence community? Do we need to make some changes at the head of some of these agencies? I don't know yet. But that should be our approach because we are going to need our intelligence community. We need it this very day.

Senator KYL was making the point. Our troops are in the field today all over the world, particularly in Iraq and Afghanistan. They are working with the intelligence community today to try to make sure they know what is going on and what is happening, what the threats are. We don't want to undermine them. At the same time, if we are going to make improvements or changes, the sooner we can do it, the better.

The other thing is, what did we know. It is almost as if there were no weapons of mass destruction. We knew they had weapons of mass destruction—chemical, biological. They tried to get nuclear capability. We know they killed their own people. They used chemical weapons on the Iranians. I was talking to a constituent this morning who was in Bazra back in the early 1990s, who talked about how simple it was to produce chlorine gas. Yet if you looked at the plant, you could be told, this is just a plastics plant. But it is very simple to make chlorine gas. It is very toxic, and that was what was used, I believe, against the Iranians. So we know they had these weapons of mass destruction.

Did they dismantle them, destroy them? Where did they destroy them? Why did Saddam Hussein give out bad information? Was he being lied to? Yes. Was he lying to the world community? Yes. There are all kinds of problems or questions such as that.

Did they move these weapons to Syria, Iran? We know they had them. That is a fact. We still don't know exactly what happened to them, and that is a danger.

What are we going to do about it? Let's become a government of commissions. It is really easy. Pass it off to a commission—the base-closure procedure, the 9/11 investigation, Social Security, intelligence. Let the Congress just say: We know nothing; we see nothing; we hear nothing. Let's let somebody else do it.

By the way, I have watched these commissions. Just because you have Republicans and Democrats, are you going to call them independent? How about an independent commission set up by the President that might have people who weren't clearly Republican or Democrat? How about experts on intelligence, people who have been at the CIA and the FBI, people who are not identified in the political area? If you want a real independent commission, that might be the way to do it.

I have another question: Why don't we do our own work? What do we have the intelligence committee for? The more I am on there, the more I think maybe we should not have it the way it is presently constituted. We are not going to wait for the Senate Intelligence Committee to put out its report. We are not going to wait on the House, bipartisan, Select Intelligence Committee to put out its report. No, we are going to rush pellmell and create a commission before we even see the report.

I suspect the report from the Senate Intelligence Committee is going to be more aggressive than a lot of people might think. I think we are going to ask a lot of legitimate questions. How about letting the Iraqi survey team, the group that is out there still looking, do their work. But, no, it is a political year. We are going to use this to question all kinds of people.

The President got information on which he relied. The Senate got information it relied on. If there was inaccurate information, we ought to find out why and determine what we are going to do about it. We need to back off a little bit because we are dealing with people's lives. How we act in the intelligence area is going to be very important in the next few months.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I thank the Senator from Arizona and the Senator from Mississippi for including me in this time because this is the most critical issue, obviously, facing not just the administration but the American public today. It is an issue which has already been adequately addressed, but it is not a new issue.

The fact of failures within the intelligence community is not something newly discovered. We knew following 9/11 that there were deficiencies within our intelligence community that probably allowed September 11 to happen. What have we done since that time?

As the Senator from Mississippi said: It was time to step up to the plate after 9/11, fix the problems. That is what we did in a bipartisan way, and we have done that since that point in time.

Now we are moving into an election year, and we are seeing sniping for political reasons and not solving problems for the right reasons. The problem continues to be out there, the problem of deficiencies within the intelligence community. It is not new. It is the same problem. It is a little bit different area.

We, as Members of this body and as Members of the House of Representatives, have an obligation to the American people to find out what went wrong. But let's not politicize it. Let's figure out what was wrong. By the way, when you look at the deficiencies in our intelligence community and you try to point the finger at them, you can't stop there. If you are going to point it at our intelligence community, what about the French intelligence community that believed exactly the same thing as our intel community? What about the German community, the British community? Every intelligence agency in the world had the same information and the same facts that we had.

Our President was presented with the facts that every other head of state was presented, but it was the Americans who were the target of the bad guys around the world. It was the Americans who were the victims on September 11 and were the potential victims thereafter. Our President exercised good, sound judgment based upon the information that he had and based upon the information that every other head of state had.

We can talk about the fact that we ought not to politicize the commission but we have, in fact, politicized the issue. There is a major, fundamental difference in trying to say that intelligence was faulty and at the same time trying to intimate that this administration exercised misleading acts. That is something entirely different, and that is an issue that we can debate long and hard. But it is simply not a fact substantiated by any of the evidence. Whereas the fact that Saddam Hussein possessed weapons of mass destruction had been substantiated time and time again since 1992, as the Senator from Mississippi delineated. It has been substantiated by intelligence communities from every other country in the world up until the time the Iraqi conflict began. There was no misleading on the part of this administration based upon the facts with which they were presented.

Let me address one item in particular that the Senator from Illinois stated. He and I both serve on the Intelligence Committee. This issue relative to the UAVs and the possible—I emphasize "possible"—use by Saddam Hussein of UAVs to distribute biological weapons being an issue:

He knows good and well that we received information that indicated it was a possibility. We don't know for sure that was their intention, but we know good and well that it was a possibility.

So we could go down the line item by item with each of the statements that have been made. I will go back and conclude with what the Senator from Mississippi said. We can argue and take 10 minutes on each side to discuss this, but what the American people expect is leadership. What this administration is exhibiting is leadership. This body ought to do the same. We ought to exercise leadership to the American people because that is what we were sent here to do. We could come together and say we know what happened; now let's find the answer; let's figure out what the solution is to the problem at hand within our intelligence community in a bipartisan way, and nobody disputes that is the way we ought to act.

I say what we need to do is quit debating the issue and move forward now with finding out what the problem was, and let's do what is in the best interest of the American people, and that is continue to work hard to make America a safe place.

I yield the floor.

### SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having arrived, the Senate will resume consideration of the motion to proceed to S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to consideration of S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The PRESIDING OFFICER. The motion to proceed is agreed to.

### SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in Italic.)

S. 1072

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

[(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Definitions.

[TITLE I—FEDERAL-AID HIGHWAYS

[Subtitle A—Funding

[Sec. 1101. Authorization of appropriations.
[Sec. 1102. Obligation ceiling.
[Sec. 1103. Apportionments.
[Sec. 1104. Minimum guarantee.
[Sec. 1105. Revenue aligned budget authority.

[Subtitle B—New Programs

[Sec. 1201. Infrastructure performance and maintenance program.
[Sec. 1202. Clarify federal-aid eligibility for certain security projects.
[Sec. 1203. Future of the Interstate Highway System.
[Sec. 1204. Military vehicle access (oversize and overweight vehicles; —relief from tolls).
[Sec. 1205. Freight transportation gateways; freight intermodal connections.
[Sec. 1206. Authority for alternative time-saving procedures for —critical transportation security projects.

[Subtitle C—Finance

[Sec. 1301. Federal share.
[Sec. 1302. Transfer of highway and transit funds.
[Sec. 1303. State infrastructure bank pilot program.
[Sec. 1304. Transportation Infrastructure Finance and Innovation Act — (TIFIA) Amendments.
[Sec. 1305. International registration plan and international fuel tax agreement facilitation.
[Sec. 1306. Commercialized rest area pilot projects.
[Sec. 1307. Highway use tax evasion projects.

[Subtitle D—Program Efficiencies and Improvements—Safety

[Sec. 1401. National highway safety goal; national Blue Ribbon Commission on Highway Safety.
[Sec. 1402. Highway Safety Improvement Program.
[Sec. 1403. Operation lifesaver.
[Sec. 1404. Highway safety programs; certification of public road mileage.

[Subtitle E—Program Efficiencies and Improvements—Planning

[Sec. 1501. Metropolitan planning.
[Sec. 1502. Statewide planning.
[Sec. 1503. State planning and research.
[Sec. 1504. Critical real property acquisition.
[Sec. 1505. Planning capacity building initiative.

[Subtitle F—Program Efficiencies and Improvements—Environment

[Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.

The Senate proceeded to consider the bill.

[Sec. 1602. Efficient environmental reviews for project decisionmaking.
[Sec. 1603. Assumption of responsibility for categorical exclusions.
[Sec. 1604. Section 4(f) policy on lands, wildlife and waterfowl refuges, and historic sites.
[Sec. 1605. National Scenic Byways Program.
[Sec. 1606. Recreational Trails Program.
[Sec. 1607. Exemption of the Interstate System.
[Sec. 1608. Modifications to NHS/STP for invasive species, wetlands, brownfields, and environmental restoration.
[Sec. 1609. Standards.
[Sec. 1610. Use of HOV lanes.
[Sec. 1611. Bicycle transportation and pedestrian walkways.
[Sec. 1612. Transportation, energy, and environment.
[Sec. 1613. Idling reduction facilities in interstate rights-of-way.
[Sec. 1614. Appropriation for transportation purposes of lands or interest in lands owned by the United States.
[Sec. 1615. Toll programs.
[Sec. 1616. Ozone standards, particulate matter standards, and regional haze program.
[Sec. 1617. Indemnification on certain railbanked projects.

[Subtitle G.—Program Efficiencies and Improvements—Operations

[Sec. 1701. Transportation systems management and operations.
[Sec. 1702. Real-Time System Management Information Program.
[Sec. 1703. Intelligent transportation systems performance incentive program.
[Sec. 1704. Commercial vehicle information systems and networks deployment.

[Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

[Sec. 1801. Surface Transportation System Performance Pilot Program.
[Sec. 1802. Stewardship and oversight.
[Sec. 1803. Emergency relief.
[Sec. 1804. Federal Lands Highways Program.
[Sec. 1805. Appalachian Development Highway System.
[Sec. 1806. Multi-State Corridor Planning Program.
[Sec. 1807. Border Planning, Operations, and Technology Program.
[Sec. 1808. Territorial Highway Program amendments.
[Sec. 1809. Future interstate system routes.
[Sec. 1810. Donations and credits.
[Sec. 1811. Disadvantaged business enterprises.
[Sec. 1812. Highway Bridge Program.
[Sec. 1813. Design-build.
[Sec. 1814. International ferries.
[Sec. 1815. Assumption of responsibility for transportation enhancements, recreational trails, and Transportation and Community and System Preservation Program projects.
[Sec. 1816. Transportation, Community, and System Preservation Program.
[Sec. 1817. Program efficiencies—Finance.

[Subtitle I—Technical Corrections to Title 23, U.S.C.

[Sec. 1901. Repeal or update of obsolete text.
[Sec. 1902. Clarification of date.
[Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
[Sec. 1904. Inclusion of "Buy America" requirements in title 23.

[Sec. 1905. Technical amendments to 23 U.S.C. 140—Nondiscrimination.
[Sec. 1906. Federal share payable for projects for elimination of hazards of railway-highway crossings.

[TITLE II—HIGHWAY SAFETY

[Sec. 2001. Highway safety programs.
[Sec. 2002. Highway safety research and development.
[Sec. 2003. Emergency medical services.
[Sec. 2004. State traffic safety information system improvements.
[Sec. 2005. Authorization of appropriations.
[Sec. 2006. Repeal of obsolete provisions of title 23.

[TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

[Sec. 3001. Short title.
[Sec. 3002. Updated terminology; amendments to title 49, United States Code.
[Sec. 3003. Policies, findings, and purposes.
[Sec. 3004. Definitions.
[Sec. 3005. Metropolitan planning.
[Sec. 3006. Statewide planning.
[Sec. 3007. Planning programs.
[Sec. 3008. Private enterprise participation.
[Sec. 3009. Urbanized Area Public Transportation Formula Grants Program.
[Sec. 3010. Formula grants for other than urbanized areas.
[Sec. 3011. New Freedom program.
[Sec. 3012. Major capital investment program.
[Sec. 3013. Research, development, demonstration, and deployment projects.
[Sec. 3014. Cooperative research grant program.
[Sec. 3015. National research programs.
[Sec. 3016. National Transit Institute.
[Sec. 3017. Bus testing facility.
[Sec. 3018. Bicycle facilities.
[Sec. 3019. Suspended light rail technology pilot project.
[Sec. 3020. General provisions on assistance.
[Sec. 3021. Special provisions for capital projects.
[Sec. 3022. Contract requirements.
[Sec. 3023. Human resources programs.
[Sec. 3024. Project management oversight and review.
[Sec. 3025. Project review.
[Sec. 3026. Investigations of safety and security risk.
[Sec. 3027. State safety oversight.
[Sec. 3028. Sensitive security information.
[Sec. 3029. Terrorist attacks and other acts of violence against public transportation systems.
[Sec. 3030. Controlled substances and alcohol misuse testing.
[Sec. 3031. Employee protective arrangements.
[Sec. 3032. Administrative procedures.
[Sec. 3033. Reports and audits.
[Sec. 3034. Apportionments of appropriations for formula grants.
[Sec. 3035. Apportionments based on fixed guideway factors.
[Sec. 3036. Authorizations.
[Sec. 3037. National parks and public lands legacy project.
[Sec. 3038. Over-the-road bus accessibility program.
[Sec. 3039. Formula grants for special needs of elderly individuals and individuals with disabilities.
[Sec. 3040. Job access and reverse commute.

[TITLE IV—MOTOR CARRIER SAFETY

[Sec. 4001. Authorization of appropriations.
[Sec. 4002. Motor carrier safety grants.
[Sec. 4003. Hobbs Act.
[Sec. 4004. Penalty for denial of access to records.
[Sec. 4005. Medical review board and medical examiners.
[Sec. 4006. Enforcement of household goods regulations.
[Sec. 4007. Registration of commercial motor carriers, freight forwarders, and brokers.
[Sec. 4008. Financial responsibility for private motor carriers.
[Sec. 4009. Increased penalties for out-of-service violations and false records.
[Sec. 4010. Elimination of commodity and service exemptions.
[Sec. 4011. Intrastate operations of interstate motor carriers.
[Sec. 4012. Authority to stop commercial motor vehicles.
[Sec. 4013. Pattern of safety violations by motor carrier management.
[Sec. 4014. Motor carrier research and technology program.
[Sec. 4015. International cooperation.
[Sec. 4016. Performance and Registration Information System Management (PRISM).
[Sec. 4017. Information systems and data analysis.
[Sec. 4018. Outreach and education.

[TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

[Subtitle A—Funding

[Sec. 5101. Authorization of appropriations.

[Subtitle B—Research, Technology, and Education

[Sec. 5201. Research, technology, and education.
[Sec. 5202. Surface transportation environment and planning cooperative research program.
[Sec. 5203. Long-term bridge performance program; innovative bridge research and deployment program.
[Sec. 5204. Technology deployment.
[Sec. 5205. Training and education.
[Sec. 5206. Advanced travel forecasting procedures program.

[Subtitle C—Multimodal Research Programs; Scholarship Opportunities

[Sec. 5301. University transportation research.
[Sec. 5302. Multimodal research program.
[Sec. 5303. Commercial remote sensing products.
[Sec. 5304. Transportation scholarship opportunities program.

[Subtitle D—Transportation Data and Analysis

[Sec. 5401. Bureau of transportation statistics.

[Subtitle E—Intelligent Transportation Systems Research

[Sec. 5501. Short title.
[Sec. 5502. Goals and purposes.
[Sec. 5503. General authorities and requirements.
[Sec. 5504. National architecture and standards.
[Sec. 5505. Research and development.
[Sec. 5506. Use of funds.
[Sec. 5507. Definitions.
[Sec. 5508. Repeal.

[TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

[Sec. 6001. Transportation planning.
[Sec. 6002. Intermodal passenger facilities.

[TITLE VII—MISCELLANEOUS

[Subtitle A—Railroads

[Sec. 7101. Rail corridor planning.
[Sec. 7102. High speed rail authorizations.

[Subtitle B—Miscellaneous Technical Corrections to Title 49

[Sec. 7201. Correction of obsolete references to Interstate Commerce Commission.

[Subtitle C—Hazardous Material Transportation

[Sec. 7301. Definitions.
[Sec. 7302. Representations and tampering with hazardous material- packaging.
[Sec. 7303. Hazardous material transportation safety and security.
[Sec. 7304. Administrative authority for transportation service and —infrastructure assurance research.
[Sec. 7305. Postal Service Civil Penalty Authority.
[Sec. 7306. Registration.
[Sec. 7307. Shipping paper retention.
[Sec. 7308. Planning and training grants.
[Sec. 7309. Enforcement.
[Sec. 7310. Penalties.
[Sec. 7311. Emergency waiver of preemption.
[Sec. 7312. Judicial review.

[Subtitle D—Sanitary Food Transportation

[Sec. 7401. Short title.
[Sec. 7402. Responsibilities of the Secretary of Health and Human Services.
[Sec. 7403. Department of Transportation Requirements.
[Sec. 7404. Effective date of the subtitle.

[Subtitle E—Sport Fishing and Boating Safety

[Sec. 7501. Sport fish restoration account amendments.

[TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

[Sec. 8101. Discretionary spending categories.
[Sec. 8102. Level of obligation limitations.
[Sec. 8103. Effectiveness of title.

[TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

[Sec. 9001. Short title; amendment of 1986 Code.
[Sec. 9002. Extension of highway-related taxes and trust fund.
[Sec. 9003. Extension of tax benefits for alcohol fuels.
[Sec. 9004. Private activity bonds for surface transportation infrastructure.
[Sec. 9005. All alcohol fuel taxes transferred to highway trust fund.
[Sec. 9006. Transfer from highway trust fund to boat safety account.
[Sec. 9007. Extension of small-engine fuel taxes transferred to sport —fish restoration account.
[Sec. 9008. Technical correction.
[Sec. 9009. Transfer by registered pipeline, vessel, or barge required for fuel tax exemption of bulk transfers to registered terminals or refineries; display of registration requirement.
[Sec. 9010. Returns filed electronically.
[Sec. 9011. Civil penalty for refusal of entry.
[Sec. 9012. Requirement of tax payment decal; elimination of installment payments of highway use tax.
[Sec. 9013. Additional rules regarding inspections of records.–

**[SEC. 2. DEFINITIONS.**

[In this Act, the following definitions apply:

[(1) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" has the meaning such term has under section 5203(b) of title 49, United States Code, as added by section 6001 of this Act.

[(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

[(3) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The term "Transportation Equity Act for the 21st Century" means the Transportation Equity Act for the 21st Century, Public Law 105–178, as amended by the TEA 21 Restoration Act, title IX of Public Law 105–206.

## [TITLE I—FEDERAL-AID HIGHWAYS

### [Subtitle A—Funding

### [SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

[(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,100,000,000 for fiscal years 2004 and 2005, $4,200,000,000 for fiscal year 2006, $4,400,000,000 for fiscal year 2007, $4,500,000,000 for fiscal year 2008, and $4,700,000,000 for fiscal year 2009.

[(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of such title $5,000,000,000 for fiscal years 2004 and 2005, $5,100,000,000 for fiscal year 2006, $5,200,000,000 for fiscal year 2007, $5,400,000,000 for fiscal year 2008, and $5,500,000,000 for fiscal year 2009.

[(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title $3,400,000,000 for fiscal year 2004, $3,500,000,000 for fiscal year 2005, $3,700,000,000 for fiscal year 2006, $3,800,000,000 for fiscal year 2007, $3,900,000,000 for fiscal year 2008, and $4,000,000,000 for fiscal year 2009.

[(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title $5,102,000,000 for fiscal year 2004, $5,202,000,000 for fiscal year 2005, $5,402,000,000 for fiscal year 2006, $5,514,000,000 for fiscal year 2007, $5,714,000,000 for fiscal year 2008, and $5,807,000,000 for fiscal year 2009.

[(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title $1,100,000,000 for fiscal year 2004, $1,462,000,000 for fiscal year 2005, $1,500,000,000 for fiscal year 2006, $1,600,000,000 for fiscal years 2007 through 2009.

[(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 150 of such title $1,000,000,000 for fiscal year 2004, $1,100,000,000 for fiscal year 2005, $1,200,000,000 for fiscal year 2006, $1,300,000,000 for fiscal year 2007, $1,400,000,000 for fiscal year 2008, and $1,500,000,000 for fiscal year 2009.

[(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $450,000,000 for each of fiscal years 2004 through 2009.

[(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of such title $60,000,000 for each of fiscal years 2004 through 2009.

[(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

[(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title $333,000,000 for each of fiscal years 2004 through 2009.

[(B) RECREATION ROADS.—For recreation roads under section 204 of such title $50,000,000 for each of fiscal years 2004 through 2009.

[(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of such title, $300,000,000 for fiscal year 2004, $310,000,000 for fiscal year 2005, and $320,000,000 for each of fiscal years 2006 through 2009.

[(D) REFUGE ROADS.—For refuge roads under section 204 of such title $30,000,000 for each of fiscal years 2004 through 2009.

[(E) FOREST HIGHWAYS.—For forest highways under section 204 of such title $200,000,000 for each of fiscal years 2004 through 2009.

[(F) SAFETY.—For safety under section 204 of such title $40,000,000 for each of fiscal years 2004 through 2009.

[(10) MULTI-STATE CORRIDOR PLANNING PROGRAM.—For the multi-state corridor planning program under section 1806 of this Act $76,500,000 for fiscal year 2004 and $84,000,000 for each of fiscal years 2005 through 2009.

[(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 1807 of this Act $76,500,000 for fiscal year 2004 and $84,000,000 for each of fiscal years 2005 through 2009.

[(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $31,500,000 for each of fiscal years 2004 through 2009.

[(13) INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE INCENTIVE PROGRAM.—For carrying out the intelligent transportation systems performance incentive program under section 1703 of this Act, $135,000,000 for each of fiscal years 2004 through 2009.

[(14) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 143 of such title, $26,550,000 for fiscal year 2004, $54,500,000 for each of fiscal years 2005 and 2006, $44,500,000 for fiscal year 2007, and $11,000,000 for each of fiscal years 2008 and 2009.

[(15) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the Commercial Vehicle Information Systems and Networks Deployment program under section 1704 of this Act, $25,000,000 for each of fiscal years 2004 through 2009.

[(16) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 1201 of this Act, $1,000,000,000 for each of fiscal years 2004 through 2009.

### [SEC. 1102. OBLIGATION CEILING.

[(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

[(1) $29,293,948,000 for fiscal year 2004;

[(2) $30,265,000,000 for fiscal year 2005;

[(3) $31,326,000,000 for fiscal year 2006;

[(4) $32,257,000,000 for fiscal year 2007;

[(5) $33,104,000,000 for fiscal year 2008; and

[(6) $33,903,000,000 for fiscal year 2009.

[(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under—

[(1) section 125 of title 23, United States Code;

[(2) section 147 of the Surface Transportation Assistance Act of 1978;

[(3) section 9 of the Federal-Aid Highway Act of 1981;

[(4) sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

[(5) sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

[(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

[(7) section 157 of title 23, United States Code, as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century;

[(8) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009), only in an amount equal to $639,000,000 per fiscal year; and

[(9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.

[(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary shall—

[(1) reserve obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses, programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the infrastructure performance and maintenance program, and for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code;

[(2) reserve the obligation authority provided by subsection (a) less the amounts reserved under paragraph (1) for section 201 of the Appalachian Regional Development Act of 1965, and $2,000,000,000 for such fiscal year under section 105 of such title (relating to minimum guarantee); and

[(3) distribute the obligation authority provided by subsection (a) less the aggregate amounts not reserved under paragraph (1) and (2) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

[(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

[(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

[(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009, revise a distribution of the obligation authority made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

[(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

[(f) Special Rule.—Obligation authority distributed for a fiscal year under subsection (c)(2) for a section set forth in subsection (c)(2) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

[(g) Adjustment in Obligation Limit.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year, as amended by this Act. Any such adjustment shall be distributed in accordance with this section.

[(h) Limitations on Obligations for Administrative Expenses.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

[(1) $350,000,000 for fiscal year 2004;

[(2) $380,000,000 for fiscal year 2005;

[(3) $400,000,000 for fiscal year 2006;

[(4) $420,000,000 for fiscal year 2007;

[(5) $440,000,000 for fiscal year 2008; and

[(6) $460,000,000 for fiscal year 2009.

**[SEC. 1103. APPORTIONMENTS.**

[(a) Administrative Expenses.—Section 104(a) of title 23, United States Code, as amended by this Act, is further amended in paragraph (1) by striking "1 1/6" and inserting "1.4".

[(b) Metropolitan Planning.—Section 104(f) of title 23, United States Code, is amended—

[(1) in paragraph (1), by striking "not to exceed"; and by striking "authorized under this title" and inserting "identified in such subsection, except for the Federal lands highway program and the Appalachian development highway program";

[(2) in paragraph (2), by striking "per centum" and inserting "percent";

[(3) in paragraph (3), by striking "These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching." and inserting "Any funds that are not used to carry out section 134 of this title may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

[(4) by adding the following after paragraph (5):

["(6) Federal share.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.".

[(c) State Defined.—Section 1103(n) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is repealed.

[(d) Executive Office Complex.—Section 104 of title 23, United States Code, is amended by adding after subsection (q), as added by this Act, the following:

["(r) Executive Office Complex.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $2,000,000 for each of fiscal years 2004 through 2006, $14,000,000 for each of fiscal years 2007 and 2008, and $7,000,000 for fiscal year 2009 of the remaining funds authorized to be appropriated under subsection (b)(3) for the preferred option determined by a study for highway access near the Executive Office complex.".

[(e) Alaska Highway.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "$18,800,000 for each of fiscal years 1998 through 2002 for the Alaska Highway" and substituting "$18,800,000 for each of fiscal years 2004 through 2009 for the Alaska Highway".

**[SEC. 1104. MINIMUM GUARANTEE.**

[Section 105 of title 23, United States Code, is amended to read as follows:

**["§ 105. Minimum guarantee**

["(a) General Rule.—For each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, highway safety improvement, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs shall equal the percentage listed for each State in subsection (b). The minimum amount allocated to a State listed in subsection (b) under this section for a fiscal year shall be $1,000,000.

["(b) State Percentages.—The percentage referred to in subsection (a) for a State shall be determined in accordance with the following table:

| ["States: | Percentage: |
|---|---|
| [Alabama | 2.0269 |
| [Alaska | 1.1915 |
| [Arizona | 1.5581 |
| [Arkansas | 1.3214 |
| [California | 9.1962 |
| [Colorado | 1.1673 |
| [Connecticut | 1.5186 |
| [Delaware | 0.4424 |
| [District of Columbia | 0.3956 |
| [Florida | 4.6176 |
| [Georgia | 3.5104 |
| [Hawaii | 0.5177 |
| [Idaho | 0.7718 |
| [Illinois | 3.3819 |
| [Indiana | 2.3588 |
| [Iowa | 1.2020 |
| [Kansas | 1.1717 |
| [Kentucky | 1.7365 |
| [Louisiana | 1.5900 |
| [Maine | 0.5263 |
| [Maryland | 1.5087 |
| [Massachusetts | 1.8638 |
| [Michigan | 3.1535 |
| [Minnesota | 1.4993 |
| [Mississippi | 1.2186 |
| [Missouri | 2.3615 |
| [Montana | 0.9929 |
| [Nebraska | 0.7768 |
| [Nevada | 0.7248 |
| [New Hampshire | 0.5163 |
| [New Jersey | 2.5816 |
| [New Mexico | 0.9884 |
| [New York | 5.1628 |
| [North Carolina | 2.8298 |
| [North Dakota | 0.6553 |
| [Ohio | 3.4257 |
| [Oklahoma | 1.5419 |
| [Oregon | 1.2183 |
| [Pennsylvania | 4.9887 |
| [Rhode Island | 0.5958 |
| [South Carolina | 1.5910 |
| [South Dakota | 0.7149 |
| [Tennessee | 2.2646 |
| [Texas | 7.2131 |
| [Utah | 0.7831 |
| [Vermont | 0.4573 |
| [Virginia | 2.5627 |
| [Washington | 1.7875 |
| [West Virginia | 1.1319 |
| [Wisconsin | 1.9916 |
| [Wyoming | 0.6951. |

["(c) Special Rule.—The Secretary shall allocate to Puerto Rico $1,000,000 for each of fiscal years 2004 through 2009. Such amounts shall be subject to the provisions in paragraph (d) of this section.

["(d) Treatment of Funds.—

["(1) Programmatic distribution.—The Secretary shall apportion 50 percent of the amounts made available under this section so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

["(A) the amount of funds apportioned to each State for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs) for a fiscal year; bears to

["(B) the total amount of funds apportioned to each State for all such programs for such fiscal year.

["(2) Remaining distribution.—The Secretary shall allocate the remainder of funds made available under this section to the States for use in accordance with section 133; except that requirements of paragraphs (1) and (2) of section 133(d) shall not apply to amounts apportioned pursuant to this paragraph.

["(e) Authorization.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 2004 through 2009.

["(f) Guarantee of 90.5 Percentage Return.—

["(1) In general.—Before making any apportionment under this title for each of fiscal years 2004 through 2009, the Secretary shall adjust the percentages in the table in subsection (b) to reflect the estimated percentage of estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data is available, to ensure that no State's percentage return from such Trust Fund is less than 90.5 percent of the State's percentage contribution.

["(2) Conforming adjustments.—After making any adjustments under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining percentages in the table set forth in subsection (b) to ensure that the total of the percentages in the table, as adjusted, do not exceed 100 percent for such fiscal year.

["(3) Limitation on adjustments.—After making any adjustments under paragraph (2) for a fiscal year, the Secretary shall determine whether or not any State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) is less than 90.5 percent of the State's percentage contribution to the Highway Trust fund as a result of such adjustments and shall adjust the percentages in the table for such fiscal year accordingly. Adjustments of the percentages in the table under this paragraph may not result in the total of such percentages exceeding 100 percent.

[“(4) RATE OF RETURN.—A State's percentage return for such fiscal year shall be in the ratio that—

[“(A) the quotient obtained by dividing the total amount of funds apportioned to each State, except Puerto Rico, for the current fiscal year for Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, minimum guarantee, highway safety improvement, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs by the total amount of funds apportioned for such programs in all States, except Puerto Rico, for the current fiscal year; bears to

[“(B) the quotient obtained by dividing the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available by the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for such fiscal year.”.

### [SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA) — AMENDMENTS.

[Section 110 of title 23, United States Code, is amended—

[(1) in subsections (a)(1) and (a)(2), by striking “2000” and inserting “2006”;

[(2) in subsection (a)(2), by striking “the succeeding” and inserting “that”, and by striking “and the motor carrier safety grant program”;

[(3) in subsection (b)(1)(A), by striking “and the motor carrier safety grant program” and by striking “, the Transportation Equity Act for the 21st Century, and subchapter I of chapter 311 of title 49” after “under this title” and insert “and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003”;

[(4) in subsection (c), by inserting “the highway safety improvement program,” after “the surface transportation program,”; and

[(5) by striking subsections (e), (f), and (g).

## [Subtitle B—New Programs

### [SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish and implement an Infrastructure Performance and Maintenance Program in accordance with this section.

[(b) ELIGIBLE PROJECTS.—

[(1) IN GENERAL.—A State may obligate funds apportioned to it under this section only for highway projects eligible under the Interstate Maintenance Program, the National Highway System Program, and the Surface Transportation Program that will—

[(A) cost-effectively preserve, maintain, or otherwise extend the useful life of existing highway infrastructure elements; or

[(B) provide operational improvements, including traffic management and intelligent transportation system strategies and limited capacity enhancements, at points of recurring highway congestion.

[(2) TRANSFER PROHIBITION.—Notwithstanding sections 104 and 126 of title 23, United States Code, funds apportioned under this section shall not be transferred to another Federal agency or program.

[(c) APPORTIONMENT OF INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM FUNDS.—

[(1) IN GENERAL.—On October 1 of each fiscal year the Secretary shall apportion to the States the funds authorized to be appropriated to carry out this section in accordance with the following formula:

[(A) 25 percent of the apportionments in the ratio that—

[(i) the total lane miles of Federal-aid highways in each State; bears to

[(ii) the total lane miles of Federal-aid highways in all States.

[(B) 40 percent of the apportionments in the ratio that—

[(i) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[(ii) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[(C) 35 percent of the apportionments in the ratio that—

[(i) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

[(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

[(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

[(d) CONTRACT AUTHORITY.—Funds authorized to be appropriated under section 1101(a)(16) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available for obligation only as provided in subsection (e); shall not be subject to any deduction or set aside requirement; and shall not be transferred to another Federal agency or program in accordance with subsection (b)(2).-

[(e) PERIOD OF AVAILABILITY.—

[(1) OBLIGATION WITHIN 6 MONTHS.—Funds apportioned to a State under this section must be obligated by such State within 6 months of the date of apportionment. Any amounts that remain unobligated at the end of that period shall be reapportioned in accordance with subsection (f).

[(2) ONE YEAR.—All funds apportioned or reapportioned under this section shall remain available for obligation until the last day of the fiscal year in which they are apportioned. Any amounts apportioned that remain unobligated at the end of the fiscal year shall lapse.

[(f) REDISTRIBUTION OF APPORTIONED FUNDS AND OBLIGATION AUTHORITY.—Six months after the date of apportionment or as soon thereafter as feasible in each fiscal year, the Secretary shall withdraw any funds apportioned to a State under this section that remain unobligated, along with an equal amount of obligation authority provided for the use of such funds pursuant to section 1102(c) of this Act, and shall reapportion such funds and redistribute such obligation authority to those States that have fully obligated all amounts apportioned under this section in such fiscal year and that demonstrate they are able to obligate additional amounts for projects eligible under this section before the end of the fiscal year. The calculation and distribution of funds under section 105 of title 23, United States Code, shall not be adjusted as a result of the reapportionment of funds under this subsection.

[(g) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with the provisions of section 120 of title 23, United States Code.

[(h) STATE DEFINED.—In this section, the term “State” has the meaning such term has under section 101(a) of title 23, United States Code.

### [SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECURITY PROJECTS.

[Section 101 of title 23, United States Code, is amended—

[(1) by striking the word “and” at the end of paragraph (a)(3)(G);

[(2) by striking the period at the end of paragraph (a)(3)(H) and inserting “; and”;

[(3) by adding the following at the end of paragraph (a)(3)(H):

[“(I) improvements directly related to homeland security for detection, preparedness, prevention, response, and recovery.”; and

[(4) by inserting the words “protection and” after the words “means the” and by inserting “, secure,” after the word “safe” in section (a)(14).

### [SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.

[(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

[“(b) It is hereby declared to be in the national interest to accelerate the construction and reconstruction of the Federal-aid highway systems since many of such highways, or portions thereof, are in fact inadequate to meet the needs of local and interstate commerce and national and civil defense.

[“It is further declared that it is in the national interest to preserve and enhance the Dwight D. Eisenhower National System of Interstate and Defense Highways (hereafter referred to as the “Interstate System”) to meet the nation's needs for the 21st Century. Urban and long distance personal travel and freight movement demands continue to grow. Travel demand patterns will remain dynamic. Continued planning for and investment in the Interstate System is critical to assure it adequately meets the changing travel demands of the future. The Interstate System must be safe, efficient, and reliable and must ensure national and interregional personal mobility, the flow of interstate commerce, and travel movements essential for national security. To the maximum extent possible, actions under this title should address congestion and freight transportation to provide for a strong and vigorous national economy. Special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals.

[“The Interstate System is further declared to be the nation's premiere highway system, essential for the nation's economic vitality, national security, and general welfare. The Secretary is directed to take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.”.

### [SEC. 1204. MILITARY VEHICLE ACCESS (OVERSIZE AND OVERWEIGHT VEHICLES; RELIEF FROM TOLLS).

[(a) PROCEDURES ON MILITARY VEHICLE ACCESS.—The Secretary of Transportation is authorized to issue, in consultation with the Secretary of Defense and the Secretary of Homeland Security, procedures and orders that will expedite the highway movement of all marked military vehicles and convoys. The procedures shall specifically address the expedited movement of marked military vehicles, including the establishment of temporary vehicle size and weight limits in excess of Federal and local maximum limits, expedited oversize/overweight permits, and exemptions from payment of local tolls and expedited movement through toll facilities.

[(b) Preemption.—A law, regulation, order, ruling, provision, or other requirement of a State, territory, Indian tribe, or political subdivision thereof, which covers the vehicles and movements described in paragraph (a) and which is not consistent with the procedures or related limitations established by the Secretary under that paragraph, is preempted. The Secretaries of Transportation, Homeland Security, and Defense, may request the Attorney General to bring a civil action seeking appropriate relief respecting the effect of such laws, regulations, orders, rulings, provisions or other requirements in any court of competent jurisdiction. Nothing in this section shall be construed as limiting claims or remedies otherwise available under law or equity.

[(c) Exemption From Administrative Procedure Act.—A procedure established by the Secretary under paragraph (a) shall be exempt from the provisions of 5 U.S.C. 553.

**[SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.**

[(a) Freight Transportation Gateways.—Chapter 3 of title 23, United States Code, is amended by adding after section 324 the following new section:

**[“§ 325. Freight transportation gateways**

[“(a) In General.—

[“(1) Establishment.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of such gateways.

[“(2) Purposes.—The purposes of the freight transportation gateways program shall be—

[“(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of such gateways;

[“(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

[“(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways; and

[“(D) to support military mobilization and readiness.

[“(b) State Responsibilities.—

[“(1) Project development process.—Each State shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately addressed and fully integrated into the project development process, including transportation planning, through final design and construction of freight related transportation projects.

[“(2) Freight transportation coordinator position.—Each State shall designate a freight transportation coordinator. The coordinator shall be responsible for fostering public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including coordination of metropolitan and statewide transportation activities with trade and economic interests and coordination with other States, local Department of Defense officials, local Department of Homeland Security officials, agencies, and organizations to find regional solutions to freight transportation problems. The coordinator shall also be responsible for advancing freight professional capacity building programs for the State.

[“(c) Innovative Finance.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including new user fees; modifications to existing user fees, including trade facilitation charges; revenue options that incorporate private sector investment; and a blending of Federal-aid and innovative finance programs. The Secretary shall provide technical assistance to States and localities with respect to such strategies.

[“(d) Intermodal Freight Transportation Projects.—

[“(1) Use of surface transportation program funds.—A State may obligate funds apportioned to it under section 104(b)(3) of this title for publicly owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues associated with freight transportation gateways.

[“(2) Eligible projects.—Projects eligible for funding under this section—

[“(A) may include publicly-owned intermodal freight transfer facilities, access to such facilities, and operational improvements for such facilities (including capital investment for Intelligent Transportation Systems), except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal access into and out of such port; and

[“(B) may involve the combining of private and public sector funds.”.

[(b) Eligibility for Surface Transportation Program Funds.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following new paragraph:

[“(15) Intermodal freight transportation projects in accordance with section 325(d)(2) of this title.”.

[(c) Freight Intermodal Connections to NHS.—Section 103(b) of such title, is amended by adding at the end the following new paragraph:

[“(7) Freight intermodal connections to the NHS—

[“(A) Funding set-aside.—Of the funds apportioned to a State in each fiscal year under section 104(b)(1) of this title, an amount determined in accordance with subparagraph (B) of this paragraph shall only be available to such State to be obligated for projects on—

[“(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria set forth in the report to Congress entitled “Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals” dated May 24, 1996, referenced in paragraph (1) of this subsection, and any modifications to these connections consistent with paragraph (4) of this subsection, and

[“(ii) Strategic Highway Network (STRAHNET) connectors to strategic military deployment ports.

[“(B) Determination of amount.—The amount of funds for each State in a fiscal year that shall be set aside pursuant to subparagraph (A) of this paragraph shall be—

[“(i) equal to the total amount of funds apportioned to such State under section 104(b)(1) of this title multiplied by the percentage of miles that routes set forth in subparagraph (A) of this paragraph constitute of the total miles on the National Highway System in such State, or

[“(ii) two percent of the annual apportionment to the State of funds under 104(b)(1), whichever is greater.

[“(C) Exemption from set-aside.—In any fiscal year, a State may obligate the funds otherwise set aside by this paragraph on any project which is both eligible under paragraph (6) of this subsection and located in such State on a segment of the National Highway System set forth in paragraph (2) of this subsection if such State certifies and the Secretary concurs that—

[“(i) the routes described in subparagraph (A) of this paragraph are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use, and

[“(ii) significant needs on such routes are being met or do not exist.”.

[(d) Definitions and Declaration of Policy.—Section 101(a) of such title is amended by redesignating paragraphs (11) through (37) as paragraphs (12) through (38), respectively, and inserting new paragraph (11) as follows:

[“(11) Freight transportation gateway.—The term ‘freight transportation gateway’ means a nationally or regionally significant transportation port of entry or hub for domestic and global trade, military mobilization, and includes freight intermodal and Strategic Highway Network connections that provide access to and from these gateways.”.

[(e) Federal Share Payable.—Section 120 of such title is amended by adding at the end the following new subsection:

[“(m) Increased Federal Share for Connectors.—On National Highway System intermodal freight connections and Strategic Highway Network connectors to strategic military deployment ports described in section 103(b)(7), the Federal share may be up to 90 percent of the total cost of the project.”.

[(f) Length Limitations.—Section 31111(e) of title 49, United States Code, is amended by adding at the end “In the interests of economic competitiveness, security, and intermodal connectivity, States shall update these qualifying highways within three years of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to include Strategic Highway Network connectors to strategic military deployment ports and National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7).”.

[(g) Conforming Amendment.—The analysis of chapter 3 of title 23 is amended by adding at the end the following:

[“325. Freight transportation gateways.”.

**[SEC. 1206. AUTHORITY FOR ALTERNATIVE TIME-SAVING PROCEDURES FOR CRITICAL TRANSPORTATION SECURITY PROJECTS.**

[(a) Critical, time sensitive highway and public transportation security projects are projects that are necessary to address an imminent threat to the security of a transportation facility or to repair damage to a transportation facility caused by a terrorist attack against the United States. Such projects shall be identified by the Secretary in consultation with the owner-operator of the facility and with the Secretary of Homeland Security.

[(b) The Secretary of Transportation shall develop and implement expedited procedures for critical, time-sensitive highway and public transportation security projects. These procedures shall address planning, environmental review, public involvement, acquisition of rights-of-way, and contracting, and they shall be developed with the concurrence of other affected Federal agencies whose authorities will be affected by the procedures and in consultation with any other Federal agencies that the Secretary determines have an interest in the procedures. For the limited purpose of expediting interim measures needed to address an imminent threat to the security of a transportation facility, the Secretary may provide that these procedures are exclusive of any other statute relating to planning, environmental reviews, public involvement, acquisition of right-of-way, and contracting, so long as the Secretary determines that such measures are necessary for the protection of the public and receives the concurrence of any other Federal agency responsible for administering such statutes. The Secretary shall issue rules establishing these procedures within one year of the enactment of this law.

## [Subtitle C—Finance

### [SEC. 1301. FEDERAL SHARE.

[Section 120 of title 23, United States Code, is amended—

[(1) in subsection (a), by striking "shall be 90 percent" and all that follows through the end of the subsection and inserting "shall not exceed 90 percent of the total cost of the project.";

[(2) in subsection (b), by striking "shall be" and all that follows through the end of the subsection and inserting "shall not exceed 80 percent of the total cost of the project."; and

[(3) by striking subsection (d) and inserting the following:

["(d) INCREASED FEDERAL SHARE.—The Federal share payable under (a) and (b) may be increased in the case of any State containing nontaxable Indian lands, public lands (both reserved and unreserved), national forests, and national parks and monuments. The Federal share for any project subject to this section shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in a State is of its total area not to exceed 95 percent of the total cost of the project. These rates shall be revised as needed based on data provided by the Federal agencies responsible for maintaining the data.".

### [SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

[Section 104(m) of title 23, as redesignated by this Act, is amended to read as follows:

["(m) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

["(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—Funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

["(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

["(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—Except as provided in paragraphs (1) and (2), when an expenditure is specifically authorized in Federal-aid highway legislation, as a line item in an appropriation act, or when a State transportation department consents to a transfer of funds under this title that are derived from the Highway Trust Fund (other than the Mass Transit account), such funds may be transferred to another Federal agency subject to subparagraphs (A), (B), (C), and (D) of this paragraph—

["(A) if the Secretary determines, after consultation with the State transportation department as appropriate, that another Federal agency should carry out a project with funds made available under this title or any other act that are derived from Highway Trust Fund (other than the Mass Transit account);

["(B) the project will be administered by the Federal agency under its procedures, and such funds shall not be deemed to be an augmentation of that agency's appropriations;

["(C) such other Federal agency agrees to accept the transfer of funds and to administer those funds; and

["(D) the provisions of this title or the acts referred to above relating to the non-Federal share shall apply to the transferred funds, except where the Secretary determines that it is in the best interest of the United States that such share be waived.

["(4) TRANSFER OF FUNDS AMONG STATES OR TO THE FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer funds apportioned or allocated to such State to another State or to the Federal Highway Administration for the purpose of funding a specific project or projects. The funds transferred shall be used for the same purpose and in the same manner for which they were authorized. Such transfer shall have no effect on any apportionment formula used to distribute funds to the States under sections 104, 105, or 144. Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this subsection only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

["(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority shall be transferred in the same manner and amount as the funds for the projects are transferred under this section.".

### [SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

[(a) DEFINITIONS.—In this section, the following definitions apply:

[(1) CAPITAL PROJECT.—The term "capital project" has the meaning such term has under section 5302 of title 49, United States Code.

[(2) OTHER ASSISTANCE.—The term "other assistance" includes any use of funds in an infrastructure bank—

[(A) to provide credit enhancements;

[(B) to serve as a capital reserve for bond or debt instrument financing;

[(C) to subsidize interest rates;

[(D) to ensure the issuance of letters of credit and credit instruments;

[(E) to finance purchase and lease agreements with respect to transit projects;

[(F) to provide bond or debt financing instrument security; and

[(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

[(3) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

[(4) CAPITALIZATION.—The term "capitalization" means the process used for depositing funds as initial capital into a State Infrastructure Bank to establish the infrastructure bank.

[(5) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means the written consent between a State and the Secretary which sets forth the manner in which the State Infrastructure Bank will be administered.

[(6) LOAN.—The term "loan" means any form of direct financial assistance from the State Infrastructure Bank, required to be repaid over a period of time, which is provided to a project sponsor for all or part of project costs.

[(7) GUARANTEE.—The term "guarantee" means a contract or contracts entered into by the State Infrastructure Bank in which the State Infrastructure Bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

[(8) INITIAL ASSISTANCE.—The term "initial assistance" means the first round of State Infrastructure Bank funds that must be loaned or used for credit enhancement for purposes limited to highway construction under title 23 or transit capital projects under title 49.

[(9) LEVERAGE.—The term "leverage" means a financial structure used to increase State Infrastructure Bank funds through debt issuance. A State Infrastructure Bank is considered leveraged if its total potential liabilities exceed its equity.

[(b) PILOT PROGRAM.—

[(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with up to five States, including States that entered into cooperative agreements under section 1511 of the Transportation Equity Act for the 21st Century, as amended, for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

[(2) APPLICATION.—To participate in the pilot program, a State shall submit an application to the Secretary.

[(3) SELECTION CRITERIA.—In evaluating applications for participation in the pilot program, the Secretary shall establish selection criteria that shall include—

[(A) the State's ability to provide non-Federal funds to capitalize the bank;

[(B) the existence of State enabling legislation that clearly allows for full State Infrastructure Bank participation;

[(C) the State's strategy for encouraging non-Federal repayment sources from project sponsors;

[(D) the amount of Federal funds the State will commit to the State Infrastructure Bank as a percentage of its Federal-aid apportionments;

[(E) the State's eligibility under section 1511 of the Transportation Equity Act for the 21st Century, as amended; and

[(F) the State's past experience with a State Infrastructure Bank, including the program established under section 1511 of the

Transportation Equity Act for the 21st Century, as amended, or comparable financing mechanisms.

[(4) TERMINATION OF COOPERATIVE AGREEMENT.—If a State that has been selected for this pilot program does not fund its State Infrastructure Bank within 90 days after execution of the cooperative agreement, the Secretary may terminate the cooperative agreement and may select another State to participate in the pilot program in accordance with this subsection.

[(c) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (b)(1) with the Secretary for the establishment of a multi-state infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

[(d) FUNDING.—

[(1) HIGHWAY ACCOUNT.—Subject to subsection (i), the Secretary may permit a State entering into a cooperative agreement under this section to contribute not to exceed—

[(A) 10 percent of the funds apportioned to the State for each of fiscal years 2004 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144, of title 23, United States Code, and

[(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105 of such title into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

[(2) TRANSIT ACCOUNT.—Subject to subsection (i), the Secretary may permit a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 2004 through 2009 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

[(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are attributed to urbanized areas of States with urbanized populations of over 200,000 under section 133(d)(2) of title 23, as amended by this Act, may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

[(4) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State Infrastructure Bank in accordance with the cooperative agreement, the Secretary may prohibit a State from contributing additional Federal funds to its State Infrastructure Bank.

[(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other credit assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other credit assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant

[(f) QUALIFYING PROJECTS.—Subject to paragraph (e), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

[(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

[(1) contribute, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank, except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(d) of title 23, as amended by this Act, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share. The non-Federal share must be in the form of cash;

[(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

[(3) ensure that investment income generated by funds contributed to an account of the bank will be—

[(A) credited to the account;

[(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

[(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

[(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make feasible the project that is the subject of the loan;

[(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

[(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (5); and

[(7) require the bank to make an annual report to the Secretary on its status, and to make such other reports as the Secretary may require by guidelines.

[(h) SECRETARIAL REQUIREMENTS.—In administering this section,the Secretary shall—

[(1) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

[(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

[(B) projects assisted by the bank through the use of such funds; except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section; and

[(2) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

[(i) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The requirements of title 23 and title 49, United States Code, shall apply to projects financed from repayments to an infrastructure bank from projects assisted by the bank. Such repayments shall be considered to be Federal funds for the purpose of this subsection.

[(j) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

[(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

[(l) PROGRAM ADMINISTRATION.—For each of fiscal years 2004 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank. This limitation shall not apply to non-Federal funds.

### [SEC. 1304. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (TIFIA) AMENDMENTS.

[(a) DEFINITIONS.—Section 181 of title 23, United States Code is amended—

[(1) in paragraph (3), by striking "category" and "offered into the capital markets";

[(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

[(3) by amending paragraph (8)(D), as redesignated, to read as follows—

["(D) a public or private freight rail facility; an intermodal freight transfer facility; access to such facilities; and service improvements for such facilities including capital investment for Intelligent Transportation Systems; or a group of such projects with the common objective of improving the flow of goods, except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal access into and out of such port. Such a project may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements."; and

[(4) in paragraph (10), as redesignated, by striking "bond" and inserting "credit".

[(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of such title is amended—

[(1) in subsection (a)—

[(A) by striking paragraphs (1) and (2) and inserting the following:

["(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

["(2) APPLICATION.—A State, a local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the

Secretary, shall submit a project application to the Secretary.";

[(B) in paragraph (3)(A)(i), by striking "$100,000,000" and inserting "$50,000,000"; and

[(C) in paragraph (4), by striking "Project financing" and inserting "The Federal credit instrument" and by adding at the end of the sentence "that also secure the project obligations"; and

[(2) in subsection (b)(1), by striking "criteria" after "eligibility" and inserting "requirements" and in subsection (b)(2)(B) by inserting ", which may be the Federal credit instrument," after "obligations".

[(c) SECURED LOANS.—Section 183 of such title is amended—

[(1) in subsection (a)—

[(A) by striking "of any project selected under section 182." at the end of paragraph (1);

[(B) by inserting "of any project selected under section 182" after "costs" in paragraphs (1)(A) and (1)(B); and

[(C) in paragraph (4), by striking "funding" and inserting "execution" and by inserting a period in place of the comma after "receiving an investment grade rating" and striking all that follows to the end of the paragraph;

[(2) in subsection (b)—

[(A) by inserting "the lesser of" after "exceed" and "or the amount of the senior project obligations" after "costs";

[(B) by inserting "that also secure the senior project obligations" in paragraph (3)(A)(i) after "sources"; and

[(C) by striking "marketable" in paragraph (4); and

[(3) in subsection (c), by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4) respectively;

[(d) LINES OF CREDIT.—Section 184 of such title is amended—

[(1) in subsection (b)—

[(A) in paragraph (3), by striking the comma after "interest" and by striking "any debt service reserve fund, and any other available reserve", and by inserting "but not including reasonably required financing reserves";

[(B) in paragraph (4), by striking "marketable"; by striking "on which" after "date" and inserting "of execution of"; and by striking "is obligated" after "credit" and inserting "agreement"; and

[(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

[(2) in subsection (c)—

[(A) in paragraph (2) by striking "scheduled", by inserting "be scheduled to" after "shall", and by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principle and interest,"; and

[(B) by striking paragraph (3).

[(e) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

**["§ 185. Program administration**

["(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

["(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

["(c) SERVICER.—The Secretary may identify a financial entity to assist the Secretary in servicing the Federal credit instruments. The servicer—

["(1) shall act as the agent for the Secretary; and

["(2) shall receive a servicing fee, subject to approval by the Secretary.

["(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

[(f) FUNDING.—Section 188 of such title is amended to read as follows:

**["§ 188. Funding**

["(a) FUNDING.—

["(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $130,000,000 for each of fiscal years 2004 through 2009 to carry out this subchapter.

["(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $3,000,000 for each of fiscal years 2004 through 2009.

["(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

["(b) CONTRACT AUTHORITY.—

["(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

["(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

["(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 2004 through 2009, principal amounts of Federal credit instruments made available shall be limited to $2,600,000,000.".

[(g) Section 189 of such title is repealed.

[(h) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23 is amended by—

[(1) revising the item relating to section 185 to read as follows:

["185. Program administration.";

and

[(2) striking the item relating to section 189.

### [SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT FACILITATION.

[The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705 of title 49, United States Code, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to help the State with administration needs resulting from serving as a base jurisdiction for motor carriers from Mexico.

### [SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.

[(a) IN GENERAL.—The Secretary shall permit the States to conduct pilot projects to acquire, construct, operate, convert, and maintain rest areas along Interstate highways in their States in accordance with subsection (b).

[(b) COMMERCIAL OPERATIONS.—

[(1) ELIGIBILITY.—Notwithstanding section 111 of title 23 United States Code, and the project agreements required by section 111(a) and executed between the States and the Federal Highway Administration, the Secretary shall permit the rest areas in the pilot projects to include commercial operations that provide goods, services, and information that benefit the traveling public and the commercial motor carrier industry, and as deemed appropriate by the States, including—

[(A) commercial advertising and displays if such advertising and media displays are—

[(i) exhibited solely within any facility constructed in the rest area; and

[(ii) not legible from the main traveled way;

[(B) programs to provide commercial vehicle operators with special services designed to enhance motor carrier and highway safety; and

[(C) State promotional or tourism-oriented items.

[(2) PRIVATE OPERATORS.—The States may permit such commercial operations to be run by a private operator.

[(c) PARTICIPATION.—Participation in this pilot project is limited to those proposals submitted to the Secretary for approval during the one year period after the date of enactment of this Act.

[(d) PROPOSALS.—

[(1) The State proposals shall at a minimum—

[(A) describe the types of goods, services and information to be provided;

[(B) demonstrate that the proposed project(s) helps implement the strategies developed in the "Study of Adequacy of Parking Facilities" prepared pursuant to section 4027 of the Transportation Equity Act for the 21st Century;

[(C) contain a review and update of the individual State action plans for addressing commercial truck parking shortages; and

[(D) prepare a plan for evaluating the results of the pilot project(s) in that State.

[(2) The Secretary must determine that commercial rest area projects being advanced under this pilot program will meet all of the design standards applicable to rest areas on the Interstate system.

[(e) LIMITATION ON USE OF REVENUES. Any revenues received by a State from the commercial operations in a rest area under this section that are in excess of amounts required for the proper operation and maintenance of the rest area shall be used by the State for projects eligible under title 23, United States Code.

[(f) CONSIDERATIONS.—The Secretary shall consider the benefit to the traveling public and the impact on local businesses in carrying out this section.

[(g) VENDING MACHINES.—If vending machines are placed in a pilot project, the State shall give priority to vending machines operated through the State licensing agency designated under the Randolph-Sheppard Act.

### [SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.

[(a) ELIGIBLE ACTIVITIES.—Section 143(b) of title 23, United States Code, is amended as follows:

[(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Paragraph (2) is amended by inserting a comma after "Secretary" and adding "except that for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

[(2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Paragraph (3) is amended by inserting a comma after "subsection" and adding "except as otherwise provided in this section".

[(3) LIMITATION ON USE OF FUNDS. Paragraph (4) is amended—

[(A) by striking "and" at the end of subparagraph (F);

[(B) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

[(C) by adding at the end the following:

["(H) to support efforts between States and tribes to address issues related to state motor fuel taxes; and–

["(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.".

[(4) Reports.—The following new paragraph is added at the end:

["(9) Reports.—The Internal Revenue Service and States shall submit to the Secretary annual reports that describe the projects, examinations, and criminal investigations funded by and carried out under this section. The reports must specify the annual yield estimated for each project funded under this section.".

[(b) Excise Fuel Reporting System.—Section 143(c) of such title is amended—

[(1) in paragraph (1) by striking "Not later than August 1, 1998," and inserting "Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003,"; by striking "development" and inserting "completion, operation,"; by striking "an excise fuel reporting system" and inserting "the excise summary terminal activity reporting system"; and by striking "(in this subsection referred to as the "system")";

[(2) in paragraph (2)—

[(A) by striking "the system" each place it appears and inserting "the excise summary terminal activity reporting system";

[(B) in subparagraph (A), by striking "develop" and inserting "complete";

[(C) by striking "and" at the end of subparagraph (B);

[(D) by striking the period at the end of subparagraph (C) and inserting "; and"; and

[(E) by adding at the end the following new subparagraph:

["(D) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for the completion, operation, and maintenance of the excise summary terminal activity reporting system."; and

[(3) by amending paragraph (3) to read as follows:

["(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.".

[(c) Registration System and Electronic Database.—Section 143 as amended by this Act is further amended by adding at the end the following new subsections:

["(d) Pipeline, Vessel, and Barge Registration System.—

["(1) In general.—Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

["(2) Elements of memorandum of understanding.—The memorandum of understanding shall provide that—

["(A) the Internal Revenue Service shall develop and maintain the registration system through contracts;

["(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for development, operation, and maintenance of the registration system;

[ "(C) the registration system shall be under the control of the Internal Revenue Service; and

["(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

["(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to complete, operate, and maintain a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.

["(e) Heavy Vehicle Use Tax Payment Database.—

["(1) In general.—Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the establishment, operation, and maintenance of an electronic database of heavy vehicle highway use tax payments.

["(2) Elements of memorandum of understanding.—The memorandum of understanding shall provide that—

["(A) the Internal Revenue Service shall establish and maintain the electronic database through contracts;

["(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

["(C) the electronic database shall be under the control of the Internal Revenue Service; and

["(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

["(3) Funding.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to establish, operate, and maintain an electronic database of heavy vehicle highway use tax payments in accordance with this subsection.

["(f) Reports.—By March 30 and September 30 of each year, the Internal Revenue Service shall provide reports to the Secretary on the status o' the Internal Revenue Service projects funded under this section related to the excise summary terminal activity reporting system; the pipeline, vessel, and barge registration system; and the heavy vehicle use tax electronic database.".

[(d) Allocations.—Of the amounts authorized to be appropriated under section 1101(a)(14) of this Act for Highway Use Tax Evasion Projects for each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States, and for fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be dedicated to the excise summary terminal activity reporting system, for each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, for fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, and for each of fiscal years 2008 and 2009, $4,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the excise summary terminal activity reporting system.

### [Subtitle D—Program Efficiencies and Improvements—Safety

### [SEC. 1401. NATIONAL HIGHWAY SAFETY GOAL; NATIONAL BLUE RIBBON COMMISSION ON HIGHWAY SAFETY.

[(a) National Highway Safety Goal.—Section 101 of title 23, United States Code, is amended by adding at the end the following new subsection:

["(f) It is hereby declared to be in the national interest that the number of deaths attributable to traffic accidents on America's highways be significantly reduced. To achieve this goal, a national initiative targeted at saving lives through improved engineering, education, enforcement, and emergency response in cooperation with new and existing State and local safety programs is hereby authorized.".

[(b) National Blue Ribbon Commission on Highway Safety.—

[(1) Establishment.—The Secretary shall establish a National Blue Ribbon Commission on Highway Safety (hereinafter in this section referred to as "the Commission").

[(2) Membership.—

[(A) Composition.—The Commission shall be composed of 15 members as follows—

[(i) the Secretary or the Secretary's delegate;

[(ii) the Administrators of the Federal Highway Administration; the National Highway Traffic Safety Administration; the Federal Motor Carrier Safety Administration; and the Federal Railroad Administration, or the Administrators' delegates; and

[(iii) 10 members appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States, the safety community, public health, and State and local law enforcement agencies, and who have been nominated by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the United States Senate and the Committee on Transportation and Infrastructure of the United States House of Representatives.

[(B) Appointment.—The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to highway safety. Half of the appointments shall be made from nominees submitted by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the Senate and the other half from the nominees submitted by the Committee on Transportation and Infrastructure of the House of Representatives. Each of these committees shall nominate 20 individuals qualified to serve on the Commission.

[(C) Terms.—The term of each member of the Commission shall be 6 years. Any vacancy shall be filled in the manner the original appointment was made. The vacancy does not affect the Commission's powers.

[(3) Function.—The Commission, to carry out the direction of Congress, under section 101(f) of title 23, United States Code as amended by this Act, that the number of deaths attributable to traffic accidents on America's highways be significantly reduced, shall—

[(A) oversee a comprehensive study evaluating the Nation's highway safety needs over the next three decades in the areas of engineering, education, enforcement, and emergency response and, based on such study, make specific recommendations to the Secretary for an achievable national goal for the reduction of highway fatalities and for the funding necessary to achieve such goal;

[(B) assist in developing a national consensus in support of such goal; and

[(C) advise, consult with, and make recommendations to, the Secretary to assist in identifying specific measures for achieving the national highway safety goal.

[(4) SPECIFIC MATTERS TO BE ADDRESSED.—The national highway safety goal study conducted by the Commission shall examine the roles of highway infrastructure, drivers, and vehicles in fatalities on all public roads; identify high risk areas and activities associated with the greatest numbers of highway fatalities; examine the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities and recommend ways to strengthen highway safety partnerships; and identify measures that will save the most lives both long term and short term. The study shall consider, among other things, the findings, conclusions, and recommendations of highway safety studies and research conducted by the Transportation Research Board, including studies related to implementation of the American Association of State Highway and Transportation Officials' Strategic Highway Safety Plan.

[(5) REPORTS TO CONGRESS.—

[(A) INITIAL REPORT.—Not later than September 30, 2006, the Commission shall transmit to Congress an initial report on the results of the national highway safety goal study, including recommendations and such legislative recommendations as the President judges necessary and expedient for an achievable national goal for the reduction of highway fatalities and for preliminary strategies to be implemented to achieve such goal.

[(B) FINAL REPORT.—Not later than February 1, 2009, the Commission shall transmit to Congress a final report on the results of the national highway safety goal study, including recommendations and such legislative recommendations as the President judges necessary and expedient for a comprehensive plan with specific strategies to achieve the fatality reduction goal recommended in the initial report and for the level of funding necessary to implement such fatality reduction plan and strategies.

[(6) TERMINATION OF COMMISSION.—The Commission shall terminate on the 180th day following the date of transmittal of the final report to Congress under paragraph (5)(B) of this subsection. By the 180th day, all records and papers of the Commission shall be delivered to the Administrator of the General Services Administration for deposit in the National Archives.

[(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) up to $3,000,000 for fiscal year 2004, $1,000,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,000,000 for fiscal year 2007, $500,000 for fiscal year 2008, and $500,000 for fiscal year 2009 for the purposes of carrying out this subsection.

[(8) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the study and the Commission under this section shall be 100 percent, and such funds shall remain available until expended.

**[SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM; FLEXIBILITY FOR SAFETY INITIATIVES.**

[(a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by inserting the following new section after section 149:

**[“§ 150. Highway Safety Improvement Program**

[“(a) ESTABLISHMENT.—The Secretary shall establish and implement a highway safety improvement program in accordance with this section, in order to significantly reduce fatalities and serious injuries on the Nation's roadway system.

[“(b) PROGRAM.—

[“(1) STATE RESPONSIBILITIES.—To receive funds under this section, each State shall have a process in place that identifies and analyzes highway safety problems and opportunities and will produce a program of projects for funding under this section based on this analysis. Such process and program of projects shall be known as the Highway Safety Improvement Program. The statewide program shall identify hazardous locations, sections, and elements including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads that may constitute a danger to motorists, bicyclists, pedestrians, and other highway users. States shall also have crash data systems and the ability to perform safety problem identification and countermeasure analysis.

[“(2) PROGRAM ADMINISTRATION.—The Secretary shall establish implementing guidelines for this program, which shall include at a minimum the following components:

[“(A) STRATEGIC APPROACH TO HIGHWAY SAFETY.—Each State shall, as appropriate, adopt strategic and performance-based goals for its Highway Safety Improvement Program. This statewide program shall address safety problems and opportunities on all roadways within the State, focus resources on areas of greatest need, and be complementary to the programs developed in response to section 402 of this title.

[“(B) DATA IMPROVEMENT PROGRAM.—Each State shall, as appropriate, advance its capabilities for traffic records data collection, analysis, and integration with other sources of safety data such as roadway inventories. Such a data improvement program shall be complementary to the programs supported by sections 402 and 412 of this title; include all public roads; and contain provisions to identify hazardous locations, sections, and elements on these public roads that constitute a danger to motorists, bicyclists, and pedestrians.

[“(C) PROGRAM OF IMPROVEMENTS.—Each State shall determine priorities for the correction of hazardous roadway locations, sections, and elements, including railway-highway crossing improvements, as identified through crash data analysis; identify opportunities for preventing the development of such hazardous conditions; and establish and implement a schedule of safety improvement projects for hazard correction and hazard prevention.

[“(D) EVALUATION.—Each State shall, as appropriate, establish an evaluation process to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section, and such information shall be used in setting priorities for safety improvement projects.

[“(c) REPORTS.—Each State shall report to the Secretary on progress being made to implement safety improvement projects under this section and the effectiveness of such improvements. The Secretary shall establish the content and schedule for such reports.

[“(d) ELIGIBLE PROJECTS.—

[“(1) IN GENERAL.—A State may obligate funds apportioned to it under this section for any safety improvement project on any public road or publicly-owned bicycle or pedestrian pathway or trail.

[“(2) SAFETY IMPROVEMENT PROJECT.—For purposes of this section the term ‘safety improvement project’ means a project that corrects or improves a hazardous roadway location or feature, or proactively addresses highway safety problems, including: intersection improvements, pavement and shoulder widening, installation of rumble strips and other warning devices, improving skid resistance, improvements for pedestrian or bicyclist safety, railway-highway crossing safety, traffic calming, elimination of roadside obstacles, improving highway signage and pavement marking, installing priority control systems for emergency vehicles at signalized intersections, installing traffic control or warning devices at locations with high accident potential, safety conscious planning, and improving crash data collection and analysis.

[“(e) FUNDING.—Sums authorized to be appropriated to carry out this section shall be apportioned in accordance with section 104(b)(5).

[“(f) FEDERAL SHARE.—The Federal share payable on account of any project carried out under this section shall be 90 percent of the cost thereof.

[“(g) USE OF FUNDS.—Beginning in fiscal year 2005 and for each fiscal year thereafter, 10 percent of the funds available to a State to carry out the highway safety improvement program established in accordance with this section shall be obligated for projects under section 402 of this title, unless by October 1 of the fiscal year in which funds become available to a State the State has enacted a primary safety belt law or the State demonstrates that the safety belt use rate in that State meets or exceeds 90 percent. A State subject to the provisions of this subsection must have in place or adopt a strategic highway safety plan in accordance with section 151 of this title. Activities funded under this subsection shall be consistent with such a plan.

[“(h) USE OF OTHER FUNDING FOR SAFETY.—Nothing in this section shall be interpreted to prohibit the use of funds made available under other sections of this title for highway safety improvement projects, and States are to be encouraged to address the full scope of their safety needs and opportunities by using other funds unless provisions exist that prohibit such use.”.

[(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104 of such title is amended—

[(1) by inserting in subsection (a) “the Highway Safety Improvement Program under section 150,” after “section 204,”;

[(2) by inserting in subsection (b) “the Highway Safety Improvement Program,” after “Improvement Program,”; and

[(3) by adding at the end of subsection (b) the following new paragraph:

[“(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

[“(A) IN GENERAL.—For the Highway Safety Improvement Program, in accordance with the following formula:

[“(i) 25 percent of the apportionments in the ratio that—

[“(I) the total lane miles of Federal-aid highways in each State; bears to

[“(II) the total lane miles of Federal-aid highways in all States.

[“(ii) 40 percent of the apportionments in the ratio that—

[“(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[“(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[“(iii) 35 percent of the apportionments in the ratio that—

[“(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

[“(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

[“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.”.

[(c) FLEXIBILITY FOR SAFETY INITIATIVES.—Chapter 1 of such title, as amended by this Act, is further amended—

[(1) by repealing section 152;

[(2) by redesignating section 151 as section 152; and

[(3) by inserting the following new section 151 after section 150:

**[“§ 151. Flexibility for safety initiatives**

[“(a) IN GENERAL.—As provided in this section, a State that develops and implements a strategic highway safety plan and comprehensive safety planning process shall have the flexibility to use funds available under section 150 of this title, the Highway Safety Improvement Program, for title 23 safety purposes not otherwise eligible under such section, including funding for public awareness, education, and enforcement.

[“(b) STRATEGIC HIGHWAY SAFETY PLAN.—To qualify for flexible safety funding as provided under this section, the State strategic highway safety plan must—

[“(1) be based on a collaborative process that includes the State Department of Transportation, the Governor's Representative for Highway Safety, persons responsible for administering section 130 of this title at the State level, and other major State and local safety stakeholders, including Operation Lifesaver;

[“(2) address engineering, education, enforcement, and emergency services elements of highway safety;

[“(3) consider the results of existing State transportation and highway safety planning processes; and

[“(4) be certified by the Secretary, in consultation with the Federal Highway Administration and the National Highway Traffic Safety Administration, as based on a comprehensive, collaborative process, and effective analyses of State crash data.

[“(c) SAFETY ACTIVITIES CONSISTENT WITH PLAN.—To qualify for the flexible use of funds available under sections 150 and 402(k) in accordance with this section, activities must be consistent with the State strategic highway safety plan.

[“(d) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this section shall require a State to revise existing State processes, plans, or programs.

[“(e) FLEXIBLE FUNDING.—A State that receives funds under section 150 shall use such funds for projects eligible under such section, except that up to 50 percent of such funds may be used for activities eligible for assistance under section 402 of this title that are consistent with the State's strategic highway safety plan and not otherwise eligible for assistance under section 150.”.

[(d) ELIMINATION OF SURFACE TRANSPORTATION PROGRAM SET-ASIDE.—Section 133(d) of such title is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

[(e) CONFORMING AMENDMENTS.—

[(1) The analysis for chapter 1 of such title is amended—

[(A) by striking the item relating to section 152;

[(B) by renumbering “151. National bridge inspection program.” as “152”; and

[(C) by inserting after the item relating to section 149 the following:

[“150. Highway Safety Improvement Program.
[“151. Flexibility for safety initiatives.”.

[(2) Section 130 of such title is amended—

[(A) by striking subsections (e) and (f) and redesignating subsections (g) through (j) as (e) through (h), respectively; and

[(B) in subsection (f), as redesignated by this Act, by striking “authorized to be appropriated to carry out this section” and inserting “made available as provided under section 150 of this title to carry out this section”.

[(3) Section 154(c)(3) of such title is amended by striking “152” and inserting “150”.

[(4) Section 164(b)(3) of such title is amended by striking “152” and inserting “150”.

[(5) Section 409 of such title is amended by striking “152” and inserting “150”.

### [SEC. 1403. OPERATION LIFESAVER.

[Section 104(d)(1) of title 23, United States Code, is amended by striking “$500,000” and inserting “$600,000”.

### [SEC. 1404. HIGHWAY SAFETY PROGRAMS; CERTIFICATION OF PUBLIC ROAD MILEAGE.

[Section 402(c) of title 23, United States Code, is amended by striking in the fifth sentence “the Governor of”.

## [Subtitle E—Program Efficiencies and Improvements—Planning

### [SEC. 1501. METROPOLITAN PLANNING.

[Section 134 of title 23, United States Code, is amended by striking subsections (a) through (o) and inserting the following:

[“Metropolitan planning shall be carried out in accordance with section 5203 of title 49, United States Code.”.

### [SEC. 1502. STATEWIDE PLANNING.

[Section 135 of title 23, United States Code, is amended by striking subsections (a) through (i) and inserting the following:

[“Statewide planning shall be carried out in accordance with section 5204 of title 49, United States Code.”.

### [SEC. 1503. STATE PLANNING AND RESEARCH.

[(a) STATE PLANNING AND RESEARCH.—Chapter 5 of title 23, United States Code, is amended by striking section 505.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item related to section 505.

[(c) APPORTIONMENT.—Section 104 of title 23, United States Code, is amended—

[(1) by redesignating subsections (i), (j), (k), and (l) as subsections (k), (l), (m), and (n), respectively; and

[(2) by inserting after subsection (h) the following:

[“(i) STATE PLANNING AND RESEARCH.—

[“(1) IN GENERAL.—Two and ½ percent of the sums apportioned to a State for each fiscal year under this section (other than subsections (f) and (h)) and under sections 105 and 144 of this title shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

[“(A) Engineering and economic surveys and investigations.

[“(B) The planning of future highway and local public transportation systems, the planning of the financing of such systems, and metropolitan and statewide planning under sections 134 and 135 of this title, including freight planning, safety planning, transportation systems management and operations planning, transportation-related land use planning, and transportation-related growth management activities within these planning processes and planning capacity building activities described in section 104(j) of this title.

[“(C) Development and implementation of infrastructure management and traffic monitoring systems under section 303 of this title and for asset management activities.

[“(D) Studies of the economy, safety, and convenience of highway and local public transportation systems and the desirable regulation and equitable taxation of their use.

[“(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, maintenance, regulation, and taxation of the use of highway, local public transportation, and intermodal transportation systems.

[“(F) Study, research, and training on the engineering standards and construction materials, including accreditation of inspection and testing, for highway, local public transportation, and intermodal transportation systems.

[“(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

[“(A) IN GENERAL.—Subject to subparagraph (B), not less than 20 percent of the funds subject to paragraph (1) for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in paragraph (1), relating to highway, local public transportation, and intermodal transportation systems.

[“(B) WAIVERS.—The Secretary may waive the application of subparagraph (A) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that the funds described in subparagraph (A) are not needed for research, development, and technology transfer and the Secretary accepts such certification.

[“(C) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under subparagraph (A) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

[“(3) MINIMUM EXPENDITURES FOR IMPROVING THE QUALITY OF COLLECTION AND REPORTING OF STRATEGIC SURFACE TRANSPORTATION DATA.—

[“(A) IN GENERAL.—Subject to subparagraph (B), not less than 20 percent of the funds subject to paragraph (1) for a fiscal year shall be expended by the State to improve the collection and reporting of strategic surface transportation data to provide critical information about the extent, condition, use, performance, and financing of the Nation's highways (including intermodal connectors) for passenger and freight movement.

[“(B) WAIVERS.—The Secretary may waive the application of subparagraph (A) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that the State is collecting and reporting strategic data consistent with quality assurance guidelines developed cooperatively with the States and the Secretary approves such certification. If such waiver is approved, the funds may be used for the activities described in paragraph (1) of this subsection.

["(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to paragraph (1) shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

["(5) ADMINISTRATION OF SUMS.—Funds subject to paragraph (1) shall be combined and administered by the Secretary as a single fund and shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

### [SEC. 1504. CRITICAL REAL PROPERTY ACQUISITION.

[Section 108 of title 23, United States Code, is amended by adding at the end the following:

["(d) CRITICAL REAL PROPERTY ACQUISITION.—

["(1) Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of costs incurred in the acquisition of real property that is deemed critical, as determined under paragraph (2), for any project proposed for funding under this title, prior to the completion of any required environmental reviews for property acquisition.

["(2) The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, prior to acquisition, the State demonstrates to the Secretary, and the Secretary determines, that the property is offered for sale on the open market, that the State will comply fully with the Uniform Relocation Assistance and Real Property Acquisition Policies Act in acquiring the property, and that immediate acquisition of the property is critical because either—

["(A) normal appraisal techniques show that the property's value is increasing significantly;

["(B) there is an imminent threat of development or redevelopment of the property; or

["(C) the property is necessary for the implementation of the goals as stated in the project proposal.

["(3) An acquisition undertaken pursuant to this section shall be considered to be an exempt project under section 176 of the Clean Air Act and its implementing regulations.

["(4) No project development activity may be undertaken on property acquired in accordance with paragraph (2) until any required environmental reviews for the project have been completed.

["(5) The number of critical acquisitions associated with a project shall be limited and shall not affect the consideration of project alternatives during the environmental review process.

["(6) Section 156 (c) of this title shall not apply to the sale, use or lease of any property acquired in accordance with paragraph (2).".

### [SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.

[Section 104 of title 23, United States Code, is amended by inserting after subsection (i), as added by this Act, the following:

["(j) PLANNING CAPACITY BUILDING INITIATIVE.—

["(1) IN GENERAL.—The Secretary shall establish a planning capacity building initiative to support enhancements in transportation planning, in order to—

["(A) strengthen metropolitan and statewide transportation planning under chapter 52 of title 49;

["(B) enhance tribal capacity to conduct joint transportation planning under Chapter 2 of this title; and

["(C) participate in the metropolitan and statewide transportation planning programs under chapter 52 of title 49.

["(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support homeland security planning, performance based planning, safety planning, operations planning, freight planning, and integration of environment and planning.

["(3) USE OF FUNDS.—Funds authorized for this program may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use these funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

["(4) SET-ASIDE.—On October 1 of each fiscal year, the Secretary, after making the deductions authorized by subsections (a) and (f) of section 104 of this title, shall set aside $20,000,000 of the remaining funds authorized for the Surface Transportation Program to carry out the requirements of this subsection.

["(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using such funds shall be up to 100 percent, and such funds shall remain available until expended.

["(6) ADMINISTRATION.—This initiative shall be administered by the Federal Highway Administration in cooperation with the Federal Transit Administration.".

## [Subtitle F—Program Efficiencies and Improvements—Environment

### [SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

[(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

[(1) in the first paragraph, by inserting "and, the project or program will reduce emissions to contribute to the attainment or maintenance of the National Ambient Air Quality Standard for which the area is or was designated nonattainment," after "December 31, 1997,";

[(2) in subsection (1)(A), by striking "(other than clause (xvi) of such section)";

[(3) in paragraph (1)(A)(ii), by inserting "by providing new or enhanced transportation facilities or services to further reduce emissions" after "area";

[(4) in paragraph (1)(B), by inserting "or" at the end after "section;";

[(5) in paragraph (2), by inserting "or program" after "and the project", and by striking "have air quality benefits;" and inserting "reduce emissions; or";

[(6) in paragraph (3), by—

["(A) inserting "if" after "(3)";

["(B) striking "contribute to the attainment of a national ambient air quality standard" and inserting "reduce emissions";

["(C) striking the comma after "traveled" and inserting "or"; and

["(D) inserting "through technological improvements such as anti-idling equipment and diesel retrofits for trucks, school buses, transit buses and other vehicles" after "consumption,";

[(7) in paragraph (4), by inserting "if the project or program is" after "(4)", and by striking "contribute to the attainment of a national ambient air quality standard" and inserting "reduce emissions";

[(8) in paragraph (5), by striking "that are eligible for assistance under this section on the day before the date of enactment of this paragraph" and inserting "that will reduce emissions"; and

[(9) in the final unnumbered paragraph, by striking the second sentence.

[(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of such title is amended in paragraphs (1) and (2) by inserting "OR MAINTENANCE" after "NONATTAINMENT" in the heading of each paragraph.

[(c) SELECTION OF PROJECTS.—Section 149 of such title is amended by adding at the end the following new paragraph:

["(f) INTERAGENCY CONSULTATION. The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emissions reductions from proposed congestion mitigation and air quality improvement programs and projects.".

[(d) EVALUATION AND ASSESSMENT OF PROJECTS.—Section 149 of such title is amended by adding at the end the following new paragraph:

["(g) EVALUATION AND ASSESSMENT OF PROJECTS.—

["(1) EVALUATION AND ASSESSMENT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the Congestion Mitigation and Air Quality Improvement Program for their actual impact on emissions, and congestion levels and to assure effective program implementation. Using appropriate assessments of CMAQ-funded projects, and results from other research, the Secretary shall maintain a cumulative database on these impacts for broad dissemination.

["(2) FUNDING.—Funds set aside under section 104(o) of this title shall be available to carry out this subsection.".

[(e) FUNDING FOR EVALUATION AND ASSESSMENT OF PROJECTS.—Section 104 of such title is amended by adding at the end the following new subsection:

["(o) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM EVALUATION AND ASSESSMENT OF PROJECTS.—Before making apportionments under subsection (b)(2) of this section for a fiscal year, the Secretary shall deduct 0.5 percent from the amount to be apportioned for such fiscal year for the purpose of carrying out the requirements of section 149(g) of this title.".

[(f) APPORTIONMENTS.—Section 104(b) of such title 23 is amended—

[(1) in paragraph (2)(B), by striking "or" after "ozone" and inserting a comma, and by inserting ", or fine particulate matter (PM-2.5)" after "carbon monoxide";

[(2) by amending paragraph (2)(B)(i) to read as follows:

["(i) 1.0 if at the time of the apportionment, the area is a maintenance area;";

[(3) in paragraph (2)(B)(vi), by striking "or" after the semicolon;

[(4) in paragraph (2)(B)(vii), by inserting "for ozone" after "maintenance area", and striking "for ozone" after "section 149(b)" and inserting "or for PM-2.5";

[(5) by adding at the end of paragraph (2)(B) two new clauses to read as follows:

[“(viii) 1.0 if, at the time of apportionment, any county, not designated as a nonattainment or maintenance area under the 1-hour ozone standard, is designated as nonattainment under the 8-hour ozone standard; or

[“(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM–2.5 standard.”;

[(6) by amending paragraph (2)(C) to read as follows:

[“(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.”; and

[(7) by redesignating paragraphs (2)(D) and (2)(E) as (2)(E) and (2)(F) and inserting after paragraph (2)(C) a new paragraph (2)(D) to read as follows:

[“(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone, carbon monoxide or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.”.

**[SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.**

[(a) POLICY AND PURPOSE.—

[(1) POLICY.—The Enlibra principles, as initially developed by the Western Governors Association and adopted by the National Governors Association, represent a sound basis for interaction among the Federal, State, local governments, and tribes on environmental matters and should be followed to the maximum extent practicable in the development of highway construction and public transit improvements. These principles are:

[(A) Assign responsibilities at the right level.

[(B) Use collaborative processes to break down barriers and find solutions.

[(C) Move to a performance-based system.

[(D) Separate subjective choices from objective data gathering.

[(E) Pursue economic incentives whenever appropriate.

[(F) Ensure environmental understanding.

[(G) Make sure environmental decisions are fully informed.

[(H) Use appropriate geographic boundaries for environmental problems.

[(2) PURPOSE.—The purpose of this section is to reduce delays in the delivery of highway construction and public transit projects arising from the environmental review process, while continuing to ensure the protection of the human and natural environment.

[(b) COORDINATED ENVIRONMENTAL REVIEW PROCESS.—

[(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary shall develop and implement a coordinated environmental review process for highway construction and public transit projects that require—

[(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

[(B) the conduct of any other environmental review or analysis, rendering of an opinion, or issuance of an environmental permit, license, or approval under Federal law.

[(2) MEMORANDUM OF UNDERSTANDING.—

[(A) IN GENERAL.—The coordinated environmental review process may be specified for a particular project, class of projects, or program and shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project, class of projects, or program may be incorporated into a memorandum of understanding between the Department of Transportation and affected Federal agencies (and, where appropriate, State and local agencies and federally recognized tribes).

[(B) ESTABLISHMENT OF TIME PERIODS.—In establishing the time period referred to in subparagraph (A), and any time periods for review within such period, the Department and all such agencies shall take into account their respective resources and statutory commitments.

[(c) ELEMENTS OF COORDINATED ENVIRONMENTAL REVIEW PROCESS.—For each project, the coordinated environmental review process established under this section shall provide, at a minimum, for the following elements:

[(1) FEDERAL AGENCY IDENTIFICATION.—The Secretary shall, at the earliest possible time, identify all potential Federal agencies that—

[(A) have jurisdiction by law over or special expertise related to environmental-related issues that may be affected by the project and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

[(B) may be required by Federal law to independently—

[(i) conduct an environmental-related review or analysis for the project;

[(ii) determine whether to issue a permit, license, or approval for the project; or

[(iii) render an opinion on the environmental impact of the project.

[(2) TIME LIMITATIONS AND CONCURRENT REVIEW.—If requested by the project sponsor, the Secretary and the head of each Federal agency identified under paragraph (1)—

[(A)(i) shall jointly develop and establish time periods for review for—

[(I) all Federal agency comments with respect to any environmental documents required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

[(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project; such that each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

[(ii) may enter into an agreement to establish such time periods for review with respect to a class of projects or programs; and

[(B) shall ensure, in establishing such time periods for review, that the conduct of any such analysis or review, rendering of such opinion, and the issuance of such decision is undertaken concurrently with all other environmental reviews for the project, including the reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such review may not be concurrent if the affected Federal agency can demonstrate that such concurrent review would result in a significant adverse impact to the environment or substantively alter the operation of Federal law or would not be possible without information developed as part of the environmental review process.

[(3) FACTORS TO BE CONSIDERED.—Time periods for review established under this section shall be consistent with the time periods established by the Council on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations.

[(4) EXTENSIONS.—The Secretary shall extend any time periods for review under this section if, upon good cause shown, the Secretary and any Federal agency concerned determine that additional time for analysis and review is needed. Any memorandum of understanding shall be modified to incorporate any mutually agreed-upon extensions.

[(d) CLARIFICATION REGARDING ENVIRONMENTAL IMPACT STATEMENTS PREPARED BY STATE AND LOCAL TRANSPORTATION AGENCIES.—Any project sponsor that is a State or local governmental entity eligible to receive funds under this Act, chapter I of title 23, United States Code; or chapter 53 of title 49, United States Code, may, at the discretion of the Secretary, serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.), and may prepare any such environmental documents required in support of any action or approval by the Secretary, provided that the Department furnishes guidance in such preparation and independently evaluates such document, and provided that the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding. The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in such environmental document, or that the document is appropriately supplemented if project changes become necessary. Any such environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

[(e) DISPUTE RESOLUTION.—When the Secretary determines that a Federal agency which is subject to a time period under this section for its environmental review has failed to complete its review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and consultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project over which an affected Federal agency has jurisdiction under Federal law has not been resolved, the Secretary and the head of the

Federal agency shall resolve the matter not later than 30 days after the date of the finding by the Secretary. The dispute resolution procedures established pursuant to this subsection may be initiated by the Secretary or by the Governor of any State in which a highway construction or public transit project is located, or by the head of any Federal agency subject to the time period under this subsection.

[(f) PARTICIPATION OF STATE AGENCIES.—For any project eligible for assistance under chapter 1 of title 23, United States Code, a State, under State law, may require that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State agency's participation would not be in the public interest. If a State wishes to participate in the review process, the State must require all such State agencies with jurisdiction by law to be subject to and comply with the review process to the same extent as a Federal agency.

[(g) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

[(1) IN GENERAL.—The Secretary may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, or for a public transit project made available under chapter 53 of title 49, United States Code, to the State for the project, class of projects, or program subject to the coordinated environmental review process established under this section, to affected Federal agencies, including the Department of Transportation, to State agencies participating in the coordinated environmental review process, and to federally recognized tribes, to provide the resources necessary to meet any time limits established under this section. The Secretary also may use funds made available under section 204 of title 23, United States Code, for the purposes specified under this subsection.

[(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

[(A) for the additional amounts that the Secretary determines are necessary for the affected Federal agencies to meet the time limits for environmental review; and

[(B) if such time limits are less than the customary time necessary for such review.

[(h) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

[(1) JUDICIAL REVIEW.—Except as set forth under subsection (i), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States.

[(2) SAVINGS CLAUSE.—Nothing in this section shall affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

[(i) LIMITATIONS ON CLAIMS.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway construction or public transit project shall be barred unless it is filed within one hundred eighty days after the permit, license, or approval is final pursuant to the statute under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

[(j) REPEAL.—Section 1309 of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 232; June 9, 1998) is repealed.

### [SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

[(a) GENERAL.—Section 138 of title 23, United States Code, is repealed and the following new section is inserted:

**[“§ 138. Assumption of responsibility for categorical exclusions**

[“(a) CATEGORICAL EXCLUSION DETERMINATIONS.—Upon mutual agreement, the Secretary may assign and a State may assume responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality, or other successor law or regulation. Such determinations shall be made by a State pursuant to criteria established by the Secretary and only for types of activities specifically designated by the Secretary. Such criteria shall include provision for public availability of information consistent with the Freedom of Information Act (5 U.S.C. 552).

[“(b) OTHER APPLICABLE FEDERAL LAWS.—Upon mutual agreement, the Secretary may assign and the State may assume some or all of the Department's responsibilities for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, if the State also assumes decision-making authority under this section. The State shall assume this responsibility subject to the same procedural and substantive requirements as would be required if that responsibility was carried out by the Department. When a State assumes such responsibility under a Federal law, it shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Department.

[“(c) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. Such memorandums of understanding shall be established for periods of no more than three years. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume. The Secretary shall monitor the State department of transportation's compliance with the memorandum of understanding as well as the effectiveness of the delegation, and will take into account the State's performance in deciding whether and under what conditions to renew a memorandum of understanding.

[“(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under this section upon a determination that a State is not adequately carrying out its assigned responsibilities.

[“(e) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming the Secretary's responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.”.

[(b) CONFORMING AMENDMENT.—The analysis of chapter 1 of title 23 is amended by striking “Preservation of parklands” in the item relating to section 138 and inserting “Assumption of responsibility for categorical exclusions.”.

### [SEC. 1604. SECTION 4(f) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

[Section 303 of title 49, United States Code, is amended to read as follows:

**[“§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites**

[“(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

[“(b) The Secretary of Transportation shall cooperate and consult, when appropriate, with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

[“(c)(1) The Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of a historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge or site) only if—

[“(A) there is no feasible and prudent alternative to using that land, and

[“(B) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

[“(2) In making approvals under this subsection, the Secretary shall apply the following standards:

[“(A) The Secretary may eliminate an alternative as infeasible if the Secretary finds that the alternative cannot be implemented as a matter of sound engineering.

[“(B) The Secretary shall consider the following when determining whether it would be prudent to avoid the use of land of a resource subject to preservation under this section:

[“(i) The relative significance of the land of the resource being protected.

[“(ii) The views of the official or officials with jurisdiction over the land.

[“(iii) The relative severity of the adverse effects on the protected activities, attributes, or features that qualify a resource for protection.

[“(iv) The ability to mitigate adverse effects.

[“(v) The magnitude of the adverse effects that would result from the selection of an alternative that avoids the use of the land of the resource.

[“(C) A mitigation measure or mitigation alternative under paragraph (c)(1)(B) of this section is possible if it is feasible and prudent. In evaluating the feasibility and prudence of a mitigation measure or mitigation alternative under paragraph (c)(1)(B) of this section, the Secretary shall be governed by the standards of paragraphs (c)(2)(A) and (B) of this subsection.

[''(d) The requirements of this section do not apply to—

[''(1) a project for a park road, parkway, or refuge road under section 204 of title 23; or

[''(2) a highway project on land administered by an agency of the Federal government, when the purpose of the project is to serve or enhance the values for which the land would otherwise be protected under this section, as jointly determined by the Secretary of Transportation and the head of the appropriate Federal land managing agency.

[''(e) The requirements of this section are deemed to be satisfied where the treatment of an historic site (other than a National Historic Landmark) has been agreed upon in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation, shall develop administrative procedures to review the implementation of this subsection to ensure that the objectives of the National Historic Preservation Act are being met.

[''(f)(1) The Secretary may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to a State historic preservation office, Tribal historic preservation office, or to the Advisory Council on Historic Preservation to provide the resources necessary to expedite the historic preservation review and consultation process under section 303 of title 49 and under section 470f of title 16, United States Code.

[''(2) The Secretary shall encourage States to provide such funding to State historic preservation officers, tribal historic preservation officers or the Advisory Council on Historic Preservation where the investment of such funds will accelerate completion of a project or classes of projects or programs by reducing delays in historic preservation review and consultation.

[''(3) Such requests under paragraph (1) shall be approved only for the additional amounts that the Secretary determines are necessary for a State historic preservation office, tribal historic preservation office, or the Advisory Council on Historic Preservation to expedite the review and consultation process and only where the Secretary determines that such additional amounts will permit completion of the historic preservation process in less than the time customarily required for such process.''.

**[SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.**

[(a) In General.—Section 162 of title 23, United States Code, is amended—

[(1) in subsection (a)(1), by inserting a comma after ''Byways'' and by striking ''or All-American Roads'' and inserting ''All-American Roads, or one of America's Byways'';

[(2) in subsection (b)(1)(A), by inserting a comma after ''Byways'' and by striking ''or All-American Roads,'' and inserting ''All-American Roads, or one of America's Byways,'';

[(3) in subsection (b)(2)(A), by inserting a comma after ''Byway'' and by striking ''or All-American Road'' and inserting ''All-American Road, or one of America's Byways'';

[(4) in subsection (b)(2)(B), by inserting a comma after ''Byway'' and by striking ''or All-American Road'' and inserting ''All-American Road, or one of America's Byways''; and

[(5) in subsection (c)(4), by striking ''passing lane,''.

[(b) Research, Technical Assistance, Marketing, and Promotion.—Section 162 of such title is further amended—

[(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

[(2) by inserting after subsection (c) the following new subsection:

[''(d) Research, Technical Assistance, Marketing, and Promotion.—

[''(1) In general.—The Secretary may carry out research, technical assistance, marketing, and promotion with respect to State scenic byways, National Scenic Byways, All-American Roads, or America's Byways.

[''(2) Cooperation, grants, and contracts.—The Secretary may make grants to or enter into contracts, cooperative agreements, and other transactions with any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person, including the center for national scenic byways in Duluth, Minnesota, to carry out the provisions of this subsection.

[''(3) Funds.—The Secretary may use funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

[''(4) Priority.—The Secretary shall give priority to partnerships that leverage private, Federal , or other public funds for research, technical assistance, marketing and promotion.''; and

[(3) by adding the following at the end of subsection (g): ''The Federal share of the cost of projects or activities under subsection (d) may be up to 100 percent.''.

**[SEC. 1606. RECREATIONAL TRAILS PROGRAM.**

[(a) Recreational Trails Program Formula.—Section 104(h)(1) of title 23, United States Code, is amended by striking ''research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee'' and inserting ''research, technical assistance, and training under the recreational trails program''.

[(b) Recreational Trails Program Administration.—Section 206 of title 23, United States Code, is amended—

[(1) by striking subsection (c) and inserting the following:

[''(c) State Responsibilities.—

[''(1) Eligibility.—To be eligible for apportionments under this section—

[''(A) the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

[''(B) the State shall establish a State recreational trail committee that—

[''(i) has not less than 30 percent of its voting membership representing nonmotorized recreational trail users,

[''(ii) has not less than 30 percent of its voting membership representing motorized recreational trail users,

[''(iii) must meet not less than once per Federal fiscal year in a publicly announced public meeting, and

[''(iv) must be used to develop statewide trail program policy and to rate, rank, and recommend recreational trails program projects for funding.

[''(2) Obligation requirement.—If a State does not meet the committee requirements within a fiscal year, it is not eligible for an apportionment in the following fiscal year.'';

[(2) by striking subsection (d)(2) and inserting the following:

[''(2) Permissible uses.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

[''(A) maintenance and restoration of existing recreational trails;

[''(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

[''(C) purchase and lease of recreational trail construction and maintenance equipment;

[''(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

[''(i) permissible under other law;

[''(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.) and that is in effect;

[''(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

[''(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et. seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et. seq.);

[''(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

[''(F) assessment of trail conditions for accessibility and maintenance;

[''(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

[''(H) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

[''(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.'';

[(3) by striking subsection (d)(3)(C) and inserting the following:

[''(C) Use of youth conservation or service corps.—A State shall make available not less than 10 percent of its apportionments for grants, cooperative agreements, or contracts with qualified youth conservation or service corps to perform recreational trails program activities.'';

[(4) in subsection (d)(3)(D), by striking ''(2)(F)'' and inserting ''(2)(I)'';

[(5) by amending subsection (f)—

[(A) in paragraph (1)—

[(i) by inserting ''and the Federal share of the administrative costs of a State'' after ''project''; and

[(ii) by striking ''not exceed 80 percent'' and inserting in its place ''be determined in accordance with section 120(b)'';

[(B) in paragraph (2)(A), by striking ''80 percent of'' and inserting ''the amount determined in accordance with section 120(b) for'';

[(C) in paragraph (2)(B), by inserting ''sponsoring the project'' after ''Federal agency'';

[(D) by striking paragraph (5);

[(E) by redesignating paragraph (4) as paragraph (5), and by striking "80 percent" and inserting in its place "the Federal share as determined in accordance with section 120(b)"; and

[(F) by inserting after paragraph (3)—

["(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

[(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

[(B) expended on a project that is eligible for assistance under this section.";

[(6) by inserting after subsection (h)(1)(B) the following:

["(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under subsections (d)(2)(A) through (H) may allow preapproval planning and environmental compliance costs to be credited toward the non-Federal share in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval."; and

[(7) by striking paragraph (h)(2) and inserting the following:

["(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section is intended to enhance recreational opportunity and is not considered a highway project. Projects funded under this section are not subject to sections 112, 113, 114, 116, 134, 135, 217, or 301 of this title; or section 303 of title 49.".

### [SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.

[Subsection 103(c) of title 23, United States Code, is amended by inserting the following after paragraph (4):

["(5) EXEMPTION OF THE INTERSTATE SYSTEM.—The Interstate Highway System, or any portion thereof, as designated pursuant to subsection 103(c) of this title, shall not be considered an historic site of national, State or local significance for purposes of 49 U.S.C. 303, 16 U.S.C. 470f, or 16. U.S.C. 470h–2 by virtue of being listed as a resource on, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, individual elements of the Interstate Highway System may receive the protection of section 106 or section 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h–2).".

### [SEC. 1608. MODIFICATION TO NHS/STP FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.

[(a) MODIFICATIONS TO THE NHS FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

[(1) TECHNICAL CORRECTIONS.—Section 103 (b)(6) of title 23, United States Code, is amended in subparagraph (M)—

[(A) by striking "1990" and inserting "2000"; and

[(B) by striking "101-640" and inserting "106–541".

[(2) STATE RESPONSIBILITY.—Section 103 (b)(6) is further amended in subparagraph (M) by inserting "as determined by the State" after "to the maximum extent practicable".

[(3) ELIGIBLE PROJECTS FOR NHS.—Section 103 (b)(6) is further amended by adding at the end the following new subparagraphs:

["(Q) Environmental restoration and pollution abatement to minimize or mitigate impacts of any transportation project funded under this title (including the retrofit or construction of storm water treatment systems to meet State and Federal National Pollutant Discharge Elimination System requirements under Section 402 of the Clean Water Act) to address water pollution or environmental degradation caused or contributed to by transportation facilities. When transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.

["(R) In accordance with all applicable Federal law (including applicable Federal regulations), participation in the control of invasive plant species and the establishment of native species related to projects funded under this title, which may include participation in statewide inventories of both invasive and desirable plant species and regional native plant habitat conservation and mitigation, and restoration plans. Contributions to the measures described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including applicable Federal regulations) and State transportation planning processes.

["(S) Remediation associated with the construction of a project funded under this title on a brownfield site, as defined in 42 U.S.C. 9601.".

[(b) MODIFICATIONS TO THE SURFACE TRANSPORTATION PROGRAM FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

[(1) TECHNICAL CORRECTIONS.—Section 133 (b)(11) of title 23, is amended—

[(A) by striking "1990" and inserting "2000"; and

[(B) by striking "101–640" and inserting "106–541";

[(2) STATE RESPONSIBILITY.—Section 133 (b)(11) is further amended by inserting "determined by the State" after "to the maximum extent practicable".

[(3) ELIGIBLE PROJECTS FOR SURFACE TRANSPORTATION PROGRAM.—

[(A) ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT.—Section 133 of title 23, United States Code, is amended by striking (b)(14) and inserting the following:

["(14) Environmental restoration and pollution abatement to minimize or mitigate impacts of any transportation project funded under this title (including the retrofit or construction of storm water treatment systems to meet State and Federal National Pollutant Discharge Elimination System requirements under Section 402 of the Clean Water Act) to address water pollution or environmental degradation caused or contributed to by transportation facilities. When transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

[(B) INVASIVE SPECIES CONTROL AND BROWNFIELDS REMEDIATION EFFORTS.—Section 133(b) of such title, as amended by this Act, is further amended by adding at the end the following new paragraphs:

["(16) In accordance with all applicable Federal law (including regulations), participation in the control of invasive plant species and the establishment of native species related to projects funded under this title, which may include participation in statewide inventories of both invasive and desirable plant species and regional native plant habitat conservation and mitigation, and restoration plans. Contributions to the measures described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

["(17) Remediation associated with the construction of a project funded under this title on a brownfield site, as defined in 42 U.S.C. 9601.".

### [SEC. 1609. STANDARDS.

[(a) IN GENERAL.—Section 109(a) of title 23 of the United States Code is amended by—

[(1) striking "and" at the end of paragraph (1);

[(2) striking the period at the end of paragraph (2) and inserting "; and"; and

[(3) adding the following paragraph at the end of subsection (a):

["(3) consider the preservation, historic, scenic, natural environment, and community values.".

[(b) CONTEXT SENSITIVE DESIGN.—Section 109 of such title is amended by striking subsection (p) and inserting the following:

["(p) CONTEXT SENSITIVE DESIGN.—

["(1) The Secretary shall encourage States to design projects funded under title 23 to—

["(A) allow for the preservation of environmental, scenic, community, and/or historic values;

["(B) ensure safe use of the facility for both passenger and freight movement;

["(C) provide for consideration of the context of the locality;

["(D) encourage access for other modes of transportation; and

["(E) comply with subsection (a).

["(2) Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to achieve the criteria of subparagraphs (A) through (E).".

### [SEC. 1610. USE OF HOV LANES.

[Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

["(a) HIGH OCCUPANCY VEHICLE (HOV) PASSENGER REQUIREMENTS.—

["(1) IN GENERAL.—A State transportation department or other responsible local agencies shall establish the occupancy requirements of vehicles operating in HOV facilities; except that no fewer than 2 occupants per vehicle may be required, unless otherwise provided in paragraph (2).

["(2) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

["(A) MOTORCYCLES.—Motorcycles shall not be considered single occupant vehicles and shall be allowed to use HOV facilities, except that upon certification by the responsible agency to the Secretary, the agency may restrict such use by motorcycles if such use would create a safety hazard.

["(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

["(i) Responsible agencies shall have the option of allowing qualifying low emission and energy-efficient vehicles to use HOV facilities if they do not satisfy the established occupancy requirements.

[''(ii) Responsible agencies that allow qualifying low emission and energy-efficient vehicles to use HOV facilities shall—

[''(I) establish a program that addresses how such qualifying vehicles are selected and certified;

[''(II) establish requirements for labeling qualifying vehicles and procedures for enforcing such vehicles;

[''(III) continuously monitor, evaluate, and report on performance; and

[''(IV) establish the policies and procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(iii) As used in this subparagraph, the term ''low emission and energy-efficient vehicles'' means vehicles that have been certified—

[''(I) by the Administrator of the Environmental Protection Agency to have a 45-mile-per-gallon or greater fuel economy highway rating; or are defined as an alternative fuel vehicle under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)); and

[''(II) as meeting Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

[''(C) BICYCLES.—Responsible agencies shall have the option of allowing bicycles on surface street HOV facilities when there is insufficient space within the roadway or public right-of-way to establish and designate a bicycle lane.

[''(D) TOLLING OF VEHICLES.—Responsible agencies may permit vehicles, in addition to those vehicles described in paragraphs (A), (B), and (E) that do not satisfy the established occupancy requirements, to use an HOV facility only if they charge such vehicles a toll. The authority of an agency to impose a toll shall be subject to section 129 of this title. Any agency electing to toll such vehicles shall also—

[''(i) establish a program that addresses how motorists can enroll and participate;

[''(ii) develop, manage, and maintain a system that will automatically collect the tolls that vehicles must pay;

[''(iii) continuously monitor, evaluate, and report on performance;

[''(iv) establish the policies and procedures for varying the toll that is charged to manage the demand to use the subject facilities and enforcing violations; and

[''(v) establish procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(E) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

[''(i) In this subparagraph, the term ''designated public transportation vehicles'' means vehicles that provide designated public transportation, as defined under section 12141 of title 42, and that are owned or operated by a public entity or that are operating under contract to a public entity.

[''(ii) Responsible agencies may permit designated public transportation vehicles to use HOV facilities if they do not satisfy the established occupancy requirements.

[''(iii) Any agency that permits designated public transportation vehicles to use HOV facilities if they do not satisfy the established occupancy requirements shall—

[''(I) establish requirements for clearly and identifiably labeling vehicles operating under contract to the public entity with the name of the public entity on all sides of the vehicle;

[''(II) establish the policies and procedures to ensure that vehicles operating under contract to the public entity are in compliance with the labeling requirement under subclause (I) of this clause;

[''(III) continuously monitor, evaluate, and report on performance; and

[''(IV) establish the policies and procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(3) HOV FACILITY MANAGEMENT, OPERATION, AND MONITORING.—Agencies that permit any of the exceptions specified in paragraph (a)(2) shall be responsible for the following:

[''(A) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—Responsible agencies shall be required to establish, manage, and support a performance monitoring, evaluation, and reporting program if they permit any of the exceptions specified in paragraph (a)(2). This program shall continuously monitor, assess, and report on the impacts that any of these specific types of allowed vehicles may have on the operation of individual HOV facilities and the entire HOV system.

[''(B) OPERATION OF HOV FACILITY OR SYSTEM.—Responsible agencies shall limit or discontinue permitting any of the exceptions specified in paragraph (a)(2), if the presence of any of these specific types of allowed vehicles seriously degrades the operation of individual HOV facilities or the entire HOV system. For purposes of this section, ''seriously degraded'' means that an HOV facility located on a freeway, or similar type of roadway, fails to maintain a minimum average operating speed of at least 45 miles per hour 90 percent of the time over a consecutive six-month period during weekday peak travel periods. For HOV facilities on other types of roadways, the minimum average operating speed, performance threshold, and associated time period shall be established based on the conditions unique to each roadway and agreed to by the responsible agencies.''.

### [SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

[(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

[(1) in subsection (a), by inserting ''pedestrian and'' after ''safe'';

[(2) in subsection (e), by striking ''bicycles'' each time it appears and inserting ''pedestrians or bicyclists'' in each instance;

[(3) by striking subsection (f) and inserting the following:

[''(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways and for carrying out nonconstruction projects related to safe pedestrian and bicycle use shall be determined in accordance with section 120(b).'';

[(4) in subsection (j), by inserting after paragraph (4) the following:

[''(5) SHARED USE PATH.—The term ''shared use path'' means a multi-use trail or other path, physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way, and usable for transportation purposes. Shared use paths may be used by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users.''; and

[(5) by adding after subsection (j) the following:

[''(k) USER FEES.—At the option of each State, a shared use path funded under this section is not subject to the provisions of 23 U.S.C. 301, provided that the shared use path is not within a highway right-of-way, and the income received from user fees is used for ongoing maintenance and operation of shared use paths within the State.

[''(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

[''(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety to—

[''(A) operate a national bicycle and pedestrian clearinghouse;

[''(B) develop information and educational programs; and

[''(C) disseminate techniques and strategies for improving bicycle and pedestrian safety.

[''(2) FUNDING.—Funds provided under section 104(p) of this title shall be available to carry out the provisions of this section.

[''(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.''.

[(b) SET-ASIDE.—Section 104 of title 23, United States Code, is amended by adding, after subsection (o), as added by this Act, the following:

[''(p) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set-aside $500,000 of the remaining funds authorized to be apportioned under subsection (b)(3) for carrying out the Bicycle and Pedestrian Safety Grants under section 217 of this title.''.

### [SEC. 1612. TRANSPORTATION, ENERGY, AND ENVIRONMENT.

[(a) IN GENERAL.—As part of the National Climate Change Technology Initiative and the Climate Change Research Initiative, the Secretary shall establish and carry out a multimodal energy and climate change program to study the relationship of transportation, energy, and climate change.

[(b) CONTENTS.—The program to be carried out under this section shall include, but not be limited to, research designed to—

[(1) identify, develop and evaluate strategies to improve energy efficiency and reduce greenhouse gas emissions from transportation sources; and

[(2) identify and evaluate the potential effects of climate changes on the nation's transportation systems, and strategies to address these effects;

[(c) PROJECT SELECTION.—Activities to be undertaken in this program will be determined by an internal steering committee established by the Secretary of Transportation. This intermodal committee shall include representatives from the Office of the Secretary and operating administrations within the Department of Transportation as designated by the Secretary.

[(d) GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.—The Secretary may carry out this program independently or by making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, nonprofit or for-profit corporation, or institution of higher education.

[(e) FUNDING.—

[(1) HIGHWAY ACCOUNT.—

[(A) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,600,000 for fiscal year 2004, $2,200,000 for fiscal year 2005, $2,200,000 for fiscal year 2006, $2,200,000 for fiscal year 2007, $2,700,000 for fiscal year 2008, and $2,700,000 for fiscal year 2009.

[(B) CONTRACT AUTHORITY.—Funds authorized from the Highway Trust Fund (other than the Mass Transit Account) to carry out this Section shall be available for obligation in the same manner as if the funds were apportioned under Chapter 1 of Title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall not exceed 100 percent and such funds shall remain available until expended.

[(2) MASS TRANSIT ACCOUNT.—

[(A) FUNDING.—There is authorized to be appropriated from the Mass Transit Account of the Highway Trust Fund to carry out this section $400,000 for fiscal year 2004, $300,000 for fiscal year 2005, $300,000 for fiscal year 2006, $300,000 for fiscal year 2007, $300,000 for fiscal year 2008, and $300,000 for fiscal year 2009.

[(B) CONTRACT AUTHORITY.—A grant or contract that is financed with amounts paid under this subparagraph from the Mass Transit Account is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[(3) AIRPORT AND AIRWAY TRUST FUND.—There is authorized to be appropriated from the Airport and Airway Trust Fund to carry out this section $500,000 for fiscal year 2005, $500,000 for fiscal year 2006, and $500,000 for fiscal year 2007.

### [SEC. 1613. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

[Section 111 of Title 23 of the United States Code is hereby amended by adding at the end the following:

["(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—Notwithstanding the prohibition on commercial establishments set forth in subsection (a), any State may permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State, and may charge, or permit charges for the use of such facilities. The exclusive purpose of such facilities or technologies shall be to enable operators of such vehicles to turn off their engines while parked and still have heating, air conditioning, electricity, and communication services in the vehicle.".

### [SEC. 1614. APPROPRIATION FOR TRANSPORTATION PURPOSES OF LANDS OR INTEREST IN LANDS OWNED BY THE UNITED STATES.

[(a) IN GENERAL.—Section 317 of title 23, United States Code, is amended to read as follows:

**["§ 317. Appropriation for transportation purposes of lands or interest in lands owned by the United States**

["(a) IN GENERAL.—If the Secretary determines that any part of the lands or interests in land owned by the United States are reasonably necessary for any project administered under this title or as a source for materials for such a project, the Secretary is authorized to file with the Secretary of the Department supervising the administration of such lands or interests in lands a description and a map showing the portion of such lands or interests in lands which it is necessary to appropriate. The Secretary of such Department shall have a period of up to four months to review the proposed appropriation and to designate reasonable mitigation measures necessary to protect the adjacent federal lands from adverse environmental impacts, or to certify that the proposed appropriation is contrary to the purposes for which such lands or materials have been reserved. If no such certification is received, the Secretary may appropriate and transfer such lands or interests in lands to the State transportation department, or its nominee, subject to such reasonable mitigation measures designated above. If at any time the need for such lands or materials for transportation purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and the Secretary of the Department from which they had been appropriated. Such lands or materials may, at the discretion of the Secretary of the Department from which they had been appropriated or its designee, revert to the United States, under the control of such Secretary, or its designee. Unless otherwise instructed by the Secretary, prior to any such reversion the State transportation department shall restore the land to its former condition.

["(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.—Notwithstanding any other provision of law, the acquisition and use of land under this section may proceed irrespective of any prior deed restrictions or other encumbrances that were imposed as a condition on the receipt of Federal funds.".

[(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is revised by amending the item relating to section 317 to read as follows:

["317. Appropriation for transportation purposes of lands or interest in lands owned by the United States.".

### [SEC. 1615. TOLL PROGRAMS.

[(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Sec. 1216(b) of the Transportation Equity Act for the 21st Century is amended—

[(1) in paragraph (1), by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

[(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

["(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project."; and

[(3) in paragraph (4),

[(A) by striking subparagraph (A) and inserting the following:

["(A) the State's analysis showing that financing the reconstruction or rehabilitation of this facility with the collection of tolls under this program is the most efficient, economical, or expeditious way to advance the project is reasonable;";

[(B) by striking subparagraph (B) and inserting the following:

["(B) the facility needs reconstruction or rehabilitation;";

[(C) by striking subparagraph (C); and

[(D) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

[(b) VARIABLE TOLL PRICING PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the Interstate System, to manage existing high levels of congestion or reduce emissions in a nonattainment area or maintenance area.

[(2) BASIC PROGRAM.—The following conditions apply to any variable toll pricing program established under this section:

[(A) LIMITATION ON USE OF REVENUES. All toll revenues received from the operation of the toll facility shall be used first for debt service, reasonable return on investment of any private financing, and the costs necessary for proper operation and maintenance of the toll facility (including reconstruction, resurfacing, restoration, and rehabilitation). If the State or public authority certifies annually that the tolled facility is being adequately maintained, then the State or public authority may use any excess toll revenues for projects eligible for Federal assistance under title 23, United States Code.

[(B) AGREEMENT.—Before the Secretary may permit tolling under this subsection, and for each facility that may be tolled, the Secretary and the State or public authority must enter into an agreement providing for the conditions in subparagraphs (A) and (C) of this paragraph. The agreement shall terminate upon the decision of the State or public authority to discontinue its variable tolling program for that facility. If there is any debt outstanding on the facility at the time the decision is made to discontinue the program, the facility may continue to be tolled in accordance with the terms of the agreement until the debt is retired.

[(C) REQUIREMENTS.—

[(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that may be tolled under this subsection, that the tolls vary in price according to time of day, as appropriate, to manage congestion or to improve air quality.

[(ii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

[(D) LIMITATION ON FEDERAL SHARE. The Federal share payable for projects on the tolled facility, including projects to install toll collection facilities, shall be a percentage determined by the State but shall not exceed 80 percent.

[(3) ELIGIBILITY.—To be eligible to participate in the program, a State or public authority shall provide to the Secretary

[(A) a description of the congestion or air quality problems sought to be addressed under this program;

[(B) an identification of the goals sought to be achieved and the performance measures that would be used to gauge the success made toward reaching those goals; and

[(C) such other information as the Secretary may require.

[(4) DEFINITIONS.—

[(A) MAINTENANCE AREA.—The term "maintenance area" has the same meaning given the term under section 101 of title 23, United States Code.

[(B) NONATTAINMENT AREA.—The term "nonattainment area" has the same meaning given the term under section 7501 of title 42, United States Code.

[(c) REPEAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act, as amended by section 1216(a) of the Transportation Equity Act for the 21st Century, is repealed. Notwithstanding the repeal of section 1012(b), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the date of enactment of this Act to continue.

### [SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM.

[(a) TITLE.—The heading of title VI of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 463; June 9, 1998) is amended to read as follows:

### [“TITLE VI—OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM”

[(b) FINDINGS AND PURPOSE.—Section 6101 of such Act is amended to read as follows:

**[“§ 6101. Findings and Purpose**

[“(a) The Congress finds that—

[“(1) the fine particle (PM-2.5) standards promulgated by the Administrator of the Environmental Protection Agency (referred to in this title as “Administrator”) in July 1997 were established to protect the public health and welfare;

[“(2) there is a continuing need for PM–2.5 air quality monitoring data;

[“(3) with three years of PM–2.5 air quality monitoring data for all areas expected to be available by 2003 it is important to move forward to designate areas as attainment or nonattainment and proceed with implementation of these standards;

[“(4) it will be beneficial to States to develop and submit implementation plans for the PM-2.5 standards and the regional haze program at the same time; and

[“(5) Western States that participated in the Grand Canyon Visibility Transport Commission should be permitted to submit plans in 2003 to implement recommendations set forth in the Commission’s report.

[“(b) The purposes of this title are—

[“(1) to ensure the availability of PM-2.5 air quality monitoring data;

[“(2) to establish a deadline for the designation of areas for the PM-2.5 standards; and

[“(3) to ensure that States are able to develop PM–2.5 and regional haze implementation plans at the same time for all areas within a State, while continuing to allow nine Western States the option of submitting regional haze plans in 2003 to implement regional haze requirements based on the 1996 recommendations of the Grand Canyon Visibility Transport Commission.”.

[(c) PARTICULATE MATTER AND REGIONAL HAZE.—

[(1) The heading of section 6102 of the Transportation Equity Act for the 21st Century is amended to read as follows:

**[“§ 6102. Particulate matter and regional haze programs”**

[(2) Section 6102(c) of such Act is amended to read as follows:

[“(c)(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the Clean Air Act (42 U.S.C. 7407(d)(1)) for each area following promulgation of the July 1997 PM–2.5 national ambient air quality standard by September 30, 2003, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method PM–2.5 monitors shall be considered for such designations. Nothing in the previous sentence shall be construed as affecting the Governor’s authority to designate an area initially as nonattainment, and the Administrator’s authority to promulgate the designation of an area as nonattainment, under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air quality in a nearby nonattainment area.

[“(2)(A) Each State shall submit, for the entire State, the State implementation plan revisions to meet the requirements promulgated by the Administrator under section 169B(e)(1) of the Clean Air Act (42 U.S.C. 7492(e)(1)) (hereinafter in this paragraph referred to as ‘the regional haze requirements’) by 3 years after the date the Administrator promulgates the designations referred to in subsection (d) for such State.

[“(B) The provisions of subparagraph (A) of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996. These provisions shall not preclude the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of the regional haze requirements as they apply to such States. Each of the aforementioned States submitting such plan revisions shall also submit statewide implementation plan revisions, as required under subparagraph (A), to address, as necessary, any additional mandatory Class I Federal areas not addressed by the revisions submitted pursuant to the preceding sentence.”.

[(3) Section 169B(e)(2) of the Clean Air Act (42 U.S.C. 7492(e)(2)) is repealed.

[(4) Section 6102(d) of the Transportation Equity Act for the 21st Century is amended to read as follows:

[“(d) Notwithstanding any other provision of law, the Administrator shall promulgate the designations referred to in subsection (d) of section 107 of the Clean Air Act for each area of each State for the July 1997 PM-2.5 national ambient air quality standards by December 31, 2004.”.

[(d) CONFORMING AMENDMENT.—Section 1(b) of the Transportation Equity Act for the 21st Century is amended in the Table of Contents—

[(1) in the heading for title VI, by striking “OZONE AND PARTICULATE MATTER STANDARDS” and inserting “OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM”; and

[(2) in the item relating to section 6102, by striking “monitoring program” and inserting “and regional haze programs”.

### [SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED PROJECTS.

[Where, pursuant to a final judgment, a Federal court finds the United States liable by operation of section 8(d) the National Trails System Act (enacted by section 208 of Pub. L. 98–11, 97 Stat. 48) (16 U.S.C. 1247(d)), for a taking of property under the Fifth Amendment to the United States Constitution, a State that has received funds, after the date of enactment of this Act, under a Federal-aid highway program established under title 23, United States Code, and that has used a portion of those funds to acquire, develop, maintain or improve a railroad right-of-way that is the subject of the judgment, shall indemnify the United States up to the lesser amount of the judgment awarded (including attorney fees) or the Federal-aid highway program funds received in connection with that railroad right-of-way.

## [Subtitle G—Program Efficiencies and Improvements—Operations

### [SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

[(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

[(1) in paragraph (3)—

[(A) by inserting “and intermodal operations to enhance security” after “program” in the first sentence; and

[(B) in subparagraph (G), by striking “traffic control systems,”;

[(2) in paragraph (18), as redesignated by this Act, by inserting “costs incurred by transportation agencies attributed to operation of technology used to monitor critical transportation infrastructure for security purposes,” after “rent,” and by inserting “transportation systems management and operations and” after “with”;

[(3) in paragraph (19)(A)(i), as redesignated by this Act, by inserting—

[(A) “transportation system management and operations, including,” after “for”;

[(B) “and transportation security” after “installation of traffic”; and

[(C) “equipment and programs for transportation response to manmade and natural disasters,” after “incident management programs,”;

[(4) by redesignating paragraphs (39) and (40), as redesignated by this Act, as paragraphs (40) and (41), respectively; and

[(5) by inserting new paragraph (39) after paragraph (38), as follows:

[“(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term ‘transportation systems management and operations’ means an integrated program to optimize the performance of existing infrastructure through the implementation of multi- and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of Federal-aid highways. Transportation systems management and operations includes regional operations collaboration and coordination activities between transportation and public safety agencies, and improvements such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.”.

[(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of such title is amended by inserting “improve transportation systems management and operations,” after “intersections,”.

[(c) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title, as amended by section 1608 of this Act, is further amended by adding at the end the following:

[“(17) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.”.

[(d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Chapter 1 of such title, as amended by this Act, is further amended by inserting the following new section after section 164:

### [“§ 165. Transportation systems management and operations

[“(a) AUTHORITY.—To ensure efficient and effective transportation systems management and operations on Federal-aid highways, through collaboration, coordination, and real-time information sharing, at a regional level, between transportation system managers and operators, public safety officials, and the general public, and to manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of existing highway and transit facilities for travelers and carriers, the Secretary of Transportation may—

[“(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services, to collaborate and coordinate on a regional level in a continuous and sustained manner, for improved transportation systems management and operations, including, at a minimum—

[“(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants for how the regions' systems should be managed, operated, and measured;

[“(B) sharing of information among operators, service providers, public safety officials, and the general public; and

[“(C) guiding in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing Metropolitan and Statewide transportation planning processes and regional intelligent transportation system architecture, if required; and

[“(2) encourage States to establish a system of basic real-time monitoring capability for the surface transportation system and provide the capability and means to share that data among agencies (highways, transit, public safety), jurisdictions (including states, cities, counties, metropolitan planning organizations), private-sector entities; and the traveling public.

[“(b) EXECUTION.—To support the successful execution of transportation systems management and operations activities, the Secretary may undertake the following:

[“(1) Assist and cooperate with other Federal departments and agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between transportation system managers and operators, public safety officials, emergency managers, and general public to increase security, safety, and reliability of our Federal-aid highways.

[“(2) Issue, if necessary, new guidance or regulations for the procurement of transportation system management and operations facilities, equipment, and services, including but not limited to equipment procured in preparation for manmade or natural disasters and emergencies, system hardware, software, and software integration services. In developing such guidelines, the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

[“(3) Approve for Federal financial assistance from funds apportioned under section 104(b)(3) of this title support for regional operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and congestion relief.”.

[(e) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 164 the following:

[“165. Transportation systems management and operations.”.

### [SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

[(a) GOALS AND PURPOSES.—

[(1) GOALS.—The goals of the real-time system management information program are to provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of our nation's major highways and to widely share that information to improve the security of the surface transportation system, address congestion problems, support improved response to weather events, and facilitate national and regional traveler information.

[(2) PURPOSES.—The purposes of the real-time system management information program are to—

[(A) establish a nationwide system of basic real-time information for managing and operating our surface transportation system;

[(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting those needs; and

[(C) provide the capability and means to share that data with state and local governments, and the traveling public.

[(b) DATA EXCHANGE FORMATS.—Within one year of enactment of this Act, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

[(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Within 2 years of enactment of this legislation, each State shall establish a statewide incident reporting system.

[(d) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

[(1) As State and local governments develop or update their regional ITS architectures, as specified in section 940.9 of title 23, Code of Federal Regulations (Regional ITS Architecture), they shall explicitly address their real-time highway and transit information needs and the systems needed to meet those needs. This specific incorporation of information needs should address coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing this information.

[(2) States are encouraged to incorporate the data exchange formats developed by the Secretary to ensure that the data provided by highway and transit monitoring systems can readily be exchanged across state and local governments, and with the traveling public.

[(e) ELIGIBILITY.—

[(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements.

[(2) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements.

[(3) USE OF STATE PLANNING AND RESEARCH FUNDS.—Subject to project approval by the Secretary, a State may obligate funds available under section 104(i) of title 23, United States Code, as amended by section 1503 of this Act, for activities related to the planning of real-time monitoring elements.

[(f) DEFINITION.—In this section, the term “statewide incident reporting system” means a statewide system for facilitating the real-time electronic reporting of incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

### [SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE INCENTIVE PROGRAM.

[(a) IN GENERAL.—The Secretary shall establish a comprehensive incentive program to accelerate the integration and interoperability of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.

[(b) DEFINITIONS.—

[(1) INTELLIGENT TRANSPORTATION SYSTEMS.—The term “intelligent transportation systems” has the meaning given the term under section 5507 of this Act.

[(2) NATIONAL HIGHWAY SYSTEM.—The term “National Highway System” means the Federal-aid highway system described in section 103(b) of title 23, United States Code.

[(3) REGION.—The term “region” means any geographic area that identifies the boundaries of the regional Intelligent Transportation Systems architecture and is defined by the needs of the participating agencies and their stakeholders for the purposes of improving surface transportation operations. A region may include a metropolitan planning area, a corridor, a State, or multiple states.

[(c) GOAL.—The goal of the intelligent transportation systems performance incentive program is to reduce traffic congestion, improve transportation system reliability, provide better customer service to users of the highway system, and improve safety and security by providing financial incentives to transportation agencies to invest in proactively monitoring and managing the performance of the transportation system.

[(d) PURPOSE.—The purpose of the intelligent transportation systems performance incentive program is to support the deployment and integration of intelligent transportation systems based on the performance of these systems in improving the management and operation of their surface transportation systems.

[(e) REGULATIONS.—

[(1) ISSUANCE.—The Secretary of Transportation shall issue regulations establishing a funding formula for the distribution of funds under this section.

[(2) BASIS FOR FUNDING FORMULA.—The funding formula shall be based on criteria that reflect each State's—

[(A) reductions in delay due to incidents;

[(B) improvements in the operation and safety of signalized intersections;

[(C) reductions in delay and improvements in safety of work zones on the National Highway System;

[(D) improvements in the efficiency and reliability of transit services;

[(E) overall improvement in integrated regional transportation operations;

[(F) improvements in the quality and availability of traveler information;

[(G) improved crash notification; and

[(H) improvements in the safety and productivity of commercial vehicle operations on the National Highway System.

[(3) EFFECTIVE DATE.—The funding formula shall take effect in the fiscal year established by the Secretary in the regulations.

[(4) APPORTIONMENT PHASE-IN.—The funding formula shall provide for the apportionment of funds in the following manner:

[(A) FIRST FISCAL YEAR.—In the first fiscal year that the funding formula is in effect, 50 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 50 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

[(B) SECOND FISCAL YEAR.—In the second fiscal year the funding formula is in effect, 75 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 25 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

[(C) THIRD AND SUBSEQUENT FISCAL YEARS.—In the third and subsequent fiscal years, the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program shall be apportioned according to the funding formula developed under this subsection.

[(f) FUNDING.—

[(1) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(13) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

[(2) FEDERAL SHARE.—The Federal share payable under section 120(b) of title 23, United States Code, shall apply to any project carried out under this section.

[(g) APPORTIONMENTS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program among the States in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code, until the fiscal year established by the regulation under subsection (e)(3).

[(h) USE OF FUNDS.—Amounts apportioned under this section shall be used for projects involving planning, deployment, integration, and operation of intelligent transportation systems, or any other project or activity designed to further improve system operations. Funds apportioned to each State under this section should be made available for projects in metropolitan planning areas, corridors, and other regions as appropriate to improve operations.

**[SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.**

[(a) IN GENERAL.—The Secretary shall carry out a Commercial Vehicle Information Systems and Networks program to—

[(1) improve the safety and productivity of commercial vehicles and drivers; and

[(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

[(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

[(c) CORE DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of Commercial Vehicle Information Systems and Networks.

[(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

[(A) shall have a Commercial Vehicle Information Systems and Networks program plan and a top level system design approved by the Secretary;

[(B) shall certify to the Secretary that its Commercial Vehicle Information Systems and Networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and Commercial Vehicle Information Systems and Networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

[(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for Commercial Vehicle Information Systems and Networks.

[(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of Commercial Vehicle Information Systems and Networks may not exceed $2,500,000 million, including funds received under sections 4001(e) and 5001(a)(5) and (6) of the Transportation Equity Act for the 21st Century for the core deployment of Commercial Vehicle Information Systems and Networks.

[(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of Commercial Vehicle Information Systems and Networks. Eligible States that have either completed the core deployment of Commercial Vehicle Information Systems and Networks or complete such deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of Commercial Vehicle Information Systems and Networks in their State.

[(d) EXPANDED DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of Commercial Vehicle Information Systems and Networks.

[(2) ELIGIBILITY.—Each State that has completed the core deployment of Commercial Vehicle Information Systems and Networks is eligible for an expanded deployment grant.

[(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1 million per State.

[(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of Commercial Vehicle Information Systems and Networks.

[(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

[(f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(15) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

[(g) DEFINITIONS.—In this section, the following definitions apply:

[(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "Commercial Vehicle Information Systems and Networks" means the information systems and communications networks that provide the capability to—

[(A) improve the safety of commercial vehicle operations;

[(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

[(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

[(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

[(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

[(2) COMMERCIAL VEHICLE OPERATIONS.—The term "commercial vehicle operations"—

[(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

[(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

[(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

[(A) Safety information exchange to—

[(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

[(ii) connect to the Safety and Fitness Electronic Records (SAFER) system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

[(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records (SAFER) for access to interstate carrier and commercial vehicle data.

[(B) Interstate credentials administration to—

[(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

[(ii) connect to the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) clearinghouses; and

[(iii) have at least 10 percent of the transaction volume handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

[(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection sites and to replicate this screening at other sites.

[(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of an core deployment of Commercial Vehicle Information Systems and Networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

### [Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

### [SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORMANCE PILOT PROGRAM.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—The Secretary shall establish and implement a Surface Transportation System Performance Pilot Program. Subject to this section, a State may assume some or all, as the Secretary and State may agree, of the Secretary's responsibilities under title 23, United States Code, or assume all or some, as they may agree, of the Secretary's responsibilities under any Federal law, for projects constructed with Federal funds under this pilot program.

[(2) OBLIGATION OF FUNDS.—States participating in this pilot program may obligate funds under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, for any purpose for which Federal funds may be obligated by a State under title 23. However, the State shall reserve 10 percent of the funds apportioned under section 104(b)(3) in each fiscal year for transportation enhancement activities as specified in section 133(d)(1), as amended by this Act.

[(3) PURPOSE.—The purpose of this performance pilot program is to demonstrate the benefits of performance-based management and to determine how such an approach can be best incorporated into an effective Federally-assisted, State administered Federal-aid highway program. The Secretary shall work closely with potential pilot States to determine ways to build into program-level oversight performance measures that reflect both State and national interests and to apply them with specific measurement of program effectiveness.

[(b) STATE PARTICIPATION.—

[(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit up to five States to participate in the performance pilot program established under subsection (a).

[(2) APPLICATION.—To participate in the performance pilot program, a State shall submit an application to the Secretary that contains, at a minimum, the following:

[(A) A description of the State's long-term and short-term transportation goals.

[(B) A description of how the State will address any areas of national strategic importance, as may be determined by the Secretary, in reaching its goals. The areas of national strategic importance must include the following: national security, interstate commerce, mobility, safety, and environmental stewardship.

[(C) A description of the performance measures under which the State's progress and success toward reaching its goals would be measured.

[(D) A description of how funding will be distributed equitably across the State, including to urbanized areas with populations in excess of 200,000. This would include addressing how local units of government would be consulted in the process of program development and implementation.

[(E) Evidence of the State's notice and solicitation of public comment and copies of comments received from such solicitation.

[(F) Such other information as the Secretary may require.

[(3) PUBLIC NOTICE.—Each State that submits an application under this subsection, shall give public notice of its intent to participate in the pilot program at least 20 days prior to submitting its application to the Secretary. The State shall provide notice and solicit public comment by publishing the entire application in accordance with the State's public notice law.

[(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if the application demonstrates how the State plans to address the areas of national strategic importance as identified in subsection (b)(2)(B). The Secretary will prioritize the selection of applications based on the degree to which the applicant's proposed goals address the areas of national strategic importance, the State's ability to manage and monitor its programs on a performance basis, the State's commitment to conduct the required evaluations, and the degree to which the application otherwise proposes to achieve the purposes of this section.

[(c) PROGRAM ELEMENTS.—

[(1) STATE AGREEMENT TO ASSUME SECRETARY'S RESPONSIBILITIES.—

[(A) ASSIGNMENT AND ASSUMPTION OF RESPONSIBILITIES.—The Secretary and a State may agree, as provided in this section, that the Secretary will assign and the State will assume some or all of the responsibilities of the Secretary under any Federal law or requirement, except for the responsibilities relating to Federally recognized tribes, with respect to any project constructed with federal funds under this pilot program. The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes such responsibilities under a Federal law, the State shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary and shall submit a certification as provided in subsection (f)(1).

[(B) FEDERAL ROLE OF STATE.—For purposes of assuming the Secretary's responsibilities under a Surface Transportation System Performance Pilot Program, to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, title 23, United States Code, or any other Federal law, the State shall be deemed to be a Federal agency under such laws, and shall agree that its transportation department, or any other State agency carrying out a responsibility of the Secretary under this section, shall be subject to such Federal laws to the same extent that a Federal agency would be subject to such laws.

[(C) STATE CERTIFICATION OF ASSUMPTION OF RESPONSIBILITIES.—Whenever a State assumes any of the Secretary's responsibilities under a Federal law, the State shall certify that it has laws and regulations that—

[(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

[(ii) are comparable to the Federal Freedom of Information Act and that any decision regarding the public availability of a document under those laws is reviewable by a court of competent authority.

[(2) OTHER FEDERAL AGENCY VIEWS.—If a State assumes a responsibility of the Secretary under paragraph (1) of this subsection that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of such Federal agency prior to entering into or renewing any program agreement.

[(3) MAINTENANCE OF EFFORT.—The Secretary shall not make any apportionment to a State participating in this performance pilot program in any fiscal year under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in any fiscal year at or above the average level of such expenditures for the preceding three fiscal years.

[(4) FEDERAL SHARE PAYABLE.—The Federal share payable under this performance pilot program for a project funded with apportionments under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, may be up to 100 percent; except that, the Federal share payable for transportation enhancements under section 133(d)(1), shall be determined in accordance with title 23, United States Code.

[(d) PROGRAM AGREEMENT.—

[(1) IN GENERAL.—Each year prior to making any apportionments to a participating State, the Secretary shall enter into an agreement with the State establishing its performance goals and performance measures.

[(2) AGREEMENT CONCERNING PARTICIPATING STATE'S RESPONSIBILITIES.—The Secretary shall enter into one or more agreements with a State selected for participation in this pilot program concerning which, if any, Federal laws or requirements the State will carry out under subsection (c). The program agreement between the Secretary and the State shall specify management responsibilities, including the role of the State in relation to other Federal agencies.

[(3) GOALS.—The Secretary and participating State shall agree, based on the State's priorities and the areas of national strategic importance as determined by the Secretary, on the long-term and short-term goals to be achieved using the State's apportionments under the program.

[(4) PERFORMANCE MEASURES.—The Secretary and the State shall mutually establish the performance measures that the State must meet relating to the goals identified in paragraph (3) of this subsection. Continued participation in the pilot program is contingent on the State meeting these performance measures. If a State fails to meet the agreed upon performance measures in two consecutive years, the Secretary shall terminate a State's participation in the pilot program.

[(5) COMPLIANCE.—If a participating State fails to comply with any provision of this section, the Secretary shall take such actions as necessary to ensure compliance. Corrective actions may include termination of the State's participation in the pilot program.

[(e) LIMITATIONS ON AGREEMENTS.—

[(1) CIVIL RIGHTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.).

[(2) MAJOR PROJECTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities with respect to major projects under section 106(h) of title 23, United States Code.

[(3) STATEWIDE AND METROPOLITAN PLANNING.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under the Statewide and metropolitan planning requirements of sections 134 and 135 of title 23, United States Code.

[(4) REGULATORY RESPONSIBILITIES.—Nothing in this section shall be construed to allow a State to assume any of the Secretary's rulemaking authority under any Federal law.

[(f) STATE REPORTING AND ACCOUNTABILITY.—A State participating in this pilot program shall make the following reports to the Secretary. A State may combine reports as appropriate.

[(1) STATE CERTIFICATION PRIOR TO OBLIGATION OF FUNDS.—As a prerequisite to the Secretary's agreement that a State will fulfill or assume any of the Secretary's responsibilities, and prior to the obligation of any money under this pilot program in any fiscal year, the participating State shall provide, and annually renew, a certification that—

[(A) is in a form acceptable to the Secretary;

[(B) is executed by the Governor or the State's top-ranking transportation official charged with the responsibility for highway construction;

[(C) specifies that the State will fully carry out any of the responsibilities it may assume;

[(D) specifies that the State consents to assume the status of the Secretary under any responsibility it may assume; and

[(E) expressly consents on behalf of the State and himself or herself to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume.

[(2) END OF FISCAL YEAR STATE CERTIFICATION.—At the end of each fiscal year in which a State obligates funds under this pilot program, the State shall certify that it obligated such funds only for projects that would otherwise be eligible for assistance under title 23. Such certification shall also specify that the State reserved for obligation the amounts specified in section 133(d)(1) of such title as amended by this Act.

[(3) FISCAL ACCOUNTABILITY.—Each State shall provide an annual accounting for the obligations in a manner determined by the Secretary in such a way as to provide a basis for evaluating the effect of the pilot program expenditures.

[(4) ANNUAL STATE ASSESSMENT.—Each State will provide to the Secretary a narrative report at the end of each year describing the benefits of the pilot program to the State and any suggestions for improving the pilot program.

[(g) TERMINATION.—This pilot program shall terminate six years following enactment of this Act. Funding obligated under the pilot program shall continue to be administered under the terms of the pilot program until those funds have been expended.

**[SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

[(a) Section 106 of title 23, United States Code, is amended—

[(1) by striking subsection (e) and inserting the following:

["(e) VALUE ENGINEERING ANALYSIS.—

["(1) ANALYSIS.—For all projects on the National Highway System with an estimated total cost of $25,000,000 or more, and any project the Secretary deems appropriate, the State shall provide a value engineering analysis or other cost reduction analysis. For major projects as identified in subsection (h) of this section, more than one such analysis may be required.

["(2) DEFINITION.—In this subsection, the term "value engineering analysis" means a systematic process of review and analysis of a project during its design phase by a multidisciplined team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient use of expensive parts of the original proposal design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project."; and

[(2) by striking subsections (g) and (h) and inserting the following:

["(g) OVERSIGHT PROGRAM.—

["(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized by this title. At a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

["(2) FINANCIAL INTEGRITY.—

["(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a). Risk assessment procedures shall be used to identify review areas.

["(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs, and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

["(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have sufficient accounting controls to properly manage Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

["(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the States' project delivery system, which includes one or more activities that are involved in the life cycle of a project from its conception to its completion. Risk assessment procedures will be used to identify review areas.

["(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

["(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

["(h) MAJOR PROJECTS.—

["(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, or any other project in the discretion of the Secretary, shall submit to the Secretary a project management plan and an annual financial plan.

["(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality, and the Federal requirements of the project, and the role of the agency leadership and management team in the delivery of the project.

["(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

["(1) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for such project, and that is not covered by subsection (h) of this section, shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.".

[(b) Section 114(a) of such title is amended—

[(1) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof"; and

[(2) by striking the second sentence and inserting "The Secretary shall have the right to inspect and take any corrective action as the Secretary may deem appropriate.".

[(c) Section 117 of such title is amended by striking subsection (d) and redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

[(d) Section 307 of title 49, United States Code, is amended to read as follows:

**["§ Sec. 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries**

["(a) MANDATORY ENFORCEMENT POLICY.—

["(1) Notwithstanding any other provision of law, the Secretary shall—

["(A) debar any contractor or subcontractor convicted of criminal or civil offenses involving fraud related to projects receiving Federal highway or transit funds. The debarment period shall be determined by the Secretary, as appropriate; and

["(B) suspend any contractor or subcontractor upon their indictment for criminal or civil offenses involving fraud, subject to the approval of the Attorney General. The Secretary shall have authority to exclude nonaffiliated subsidiaries of the debarred business entity, subject to the approval of the Attorney General.

["(2) Upon a finding that mandatory debarment or suspension of a contractor or subcontractor under subsection (1), above, would be contrary to the national security interests of the U.S., the Secretary may waive the debarment or suspension.

["(b) SHARING OF MONETARY RECOVERIES.—

["(1) Notwithstanding any other provision of law, monetary judgments accruing to the

Federal government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved. The State or local transit agency shall use these funds for transportation infrastructure and oversight activities related to programs authorized under titles 23 and 49.

[''(2) The amount of recovered funds to be shared with the affected State or local transit agency shall be determined by the Attorney General in consultation with the Secretary. These funds shall be considered Federal funds, to be used in compliance with other relevant Federal transportation laws and regulations. —

[''(3) The requirement for sharing of funds described in subparagraph (1), above, shall not be in effect in circumstances wherein the State or local transit agency is found by the Department of Justice, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.''.

[(e) The analysis for chapter 3 of title 49 is amended by revising the entry for item 307 to read as follows:

[''307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.''.

### [SEC. 1803. EMERGENCY RELIEF.

[Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$200,000,000''.

### [SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.

[(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

[(1) in paragraph (7), by striking ''public lands highway'' and inserting ''recreation roads, public Forest Service roads'';

[(2) by striking paragraph (8) and inserting the following:

[''(8) NATIONAL FOREST SYSTEM ROADS AND TRAILS.—The term 'National Forest System roads and trails' means forest roads or trails under the jurisdiction of the Forest Service.'';

[(3) by striking paragraph (10) and inserting the following:

[''(10) FOREST ROAD OR TRAIL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System lands that is necessary for the protection, administration, use, and development of its resources. There are four types of forest roads:

[''(A) CLASSIFIED FOREST ROAD.—The term 'classified forest road' means a forest road that the Forest Service determines to be needed for long-term motor vehicle access, including State roads, county roads, privately owned roads, National Forest System roads, and other roads authorized by the Forest Service.

[''(B) UNCLASSIFIED FOREST ROAD.—The term 'unclassified forest road' means a forest road not managed by the Forest Service as part of the forest transportation system.

[''(C) TEMPORARY FOREST ROAD.—The term 'temporary forest road' means a forest road that is authorized by the Forest Service through contract, permit, lease, other written authorization, or emergency operation not intended to be a part of the forest transportation system and not necessary for long-term resource management.

[''(D) PUBLIC FOREST SERVICE ROAD.—The term 'Public Forest Service Road' means a classified forest road that is open to public travel for which title and maintenance responsibility is vested in the United States government and which has been designated a public road by the Forest Service.'';

[(4) in paragraph (26), as redesignated by this Act, by striking ''unappropriated or unreserved''; and

[(5) by striking paragraph (27), as redesignated by this Act, by redesignating paragraph (28) as (27), and by inserting the following new paragraph:

[''(28) RECREATION ROADS.—The term 'recreation roads' means those public roads that provide access to museums, lakes, reservoirs, visitors centers, gateways to major wilderness areas, public uses areas, recreation and historic sites and for which title is vested in the United States Government.''.

[(b) FEDERAL SHARE PAYABLE.—

[(1) Section 120(k) of such title is amended by striking ''Federal-aid highway''.

[(2) Sections 120(k) and 120(l) of such title are amended by striking ''section 104'' each time it appears, and inserting in its place ''this title and chapter 53 of title 49''.

[(c) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of such title is amended by striking the first two sentences and inserting the following: ''Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency, the State may (1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency, or (2) make a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency; the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations for the estimated Federal share, under the provisions of this title, of the State's obligation so deposited or paid by such State.''.

[(d) ALLOCATIONS.—Section 202 of such title is amended—

[(1) in subsection (a), by inserting ''and grasslands'' after ''national forests'' in the first sentence;

[(2) by striking subsection (b) and inserting the following:

[''(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways, after making the transfer of funds provided for in subsection 204(g) of this title, for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resource and land use planning and the impact of such planning on existing transportation facilities.''; and

[(3) in subsection (d)—

[(A) in paragraph (1), by striking ''1999'' in the heading and within paragraph (1) and inserting ''2005'';

[(B) in paragraph (2), by striking ''2000'' in the heading and within paragraphs (2)(A), (2)(B), and (2)(D) and inserting ''2005'', and by striking ''1999'' in paragraph (2)(B) and inserting ''2004'' at each place it appears;

[(C) in paragraph (3)(A), by inserting ''this chapter and section 125(e) of'' after ''under'', and by adding ''and the approved Indian reservation road transportation improvement program'' after ''Act''; and

[(D) in paragraph (4)(D), by striking the sentence after ''Approval Requirement.'' and inserting: ''Funds for preliminary engineering for Indian reservation road bridge projects under this subsection may be made available by the Secretary upon request by a tribe or by the Secretary of the Interior. Funds for construction and construction engineering shall be made available only after approval of the plans, specifications, and estimates by the Secretary.''.

[(e) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended

[(1) in subsection (a), by inserting ''refuge roads,'' after ''parkways,'';

[(2) in subsection (b), by striking ''appropriate contracts'' in the second sentence and inserting ''appropriate agreements'';

[(3) in subsection (k)—

[(A) by striking ''(2), (5),'' and inserting ''(2), (3), (5),'';

[(B) by striking ''and'' after the semicolon at the end of paragraph (1)(B);

[(C) by striking the period after ''improvements'' at the end of paragraph (1)(C) and inserting a semicolon;

[(D) by adding after paragraph (1)(C) the following new subparagraphs:

[''(D) maintenance of public roads in National Fish hatcheries under Fish and Wildlife Service jurisdiction;

[''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

[''(F) maintenance and improvement of recreational trails, but such expenditures on trails are limited to 5 percent of available funding per fiscal year.''.

[(f) SAFETY.—

[(1) ALLOCATIONS.—Section 202 of such title is amended by adding at the end the following:

[''(f) SAFETY.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for safety as follows: 10 percent to the Bureau of Reclamation, 15 percent to the Bureau of Indian Affairs, 15 percent to the Bureau of Land Management, 15 percent to the Forest Service, 5 percent to the Fish and Wildlife Service, 15 percent to Military Traffic Management Command, 15 percent to the National Park Service, and 10 percent to the U.S. Army Corps of Engineers. The Secretary, from time to time, may adjust the percentage of safety funds allocated to the Federal agencies listed above based on the outputs of agency safety management systems, other safety need analyses or studies, and the use of previously allocated safety funds.''.

[(2) AVAILABILITY OF FUNDS.—Section 203 of such title is amended in the first sentence by inserting ''safety,'' after ''refuge roads,'' at each place it appears.

[(3) USE OF FUNDING.—Section 204 is amended by adding at the end the following:

[''(l) SAFETY ACTIVITIES.—

[''(1) IN GENERAL.—Not withstanding any other provision of this title, funds made available for safety shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of transportation safety improvement projects, elimination of high accident locations, protection or elimination of at-grade railway-highway crossings, collection of safety information, transportation planning, bridge inspections, development and operation of safety management systems, highway safety education programs, and other eligible safety activities authorized in Chapter 4 of this title.

[''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency, as appropriate, may enter into contracts or agreements with a State, subdivision of a State, or Indian tribe.

[“(3) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89-72, The Federal Water Recreation Act.”.

[(g) RECREATION ROADS.—

[(1) AUTHORIZATIONS.—Section 201 of such title is amended by striking “public lands highways” and inserting “recreation roads”.

[(2) ALLOCATIONS.—Section 202 of such title, as amended by this section, is further amended by adding at the end the following:

[“(g) RECREATION ROADS.—On October 1 of each fiscal year, the Secretary, after making the transfer provided for in subsection 204(i) of this title, shall allocate the sums authorized to be appropriated for such fiscal year for recreation roads as follows: 6 percent to the Bureau of Reclamation, 6 percent to the U.S. Army Corps of Engineers, 10 percent to the Bureau of Land Management, 10 percent to the Military Traffic Management Command, and 68 percent to the Forest Service. Recreation road funds shall be allocated to projects and activities according to the relative needs of each area served by these roads as indicated in the approved transportation improvement programs for each agency. The Secretary, from time to time, may adjust the percentage of recreation road funds allocated to the Federal agencies listed above based on the outputs of agency management systems, other need analyses/or studies, and the use of previously allocated recreation road funds.”.

[(3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking “public lands highways” and inserting “recreation roads” at each place it appears.

[(4) USE OF FUNDING.—Section 204 of such title, as amended by this section, is further amended by adding at the end the following:

[“(m) RECREATION ROADS.—

[“(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

[“(A) maintenance or improvements of existing recreation roads;

[“(B) maintenance and improvements of eligible projects described in paragraphs (1), (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to Federal land areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior;

[“(C) transportation planning and administrative costs associated with such maintenance and improvements; and

[“(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior.

[“(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency, as appropriate, may enter into contracts or agreements with a State or civil subdivision of a State or Indian tribe as is determined advisable.

[“(3) NEW ROADS.—No funds available under this section shall be used to pay the cost of the design or construction of new recreation roads.

[“(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—Maintenance and improvement projects which are funded under this subsection and are consistent with or have been identified in a land use plan for the Federal area do not require any additional environmental reviews or assessments under the National Environmental Policy Act if the Federal agency that promulgated the land use plan analyzed the specific proposal under the National Environmental Policy Act and there are no significant changes to the proposal bearing on environmental concerns and no significant new information.

[“(5) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89–72, The Federal Water Recreation Act.”.

[(h) CONFORMING AMENDMENTS.—

[(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by inserting “recreation roads,” after “public lands highways,” each place the words appear.

[(2) Sections 120(e), 125(e), 201, 202(a), 203, section 205 in the heading and in subsections (a) and (d), and the analysis for chapter 2 of such title are amended by striking “forest development roads” and inserting “National Forest System roads” each place the words appear.

[(3) Section 204(a)(1) is amended by striking “public lands highways” and inserting “recreation roads, forest highways”, section 204(b) is amended by striking “public lands highways” and inserting “recreation roads”, and section 204(i) is amended by striking “public lands highways” and inserting “recreation roads and forest highways” each place the words appear.

[(4) Section 217(c) is amended by striking “public lands highways” and inserting “refuge roads”.

**[SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

[(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 201 of the Appalachian Regional Development Act of 1965 prepared by the Appalachian Regional Commission. Such funds shall be available to construct highways and access roads under section 201 of the Appalachian Regional Development Act of 1965.

[(b) APPLICABILITY OF TITLE 23.—Funds authorized by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 201 and such funds shall remain available until expended.

[(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by adding “and the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965” following “(other than the emergency relief program authorized by section 125”.

**[SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.**

[(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support and encourage multistate transportation planning, provide for streamlined transportation project development, and facilitate transportation decisionmaking.

[(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations are eligible to receive and administer funds provided under this program.

[(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multi-state highway and multi-state multi-modal planning studies.

[(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

[(e) SELECTION CRITERIA.—The Secretary shall select projects based on—

[(1) the existence and significance of signed and binding multi-jurisdictional agreements;

[(2) endorsement of the study by elected State and local representatives;

[(3) prospects for early completion of the study; and

[(4) whether the projects to be studied are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (Public Law 102-240; 105 Stat. 2032).

[(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

[(1) encourage and enable States and other jurisdictions to work together to develop plans for multi-modal and multi-jurisdictional transportation decision-making; and

[(2) give priority to studies that emphasize multi-modal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

[(g) FEDERAL SHARE.—The Federal share payable, using funds from all Federal sources, for any study carried out under this section shall not exceed 80 percent of the total cost of such study, except that the share of funds from the Highway Trust Fund (other than the Mass Transit Account) shall not exceed 50 percent of the total cost of such study.

[(h) APPLICABILITY OF TITLE 23 U.S.C.—Funds authorized to be appropriated under section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

**[SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.**

[(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security for the United States borders with Canada and Mexico.

[(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations at or near an international land border in the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont and Washington, are eligible to receive and administer funds allocated under this program.

[(c) ELIGIBLE ACTIVITIES.—

[(1) IN GENERAL.—The Secretary shall make allocations under the program established in this section for activities at or near international land borders in the States listed in subsection (b).

[(2) SPECIFIC ACTIVITIES.—The activities eligible for funding under this program are—

[(A) highway and multi-modal planning or environmental studies;

[(B) cross-border Port of Entry and safety inspection improvements, including operational enhancements and technology applications;

[(C) technology and information exchange activities; and

[(D) right-of-way acquisition, design, and construction, where needed to add the enhancements or applications described in subparagraphs (B) and (C), or to decrease air pollution emissions from vehicles or inspection facilities at border crossings.

[(d) Other Provisions Regarding Eligibility.—All studies and projects funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code. All regionally significant projects that are part of such applications must be on the transportation plans and program required by sections 134 and 135 of title 23, United States Code.

[(e) Selection Criteria.—The Secretary shall select projects based on—

[(1) expected benefits, including air quality benefits, of the project in relation to its costs;

[(2) prospects for early completion of the study or project;

[(3) endorsement of the project by formally constituted bi-national organizations with both Federal and State or provincial representation;

[(4) the existence and significance of signed and binding multi-jurisdictional agreements;

[(5) contributions of other title 23 funds and non-title 23 funds above the minimum required; and

[(6) the extent to which the project benefits are multi-modal.

[(f) Program Priorities.—In administering the program, the Secretary shall emphasize multi-modal planning; infrastructure improvements; and operational improvements that increase safety, security, freight movement, or highway access to rail, marine, and air services while enhancing the environment.

[(g) Federal Share.—The Federal share payable on account of any project carried out under this section shall not exceed 80 percent of the total cost of such project.

[(h) Applicability of Title 23 U.S.C.—Funds authorized to be appropriated under section 1101(1)(11) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

[(i) Allocation of Funds.—No individual project whose scope of work is limited to information exchange shall receive an allocation greater than $500,000 in a single year.

[(j) Projects in Canada or Mexico.—Projects in Canada or Mexico proposed by one or more border States that directly and predominantly facilitate cross border vehicle and commercial cargo movements at the international gateways or ports of entry into the border region(s) of such State(s), may be constructed using funds allocated under this program provided that, prior to the obligation of such funds, Canada or Mexico, or the political subdivision thereof responsible for the operation of the facility to be constructed, has provided assurances satisfactory to the Secretary that any facility constructed under this subsection will be constructed to standards equivalent to those in the United States and properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to such project.

[(k) Set-Aside.—The Secretary shall set-aside $47,000,000 of the funds authorized for fiscal year 2004 under section 1101(a)(11) of this Act for construction of State border safety inspection facilities in the States of Arizona, California, New Mexico, and Texas.

[(l) Transfer of Funds to the General Services Administration.—

[(1) State funds.—At the request of a State, funds allocated under this section may be transferred to the General Services Administration for the purpose of funding a specific project or projects if the Secretary determines, after consultation with the State transportation department as appropriate, that the General Services Administration should carry out the project or projects and the General Services Administration agrees to accept the transfer of funds and to administer those funds. The State shall provide the 20 percent non-Federal share of the project cost, as required under subsection (g) of this section, directly to the General Services Administration. Funds so transferred or provided shall not be deemed to be an augmentation of the General Services Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the allocated funds transferred for the projects.

[(2) Direct transfer of authorized funds.—In addition to allocations to States and metropolitan planning organizations as provided in subection (b), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in the States identified in subsection (b), if the Secretary determines that such transfer is necessary to effectively carry out the purposes of this program and the General Services Administration agrees to accept the transfer of funds and to administer those funds. Funds so transferred shall not be deemed to be an augmentation of the General Services Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Section 120 of title 23, United States Code, shall not apply to funds so transferred. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred.

### [SEC. 1808. TERRITORIAL HIGHWAY PROGRAM AMENDMENTS.

[(a) Definitions.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

[(1) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39) respectively, and

[(2) by adding the following new paragraph after paragraph (35):

[“(36) Territorial highway system.—The term ‘territorial highway system’ means the system of arterial highways, collector roads, and necessary inter-island connectors in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands that have been designated by the Governor and approved by the Secretary as provided in section 215 of this title.”.

[(b) Funding.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking “to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands” and inserting “for the territorial highway program authorized under section 215 of this title”.

[(c) Eligible Projects. Section 103(b)(6)(P) of title 23, United States Code, is amended to read as follows:

[“(P) Projects eligible for assistance under the territorial highway program as provided in section 215 of this title.”.

[(d) Territorial Highway Program. Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

### [“§ 215. Territorial highway program

[“(a) In General.—Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this section in accordance with section 120(h) of this title.

[“(b) Technical Assistance.—In order to continue a long-range highway development program, the Secretary is authorized to provide technical assistance to the territorial governments to enable them to, on a continuing basis, engage in highway planning, conduct environmental evaluations, administer right-of-way acquisition and relocation assistance programs, and design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors. The technical assistance to be provided and the terms for sharing information among the territories shall be set forth in the agreement required by subsection (d) of this section.

[“(c) Applicability of Chapter 1.—The provisions of chapter 1 of this title (other than provisions related to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the territorial highway program, except as determined by the Secretary to be inconsistent with the needs of the territories and the intent of the territorial highway program. The specific sections of chapter 1 that are applicable to each territory and the extent of their applicability shall be identified in the agreement provided for in subsection (d) of this section.

[“(d) Agreement.—

[“(1) Except as provided in paragraph (3) of this subsection, no part of the appropriations authorized for the territorial highway program shall be available for obligation or expenditure with respect to any territory until the Governor enters into a new agreement with the Secretary, within 12 months after the effective date of this Act, providing that the government of such territory shall—

[“(A) implement the territorial highway program in accordance with the appropriate provisions of chapter 1 of this title, as provided for in subsection (c) of this section;

[“(B) design and construct a system of arterial and collector highways, including necessary interisland connectors, built in accordance with standards appropriate for each territory and approved by the Secretary;

[“(C) provide for the maintenance of facilities constructed or operated under provisions of this section in a condition to adequately serve the needs of present and future traffic; and

["(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

["(2) The new agreement required by paragraph (1) of this subsection also shall specify the kind of technical assistance to be provided, include appropriate provisions regarding information sharing among the territories, and delineate the oversight role and responsibilities of the territories and the Secretary. The agreement shall be re-evaluated every two years and modified as appropriate.

["(3) Agreements in effect on the effective date of this Act shall continue in force until replaced, as required by paragraph (1) of this subsection, and appropriations authorized for the program shall be available for obligation or expenditure while the agreements are in place.

["(e) Permissible Uses of Funds.—

["(1) Funds made available for the territorial highway program may be used only for—

["(A) eligible surface transportation program projects described in section 133(b) of this title;

["(B) cost effective preventive maintenance consistent with the requirements of section 116 of this title;

["(C) ferry boats, terminal facilities, and approaches, as provided for in section 129(b) and (c) of this title;

["(D) engineering and economic surveys and investigations for the planning of future highway programs and the financing thereof;

["(E) studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and

["(F) research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

["(2) None of the appropriations authorized for the territorial highway program shall be obligated or expended for routine maintenance.

["(f) Location of Projects.—Except as provided in subsection (b)(1) of section 133 of this title, territorial highway projects (other than those described in subsection (b)(3) and (4) of section 133 of this title) may not be undertaken on roads functionally classified as local.".

[(h) Conforming Amendments.—The analysis of chapter 2 of title 23 is amended by revising the item relating to section 215 to read as follows:

["215. Territorial highway program.".

**[SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.**

[(a) Written Agreement of States.—Section 103(c)(4)(B)(ii) of title 23, United States Code, is amended by striking "12" and inserting "25".

[(b) Removal of Designation.—Section 103(c)(4)(B)(iii)(I) of such title is amended—

[(1) by striking "in the agreement between the Secretary and the State or States"; and

[(2) by adding at the end the following: "An agreement entered into under clause (ii) prior to the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be deemed to include the 25 year time limitation, notwithstanding an earlier construction completion date in that agreement.".

**[SEC. 1810. DONATIONS AND CREDITS.**

[Section 323 of title 23, United States Code, is amended by—

[(1) inserting "or a local government from offering to donate funds, materials or services performed by local government employees," after "services" in the first sentence of subsection (c); and

[(2) striking subsection (e).

**[SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.**

[(a) General Rule.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

[(b) Definitions.—In this section, the following definitions apply:

[(1) Small business concern.—The term "small business –concern" has the meaning such term has under section 3 of the Small Business –Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

[(2) Socially and economically disadvantaged individuals.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

[(c) Annual Listing of Disadvantaged Business Enterprises.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

[(d) Uniform Certification.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

[(e) Compliance With Court Orders.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

**[SEC. 1812. HIGHWAY BRIDGE PROGRAM.**

[(a) Program Name.—Section 144 of title 23, United States Code, is amended in the section heading by striking "replacement and rehabilitation".

[(b) In General.—Section 144(a) of such title is amended to read as follows:

["(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge program be established to enable the several States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.".

[(c) Scour Countermeasures.—Section 144(d) of such title is amended to read as follows:

["(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, such structure. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State, except that a State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.".

[(d) Apportionment Formula.—Section 144(e) of such title is amended—

[(1) in the third sentence by striking "square footage" and inserting "area";

[(2) in the fourth sentence by striking "by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and," and by striking "1997" and inserting "2003"; and

[(3) by striking "the Federal-aid primary system" and inserting "Federal-aid highways".

[(e) Discretionary Bridge Program.—Section 144(g) of such title is amended—

[(1) by striking "Set Asides." in the heading of (g) and all that follows through paragraph (2)(B);

[(2) by striking "(3)" and redesignating paragraph (3) as subsection (g); and

[(3) in subsection (g), as redesignated, by—

[(A) striking "nor more than 35 percent";

[(B) striking "1987" and inserting "2004";

[(D) striking "2003" and inserting "2009"; and

[(E) striking "paint" and inserting "perform systematic preventative maintenance".

[(f) Inventories and Reports.—Section 144(i) of such title is amended—

[(1) in paragraph (3), by striking "and";

[(2) in paragraph (4), by striking "section." and inserting "section; and"; and

[(3) after paragraph (4), by striking "Such reports shall be submitted to such committees biennially at the same time as the report required by section 307(f)(1) of this title is submitted to Congress." and inserting the following:

["(5) submit reports required by this subsection to such committees biennially at the same time as the report required by section 502(g) of this title.".

[(g) OFF-SYSTEM BRIDGE PROGRAM.—Section 144(n) of such title is amended by inserting "general engineering" between "all" and "standards".

[(h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of such title is amended—

[(1) in paragraph (3), by striking "title (including this section)" and inserting "section" and by inserting "200 percent of" after "shall not exceed"; and

[(2) in paragraph (4), by inserting "200 percent of" after "not to exceed", and by striking "title" at the end of the paragraph and inserting "section".

[(i) WATER RESOURCES PROJECTS.—Section 144 of such title is further amended by adding at the end the following:

["(r) Notwithstanding any other provision of law, any bridge funded under this title shall not be considered a 'water resources project' as that term is used in the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287).".

[(j) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23 is amended in the item relating to section 144 by striking "replacement and rehabilitation".

**[SEC. 1813. DESIGN-BUILD.**

[Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following in its place:

["(C) QUALIFIED PROJECTS.—A qualified project is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.".

**[SEC. 1814. INTERNATIONAL FERRIES.**

[Section 129(c)(5) of title 23, United States Code, is amended—

[(1) by striking "and" the first place it appears in the first sentence, and inserting a comma;

[(2) by adding ", and the islands that comprise a territory of the United States" after "Puerto Rico" in the first sentence; and

[(3) by adding "operations between the islands which comprise a territory of the United States," after "Puerto Rico," in the second sentence.

**[SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANSPORTATION ENHANCEMENTS, RECREATIONAL TRAILS, AND TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM PROJECTS.**

[(a) IN GENERAL.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 165:

**["§ 166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation, community, and system preservation program projects**

["(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

["(1) IN GENERAL.—Upon mutual agreement the Secretary may assign, and the State may assume, any of the Secretary's responsibilities (except responsibilities relating to Federally recognized tribes) for environmental reviews, consultation, decision-making or other actions under any Federal law applicable to projects that—

["(A) are funded under section 104(h) or section 167 of this title; or

["(B) meet the definition of a transportation enhancement activity as set forth in section 101(a)(38) of this title.

["(2) LIMITATIONS.—The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes any responsibility under a Federal law pursuant to this section, it assents to Federal jurisdiction and shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary.

["(b) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume. Such memoranda of understanding shall be established for periods of no more than three years. The Secretary shall review and determine compliance with the memorandum of understanding and the laws assigned by it to the State on an annual basis for the first three years of the agreement and, subsequently, on a periodic basis to be determined by mutual agreement but no longer than every three years.

["(c) TERMINATION.—The Secretary may terminate any assignment of responsibility under this section upon a determination that a State is not adequately meeting the terms and conditions of the memorandum of understanding.

["(d) STATE DEFINED.—For the recreational trails program, "State" means the State agency designated by the Governor of the State in accordance with section 206(c)(1) of this title.

["(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing contained in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decision-making.

["(f) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming the Secretary's responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.".

[(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 165 the following:

["166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation and community and system preservation program projects.".

**[SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.**

[(a) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 166:

**["§ 167. Transportation, community, and system preservation program**

["(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a comprehensive program to investigate and address the relationships between transportation and community and system preservation and identify private sector-based initiatives. Through this program, the Secretary shall facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

["(1) Improve the efficiency of the transportation system.

["(2) Reduce the impacts of transportation on the environment.

["(3) Reduce the need for costly future investments in public infrastructure.

["(4) Provide efficient access to jobs, services, and centers of trade.

["(5) Examine development patterns and identify strategies to encourage private sector development patterns which achieve the goals identified in paragraphs (1) through (4).

["(b) FUNDING.—Funds authorized to be apportioned under section 104(q) of this title shall be available to carry out the provisions of this section.".

[(b) Section 104 of such title is amended by adding after subsection (p), as added by this Act, the following:

["(q) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—

["(1) SET-ASIDE.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $26,000,000 of the remaining funds authorized to be apportioned under subsection (b)(3) for carrying out the Transportation, Community, and System Preservation Program under section 167 of this chapter.

["(2) APPORTIONMENT.—

["(A) From amounts set aside under paragraph (1), the Secretary shall apportion $500,000 each fiscal year to each State, including the District of Columbia and Puerto Rico, to carryout the provisions of section 167.

["(B) A State shall also make funds apportioned under this subsection available to metropolitan planning organizations, federally recognized tribes, and local governments in a manner and amounts to be determined by the State to carryout the provisions of section 167.".

[(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 166 the following:

["167. Transportation, community, and system preservation program.".

**[SEC. 1817. PROGRAM EFFICIENCES—FINANCE.**

[Section 115 of title 23, United States Code, is amended—

[(1) by striking "(a)" and all that follows through subsection (a)(1)(B);

[(2) by striking subsection (b);

[(3) by redesignating subsection (c) as subsection (d);

[(4) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2) respectively; and

[(5) by inserting after the section heading the following:

["(a) The Secretary may authorize a State to proceed with a project authorized under this title without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit the State to implementation of projects with the aid of Federal funds previously apportioned or allocated to it or limit a State to implementation of a project with obligation authority previously allocated to it.

["(b) The Secretary, upon the request of the State and execution of a project agreement, may obligate the Federal share, or a portion of the Federal share, of the cost of a project authorized under this section from any category of funds for which the project is eligible.".

## [Subtitle I—Technical Corrections to Title 23, United States Code

### [SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

[(a) Letting of Contracts.—Section 112 of title 23, United States Code, is amended—

[(1) by striking subsection (f); and

[(2) by redesignating subsection (g) as subsection (f).

[(b) Fringe and Corridor Parking Facilities.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

[(c) Repeal of Obsolete Sections of Title 23.—

[(1) Priority primary routes.—Section 147 of title 23, United States Code, is repealed.

[(2) Development of a national scenic and recreational highway.—Section 148 of title 23, United States Code, is repealed.

[(3) Access highways to public recreation areas on certain lakes.—Section 155 of title 23, United States Code, is repealed.

[(4) Conforming amendments.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 147, 148, and 155.

### [SEC. 1902. CLARIFICATION OF DATE.

[Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "the day of enactment of the Federal-Aid Highway Act of 1970" and inserting "December 31, 1970,".

### [SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

[(a) In General.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

[(1) transferred to title 23, United States Code;

[(2) redesignated as section 321;

[(3) moved to appear after section 320 of that title; and

[(4) amended by striking the section heading and inserting the following:

**["§ 321. Signs identifying funding sources".**

[(b) Conforming Amendment.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

["321. Signs identifying funding sources.".

### [SEC. 1904. INCLUSION OF "BUY AMERICA" REQUIREMENTS IN TITLE 23.

[(a) In General.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

[(1) transferred to title 23, United States Code;

[(2) redesignated as section 313;

[(3) moved to appear after section 312 of that title; and

[(4) amended by striking the section heading and inserting the following:

**["§ 313. Buy America".**

[(b) Conforming Amendments.—

[(1) The analysis for chapter 3 of title 23,United States Code, is amended by inserting after the item relating to section 320 the following:

["313. Buy America.".

[(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

[(A) in subsection (a), by striking "any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978" and inserting "any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

[(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

[(C) in subsection (d), by striking "this Act, the Surface Transportation Assistance Act of 1978, or title 23, United States Code," and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

[(D) by striking subsection (e); and

[(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

### [SEC. 1905. TECHNICAL AMENDMENTS TO 23 UNITED STATES CODE 140 (NONDISCRIMINATION).

[(a) Section 140(a) of title 23, United States Code, is amended as follows:

[(1) At the beginning of the second sentence, strike the word "He" and insert in its place the words "The Secretary".

[(2) In the first sentence, strike "subsection (a) of section 105" and insert in its place "section 135".

[(3) In the third sentence, strike the phrase "where he considers it necessary" and insert in its place the phrase "where necessary".

[(4) The last sentence is amended to read as follows: "The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary shall deem necessary to carry out the equal employment opportunity program required hereunder.".

[(b) Section 140(b) of title 23, United States Code, is amended as follows:

[(1) In the first sentence, strike the words "highway construction" and insert "surface transportation";

[(2) In the second sentence, strike the phrase "as he may deem necessary" and insert in its place the phrase "as necessary", and strike the phrase "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and".

[(3) In the fourth sentence, strike the phrase "shall not be not be applicable to contracts" and insert in its place the phrase "shall not be applicable to contracts".

[(c) The second sentence of section 140(c) of title 23, United States Code, is amended by striking the phrase "the Secretary shall deduct such sums as he may deem necessary," and inserting in its place the phrase "the Secretary shall deduct such sums as necessary,".

[(d) Section 140(d) of title 23, United States Code, is amended by striking from its catchline the words "and contracting".

### [SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR ELIMINATION OF HAZARDS OF RAILWAY-HIGHWAY CROSSINGS.

[Section 120(c) of title 23, United States Code, is amended by amending the first sentence of subsection (c) to read as follows: "The Federal share payable on account of any project for traffic control signalization; safety rest areas; pavement marking; commuter carpooling and vanpooling; rail-highway crossing closure; projects for elimination of hazards of railway-highway crossings, as identified in section 2604 of Public Law 106-246 (114 Stat. 511, 559); or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.".

## [TITLE II—HIGHWAY SAFETY

### [SEC. 2001. HIGHWAY SAFETY PROGRAMS.

[(a) Performance Grants.—Section 402 (k) of title 23, United States Code, is amended to read as follows:

["(k) Performance Grants.—In addition to other grants authorized by this section, the Secretary shall make grants in accordance with this subsection. Funds authorized to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering this subsection.

["(1) General performance grants.—On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Secretary shall make grants to States based upon the performance of their highway safety programs in the following categories: (i) motor vehicle crash fatalities; (ii) alcohol-related crash fatalities; and (iii) motorcycle, bicycle, and pedestrian crash fatalities.

["(A) Determinations by the Secretary.—The Secretary, through a rulemaking proceeding, shall determine—

["(i) measures for calculating and scoring performance in each category under this paragraph, using the data for the most recent calendar year for which the data are available from—

["(I) fatality data provided by the National Highway Traffic Safety Administration; and

["(II) vehicle miles traveled determined by the Federal Highway Administration.

["(ii) goals for achievement and annual progress in each category under this paragraph that reflect the potential of each goal to save lives; and

["(iii) a weighting system for all of the goals that reflects the relative potential of each goal to save lives.

["(B) Amount of grants.—The Secretary shall determine the amount of funds available to a State in a fiscal year for grants under this paragraph, based on the State's achievement or annual progress in each of the categories under this paragraph, using the measures, goals and weighting system established under this paragraph, the amount appropriated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section 402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year.

["(2) Safety belt performance grants.

["(A) Primary safety belt use law.—

["(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger motor vehicles that became effective by December 31, 2002.

["(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under paragraph (2)(A)(i) of this subsection, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect a primary safety belt use law for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

[“(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under paragraph (2)(A)(i) of this subsection shall be equal to one-half of the amount of funds apportioned to the State under subsection (c) of this section for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under paragraph (2)(A)(ii) of this subsection shall be equal to five times the amount apportioned to the State for fiscal year 2003 under subsection (c). Notwithstanding subsection (d) of this section, the Federal share payable for grants under this paragraph shall be 100 percent. If the total amount of grants under paragraph (2)(A)(ii) for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this paragraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under paragraph (2)(B) of this subsection.

[“(B) SAFETY BELT USE RATE.—

[“(i) On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Secretary shall make grants to States based upon their safety belt use rate in the preceding fiscal year.

[“(ii) The Secretary, through a rulemaking, shall determine measures for calculating and scoring the performance for safety belt use rates, using data for the most recent calendar year for which State safety belt use rate data are available from observational safety belt surveys conducted in accordance with criteria established by the Secretary.

[“(iii) Of the funds authorized for grants under this subsection, $25,000,000 for fiscal year 2004, $27,000,000 for fiscal year 2005, $29,000,000 for fiscal year 2006, $31,000,000 for fiscal year 2007, $34,000,000 for fiscal year 2008, and $36,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this paragraph. The Secretary shall determine the amount of funds available to a State in a fiscal year based on the State's achievement or annual progress in its safety belt use rate, the amount appropriated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section 402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year. Notwithstanding subsection (d) of this section, the Federal share payable for grants under this paragraph shall be 100 percent.

[“(C) DEFINITION.—In this paragraph, passenger motor vehicle means a passenger car, pickup truck, van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.

[“(3) USE OF GRANTS.—A State allocated an amount for a grant under paragraph (1)(A) of this subsection shall use the amount for activities eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(A) of this subsection may use the amount for activities eligible for assistance under this section or for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(B) of this subsection, including any amount transferred under paragraph (2)(A) of this subsection, shall use the amount for safety belt use programs eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section.”.

[(b) IMPAIRED DRIVING GRANTS.—Section 402 of title 23, United States Code, is amended by adding at the end the following subsection:

[“(l)(1) IMPAIRED DRIVING GRANTS.—In addition to other grants authorized by this section and subject to the provisions of this subsection, the Secretary shall design and implement a discretionary grant program to develop, demonstrate, and evaluate comprehensive State programs to reduce impaired driving in States with a high number of alcohol-related fatalities and a high rate of alcohol-related fatalities relative to vehicle miles traveled and population.

[“(2) PROCEDURE.—The Secretary shall establish a procedure for submitting grant applications under this subsection, and shall select from among the applicants the States to participate in the program.

[“(3) USE OF GRANTS.—A grant to a State under this subsection shall be used only to carry out the State's program under paragraph (1).

[“(4) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 10 percent for the costs of evaluating the programs and administering the provisions of this subsection.

[“(5) FEDERAL SHARE.—Notwithstanding subsection (d) of this section, the Federal share payable for a grant under this subsection shall be—

[“(A) 100 percent in the first and second fiscal years in which the State receives a grant;

[“(B) 75 percent in the third and fourth fiscal years in which the State receives a grant; and

[“(C) 50 percent in the fifth and sixth fiscal years in which the State receives a grant.”.

**[SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

[Section 403(a) (Authority of the Secretary) of title 23, United States Code, is amended by adding the following paragraphs at the end:

[“(4) EMERGENCY MEDICAL SERVICES.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to enhance coordination among Federal agencies involved with State, local, tribal, and community-based emergency medical services. In exercising this authority, the Secretary may coordinate with State and local governments, the Bureau of Indian Affairs on behalf of Indian tribes, private industry, and other interested parties; collect and exchange emergency medical services data and information; examine emergency medical services needs, best practices, and related technology; and develop emergency medical services standards and guidelines, and plans for the assessment of emergency medical services systems.

[“(5) INTERNATIONAL COOPERATION.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to participate and cooperate in international activities to enhance highway safety by such means as exchanging safety information; conducting safety research; and examining safety needs, best practices, and new technology.

[“(6) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to develop and conduct a nationally representative survey to collect on-scene motor vehicle crash causation data.”.

**[SEC. 2003. EMERGENCY MEDICAL SERVICES.**

[(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 of title 23, United States Code, is amended by revising section 407 to read as follows:

**[“§ 407. Federal coordination and enhanced support of emergency medical services**

[“(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

[“(1) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, shall establish a Federal Interagency Committee on Emergency Medical Services (referred to as the 'Interagency Committee on EMS') that shall

[“(A) assure coordination among the Federal agencies involved with State, local, tribal or regional emergency medical services and 9–1–1 systems;

[“(B) identify State, local, tribal or regional emergency medical services and 9–1–1 needs;

[“(C) recommend new or expanded programs, including grant programs, for improving State, local, tribal or regional emergency medical services and implementing improved EMS communications technologies, including wireless E9–1–1;

[“(D) identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services;

[“(E) assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs; and

[“(F) advise, consult with and make recommendations on matters relating to the implementation of the coordinated State emergency medical services program established under subsection (b) of this section.

[“(2) MEMBERSHIP.—The membership of the Interagency Committee on EMS shall consist of the following officials, or their designees:

[“(A) Administrator, National Highway Traffic Safety Administration.

[“(B) Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

[“(C) Administrator, Health Resources and Services Administration.

[“(D) Director, Centers for Disease Control and Prevention.

[“(E) Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

[“(F) Director, Center for Medicare and Medicaid Services.

[“(G) Undersecretary of Defense for Personnel and Readiness, Department of Defense.

[“(H) Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

[“(I) Director, Indian Health Service, Department of Health and Human Services.

[“(J) Chief, Wireless Telecom Bureau, Federal Communications Commission.

[“(K) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in the purposes of the Interagency Committee on EMS.

[“(3) ADMINISTRATION.—The National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee on EMS, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

[“(4) LEADERSHIP.—The members of the Interagency Committee on EMS shall select a chairperson of the Committee annually.

[“(5) MEETINGS.—The Interagency Committee on EMS shall meet as frequently as determined necessary by the chairperson of the Committee.

[“(6) ANNUAL REPORTS.—The Interagency Committee on EMS shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

[“(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

[“(1) GENERAL AUTHORITY.—The Secretary of Transportation, through the Administrator of the National Highway Traffic Safety Administration, is authorized and directed to cooperate with other Federal departments and agencies, and may assist State and local governments and EMS organizations, both fire-based and otherwise, private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program designed to strengthen transportation safety and public health and to implement improved EMS communication systems including 9–1–1. For the purposes of this section, the term ‘State’ means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian Tribes.

[“(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure improved EMS communication systems including 9-1-1, utilization of established best practices in system design and operations, implementation of quality assurance programs, and incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

[“(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

[“(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

[“(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with goal of achieving statewide coordination of emergency medical services and 9-1-1 activities.

[“(4) USE OF FUNDS; ADMINISTRATIVE EXPENSES; APPORTIONMENTS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9-1-1 programs that are in accordance with the provisions of paragraph (2). Such funds shall be subject to a deduction not to exceed 10 percent for the necessary costs of administering the provisions of this subsection, and the remainder shall be apportioned among the States. Such funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subsection, a ‘public road’ means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than three-fourths of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

[“(5) CONTRACT AUTHORITY.—The provisions contained in section 402(d) of this chapter shall apply to this subsection.

[“(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

[“(7) APPLICATION IN INDIAN COUNTRY.—

[“(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms ‘State’ and ‘Governor of the State’ include the Secretary of the Interior and the term ‘political subdivisions of the State’ includes an Indian tribe.

[“(B) INDIAN COUNTRY DEFINED.—In this subsection, the term ‘Indian country’ means—

[“(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

[“(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

[“(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.”.

[(b) The item relating to section 407 in the analysis of chapter 4 of title 23, United States Code, is amended to read as follows:

[“407. Federal coordination and enhanced support of emergency medical services.”.

**[SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.**

[(a) Chapter 4 of title 23, United States Code, is amended by adding the following section:

**[“§412. State traffic safety information system improvements**

[“(a) GENERAL AUTHORITY.—

[“(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—

[“(A) improve the timeliness, accuracy, completeness, uniformity, integration and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

[“(B) evaluate the effectiveness of efforts to make such improvements;

[“(C) link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway and economic data; and

[“(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. Recipient States may use such grants only to implement such programs.

[“(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze State and national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.

[“(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.

[“(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.

[“(b) FIRST-YEAR GRANTS.—

[“(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State must demonstrate to the satisfaction of the Secretary that the State has—

["(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

["(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system and is approved by the highway safety data and traffic records coordinating committee and—

["(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

["(ii) prioritizes, based on the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a)(1);

["(iii) identifies performance-based measures by which progress toward those goals will be determined;

["(iv) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan; and

["(v) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.

["(2) GRANT AMOUNTS.—The amount of a first-year grant to a State for a fiscal year shall equal an amount determined by multiplying—

["(A) the amount appropriated to carry out this section for such fiscal year; by—

["(B) the ratio that the funds apportioned to the State under section 402 of this chapter for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003;

except that no State eligible for a grant under this section shall receive less than $300,000.

["(c) SUCCEEDING-YEAR GRANTS.—

["(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

["(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

["(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

["(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;

["(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

["(E) includes a current report on the progress in implementing the multiyear plan.

["(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to a State for a fiscal year under this paragraph shall equal an amount determined by multiplying—

["(A) the amount appropriated to carry out this section for such fiscal year; by

["(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003; except that no State eligible for a grant under this paragraph shall receive less than $500,000.

["(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

["(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.".

[(b) The analysis of chapter 4 of title 23, United States Code, is amended by inserting the following at the end:

["412. State traffic safety information system improvements.".

### [SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the National Highway Traffic Safety Administration:

[(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

[(A) To carry out the State and Community Highway Safety Grant Program under section 402 of title 23, United States Code, except for subsections (k) and (l), $162,000,000 for fiscal year 2004, $167,000,000 for fiscal year 2005, $172,000,000 for fiscal year 2006, $177,000,000 for fiscal year 2007, $183,000,000 for fiscal year 2008, and $189,000,000 for fiscal year 2009.

[(B) To carry out the performance grant programs under subsection (k) of section 402 of title 23, United States Code, $175,000,000 for fiscal year 2004, $179,000,000 for fiscal year 2005, $183,000,000 for fiscal year 2006, $189,000,000 for fiscal year 2007, $195,000,000 for fiscal year 2008, and $201,000,000 for fiscal year 2009.

[(C) To carry out the impaired driving grants under subsection (l) of section 402 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

[(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—To carry out the highway safety research and development program under section 403 of title 23, United States Code, $88,452,000 for fiscal year 2004, $90,000,000 for fiscal year 2005, $92,000,000 for fiscal year 2006, $94,000,000 for fiscal year 2007, $96,000,000 for fiscal year 2008, and $99,000,000 for fiscal year 2009.

[(3) EMERGENCY MEDICAL SERVICES GRANTS.—To carry out section 407 of title 23, United States Code, $10,000,000 for each of fiscal years 2004 through 2009.

[(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS GRANTS.—To carry out section 412 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

[(5) NATIONAL DRIVER REGISTER.—To carry out chapter 303 (National Driver Register) of title 49, United States Code, $3,600,000 for fiscal year 2004, and $4,000,000 for each of fiscal years 2005 through 2009.

[(b) ALLOCATIONS.—

[(1) EMERGENCY MEDICAL SERVICES ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $2,226,000 in each fiscal year to carry out paragraph (4) of section 403(a) of title 23, United States Code.

[(2) INTERNATIONAL COOPERATION ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $200,000 in each fiscal year to carry out paragraph (5) of section 403(a) of title 23, United States Code.

[(3) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—Out of the amounts appropriated pursuant to subsection (a)(2), the Secretary may use $10,000,000 in each fiscal year to carry out paragraph (6) of section 403(a) of title 23, United States Code.

[(c) APPLICABILITY OF TITLE 23.—(1) Amounts made available under subsection (a)(2) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

[(2) Notwithstanding section 402(d) of title 23, United States Code, the funds authorized by subsection (a)(1) that are apportioned or allocated in a State shall remain available for obligation in that State for a period of two years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

### [SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.

[(a) REPEAL OF OBSOLETE PROVISIONS.—Sections 406 and 408 of title 23, United States Code, are repealed.

[(b) CONFORMING AMENDMENT.—The items relating to sections 406 and 408 in the analysis of chapter 4 of title 23, United States Code, are deleted.

## [TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

### [SEC. 3001. SHORT TITLE.

[This title may be cited as the "Federal Public Transportation Act of 2003".

### [SEC. 3002. UPDATED TERMINOLOGY; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

[(a) UPDATED TERMINOLOGY.—Chapter 53 of title 49, United States Code, including the chapter analysis, is amended by striking "mass" each place it appears before "transportation" and inserting "public", except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

[(b) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### [SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

[(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

["(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems that maximize the efficient, secure, and safe mobility of individuals, and minimize environmental impacts and reliance on foreign oil.".

[(b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended by—

[(1) striking "an urban" and inserting "a"; and

[(2) striking "under sections 5309 and 5310 of this title".

[(c) GENERAL PURPOSES.—Section 5301(f) is amended—

[(1) in paragraph (1) by—

[(A) striking "mass" after "improved" and inserting "public"; and

[(B) striking "public and private mass transportation companies and inserting "both public transportation companies and private companies engaged in public transportation";

[(2) in paragraphs (2) and (3) by—

[(A) striking "urban mass" after "areawide" and inserting "public", and

[(B) striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation”; and

[(3) in paragraph (5), by striking “urban mass” and inserting “public”.

**[SEC. 3004. DEFINITIONS.**

[(a) IN GENERAL.—Section 5302 is amended to read as follows:

**[“§ 5302. Definitions**

[“(a) IN GENERAL.—In this chapter, the following definitions apply:

[“(1) ‘access to jobs project’ means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, including—

[“(A) transportation projects to finance planning, capital and operating costs of providing access to jobs under this chapter;

[“(B) promoting public transportation by low-income workers;

[“(C) promoting the use of transit vouchers for welfare recipients and low-income individuals; and

[“(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

[“(1a) ‘capital project’ means a project for—

[“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

[“(B) rehabilitating a bus;

[“(C) remanufacturing a bus;

[“(D) overhauling rail rolling stock;

[“(E) preventive maintenance;

[“(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

[“(G) a public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation—

[“(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare or health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

[“(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to public transportation; and

[“(H) the introduction of new technology, through innovative or improved products, into public transportation;

[“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990, but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

[“(J) crime prevention and security—

[“(i) including—

[“(I) projects to refine and develop security and emergency response plans;

[“(II) projects aimed at detecting chemical and biological agents in public transportation;

[“(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; or

[“(IV) security training for public transportation employees; but,

[“(ii) excluding all expenses related to operations, except for such expenses incurred in the provisions of activities under clauses (III) and (IV) of this subparagraph; or

[“(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a non-interest bearing account for the purpose of assuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; and

[“(L) remediation associated with construction of a capital project as described this paragraph on a brownfield site as defined in 42 U.S.C. 9601.

[“(2) ‘chief executive officer of a State’ includes the designee of the chief executive officer.

[“(3) ‘emergency regulation’ means a regulation—

[“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

[“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

[“(i) would injure seriously an important public interest;

[“(ii) would frustrate substantially legislative policy and intent; or

[“(iii) would damage seriously a person or class without serving an important public interest.

[“(4) ‘fixed guideway’ means a public transportation facility—

[“(A) using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles; or -

[“(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

[“(5) ‘individual with a disability’ means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility.

[“(6) ‘local governmental authority’ includes—

[“(A) a political subdivision of a State;

[“(B) an authority of at least 1 State or political subdivision of a State;

[“(C) an Indian tribe; and

[“(D) a public corporation, board, or commission established under the laws of a State.

[ “(7) ‘mass transportation’ means public transportation.

[“(7a) ‘mobility management’ means an activity or project that involves one or more of the following goals:

[“(A) Addressing public transportation customer needs.

[“(B) Tailoring public transportation services to specific market niches.

[“(C) Managing public transportation demand.

[“(D) Land use compatibility with public transportation services.

[“(E) Improving coordination among public transportation providers and other transportation service providers.

[“(8) ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

[“(9) ‘new bus model’ means a bus model (including a model using alternative fuel)—

[“(A) that has not been used in public transportation in the United States before the date of production of the model; or

[“(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

[“(10) ‘public transportation’ means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

[“(10a) ‘recipient’ means an entity that receives Federal transit program assistance directly from the Federal government.

[“(11) ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

[“(11a) ‘reverse commute project’ means a public transportation project designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any projects to—

[“(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

[“(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

[“(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

[“(12) ‘Secretary’ means the Secretary of Transportation.

[“(13) ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, except as defined in section 5305 of this title.

[“(13a) ‘subrecipient’ means an entity that receives Federal transit program assistance indirectly through a recipient, rather than directly from the Federal government.

[“(14) ‘transit’ means public transportation.

[“(15) ‘transit enhancement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

["(A) historic preservation, rehabilitation, or operation of historic public transportation buildings, structures, or facilities (including historic bus or railroad facilities);

["(B) bus shelters;

["(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

["(D) public art;

["(E) pedestrian access or walkways;

["(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

["(G) transit connections to parks within the recipient's transit service area;

["(H) signage; and

["(I) enhanced access for individuals with disabilities to public transportation.

["(16) [reserved]

["(17) 'urbanized area' means an area encompassing a population of at least 50,000 people that has been defined and designated in the latest decennial census as an 'urbanized area' by the Secretary of Commerce.

["(18) 'welfare recipient' means an individual who receives or received aid or assistance under a State or tribal program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

["(b) AUTHORITY TO MODIFY 'INDIVIDUAL WITH A DISABILITY'.—The Secretary may by regulation modify the definition of the term 'individual with a disability' in subsection (a)(5) as it applies to section 5307(d)(1)(D).".

[(b) CONFORMING AMENDMENT.—Section 5321 is repealed.

### [SEC. 3005. METROPOLITAN PLANNING.

[The text of section 5303 is amended to read as follows: "Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52 of this title.".

### [SEC. 3006. STATEWIDE PLANNING.

[(a) SECTION HEADING.—Section 5304 is amended by striking the section heading and inserting the following:

**["§ 5304. Statewide planning".**

[(b) The text of section 5304 is amended to read as follows: "Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52 of this title.".

[(c) CONFORMING AMENDMENT.—The item relating to section 5304 in the table of sections for chapter 53 is amended to read as follows:

["5304. Statewide planning.".

### [SEC. 3007. PLANNING PROGRAMS.

[(a) IN GENERAL.—Section 5305 is amended to read as follows:

**["§ 5305. Planning programs**

["(a) DEFINITIONS.—In this section the following definitions apply:

["(1) 'State' means a State of the United States, the District of Columbia, and Puerto Rico, and

["(2) 'planning emphasis area' means priority themes identified by the Secretary for consideration in sections 5303 and 5304 of this title.

["(b) GENERAL AUTHORITY.—Under criteria the Secretary establishes, the Secretary may make grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, or may enter into contracts with private non-profit or for-profit entities for development of, transportation plans and programs and to plan, engineer, design, and evaluate a public transportation project and for other technical studies, including—

["(1) studies related to management, planning, operations, capital requirements, and economic feasibility;

["(2) evaluating previously financed projects;

["(3) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and,

[ "(4) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

["(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 of this title to carry out this section and sections 5303 and 5304 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

["(d) METROPOLITAN PLANNING PROGRAM.—

["(1) The Secretary shall apportion 80 percent of the amount made available under subsection (h)(2)(A) of this section to States to carry out sections 5303 and 5306 of this title in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population. A State may not receive less than .5 percent of the amount apportioned under this paragraph.

["(2) Amounts apportioned to a State under paragraph (1) of this subsection shall be made available promptly after allocation to metropolitan planning organizations in the State designated under this section under a formula—

["(A) the State develops in cooperation with the metropolitan planning organizations;

["(B) the Secretary of Transportation approves; and

["(C) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

["(3) The Secretary shall apportion 20 percent of the amount made available under subsection (h)(2)(A) of this section to States to supplement allocations made under paragraph (1) of this subsection for metropolitan planning organizations. Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 of this title in complex metropolitan planning areas.

["(e) STATE PLANNING AND RESEARCH PROGRAM.—

["(1) The amounts made available pursuant to subsection (h)(2)(B) of this section shall be apportioned to States for grants and contracts to carry out sections 5303-5306, 5315, and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

["(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (d) of this section.

["(f) PLANNING CAPACITY BUILDING PROGRAM.—

["(1) The Secretary shall establish a Planning Capacity Building Program to support and fund innovative practices and enhancements in transportation planning. The purpose of this program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304 of this chapter.

["(2) Funding available under subsection (h)(1) of this section to carry out this subsection will support—

["(A) incentive grants to state, metropolitan planning organizations, and public transportation operators; and

["(B) research, information dissemination, and technical assistance.

["(3) The Secretary may use the funds for the purpose described in paragraph (2)(B) independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education, to carry out the purposes of this subsection.

["(4) The program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

["(g) GOVERNMENT'S SHARE OF COSTS.—

["(1) Amounts made available to carry out subsections (d), (e) and (f) of this section may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

["(2) When there are planning emphasis areas funded under a grant or contract financed under this section, the Secretary may establish a Government share consistent with the planning emphasis area benefit.

["(h) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(a)(2)(A) and (B) and 5338(b)(3)(A) and (B) of this title for fiscal years 2004 through 2009.

["(1) $5,000,000 shall be available for the planning capacity building program under subsection (f) of this section; and

["(2) of the remaining amount,

["(A) 82.72 percent shall be available for metropolitan planning program under subsection (d) of this section; and

["(B) 17.28 percent shall be available to carry out subsections (b) and (e) of this section.

["(i) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section that remains available for 3 years after the fiscal year in which the amount is apportioned shall be reapportioned among the States.".

[(b) CONFORMING AMENDMENT.—The item relating to section 5305 in the table of sections for chapter 53 is amended to read as follows:

["5305. Planning programs.".

### [SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

[(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

**["§ 5306. Private enterprise participation in metropolitan planning and statewide planning".**

[(b) CONFORMING AMENDMENT.—The item relating to section 5306 in the table of sections for chapter 53 is amended to read as follows:

["5306. Private enterprise participation in metropolitan planning and statewide planning.".

### [SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION FORMULA GRANTS PROGRAM.

[(a) SECTION HEADING.—Section 5307 is amended by striking the section heading and inserting the following:

**[÷"§ 5307. Urbanized area public transportation formula grants program".**

[(b) TECHNICAL AMENDMENTS.—Section 5307 is amended by—

[(1) striking subsections (h), (j) and (k); and

[(2) redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

[(c) DEFINITIONS.—Section 5307(a) is amended to read as follows:

["(a) DEFINITIONS.—In this section:

["(1) 'designated recipient' means—

["(A) an entity designated, consistent with the planning process under sections 5303-5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts under sections 5336 and 5337 of this title that are attributable to transportation management areas established under section 5303 of this title; or

["(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

["(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.".

[(d) GENERAL AUTHORITY.—Section 5307(b) is amended—

[(1) by striking paragraph (1) and inserting a new paragraph (1) as follows:

["(1) The Secretary of Transportation may make grants under this section for—

["(A) capital projects;

["(B) planning and mobility management;

["(C) transit enhancements; and

["(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000.";

[(2) by striking paragraphs (2) and (4);

[(3) by redesignating paragraph (3) as paragraph (2); and

[(4) in redesignated paragraph (2), by striking "5305(a)" and inserting "5303".

[(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d) is amended—

[(1) in paragraph (1)(A), by inserting ", including safety and security aspects of the program" after "capacity";

[(2) in paragraph (1)(E), by striking everything that appears after "section" and inserting "the recipient will comply with section 5323 and 5325 of this title";

[(3) in paragraph (1)(H), by striking "5310(a)-(d)";

[(4) by striking paragraph (1)(I);

[(5) by redesignating paragraph (1)(J) as paragraph (1)(I); and

[(6) by adding at the end of subsection (f)(1), as redesignated, the following:

["(J) with a population of at least 200,000 in its urbanized area will expend one percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15) of this title.".

[(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e), is amended—

[(1) in the first sentence, by striking "(including associated capital maintenance items)"; and

[(2) in the fourth sentence, by striking "that are more than the amount of those revenues in the fiscal year that ended September 30, 1985" and inserting "and amounts received under a service agreement with a State or local social service agency or a private social service organization".

[(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

[(h) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h), as redesignated, is amended in paragraph (1) (A) by striking "shall" and inserting "may".

[(i) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

["(k)(1) Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335" of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

["(2) The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15, title 5, U.S.C., any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

[(j) CONFORMING AMENDMENTS.—

[(1) The item relating to section 5307 in the table of sections for chapter 53 is amended to read as follows:

["5307. Urbanized area public transportation formula grants program.".

[(2) Section 3037 of the Transportation Equity Act for the 21st Century, Public Law 105–178, as amended, is repealed.

### [SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

[(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:—

["(a) DEFINITIONS.—In this section—

["(1) 'recipient' means a State that receives a Federal transit program grant directly from the Federal government.

["(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.".

[(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

[(1) by revising paragraph (1) to read as follows:

["(1) Except as provided in paragraph (2) of this subsection, the Secretary may make grants to areas other than urbanized areas under this section for the following:

["(A) public transportation capital projects;

["(B) operating costs of equipment and facilities for use in public transportation; and

["(C) the acquisition of public transportation services.";

[(2) by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2), as follows:

["(2) A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other federal sources.";

[(3) In paragraph (3), as redesignated, by inserting "use not more than 2 percent of the amount made available to carry out this section to" before "make"; and

[(4) by adding after paragraph (3) the following:

["(4) Of the amount available to carry out paragraph (3), not more than 15 percent may be used to carry out projects of a national scope, with the remaining balance provided to the States.".

[(c) APPORTIONING AMOUNTS.—Subsection (c) is amended to read as follows:

["(c) APPORTIONMENTS.—

["(1) The amounts made available under section 5338(a)(2)(K) shall be apportioned as follows:

["(A) For each eligible State in accordance with paragraph (2) of this subsection:

["(i) $2,500,000 in fiscal year 2004.

["(ii) Three percent in fiscal year 2005.

["(iii) Five percent in fiscal year 2006.

["(iv) Seven percent in fiscal year 2007.

["(v) Nine percent in fiscal year 2008.

["(vi) Ten percent in every fiscal year thereafter.

["(B) Remaining amounts shall be apportioned to each State in accordance with paragraph (3) of this subsection.

["(2)(A) Of the amounts to be apportioned under paragraph (1)(A) of this subsection, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in subparagraph (C) of this paragraph:

["(i) 100 percent in fiscal year 2004.

["(ii) $1,500,000 in fiscal year 2005.

["(iii) $500,000 in fiscal year 2006.

["(B) Amounts under subparagraph (A) of this paragraph not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under subparagraph (C) of this paragraph.

["(C) The remaining amounts to be apportioned under paragraph (1)(A) of this subsection shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage in other-than-urbanized areas.

["(D) In apportioning funds under subparagraph (C) of this paragraph, the Secretary may consider the efficiency of service provision in the non-urbanized areas in the State.

["(3) Each State shall receive an amount equal to the remaining amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a

State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent Federal government decennial census of population.".

[(d) Use for Administrative, Planning, and Technical Assistance.—Section 5311(e) is amended by striking—

[(1) "Use for administration and technical assistance. (1)" and inserting "Use for administration, planning, and technical assistance."; and

[(2) "to a recipient" after "technical assistance"; and

[(3) paragraph (2).

[(e) Intercity Bus Transportation.—Section 5311(f) is amended—

[(1) in paragraph (1), by striking "after September 30, 1993,"; and

[(2) by inserting at the beginning of paragraph (2) "After consultation with affected intercity bus service providers,".

[(f) Government's Share of Costs.—Section 5311(g) is amended to read as follows:

["(g) Government's Share of Costs.—

["(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder—

["(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

["(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

["(2) A state carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

["(3) For purposes of paragraph (2)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.".

[(g) Indian Reservation Rural Transit Program.—Section 5311(h) is amended to read as follows:

["(h) Indian Reservation Rural Transit Program.—

["(1) In this subsection, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

["(2)(A) The Secretary shall establish and carry out through the States a program to provide grants to Indian tribes to operate, maintain, and establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

["(B) The state may waive or reduce the amount of local share required for these grants.

["(3) Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338(a)(2)(K) for the fiscal year, the Secretary shall make available $10,000,000 to carry out this subsection.

["(4) Of the funds made available pursuant to paragraph (3) of this subsection,

["(A) $9,500,000 shall be apportioned to the states based on a ratio equal to the tribal population in each state divided by the total tribal population in all states, as shown by the latest decennial census of population for allocation to existing Indian tribal rural transit programs and to plan and establish new Indian tribe rural transit programs;

["(B) prior to distribution by states of in-state amounts to Indian tribes, each State may use up to 5 percent for state administration;

["(C) amounts apportioned to a state under paragraph (A) of this subsection shall be distributed to Indian tribes in the state based on an allocation plan—

["(i) the state develops in cooperation with Indian tribes;

["(ii) the Secretary approves; and

["(iii) that provides an appropriate distribution for funding the needs of existing and new Indian Reservation Rural Transit Systems; and

["(D) $500,000 shall be available to the Secretary to provide technical assistance, including best practices and outreach, to the states and tribes through grants, contracts, or other arrangements and shall be in addition to and not in lieu of other funds available for these purposes.

["(5) An amount apportioned to the states under this subsection—

["(A) remains available for 3 years after the fiscal year in which the amount was apportioned; and

["(B) shall be reapportioned among the states if unobligated at the end of the 3-year period.".

[(h) Relationship to Other Laws.—Section 5311(j) is amended to read as follows:

["(j) Relationship to Other Laws.—

["(1) Except as provided in subparagraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

["(2) Sections 5323(a)(1)(D) and 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

["(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

["(4) This subsection does not affect or discharge a responsibility of the Secretary under a law of the United States.".

**[SEC. 3011. NEW FREEDOM PROGRAM.**

[(a) Chapter 53 of title 49, United States Code, is amended by inserting after section 5316 the following:

**["§ 5317. New Freedom program**

["(a) Definitions.—In this section—

["(1) 'recipient' means a State that receives a grant under this section directly.

["(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal government.".

["(b) General Authority.—

["(1) The Secretary of Transportation may provide grants to recipients for new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including motor vehicle programs that assist persons with disabilities with transportation to and from jobs and employment support services.

["(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

["(c) Apportionments.—

["(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(H) of this title under a formula the Secretary administers.

["(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

["(d) Grant Requirements.—

["(1) Except as provided in paragraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

["(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

["(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

["(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

["(e) Competitive Process.—

["(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

["(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

["(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

["(f) Coordination.—

["(1) The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

["(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

["(3) A recipient of funds under this section shall certify that—

["(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

["(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

["(g) Government's Share of Costs.—

["(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder may be—

["(A) provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[“(B) derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[“(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[“(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.”.

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5316 by adding the following:

[“5317. New Freedom program.”.

### [SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.

[(a) MAJOR CAPITAL INVESTMENT PROGRAM.—Section 5309 is amended to reads as follows:

**[“§ 5309. Major capital investment grants**

[“(a) GENERAL AUTHORITY.—

[“(1) The Secretary of Transportation may make grants under this section to State and local governmental authorities to assist them and their subrecipients in financing capital projects for—

[“(A) new fixed guideway systems, extensions to existing fixed guideway systems, and related project activities;

[“(B) the capital costs of coordinating public transportation with other transportation;

[“(C) the introduction of new technology, through innovative or improved products, into public transportation; or

[“(D) the development of corridors to support public transportation, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes or park and ride lots, or other capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

[“(2) The Secretary shall require that a grant under this subsection be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

[“(b) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—

[“(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved transportation plan and program of projects required under sections 5303–5306 of this title, and that the applicant has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

[“(2) An applicant that has submitted a certification required by section 5307(d)(1)(A)–(C) and (H) of this title shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

[“(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

[“(1) A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction and has been rated as ‘medium,’ ‘medium-high,’ or ‘high,’ as defined in this subsection.

[“(2) The Secretary may approve a grant under this section for a major capital project only if the Secretary makes the following determinations, based upon evaluations and considerations as set forth below:

[“(A) The Secretary may approve a grant under this section for a major capital project only if the Secretary determines that the proposed project is—

[“(i) based on the results of an alternatives analysis and preliminary engineering;

[“(ii) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, transit supportive policies and existing land use; and

[“(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain, and operate the entire public transportation system.

[“(B) Before making the determinations required by paragraph (2)(A), the Secretary shall first analyze, evaluate, and consider the following factors:

[“(i) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(i), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

[“(ii) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(ii), the Secretary shall—

[“(I) consider the direct and indirect costs of relevant alternatives;

[“(II) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

[“(III) identify and consider public transportation supportive existing land use policies and future patterns, and the cost of suburban sprawl;

[“(IV) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

[“(V) consider population density and current transit ridership in the corridor;

[“(VI) consider the technical capability of the grant recipient to construct the project;

[“(VII) adjust the project justification to reflect differences in local land, construction, and operating costs; and

[“(VIII) consider other factors that the Secretary determines appropriate to carry out this chapter.

[“(iii) In evaluating a project under paragraph (2)(A)(iii), the Secretary shall require that—

[“(I) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

[“(II) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

[“(III) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.

[“(iv) In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(A)(iii), the Secretary shall consider—

[“(I) existing grant commitments;

[“(II) the degree to which financing sources are dedicated to the purposes propose;

[“(III) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation purpose; and

[“(IV) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

[“(3) A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making the findings, the Secretary shall evaluate and rate the project as ‘high,’ ‘medium-high,’ ‘medium,’ ‘low-medium,’ or ‘low,’ based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

[“(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—If the assistance provided under this section is less than $75,000,000, the project shall be subject to the requirements set forth in subsection (c) of this section only to the extent the Secretary determines appropriate.

[“(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) of this section do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

[“(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

[“(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

[“(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement.

State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent Federal government decennial census of population.".

[(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking—

[(1) "Use for administration and technical assistance. (1)" and inserting "Use for administration, planning, and technical assistance."; and

[(2) "to a recipient" after "technical assistance"; and

[(3) paragraph (2).

[(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

[(1) in paragraph (1), by striking "after September 30, 1993,"; and

[(2) by inserting at the beginning of paragraph (2) "After consultation with affected intercity bus service providers,".

[(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

["(g) GOVERNMENT'S SHARE OF COSTS.—

["(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder—

["(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

["(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

["(2) A state carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

["(3) For purposes of paragraph (2)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.".

[(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311(h) is amended to read as follows:

["(h) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

["(1) In this subsection, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

["(2)(A) The Secretary shall establish and carry out through the States a program to provide grants to Indian tribes to operate, maintain, and establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

["(B) The state may waive or reduce the amount of local share required for these grants.

["(3) Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338(a)(2)(K) for the fiscal year, the Secretary shall make available $10,000,000 to carry out this subsection.

["(4) Of the funds made available pursuant to paragraph (3) of this subsection,

["(A) $9,500,000 shall be apportioned to the states based on a ratio equal to the tribal population in each state divided by the total tribal population in all states, as shown by the latest decennial census of population for allocation to existing Indian tribal rural transit programs and to plan and establish new Indian tribe rural transit programs;

["(B) prior to distribution by states of instate amounts to Indian tribes, each State may use up to 5 percent for state administration;

["(C) amounts apportioned to a state under paragraph (A) of this subsection shall be distributed to Indian tribes in the state based on an allocation plan—

["(i) the state develops in cooperation with Indian tribes;

["(ii) the Secretary approves; and

["(iii) that provides an appropriate distribution for funding the needs of existing and new Indian Reservation Rural Transit Systems; and

["(D) $500,000 shall be available to the Secretary to provide technical assistance, including best practices and outreach, to the states and tribes through grants, contracts, or other arrangements and shall be in addition to and not in lieu of other funds available for these purposes.

["(5) An amount apportioned to the states under this subsection—

["(A) remains available for 3 years after the fiscal year in which the amount was apportioned; and

["(B) shall be reapportioned among the states if unobligated at the end of the 3-year period.".

[(h) RELATIONSHIP TO OTHER LAWS.—Section 5311(j) is amended to read as follows:

["(j) RELATIONSHIP TO OTHER LAWS.—

["(1) Except as provided in subparagraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

["(2) Sections 5323(a)(1)(D) and 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

["(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

["(4) This subsection does not affect or discharge a responsibility of the Secretary under a law of the United States.".

**[SEC. 3011. NEW FREEDOM PROGRAM.**

[(a) Chapter 53 of title 49, United States Code, is amended by inserting after section 5316 the following:

**["§ 5317. New Freedom program**

["(a) DEFINITIONS.—In this section—

["(1) 'recipient' means a State that receives a grant under this section directly.

["(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal government.".

["(b) GENERAL AUTHORITY.—

["(1) The Secretary of Transportation may provide grants to recipients for new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including motor vehicle programs that assist persons with disabilities with transportation to and from jobs and employment support services.

["(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

["(c) APPORTIONMENTS.—

["(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(H) of this title under a formula the Secretary administers.

["(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

["(d) GRANT REQUIREMENTS.—

["(1) Except as provided in paragraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

["(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

["(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

["(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

["(e) COMPETITIVE PROCESS.—

["(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

["(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

["(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

["(f) COORDINATION.—

["(1) The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

["(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

["(3) A recipient of funds under this section shall certify that—

["(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

["(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

["(g) GOVERNMENT'S SHARE OF COSTS.—

["(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder may be—

["(A) provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[''(B) derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[''(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[''(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.''.

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5316 by adding the following:

[''5317. New Freedom program.''.

**[SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.**

[(a) MAJOR CAPITAL INVESTMENT PROGRAM.—Section 5309 is amended to reads as follows:

**[''§ 5309. Major capital investment grants**

[''(a) GENERAL AUTHORITY.—

[''(1) The Secretary of Transportation may make grants under this section to State and local governmental authorities to assist them and their subrecipients in financing capital projects for—

[''(A) new fixed guideway systems, extensions to existing fixed guideway systems, and related project activities;

[''(B) the capital costs of coordinating public transportation with other transportation;

[''(C) the introduction of new technology, through innovative or improved products, into public transportation; or

[''(D) the development of corridors to support public transportation, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes or park and ride lots, or other capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

[''(2) The Secretary shall require that a grant under this subsection be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

[''(b) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—

[''(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved transportation plan and program of projects required under sections 5303–5306 of this title, and that the applicant has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

[''(2) An applicant that has submitted a certification required by section 5307(d)(1)(A)–(C) and (H) of this title shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

[''(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

[''(1) A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction and has been rated as 'medium,' 'medium-high,' or 'high,' as defined in this subsection.

[''(2) The Secretary may approve a grant under this section for a major capital project only if the Secretary makes the following determinations, based upon evaluations and considerations as set forth below:

[''(A) The Secretary may approve a grant under this section for a major capital project only if the Secretary determines that the proposed project is—

[''(i) based on the results of an alternatives analysis and preliminary engineering;

[''(ii) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, transit supportive policies and existing land use; and

[''(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain, and operate the entire public transportation system.

[''(B) Before making the determinations required by paragraph (2)(A), the Secretary shall first analyze, evaluate, and consider the following factors:

[''(i) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(i), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

[''(ii) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(ii), the Secretary shall—

[''(I) consider the direct and indirect costs of relevant alternatives;

[''(II) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development:

[''(III) identify and consider public transportation supportive existing land use policies and future patterns, and the cost of suburban sprawl;

[''(IV) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

[''(V) consider population density and current transit ridership in the corridor;

[''(VI) consider the technical capability of the grant recipient to construct the project;

[''(VII) adjust the project justification to reflect differences in local land, construction, and operating costs; and

[''(VIII) consider other factors that the Secretary determines appropriate to carry out this chapter.

[''(iii) In evaluating a project under paragraph (2)(A)(iii), the Secretary shall require that—

[''(I) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

[''(II) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

[''(III) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.

[''(iv) In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(A)(iii), the Secretary shall consider—

[''(I) existing grant commitments;

[''(II) the degree to which financing sources are dedicated to the purposes propose;

[''(III) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation purpose; and

[''(IV) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

[''(3) A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making the findings, the Secretary shall evaluate and rate the project as 'high,' 'medium-high,' 'medium,' 'low-medium,' or 'low,' based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

[''(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—If the assistance provided under this section is less than $75,000,000, the project shall be subject to the requirements set forth in subsection (c) of this section only to the extent the Secretary determines appropriate.

[''(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) of this section do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

[''(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

[''(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

[''(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement.

The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

[“(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, U.S.C., or an administrative commitment.

[“(D) An obligation or administrative commitment may be made only when amounts are appropriated.

[“(2)(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

[“(i) establish the terms of participation by the United States Government in a project under this section;

[“(ii) establish the maximum amount of Government financial assistance for the project;

[“(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

[“(iv) make timely and efficient management of the project easier according to the law of the United States.

[“(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

[“(3)(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

[“(i) a full funding grant agreement for the project will be made; and

[“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

[“(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

[“(4)(A) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the greater of the amount authorized under section 5338(b) of this title for major capital investment projects or an amount equivalent to the last 3 fiscal years of funding authorized under section 5338(b)(3)(C) for major capital investment projects, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

[“(B) Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, as amended, for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005 and 2006 shall be charged against section 3032(g)(2) of that Act.

[“(g) GOVERNMENT’S SHARE OF NET PROJECT COST.—

[“(1) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 50 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

[“(2) The remainder—

[“(A) shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

[“(B) may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

[“(3) In addition to amounts allowed pursuant to paragraph (1) of this subsection, a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[“(4) The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act shall not apply to amounts allowed pursuant to paragraph (2) of this subsection.

[“(5) This subsection does not apply to projects for which the Secretary of Transportation has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

[“(h) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (g) of this section, the Secretary may also give consideration to ‘high,’ ‘medium-high,’ or ‘medium’ projects sponsored by grant applicants and State and local governments of constrained fiscal capacity in selecting projects for full funding grant agreements.

[“(i) PRELIMINARY ENGINEERING.—Not more than 8 percent of the amounts made available in each fiscal year to carry out this section may be available for preliminary engineering.

[“(j) UNDERTAKING PROJECTS IN ADVANCE.—

[“(1) The Secretary may pay the Government’s share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

[“(A) the State or local governmental authority applies for the payment;

[“(B) the Secretary approves the payment; and

[“(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

[“(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

[“(3) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

[“(k) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

[“(l) REPORTS.—

[“(1) Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, as well as the Subcommittee on Transportation of the Committees on Appropriations of both Houses, a report that may include—

[“(A) an allocation of amounts to be available to finance grants for capital investment projects among applicants for these amounts;

[“(B) an assessment of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years; and

[“(C) detailed ratings and evaluations on each project listed.

[“(2) The Secretary shall submit a report to Congress on the first Monday in February, the first Monday in June, and the first Monday in October each year that includes—

[“(A) a summary of the ratings of all applicant’s capital investment projects;

[“(B) detailed ratings and evaluations on each applicant project with significant changes to the finance or project proposal or has completed alternatives or preliminary engineering since the date of the last report; and

["(C) all relevant information that support the evaluation and rating of each updated project, including a summary of each updated project's financial plan.

["(m) PROJECT DEFINED.—In this section, the term 'major capital investment project' with respect to a new fixed guideway system or extension to an existing fixed guideway system, means a minimum operable segment of the project.".

### [SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

[(a) IN GENERAL.—Section 5312 is amended—

[(1) in subsection (a)—

[(A) by striking "or contracts" and inserting ", contracts, cooperative agreements, or other transactions";

[(B) by striking "help reduce urban transportation needs,";

[(C) by striking "urban" each place it appears; and

[(D) by striking "and demonstration projects related" and inserting ", demonstration or deployment projects, or evaluation of technology of national significance";

[(2) by striking subsections (b) and (c);

[(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

[(4) in subsection (b)(2), as redesignated, by striking "other agreements" and inserting "other transactions";

[(5) in subsection (b)(3), as redesignated, by striking "50" and inserting "80";

[(6) in subsection (b)(4), by adding the following sentence at the end: "The evaluation criteria shall include consideration of a share of consortium contributions to the overall research costs.";

[(7) in subsection (c)(2), as redesignated, by striking "and" and inserting "or" before "private"; and

[(8) in subsections (b)(5) and (c)(3), as redesignated, by striking "within the Mass Transit Account of the Highway Trust Fund".

[(b) CONFORMING AMENDMENTS.—

[(1) Section 5312 is amended by striking the section heading and inserting the following:

**["§5312. Research, development, demonstration, and deployment projects".**

[(2) The item relating to section 5312 in the table of sections is amended to read as follows:

["§5312. Research, development, demonstration, and deployment projects.".

### [SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.

[(a) IN GENERAL.—Section 5313 is amended—

[(1) in subsection (a) by—

[(A) striking "(1)";

[(B) striking "paragraphs (1) and (2)(C)(ii) of section 5338(d) and inserting "5338(a)(2)(F)(iii)(I) and (III)"; and

[(C) striking "(2)" and inserting "(b) Federal Assistance.—";

[(2) by striking subsection (b); and

[(3) in subsection (c), by striking "subsection (a) of".

[(b) CONFORMING AMENDMENTS.—

[(1) Section 5313 is amended by striking the section heading and inserting the following:

**["§5313. Cooperative research program".**

[(2) The item relating to section 5313 in the table of sections is amended to read as follows:

["5313. Cooperative research program.".

### [SEC. 3015. NATIONAL RESEARCH PROGRAMS.

[(a) IN GENERAL.—Section 5314 is amended—

[(1) in the section heading, by striking "planning and";

[(2) in subsection (a)(1), by—

[(A) striking "subsections (d) and (h)(7) of section 5338" and inserting "section 5338(a)(2)(F)";

[(B) striking "and contracts" and inserting ", contracts, cooperative agreements, or other transactions"; and

[(C) striking "5317,";

[(3) in the first sentence of subsection (a)(3), by striking all that follows "chapter";

[(4) by striking subsection (a)(4)(B);

[(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

[(6) in subsection (b), by striking "or contract" and all that follows in the first sentence, and inserting ", contract, cooperative agreement, or other transaction under subsection (a) of this section or section 5312."

[(b) CONFORMING AMENDMENTS.—The item relating to section 5314 in the table of sections is amended to read as follows:

["5314. National research programs.".

### [SEC. 3016. NATIONAL TRANSIT INSTITUTE.

[Section 5315 is amended—

[(1) in subsection (a)—

[(A) by striking "public mass transportation" and inserting "public transportation" each place it appears;

[(B) by striking "mass" after "Government-aid" and inserting "public"; and

[(C) in paragraphs (1), (6), (7), and (10) by striking "mass" each place it appears before "transportation" and inserting "public";

[ (2) by striking subsection (b);

[(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

[(4) in subsection (c), as redesignated, by striking "mass" each place it appears.

### [SEC. 3017. BUS TESTING FACILITY.

[Section 5318 is amended—

[(1) by revising subsection (a) to read as follows:

["(a) FACILITY.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.";

[(2) in subsection (d), by striking "section 5309(m)(1)(C)" and inserting section 5338(a)(2)(I); and

[(3) by revising subsection (e) to read as follows:

["(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).".

### [SEC. 3018. BICYCLE FACILITIES.

[Section 5319 is amended by striking "5309(h)," and inserting " 5309(g),".

### [SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

[Section 5320 is repealed.

### [SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.

[Section 5323 is amended—

[(1) In paragraph (a)(1) by—

[(A) striking "private mass transportation company" each place it appears and inserting "private company engaged in public transportation";

[(B) striking "mass transportation equipment or a mass transportation facility" and inserting "a public transportation facility or equipment"; and

[(C) striking "mass transportation company" and inserting "public transportation company";

[(2) in subsection (a)(1)(B), by striking "private mass transportation companies" and inserting "private companies engaged in public transportation";

[(3) in subsection (b)—

[(A) in paragraph (1)—

[(i) by striking "or loan"; and

[(ii) by striking "a certificate of the applicant" and inserting "in the environmental record for the project evidence"; and

[(B) in subparagraph (A) of paragraph (1), by striking "a public hearing with adequate prior notice" and inserting "public review and comment on the project"

[(C) by amending subparagraph (B) of paragraph (1) to read as follows:

["(B) held a public hearing on the project if it affects significant economic, social, or environmental interests;";

[(4) in paragraph (2), by striking the last sentence;

[(5) by revising subsection (c) to read as follows:

["(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods is subject to the requirements of section 5309 of this title to the extent the Secretary considers appropriate.";

[(6) in subsection (d)—

[(A) by revising paragraph (2) to read as follows:

["(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of intercity charter bus transportation service by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of the elderly and individuals with disabilities."; and

[(B) by adding at the end the following paragraph:

["(3) On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.";

[(7) by striking subsection (e);

[(8) by redesignating subsection (f) as (e);

[(9) in subsection (e), as redesignated—

[(A) by revising paragraph (2) to read as follows:

["(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of schoolbus transportation by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of students with disabilities."; and

[(B) by adding at the end the following paragraph:

["(3) If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1) of this subsection, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.";

[(10) by revising subsection (f) to read as follows:

["(f) Bond Proceeds Eligible for Local Share.—

["(1) Notwithstanding any other provision of law, a recipient of assistance under sections 5307 or 5309 of this chapter, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

["(2) The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that recipient established pursuant to section 5302(a)(1a)(K) of this title from amounts made available to the recipient under sections 5307 or 5309 of this title.";

[(11) in subsection (g), by—

[(A) striking "(f)" and inserting "(e)";

[(B) striking "103(e)(4) and" in the first and second sentence and inserting "133"; and

[(C) striking (f)(1)(C) and inserting "(e)(1)(C)";

[(12) by revising subsection (h) to read as follows:

["(h) Transfer of Lands or Interests in Lands Owned by the United States.—

["(1) If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which is desired to be transferred for public transportation purposes.

["(2) If within four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or shall have agreed to the appropriation and transfer under conditions which the Secretary of such Department deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to a State, or local government, or public transportation operator for such purposes and subject to the conditions so specified.

["(3) If at any time such lands are no longer needed for public transportation purposes, notice shall be given by the State, or local government, or public transportation operator that received the land, to the Secretary, and such lands shall immediately revert to the control of the Secretary of the Department from which the land was originally transferred.";

[(13) in subsection (j)—

[(A) by revising paragraph (1) to read as follows:

["(1)(A) The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, rolling stock, and components and subcomponents of the rolling stock used in the project are produced in the United States.

["(B) When procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

["(i) the cost of components and subcomponents produced in the United States shall be more than 60 percent of the cost of all components of the rolling stock; and

["(ii) final assembly of the rolling stock shall occur in the United States.

["(C) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.";

[(B) in paragraph (2)(B)—

[(i) by striking "and goods" and inserting "rolling stock, and the components and subcomponents of rolling stock"; and

[(ii) by adding "or" at the end,

[(C) by striking paragraph (2)(C);

[(D) by redesignating paragraph (2)(D) as paragraph (2)(C);

[(E) by striking paragraph (3) and redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

[(F) in paragraph (4), as redesignated, by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

[(14) by revising subsection (l) to read as follows:

["(l) Relationship to Other Laws.—Section 1001 of title 18, U.S.C., applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a Federal transit program.";

[(15) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) of this section do not apply to private nonprofit organizations or to grantees serving areas with fewer than one million people.";

[(16) in subsection (o) by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "23 U.S.C. 188".

### [SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

[(a) In General.—Section 5324 is amended to read as follows:

#### [§ 5324. Special provisions for capital projects

["(a) Real Property and Relocation Services.—Whenever real property is acquired and furnished as a required contribution incident to a project, the Secretary may not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances as are required of a State agency under Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Uniform Act): The Secretary must be advised of specific references to any State law that are believed to be an exception to Sections 301 or 302 of the Uniform Act.

["(b) Advance Real Property Acquisitions.—

["(1) The Secretary may participate in the acquisition of real property prior to completion of the environmental reviews for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project, given any of the following conditions—

["(A) there are offers on the open real estate market to convey that property for a use or uses incompatible with the project under study;

["(B) there is an imminent threat of development or redevelopment of the property for use or uses incompatible with the project under study;

["(C) recent appraisals reflect a rapid increase in the fair market value of the property;

["(D) the property, because it is located near an existing transportation facility, is likely to be developed, but also likely to be needed for a future transportation improvement; or

["(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

["(2) Property acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

["(3) The Secretary shall limit the size and number of properties acquired in accordance with this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

["(4) An acquisition undertaken pursuant to this section shall be considered to be an exempt project under section 176 of the Clear Air Act and its implementing regulations.

["(c) Railroad Corridor Preservation.—

["(1) The Secretary may assist an applicant in the acquisition of a pre-existing railroad right-of-way prior to completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law; furthermore, the Secretary may establish restrictions on such an acquisition as the Secretary deems necessary and appropriate.

["(2) Railroad right-of-way acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

["(d) Consideration of Economic, Social, and Environmental Interests.—

["(1) In carrying out section 5301(e) of this chapter, the Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

["(2) In performing environmental reviews, the Secretary shall consider the public comments on a project submitted under section 5323(b) of this title and ensure that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

["(A) the environmental impact of the proposal;

["(B) adverse environmental effects that cannot be avoided;

["(C) alternatives to the proposal; and

["(D) irreversible and irretrievable impacts on the environment.

["(3)(A) The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the environmental record included with the project application, that—

["(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

[“(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

[“(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

[“(B) The Secretary's findings under subparagraph (A) of this paragraph shall be made a matter of public record.”.

[(b) Conforming Amendment.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

[“5324. Special provisions for capital projects.”.

### [SEC. 3022. CONTRACT REQUIREMENTS.

[(a) In General.—Section 5325 is amended—

[(1) by revising subsection (a) to read as follows:

[“(a) Competition.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions in a manner providing full and open competition as determined by the Secretary.”;

[(2) by revising subsection (b) to read as follows:

[“(b) Architectural, Engineering, and Design Contracts.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, U.S.C., or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services. When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting non-disputed audits conducted by other governmental agencies as follows:

[“(1) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation, part 31 of title 48, Code of Federal Regulations.

[“(2) Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

[“(3) Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

[“(4) A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part by the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.”;

[(3) by inserting new subsections (d) through (h), after subsection (c), to read as follows:

[“(d) Design-Build System Projects.—

[“(1) ‘design-build system project’ means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

[“(2) Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

[“(e) Multiyear Rolling Stock.—

[“(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts.

[“(2) The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

[“(f) Acquiring Rolling Stock.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

[“(1) based on—

[“(A) initial capital costs; or

[“(B) performance, standardization, life cycle costs, and other factors; or

[“(2) with a party selected through a competitive procurement process.

[“(g) Examination of the Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a projects for which a grant is made under this chapter.

[“(h) Grant Prohibitions.—A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.”.

[(b) Conforming Amendments.—Chapter 53 of title 49, United States Code, is amended by—

[(1) repealing section 5326; and

[(2) striking “5326. Special Procurements.” in the table of sections for chapter 53.

### [SEC. 3023. HUMAN RESOURCE PROGRAMS.

[(a) In General.—Section 5322 is amended—

[(1) by inserting “(a) In General.—” before the beginning of the first sentence of the section; and

[(2) by adding the following at the end:

[“(b) Grants to Higher Learning Institutions.—

[“(1) The Secretary (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

[“(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

[“(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

[“(2) Research and investigations under this subsection include—

[“(A) the design and use of urban public transportation systems and urban roads and highways;

[“(B) the interrelationship between various modes of urban and interurban transportation;

[“(C) the role of transportation planning in overall urban planning;

[“(D) public preferences in transportation;

[“(E) the economic allocation of transportation resources; and

[“(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

[“(3) When making a grant under this subsection, the Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

[“(c) Fellowships.—

[“(1) The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

[“(2) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation. A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—

[“(A) tuition and other charges to the fellowship recipient;

[“(B) additional costs incurred by the training institution and billed to the grant recipient; and

[“(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

[“(d) Other Grants.—The Secretary may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing public transportation.”.

### [SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

[(a) Project Management Plan Requirements.—Section 5327(a) is amended—

[(1) by striking “and” at the end of paragraph 11;

[(2) in paragraph 12, by striking the “.” and inserting “; and”; and

[(3) by adding after paragraph (12) the following:

[“(13) safety and security management.”.

[(b) Limitations on Use of Available Amounts.—Section 5327(c) is amended—

[(1) in paragraph (1)—

[(A) by striking “.5” and inserting “1”;

[(B) by striking “5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4) of title 23 as in effect on September 30, 1991,” and inserting “5307–5311, 5316, or 5317 of this title,”;

[(C) by striking “to make a contract”;

[(D) by striking “a major project” and inserting “major projects”; and

[(E) by striking “section 5307, 5309, 5311, or 103(e)(4)” and inserting “sections 5307–5311, 5316, 5317,”;

[(2) in paragraph (2), by inserting “and security” after “safety”; and

[(3) by redesignating paragraph (3) as (4) and inserting a new paragraph (3), as follows:

[“(3) The Secretary shall deduct a sum in an amount that the Secretary determines necessary to administer this section from the amounts made available under paragraph

(1) of this subsection. These funds shall be in addition to any other funds made available for these purposes, and shall remain available until expended.".

**[SEC. 3025. PROJECT REVIEW.**

[Section 5328 is repealed.

**[SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY RISK.**

[(a) In General.—Section 5329 is amended to read as follows:

**["§ 5329. Investigation of safety and security risks**

["The Secretary may conduct investigations into safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it. If the Secretary establishes that a safety or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it. Any such plan relating to security risks shall be developed in consultation with the Secretary of Homeland Security. Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.".

[(b) Conforming Amendment.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

["5329. Investigation of safety and security risks.".

**[SEC. 3027. STATE SAFETY OVERSIGHT.**

[(a) In General.—Section 5330 is amended—

[(1) by striking the heading "Withholding Amounts for Noncompliance with Safety Requirements" and inserting "State Safety Oversight";

[(2) in subsection (a), by striking the text and inserting the following "This section applies only to—

["(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

["(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

[(3) in subsection (d) by inserting "shall ensure uniform safety standards and enforcement and" after "affected States"; and

[(4) by striking subsection (f).

[(b) Conforming Amendment.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

["5330. State safety oversight.".

**[SEC. 3028. SENSITIVE SECURITY INFORMATION.**

[Section 40119(b) is amended—

[(1) in paragraph (1)(C) by striking "transportation safety" and inserting "the safety of transportation facilities or infrastructure, or transportation employees"; and

[(2) by adding at the end a new paragraph (3), to read as follows:

["(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

**[SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.**

[(a) In General.—Section 1993 of title 18, U.S.C., is amended—

[(1) by striking "mass" in each place it appears before "transportation" and inserting "public";

[(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

[(3) in subsection (c)(5), by striking "5302(a)(7)" and inserting "5302(a)".

[(b) Conforming Amendment.—The item related to section 1993 in the table of contents for chapter 97 of title 18, U.S.C. is amended to read as follows:

["1993. Terrorist attacks and other acts of violence against public transportation systems.".

**[SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.**

[(a) Definitions.—Section 5331(a)(3) is amended by inserting after "title" the following: ", or sections 2303a, 7101(i), 7302(e) of title 46, United States Code. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency.".

[(b) Regulations.—Section 5331(f) is amended by striking paragraph (3).

**[SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

[Section 5333(b)(1) is amended by striking "5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)" each place it appears and inserting "5316-5318, 5323(a)(1), (b), and (c), 5337, and 5338(b)(3)(C)".

**[SEC. 3032. ADMINISTRATIVE PROCEDURES.**

[Section 5334 is amended—

[(1) in subsection (a),

[(A) by striking "and" at the end of paragraph (9);

[(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

[(C) by inserting after paragraph (10) the following:

["(11) issue regulations as necessary to carry out the purposes of this chapter.";

[(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k);

[(3) by adding a new subsection (b) after subsection (a), to read as follows:

["(b) Prohibitions Against Regulating Operations and Charges.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider; provided, however, that nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

[(4) in subsection (j)(1), as redesignated,

[(A) by striking "carry" and inserting "advise and assist the Secretary in carrying"; and

[(B) by striking "and (b)(1)" and insert "5322(b)(1)".

**[SEC. 3033. REPORTS AND AUDITS.**

[Section 5335 is amended—

[(1) in subsection (a), by—

[(A) striking "(1)"; and

[(B) striking "(2)" and inserting "(b) Reporting and Uniform Systems.—"; and

[(2) by striking subsection (b).

**[SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.**

[(a) In General.—Section 5336 is amended by—

[(1) striking subsection (d);

[(2) striking subsection (k);

[(3) redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

[(4) adding a new subsection (a) as follows:

["(a) Apportionment of Allocations.—Of the amounts allocated under section 5338(a)(2)(P) of this title—

["(1) the following percentages shall be apportioned to each urbanized area in accordance with subsection (k) of this section:

["(A) One percent in fiscal year 2004.

["(B) Three percent in fiscal year 2005.

["(C) Five percent in fiscal year 2006.

["(D) Seven percent in fiscal year 2007.

["(E) Nine percent in fiscal year 2008.

["(F) Ten percent in every fiscal year thereafter.

["(2) the remaining portion shall be apportioned to each urbanized area in accordance with subsections (b) through (d) of this section.".

[(b) Based on Urbanized Area Population.—Subsection (b), as redesignated, is amended—

[(1) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount to be apportioned under subsection (a)(2) of this section"; and

[(2) in paragraph (2), by striking "subsections (b) and (c)" and inserting "subsections (c) and (d)".

[(c) Based on Fixed Guideway Revenue Vehicle-Miles, Route-Miles, and Passenger-Miles.—Subsection (c)(2), as redesignated, is amended by striking "subsection (a)(2)" and inserting "subsection (b)(2)".

[(d) Based on Bus Revenue Vehicle-Miles and Passenger-Miles.—Subsection (d), as redesignated, is amended by striking "subsection (a)(2)" and inserting "subsection (b)(2)".

[(e) Date of Apportionment.—Subsection (e)(1) is amended by striking "subsections (a) and (h)(2) of section 5338" and inserting "section 5338(a)(2)(P)".

[(f) Transfers of Apportionments.—Subsection (g) is amended by striking "subsection (a)(1)" and inserting "subsection (b)(1)" each time it appears.

[(g) Apportionment Based on Incentive Factors.—Section 5336 is amended by adding a new subsection (k) as follows:

["(k) Apportionment Based on Incentive Factors.—

["(1) Of the amounts apportioned under subsection (a)(1) of this section, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in paragraph (3) of this subsection:

["(A) $25,000,000 in fiscal year 2004.

["(B) $15,000,000 in fiscal year 2005.

["(C) $5,000,000 in fiscal year 2006.

["(2) Amounts under paragraph (1) of this subsection not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under paragraph (3) of this subsection.

["(3) The remaining amounts to be apportioned under subsection (a)(1) of this section shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage.

["(4) In apportioning funds under this subsection, the Secretary may consider the efficiency of service provision in the urbanized area.

[“(5) The Secretary shall not apportion any amounts under this subsection to an urbanized area that experiences a significant decline, as determined by the Secretary, in public transportation patronage by elderly individuals, individuals with disabilities, or low income persons.”.

### [SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

[(a) SECTION HEADING.—Section 5337 is amended by striking the section heading and inserting the following:

**[“§ 5337. Apportionment based on fixed guideway factors”.**

[(b) DISTRIBUTION.—The text of subsection 5337(a) before the first colon is amended to read as follows: “Amounts made available under section 5338(a)(2)(N) of this title are apportioned as follows:”.

[(c) IN GENERAL.—Section 5337 is amended by—

[(1) striking “section 5336(b)(2)(A)” each place it appears and inserting “section 5336(c)(2)(A)”;

[(2) striking subsection (e); and

[(3) redesignating subsection (f) as subsection (e).

[(d) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

[“5337. Apportionment based on fixed guideway factors.”.

### [SEC. 3036. AUTHORIZATIONS.

[The text of section 5338 is amended to read as follows:

[“(a) FORMULA GRANTS AND RESEARCH.—

[“(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310–5318, 5322, 5335, 5505, and 5570–5575 of this title, and section 3038 of Public Law 105–178—

[“(A) $5,615,406,000 for fiscal year 2004;

[“(B) $5,727,714,000 for fiscal year 2005;

[“(C) $5,846,851,000 for fiscal year 2006;

[“(D) $5,978,405,000 for fiscal year 2007;

[“(E) $6,126,071,000 for fiscal year 2008; and

[“(F) $6,274,935,000 for fiscal year 2009.

[“(2) Of the aggregate of amounts made available under this subsection for a fiscal year,

[“(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

[“(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009;

[“(C) the following amounts shall be available to carry out section 5335—

[“(i) $3,500,000 in fiscal year 2004;

[“(ii) $3,700,000 in fiscal year 2005;

[“(iii) $3,900,000 in fiscal year 2006;

[“(iv) $4,100,000 in fiscal year 2007;

[“(v) $4,300,000 in fiscal year 2008; and

[“(vi) $4,500,000 in fiscal year 2009;

[“(D) $4,849,950 shall be available for grants to the Alaska Railroad for improvements to its passenger operations in lieu of receiving an apportionment under section 5336 of this title;

[“(E) $6,950,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century, as amended;

[“(F) the following amounts shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, and national research programs under sections 5312, 5313, 5314, and 5322:

[“(i) $43,750,000 in fiscal year 2004;

[“(ii) 0.779 percent in fiscal years 2005 through 2009; and

[“(iii) Of the amount made available by this paragraph:

[“(I) 18.85 percent shall be available for carrying out transit cooperative research programs under section 5313;

[“(II) 9.14 percent shall be available to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 shall be available to carry out section 5315(a)(16); and ———

[“(III) the remainder shall be available for carrying out national research programs under sections 5312, 5313, 5314, and 5322;

[“(G) $30,000,000 shall be available to carry out section 5316 for each fiscal year 2005 through 2009, based on need and supported by transportation financial feasibility studies and planning analyses;

[“(H) the following amounts shall be available for the New Freedom program under section 5317 of this title:

[“(i) $145,000,000 in fiscal year 2004; and

[“(ii) 2.582 percent in fiscal years 2005 through 2009;

[“(I) the following amounts shall be available to carry out section 5318:

[“(i) $3,000,000 in fiscal year 2004; and

[“(ii) 0.061 percent in fiscal years 2005 through 2009;

[“(J) $6,000,000 shall be available to carry out section 5505 of this title;

[“(K) 6.4 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

[“(L) 1.55 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

[“(M) the following amounts shall be available to provide financial assistance for job access and reverse commute projects under section 5308:

[“(i) $150,000,000 in fiscal year 2004; and

[“(ii) 2.671 percent in fiscal years 2005 through 2009;

[“(N) the following amounts shall be available to provide financial assistance for urbanized areas under section 5307 and apportioned in accordance with section 5337:

[“(i) $1,214,400,000 in fiscal year 2004; and

[“(ii) 21.626 percent in fiscal years 2005 through 2009; and

[“(O) $75,000,000 shall be available to carry out sections 5570 through 5575 in fiscal years 2005 through 2009.

[“(P) The remaining amount shall be available to provide financial assistance for urbanized areas under section 5307 and apportioned in accordance with section 5336.

[“(b) MAJOR CAPITAL INVESTMENT PROGRAM GRANTS.—

[“(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305 and 5309—

[“(A) $320,594,000 for fiscal year 2004;

[“(B) $327,006,000 for fiscal year 2005;

[“(C) $333,808,000 for fiscal year 2006;

[“(D) $341,318,000 for fiscal year 2007;

[“(E) $349,749,000 for fiscal year 2008; and

[“(F) $358,248,000 for fiscal year 2009.

[“(2) In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out sections 5305 and 5309—

[“(A) $1,213,500,000 for fiscal year 2004;

[“(B) $1,236,192,000 for fiscal year 2005;

[“(C) $1,261,287,000 for fiscal year 2006;

[“(D) $1,289,162,000 for fiscal year 2007;

[“(E) $1,321,907,000 for fiscal year 2008; and

[“(F) $1,355,219,000 for fiscal year 2009.

[“(3) Of the amounts made available by and appropriated under this subsection for a fiscal year,

[“(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

[“(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009; and

[“(C) the remaining amount shall be available to carry out Major Capital Investment Grants under section 5309 of this title.

[“(c) ADMINISTRATION.—There are authorized to be appropriated to carry out section 5334—

[“(A) $76,500,000 for fiscal year 2004;

[“(B) $77,931,000 for fiscal year 2005;

[“(C) $79,513,000 for fiscal year 2006;

[“(D) $81,270,000 for fiscal year 2007;

[“(E) $83,334,000 for fiscal year 2008; and

[“(F) $85,434,000 for fiscal year 2009.

[“(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

[“(1) A grant or contract approved by the Secretary, that is financed with amounts made available under subsections (a), (b)(1), or (e) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[“(2) A grant or contract, approved by the Secretary, that is financed with amounts made available under subsections (b)(2) or (c) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

[“(e) REVENUE ALIGNED BUDGET AUTHORITY.—

[“(1) On October 15 of fiscal year 2006 and each fiscal year thereafter, the Secretary shall prorate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in a portion equal to the amount available to each Federal transit program for which funds are available from the Mass Transit Account of the Highway Trust Fund under subsections (a) and (b) of this section.

[“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Mass Transit Account of the Highway Trust Fund such sums as may be necessary to carry out this subsection for fiscal years beginning after September 30, 2005.

[“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a), (b), and (e) shall remain available until expended.”.

### [SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY PROJECT.

[(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

**[“§ 5316. National parks and public lands Legacy Project**

[“(a) IN GENERAL.—

[“(1) The Secretary of Transportation, in consultation with the Secretary of the Interior, may make a grant or enter into a contract, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including the disabled, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

[“(2) A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

[“(b) DEFINITIONS.—In this section—

[“(1) ‘eligible area’ means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

[“(A) a unit of the National Park System;

[“(B) a unit of the National Wildlife Refuge System;

[“(C) a recreational area managed by the Bureau of Land Management; and

[“(D) a recreation area managed by the Bureau of Reclamation.

[“(2) ‘Federal land management agency’ means a Federal agency that manages an eligible area.

[“(3) ‘public transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

[“(4) ‘qualified participant’ means—

[“(A) a Federal land management agency; or

[“(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

[“(5) ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

[“(A) is an activity described in section 5302, 5303, or 5304;

[“(B) involves—

[“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

[“(ii) the deployment of public transportation vehicles that introduce innovative technologies or methods;

[“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

[“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

[“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

[“(F) is any other public transportation project that—

[“(i) enhances the environment;

[“(ii) prevents or mitigates an adverse impact on a natural resource;

[“(iii) improves Federal land management agency resource management;

[“(iv) improves visitor mobility and accessibility and the visitor experience;

[“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

[“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

[“(6) ‘Secretary’ means the Secretary of Transportation.

[“(c) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

[“(1) The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(G) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

[“(2) Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

[“(3) No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(G) for any fiscal year.

[“(d) PLANNING PROCESS.—In undertaking a qualified project under this section,

[“(1) if the qualified participant is a Federal land management agency—

[“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

[“(i) the metropolitan planning provisions under section 5303 of this title;

[“(ii) the statewide planning provisions under section 5304 of this title; and

[“(iii) the public participation requirements under section 5307(e); and

[“(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

[“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

[“(A) comply with the metropolitan planning provisions under section 5303 of this title;

[“(B) comply with the statewide planning provisions under section 5304 of this title;

[“(C) comply with the public participation requirements under section 5307(e) of this title; and

[“(D) consult with the appropriate Federal land management agency during the planning process.

[“(e) COST SHARING.—

[“(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

[“(2) In establishing the share of assistance to be provided under this section, the Secretary shall consider—

[“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

[“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

[“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

[“(D) the clear and direct benefit to the qualified participant; and

[“(E) any other matters that the Secretary considers appropriate to carry out this section.

[“(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the remainder of the cost of a qualified project.

[“(f) SELECTION OF QUALIFIED PROJECTS.—

[“(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

[“(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

[“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

[“(B) the location of the qualified project, to ensure that the selected qualified projects—

[“(i) are geographically diverse nationwide; and

[“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

[“(C) the size of the qualified project, to ensure that there is a balanced distribution;

[“(D) the historical and cultural significance of a qualified project;

[“(E) safety;

[“(F) the extent to which the qualified project would-

[“(i) enhance livable communities;

[“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

[“(iii) reduce congestion; and

[“(iv) improve the mobility of people in the most efficient manner; and

[“(G) any other matters that the Secretary considers appropriate to carry out this section, including—

[“(i) visitation levels;

[“(ii) the use of innovative financing or joint development strategies; and

[“(iii) coordination with gateway communities.

[“(g) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

[“(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

[“(A) the qualified participant applies for the payment;

[“(B) the Secretary approves the payment; and

[“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

[“(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

[“(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

[“(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

[“(h) RELATIONSHIP TO OTHER LAWS.—

[“(1) A qualified participant under this section is subject to the requirements of section 5307 of this title to the extent the Secretary considers appropriate.

[“(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

["(3) The Secretary may waive the applicability of the Special Warranty under paragraph (B) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate

["(4) A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

["(5) If the amount of assistance anticipated to be required for a qualified project under this section is $75,000,000 or more, the qualified participant shall prepare a project management plan in accordance with sections 5327(a) and (b) of this title.

["(i) Asset Management.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

["(j) Coordination of Research and Deployment of New Technologies.—

["(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

["(A) conserve resources;

["(B) prevent or mitigate adverse environmental impact;

["(C) improve visitor mobility, accessibility, and enjoyment; and

["(D) reduce pollution (including noise pollution and visual pollution).

["(2) The Secretary may request and receive appropriate information from any source.

["(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).".

[(b) Conforming Amendments.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

["5316. National parks and public lands Legacy Project.".

### [SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILTY PROGRAM.

[(a) Section 3038 of the Transportation Equity Act for the 21st Century, Public Law 105–178, is amended—

[(1) by striking the section heading and inserting the following: "OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.";
and

[(2) by revising subsection (g) to read as follows:

["(g) Funding.—

["(1) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

["(2) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.".

[(b) Conforming Amendments.—The item relating to section 3038 in the table of sections for the Transportation Equity Act for the 21st Century is amended to read as follows:

["Over-the-road bus accessibility program.".

### [SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

[(a) In General.—Section 5310 is amended to read as follows:

["(a) General Authority.—

["(1) The Secretary may make grants to a State under this section for capital public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities. A State may then allocate the funds to—

["(A) a private non-profit organization; or

["(B) a governmental authority—

["(i) approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

["(ii) that certifies that there are not any nonprofit organizations readily available in the area to provide the services described under this paragraph.

["(2) A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

["(3) A State may use not more than 15 percent of the amounts apportioned under this section to administer, plan and provided technical assistance for a project funded under this section.

["(b) Apportionments.—

["(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

["(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

["(c) Government's Share.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. The remainder—

["(1) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

["(2) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

["(3) For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.

["(d) Grant Requirements.—

["(1) A recipient of a grant under this section is subject to all requirements of a grant under section 5307 of this title to the extent the Secretary considers appropriate.".

["(2) A recipient that transfers funds to section 5336 pursuant to subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

["(3) A recipient of funds under this section shall certify that—

["(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

["(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

["(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

["(e) State Program of Projects.—Amounts made available to carry out this subsection may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other United States Government sources.

["(f) Leasing Vehicles.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

["(g) Homebound Individuals.—Public transportation service providers receiving assistance under this section or 5311(c) of this title may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

["(h) Transfers of Facilities and Equipment.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

["(i) Fares Not Required.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.".

### [SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.

[(a) Section 5308 is amended to read as follows:

**["§ 5308. Formula grants for job access and reverse commute projects**

["(a) Definitions.—In this section.

["(1) 'recipient' means a State that receives a grant under this section directly; and

["(2) 'subrecipient' means a State or local public authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal Government.".

["(b) General Authority.—

[“(1) The Secretary may make grants to a recipient under this section for access to jobs and reverse commute projects to a recipient.

[“(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

[“(c) APPORTIONMENTS.—

[“(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of low income people in each State.

[“(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any apportionment transferred pursuant to this subsection shall be made available for eligible job access and reverse commute projects under this section.

[“(d) GRANT REQUIREMENTS.—

[“(1) A grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

[“(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

[“(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

[“(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[“(e) COMPETITIVE PROCESS.—

[“(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

[“(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[“(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

[“(f) COORDINATION.—

[“(1) The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[“(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

[“(3) A recipient of funds under this section shall certify that—

[“(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[“(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

[“(g) GOVERNMENT'S SHARE OF COSTS.—

[“(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder—

[“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[“(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[“(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[“(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to Federal or State funds to be used for transportation purposes.”

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5307 to read as follows:

[“5308. Formula grants for job access and reverse commute projects.”.

## [TITLE IV—MOTOR CARRIER SAFETY

### [SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

[ (a) ADMINISTRATIVE EXPENSES.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

[“(i) ADMINISTRATIVE EXPENSES.—

[“(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

[“(A) $224,406,000 for fiscal year 2004;

[“(B) $228,000,000 for fiscal year 2005;

[“(C) $233,000,000 for fiscal year 2006;

[“(D) $239,000,000 for fiscal year 2007;

[“(E) $244,000,000 for fiscal year 2008; and

[“(F) $250,000,000 for fiscal year 2009.

[“(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management (PRISM), a study of driver availability and retention, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

[“(3) The amounts made available under this section shall remain available until expended.

[“(4) Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subtitle IV, part B, and subtitle VI, part B, of this title, or the provisions of subtitle IV of the ‘Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003’, shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.”.

[(b) AMENDMENT TO TITLE 23.—Section 104(a)(1) of title 23, United States Code, is amended by—

[(1) deleting subparagraph (B);

[(2) deleting the designation “(A)” at the beginning of subparagraph (A) and redesignating subparagraphs (A)(i) and (ii) as subparagraphs (A) and (B), respectively; and

[(3) deleting “; and” at the end of subparagraph (B), as so redesignated, and inserting a period.

[(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs—

[(1) Commercial driver's license driver improvement program grants under section 4002(c)—

[(A) $22,000,000 for fiscal year 2004;

[(B) $22,000,000 for fiscal year 2005;

[(C) $23,000,000 for fiscal year 2006;

[(D) $23,000,000 for fiscal year 2007;

[(E) $24,000,000 for fiscal year 2008; and

[(F) $25,000,000 for fiscal year 2009.

[(2) Border enforcement grants under section 4002(b)—

[(A) $ 32,000,000 for fiscal year 2004;

[(B) $ 33,000,000 for fiscal year 2005;

[(C) $ 33,000,000 for fiscal year 2006;

[(D) $ 34,000,000 for fiscal year 2007;

[(E) $ 35,000,000 for fiscal year 2008; and

[(F) $ 36,000,000 for fiscal year 2009.

[(3) Performance and registration information system management (PRISM) grant program under section 4016—

[(A) $4,000,000 for fiscal year 2004;

[(B) $4,000,000 for fiscal year 2005;

[(C) $4,000,000 for fiscal year 2006;

[(D) $4,000,000 for fiscal year 2007;

[(E) $4,000,000 for fiscal year 2008; and

[(F) $4,000,000 for fiscal year 2009.

[(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

[(e) CONTRACT AUTHORITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (c) of this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under subsection (c) of this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

### [SEC. 4002. MOTOR CARRIER SAFETY GRANTS.

[(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

[(1) Section 31102 of title 49, United States Code, is amended—

[(A) in subsection (b)(1), by amending paragraph (A) to read as follows:

[“(A) implements performance-based activities.”;

[(B) in subsection (b)(1), by deleting “and” at the end of paragraph (S), replacing the period at the end of paragraph (T) with a semicolon, and adding new paragraphs (U) and (V), to read as follows:

[“(U) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

[“(V) provides that the State will enforce the registration requirements of 49 U.S.C. 13902 by placing out of service any vehicle discovered to be operating without registration or beyond the scope of its registration.”; and

[(C) by revising subsection (c) to read as follows:

[“(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

[“(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

[“(A) Enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

[“(B) Detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

[“(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.”.

[(2) Section 31103(b) of title 49, United States Code, is amended to read as follows:

[“(b) OTHER ACTIVITIES.—

[“(1) From the amounts designated under section 31104(f)(2), the Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to commercial motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

[“(2) From the amounts designated under section 31104(f)(3), the Secretary may allocate safety performance incentive funds to States without requiring a matching contribution from such States.

[“(3) From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments. However, the Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds directly to conduct audits in those jurisdictions.”.

[(3) Section 31104(a) of title 49, United States Code, is amended to read as follows:

[“(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

[“(1) Not more than $164,594,000 for fiscal year 2004.

[“(2) Not more than $168,000,000 for fiscal year 2005.

[“(3) Not more than $172,000,000 for fiscal year 2006.

[“(4) Not more than $176,000,000 for fiscal year 2007.

[“(5) Not more than $180,000,000 for fiscal year 2008.

[“(6) Not more than $184,000,000 for fiscal year 2009.”.

[(4) Section 31104(f) is amended by revising paragraph (2) and adding new paragraphs (3) and (4), to read as follows:

[“(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to 10 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. Allocations under this paragraph do not require a matching contribution from a State, local government, or other person.

[“(3) SAFETY PERFORMANCE INCENTIVE PROGRAMS.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

[“(4) NEW ENTRANT AUDITS.—The Secretary may designate up to $17,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to section 210 of the Motor Carrier Safety Improvement Act of 1999, 113 Stat. 1764. Allocations under this paragraph do not require a matching contribution from a State or local government.”.

[(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Chapter 311 of title 49, United States Code, is amended by revising section 31107 to read as follows:

**[“§ 31107. Border enforcement grants**

[“(a) GENERAL AUTHORITY.—From the funds authorized by sections 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State, except as otherwise provided in subsection (c), that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

[“(b) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (c), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last two State or Federal fiscal years before October 1, 2003.

[“(c) GOVERNMENT SHARE.—The Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to cross-border operations of commercial motor vehicles that are beneficial to all jurisdictions or designed to address national safety concerns and circumstances.

[“(d) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[“(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government contractual obligation for payment of the amount of the grant.”.

[(c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.—Chapter 313 of title 49, United States Code, is amended by adding new section 31318 at the end, to read as follows:

**[“§ 31318. Grants for commercial driver's license program improvements**

[“(a) GENERAL AUTHORITY.—From the funds authorized by section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

[“(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria that best serve the purposes of this section.

[“(c) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003

[“(d) GOVERNMENT SHARE.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State. Amounts of the State required to be expended under subsection (c) may not be included as part of the share not provided by the United States Government.

[“(e) HIGH-PRIORITY ACTIVITIES.—

[“(1) The Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

["(2) The Secretary may designate up to 10 percent of the amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a fiscal year for high-priority activities under subsection (e)(1).

["(f) EMERGING ISSUES.—The Secretary may designate up to 25 percent of the amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

["(g) GOVERNMENT SHARE.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

["(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for that fiscal year, up to 1.25 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.

["(i) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

["(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government a contractual obligation for payment of the amount of the grant.".

[(d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Subsections (a) and (b) of section 31314 of title 49, United States Code, are amended to read as follows:

["(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

["(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.".

[(e) CONFORMING AMENDMENTS—

[(1) The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by—

[(A) revising the heading of Subchapter I to read as follows:

["SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS";

[and

[(B) revising the item relating to section 31107 to read as follows:

["31107. Border enforcement grants.".

[(2) Chapter 311 of title 49, United States Code, is amended following the table of sections by striking—

["SUBCHAPTER I—STATE GRANTS"

[and substituting—

["SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS".

[(3) The table of sections at the beginning of chapter 313 of title 49, United States Code, is amended after the item relating to section 31317 by adding the following:

["31318. Grants for commercial driver's license program improvements.".

### [SEC. 4003. HOBBS ACT.

[(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

["(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to part B or C of subtitle IV of title 49 [49 U.S.C. chapters 131-161] or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of part B of subtitle VI of title 49; and".

[(b) Section 351(a) of title 49, United States Code, is amended to read as follows:

["(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.".

[(c) Section 352 of title 49, United States Code, is amended to read as follows:

**["§352. Authority to carry out certain transferred duties and powers**

["In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

### [SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

[Section 521(b)(2) of title 49, United States Code, is amended by adding new subparagraph (E) at the end, to read as follows:

["(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 of subtitle III, Part B of Subtitle IV, or Part B of Subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.".

### [SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL EXAMINERS.

[(a) MEDICAL REVIEW BOARD.—

[(1) ESTABLISHMENT AND FUNCTION.—The Federal Motor Carrier Safety Administrator shall establish a Medical Review Board as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

[(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

[(3) TERMINATION DATE.—The Medical Review Board shall remain in effect until September 30, 2009.

[(b) MEDICAL EXAMINERS.—Section 31136(a)(3) of title 49, United States Code, is amended to read as follows:

["(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;".

### [SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS REGULATIONS.

[(a) DISPUTE SETTLEMENT PROGRAM FOR HOUSEHOLD GOODS CARRIERS.—

[(1) Section 14708(a) of title 49, United States Code, is amended to read as follows:

["(a) SHIPPER ARBITRATION.—

["(1) As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers. However, the carrier may not require the shipper to agree to use arbitration prior to the time that a dispute arises.

["(2) If the dispute involves a claim for $5,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $5,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.".

[(2) Subsection (b)(6) of section 14708 is deleted, and subsections (b)(7) and (b)(8) are redesignated as subsections (b)(6) and (b)(7), respectively.

[(b)(1) Chapter 147 of title 49, United States Code, is amended by adding new section 14710 at the end, to read as follows:

**["§14710. Enforcement by State attorneys general**

["(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce this part, or a regulation or order of the Secretary or Board, as applicable, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by (1) a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or (2) a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable.

[''(b) Notice.—The State shall serve prior written notice of any civil action under subsection (a) or (e)(2) upon the Secretary or Board, as applicable, and provide the Secretary or Board with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary or Board shall have the right—

[''(1) to intervene in such action;

[''(2) upon so intervening, to be heard on all matters arising therein; and

[''(3) to file petitions for appeal.

[''(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

[''(d) Venue; Service of Process.—In a civil action brought under subsection (a) of this section—

[''(1) trial is in the judicial district in which—

[''(A) the carrier, foreign motor carrier, or broker operates;

[''(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation or service under this part when the violation occurred; or

[''(C) the offender is found;

[''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

[''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

[''(e) Actions by Other State Officials.—

[''(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any criminal statute of such State.

[''(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.''.

[(2) Conforming amendment.—The table of sections at the beginning of chapter 147 of title 49, United States Code, is amended by inserting after the item relating to section 14709 the following:

[''14710. Enforcement by State attorneys general.''.

### [SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR CARRIERS, FREIGHT FORWARDERS, AND BROKERS.

[(a) Sections 13102(6), (7), (12) and (13) of title 49, United States Code, are amended to read as follows:

[''(6) Foreign motor carrier.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

[''(A)(i) that is domiciled in a contiguous foreign country; or

[''(ii) that is owned or controlled by persons of a contiguous foreign country; and

[''(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

[''(7) Foreign motor private carrier.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

[''(A)(i) that is domiciled in a contiguous foreign country; or

[''(ii) that is owned or controlled by persons of a contiguous foreign country; and

[''(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).''

[''(12) Motor carrier.—The term 'motor carrier' means a person providing transportation for compensation by commercial motor vehicle, as defined in section 31132(1) of this title.

[''(13) Motor private carrier.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by commercial motor vehicle, as defined in section 31132(1) of this title, when—

[''(A) the transportation is as provided in section 13501 of this title;

[''(B) the person is the owner, lessee, or bailee of the property being transported; and

[''(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.''.

[(b) Section 13903(a) of title 49, United States Code, is amended to read as follows:

[''(a) In General.—

[''(1) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder of household goods if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

[''(2) The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.''.

[(c) Section 13904(a) of title 49, United States Code, is amended to read as follows:

[''(a) In General.—

[''(1) The Secretary of Transportation shall register, subject to section 13906(b), a person to be a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation of household goods and to comply with this part and applicable regulations of the Secretary.

[''(2) The Secretary may register, subject to section 13906(b), a person to be a broker for transportation of other property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.''.

### [SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

[(a)(1) Section 31138(a) of title 49, United States Code, is amended to read as follows:

[''(a) General Requirement.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

[''(1) a place in another State;

[''(2) another place in the same State through a place outside of that State; or

[''(3) a place outside the United States.''.

[(2) Section 31138(c) of title 49, United States Code, is amended by adding paragraph (4) at the end, to read as follows:

[''(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.''.

[(b)(1) Section 31139(b)(1) of title 49, United States Code, is amended to read as follows:

[''(b) General Requirements and Minimum Amount.—

[''(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

[''(A) a place in another State;

[''(B) another place in the same State through a place outside of that State; or

[''(C) a place outside the United States.''.

[(2) Subsections (c) through (g) of section 31139 of title 49, United States Code, are redesignated as subsections (d) through (h), and new subsection (c) is inserted after subsection (b), to read as follows:

[''(c) Filing of Evidence of Financial Responsibility.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

### [SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

[(a) Section 521(b)(2)(B) of title 49, United States Code, is amended to read as follows:

["(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

["(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

["(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

[(b) Section 31310(i)(2) of title 49, United States Code, is amended to read as follows:

["(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

["(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

["(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

["(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

["(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, United States Code, or both.".

### [SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

[(a) Section 13506(a) of title 49, United States Code, is amended—

[(1) by deleting paragraphs (2), (6), (11), (12), (13), and (15); and

[(2) by redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), and (14) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively.

[(b) The first sentence of section 13507 of title 49, United States Code, is amended to read as follows: "A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a).".

### [SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

[(a) Subsection (a) of section 31144 of title 49, United States Code, is amended to read as follows:

["(a) IN GENERAL.—The Secretary shall—

["(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

["(2) periodically update such safety fitness determinations;

["(3) make such final safety fitness determinations readily available to the public; and

["(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

[(b) Subsection (c) of section 31144 of title 49, United States Code, is amended by adding new paragraph (5) at the end, to read as follows:

["(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

[(c) Subsections (d) and (e) of section 31144 of title 49, United States Code, are redesignated as subsections (e) and (f), respectively, and new subsection (d) is added after subsection (c), to read as follows:

["(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.".

### [SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

[(a) Chapter 2 of title 18, United States Code, is amended by adding at the end new section 38, to read as follows:

**["§ 38. Commercial motor vehicles required to stop for inspections**

["(a) A driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an agent.

["(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than one year, or both.".

[(b) Chapter 203 of title 18, United States Code, is amended by adding at the end new section 3064, to read as follows:

**["§ 3064. Powers of Federal Motor Carrier Safety Administration**

["Uniformed special agents of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.".

[(c) CONFORMING AMENDMENTS.—

[(1) The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

["38. Commercial motor vehicles required to stop for inspections.".

[(2) The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

["3064. Powers of the Federal Motor Carrier Safety Administration.".

### [SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

[(a) Section 31135 of title 49, United States Code, is amended by designating the existing text as subsection "(a) IN GENERAL.—" and adding new subsections (b), (c), (d), and (e), to read as follows:

["(b) PATTERN OF NONCOMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

["(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

["(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

["(e) DEFINITIONS.—In this section —

["(1) 'motor carrier' has the same meaning as in section 13102(12) of this title; and

[''(2) 'officer' means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and driver supervisor of a motor carrier, regardless of the title attached to those functions.''.

[(b) Section 13902(a)(1)(B) of title 49, United States Code, is amended to read as follows:

[''(B) any safety regulations imposed by the Secretary; the duties of employers and employees established by the Secretary under section 31135; and the safety fitness requirements established by the Secretary under section 31144; and''.

### [SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

[(a) IN GENERAL.—Title 49, United States Code, is amended by repealing section 31108 and inserting the following new section, to read as follows:

**[''§ 31108. Motor carrier research and technology program**

[''(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY TRANSFER ACTIVITIES.—

[''(1) The Secretary of Transportation shall establish and carry out a motor carrier research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

[''(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

[''(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

[''(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

[''(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

[''(4) The Secretary may carry out this section—

[''(A) independently;

[''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

[''(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

[''(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

[''(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

[(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

[''(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

[''(B) Federal laboratories.

[''(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

[''(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

[''(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

[''(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

[''(5) Section 3705 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

[''(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.''.

[(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by revising the item relating to section 31108 to read as follows:

[''31108. Motor carrier research and technology program.''.

### [SEC. 4015. INTERNATIONAL COOPERATION.

[(a) Chapter 311 of title 49, United States Code, is amended by inserting at the end the following:

[''SUBCHAPTER IV—MISCELLANEOUS

**[''§ 31161. International cooperation**

[''The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, driver, and highway safety by such means as exchanging information, conducting research; and examining needs, best practices, and new technology.''.

[(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by adding at the end the following:

[''SUBCHAPTER IV—MISCELLANEOUS

[''31161. International cooperation.''.

### [SEC. 4016. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT (PRISM).

[(a) Paragraphs (2) and (3) of section 31106(b) of title 49, United States Code, are amended to read as follows:

[''(2) The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

[''(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

[''(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

[''(3) The Secretary shall require States, as a condition of participation in the program, to—

[''(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

[''(B) possess or seek the authority to deny, suspend, or revoke commercial motor vehicle registrations based on the issuance of an operations out-of-service order by the Secretary.''.

[(b) DELETION.—Paragraph (4) of section 31106(b) of title 49, United States Code, is deleted.

[(c) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

[(1) Chapter 311 of title 49, United States Code, as amended by this Act, is further amended by adding a new section after section 31108, to read as follows:

**[''§ 31109. Performance and Registration Information System Management (PRISM)**

[''(a) IN GENERAL.—From the funds authorized by section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State to implement the Performance and Registration Information System Management requirements of 49 U.S.C. 31106(b).

[''(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.''.

[(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended after the item relating to section 31108 by adding the following:

[''31109. Performance and Registration Information System Management (PRISM).''.

### [SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.

[The Secretary of Transportation shall carry out a program to improve the collection and analysis of safety data on, including crash causation involving, commercial motor vehicles.

### [SEC. 4018. OUTREACH AND EDUCATION.

[(a) IN GENERAL.—The Secretary shall conduct an outreach and education program to be administered by the Federal Motor Carrier Safety Administration. The program shall include expanded implementation of the "Share the Road Safely" and "Safety is Good Business" programs. The Federal Motor Carrier Safety Administration shall establish programs to directly educate the industry and public about the requirements of new and existing regulatory requirements. The Secretary, through the Federal Motor

Carrier Safety Administration, may undertake other outreach and education initiatives that may reduce the number of accidents, injuries, and fatalities involving commercial motor vehicles.

[(b) LIKELY RISK FACTORS.—The Secretary, through the Federal Motor Carrier Safety Administration, shall conduct an outreach program to identify the practices of commercial motor vehicle drivers that are most likely to increase and decrease the risk of accidents.

### [TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

### [Subtitle A—Funding

### [SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

[(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506 and 507 of title 23, United States Code, and section 5206 of this Act relating to research, development, technology transfer, technology deployment, and application activities, $199,000,000 for each of fiscal years 2004 through 2009.

[(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, $26,000,000 for each of fiscal years 2004 through 2009.

[(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, the following:

[(A) $31,568,000 for fiscal year 2004.

[(B) $32,199,000 for fiscal year 2005.

[(C) $32,869,000 for fiscal year 2006.

[(D) $33,609,000 for fiscal year 2007.

[(E) $34,439,000 for fiscal year 2008.

[(F) $35,276,000 for fiscal year 2009.

[(4) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49, United States Code, $26,500,000 for each of fiscal years 2004 through 2009.

[(5) INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.—For carrying out the Intelligent Transportation Systems Act of 2003 under subtitle E of this title, $121,000,000 for each of fiscal years 2004 through 2009.

[(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 502 of title 23, United States Code, is amended—

[(1) by striking subsection (b)(3); and

[(2) by redesignating subsections (b)(4) and (b)(5) as (b)(3) and (b)(4), respectively.

[(c) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 100 percent unless otherwise determined by the Secretary or specified otherwise in this Act, and such funds shall remain available until expended.

### [Subtitle B—Research, Technology, and Education

### [SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

[(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

[(1) in the table of chapters by striking—

["5. Research and Technology .......... 501";

[and substituting—

["5. Research, Technology, and Education .......... 501";

[and

[(2) by striking the heading—

["CHAPTER 5—RESEARCH AND TECHNOLOGY"

[and inserting—

["CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION.".

[(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of title 23, United States Code, is amended—

[(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

[(2) by inserting a new subsection (a) at the beginning, to read as follows:

["(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

["(1) COVERAGE.—Surface transportation research and technology development (R&T) shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices and approaches, through such mechanisms as field applications, education and training, and technical support.

["(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when—

["(A) the work is of national significance;

["(B) it supports research in which there is a clear public benefit and private sector investment is less than optimal due to market failure;

["(C) it supports a Federal stewardship role in assuring that state and local governments use national resources efficiently; or

["(D) it presents the best means to support Federal policy goals compared to other policy alternatives.

["(3) ROLE.—Consistent with these Federal responsibilities, the Secretary of Transportation shall—

["(A) conduct research;

["(B) support and facilitate research and technology transfer activities by state highway agencies;

["(C) share results of completed research; and

["(D) support and facilitate technology and innovation deployment.

["(4) PROGRAM CONTENT.—A surface transportation research program shall include—

["(A) fundamental, long-term highway research;

["(B) research aimed at significant highway research gaps, and emerging issues with national implications; and

["(C) research related to policy and planning.

["(5) STAKEHOLDER INPUT.—Federally sponsored surface transportation R&T activities shall address the needs of partners and stakeholders, and provide for stakeholder input in preparation of a strategic plan for surface transportation R&T.

["(6) COMPETITION.—To the greatest extent possible, investment decisions for surface transportation R&T activities shall be based on the well-established principles of competition and merit review.

["(7) PERFORMANCE REVIEW.—Surface transportation R&T activities shall include a component of performance measurement.".

[(c) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of title 23, United States Code, as redesignated by this Act, is amended by inserting the following at the end:

["(6) POOLED FUNDING.—

["(A) To promote effective utilization of available resources, the Secretary may cooperate with the States and other appropriate agencies in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

["(B) The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.".

[(d) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of title 23, United States Code, is amended—

[(1) in subsection (b)(1), as redesignated by this Act, by striking subparagraphs (B) and (C) and inserting the following:

["(B) all phases of transportation planning and development (including construction, transportation system management and operations, modernization, development, design, maintenance, safety, financing, and traffic conditions);

["(C) freight security processes and procedures; and

["(D) the effect of State laws on the activities described in subparagraphs (A) and (B).";

[(2) in subsection (d)(5)(C), as redesignated by this Act, by inserting "system management and" after "transportation"; and

[(3) in subsection (d), as redesignated by this Act, by inserting at the end:

["(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and non-recurrent congestion, and increase transportation system reliability.

["(13) Investigate processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations, liability, terrorist countermeasures, and the impact of good security practices on commerce and productivity.

["(14) Research, development, and technology transfer related to asset management.".

[(e) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is amended by inserting at the end the following:

["(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

["(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

["(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support the—

["(A) conduct of highway research and development related to new highway technology;

["(B) development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality controlled construction practices, and durable materials; and

["(C) development of innovative highway products and practices.".

[(f) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502 of title 23, United States Code, is amended by striking subsection (e), as redesignated by this Act, and inserting the following:

["(e) EXPLORATORY ADVANCED RESEARCH.—

["(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508, that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. The phrase "exploratory advanced research" conveys a more fundamental character, broader objective, multi-disciplinary nature, and greater uncertainty in expected outcomes than found in problem-solving research. In carrying out the program, the Secretary shall strive to develop partnerships with the public and private sectors.

["(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

["(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

["(B) Assessing the effects of transportation decisions on human health.

["(C) Development of surrogate measures of safety.

["(D) Environmental research.

["(E) Data acquisition techniques for system condition and performance monitoring.

["(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision making.".

[(g) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by inserting the following at the end:

["(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated under this or any other Act for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.".

[(h) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c) of title 23, United States Code, as redesignated by this Act, is amended by striking paragraph (2) and inserting the following:

["(2) COOPERATION, GRANTS, CONTRACTS AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the National Research Council/ Transportation Research Board, American Association of State Highway and Transportation Officials, State Departments of Transportation, cities, and counties, and their agents to conduct joint transportation research and technology efforts.".

[(i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

[(1) SURFACE TRANSPORTATION RESEARCH.—Chapter 5 of title 23, United States Code is amended by adding after section 504 the following:

**["§505. Surface transportation research**

["(a) AUTHORITY.—The Secretary of Transportation shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act For The 21st Century.

["(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

["(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

["(2) analyze the data obtained in carrying out subparagraph (A); and

["(3) prepare products to fulfill program objectives and meet future pavement technology needs.".

[(2) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23 is amended by inserting after item 504 the following:

["505. Surface transportation research.".

[(j) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section 502(b) of title 23, United States Code, as redesignated by this Act, is amended by striking paragraph (3) and inserting the following:

["(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

["(A) independently;

["(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

["(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.".

[(k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

[(1) TITLE 23 AMENDMENT.—Section 502(h)(1) of title 23, United States Code, as redesignated by this Act, is amended by striking "Not later than January 31, 1999, and January 31 of every second year thereafter," and inserting "Not later than July 31, 2004, and July 31 of every second year thereafter,".

[(2) CONFORMING AMENDMENT TO TITLE 49, UNITED STATES CODE.—Section 308(e)(1) of title 49, United States Code, is amended by striking "in March 1998, and in March of each even-numbered year thereafter" and inserting "not later than July 31, 2004, and July 31 of every second year thereafter,".

### [SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.

[(a) SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.—Chapter 5 of title 23, United States Code, is amended by striking section 507 and inserting the following:

**["§507. Surface transportation environment and planning cooperative research program**

["(a) ESTABLISHMENT.—The Secretary shall establish and support a collaborative, public-private surface transportation environment and planning cooperative research program.

["(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences or other organization to support and carry out administrative and management activities relating to the governance of the surface transportation environment and planning cooperative research program.

["(c) ADVISORY BOARD.—The organization described in subsection (b) shall select an advisory board drawn from core partners that represent environment, transportation, and neutral interests, including the Department of Transportation, other Federal agencies, the States, local governments, nonprofit entities, academia, and the private sector.

["(d) GOVERNANCE.—The surface transportation environment and planning cooperative research program established under this section shall include the following administrative and management elements:

["(1) NATIONAL RESEARCH AGENDA.—The advisory board, in consultation with core partners and other stakeholders, shall develop and periodically update a national research agenda for the surface transportation environment and planning cooperative research program. The national research agenda shall include a multi-year strategic plan.

["(2) STAKEHOLDER INVOLVEMENT.—Stakeholders may:

["(A) submit research proposals;

["(B) participate in merit reviews of research proposals and peer reviews of research products; and

["(C) receive research results.

["(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The organization described in subsection (b) may award research contracts and grants through open competition and merit review conducted on a regular basis.

["(4) EVALUATION OF RESEARCH.—

["(A) PEER REVIEW.—Research contracts and grants may allow peer review of the research results.

["(B) PROGRAMMATIC EVALUATIONS.—The organization described in subsection (b) may conduct periodic programmatic evaluations on a regular basis.

["(5) DISSEMINATION OF RESEARCH FINDINGS.—The organization described in subsection (b) shall disseminate research findings to researchers, practitioners, and decision-makers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to Government officials, world wide web, and publications for the general public.

["(e) CONTENTS.—The national research agenda for the surface transportation environment and planning cooperative research program required under subsection (c)(2) shall include research in the following areas for the purposes cited:

["(1) HUMAN HEALTH.—Human health to establish the links between transportation activities and human health; substantiate the linkages between exposure to concentration levels, emissions, and health impacts; examine the potential health impacts from the implementation and operation of transportation infrastructure and services; develop strategies for avoidance and reduction of these impacts; and develop strategies to understand the economic value of health improvements; and for incorporating health considerations into valuation methods.

["(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural systems to measure transportation's short- and long-term impact on natural systems; develop ecologically based performance measures; develop insight into both the spatial and temporal issues associated with transportation and natural systems; study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health; develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and develop ecologically based performance techniques to evaluate the success of highway project mitigation and enhancement measures.

[“(3) ENVIRONMENTAL AND SOCIOECONOMIC RELATIONSHIPS.—Environmental and socioeconomic relationships to understand differences in mobility, access, travel behavior, and travel preferences across socioeconomic groups; develop improved planning approaches that better reflect and respond to community needs; improve evaluation methods for examining the incidence of benefits and costs; examine the differential impacts of current methods of finance and explore alternatives; understand the socioeconomic implications of emerging land development patterns and new transportation technologies; develop cost-effective applications of technology that improve the equity of the transport system; and develop improved methods for community involvement, collaborative planning, and conflict resolution.

[“(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in the transition to environmentally benign fuels and vehicles for passengers and freight; develop responses to and demand for new technologies that could offer improved environmental performance; identify possible applications of Intelligent Transportation Systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

[“(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

[“(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to improve understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decision making; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decision for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

[“(7) ADDITIONAL PRIORITIES.—Additional priorities to identify and address the emerging and future surface transportation research needs related to planning and environment. —

[“(f) FUNDING.—In addition to using funds authorized for this section, the organization that administers this program may seek and accept additional funding sources from public and private entities capable of attracting and accepting funding from the United States Department of Transportation (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, Research and Special Programs Administration, and the National Highway Traffic Safety Administration), Environmental Protection Agency, Department of Energy, Fish and Wildlife and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.”.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item related to section 507 and inserting the following:

[“507. Surface transportation environment and planning cooperative research program.”.

**[SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.**

[(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—Section 502 of title 23, United States Code, is amended by striking 502(g), as redesignated by this Act, and inserting the following:

[“(g) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

[“(1) AUTHORITY.—The Secretary shall establish a 20 year long-term bridge performance program.

[“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[“(A) monitor, material-test, and evaluate test bridges;

[“(B) analyze the data obtained in carrying out subparagraph (A); and

[“(C) prepare products to fulfill program objectives and meet future bridge technology needs.”.

[(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—Section 503(b) of title 23, United States Code, is amended by striking 503(b)(1) and inserting:

[“(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.”.

[(2) GOALS.—Section 503(b)(2) of such title is amended by striking 503(b)(2) and inserting:

[“(2) GOALS.—The goals of the program shall include—

[“(A) the development of new, cost-effective, innovative highway bridge applications;

[“(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

[“(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

[“(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

[“(E) the development of highway bridges and structures that will withstand natural disasters and terrorist attacks;

[“(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods; and

[“(G) the effective transfer of resulting information and technology.”.

**[SEC. 5204. TECHNOLOGY DEPLOYMENT.**

[(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

[(1) in the subsection heading, by striking “initiatives and partnerships”;

[(2) by striking paragraph (1) and inserting the following:

[“(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.”.

[(3) by striking paragraph (7) and inserting the following:

[“(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[“(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials.

[“(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).”;

[(4) by striking paragraph (8);

[(5) by redesignating paragraph (9) as paragraph (10); and

[(6) by inserting after paragraph (7) the following:

[“(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[“(9) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.”.

[(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—Section 503 of title 23, United States Code, is amended by adding after subsection (b) the following:

[“(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

[“(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

[“(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

[“(A) the deployment of new, cost-effective innovative designs, materials, and practices to extend pavement life and performance and to improve customer satisfaction;

[“(B) the reduction of initial costs and lifecycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

[“(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

[“(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

[“(E) the deployment of new nondestructive and real time pavement evaluation technologies and techniques;

[“(F) evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

[“(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

["(H) the development of designs and materials to reduce storm water runoff.".

[(c) Safety Innovation Deployment Program.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by adding the following:

["(d) Safety Innovation Deployment Program.—

["(1) In general.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

["(2) Goals.—The goals of the program shall include—

["(A) the deployment and evaluation of safety technologies and innovations at state and local levels; and

["(B) the deployment of best practices in training, management, design, and planning.

["(3) Grants, cooperative agreements, and contracts.—

["(A) In general.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

["(B) Applications.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

["(4) Technology and information transfer.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

["(5) Federal share.—The Federal share of the cost of a project under this section shall be determined by the Secretary.".

### [SEC. 5205. TRAINING AND EDUCATION.

[(a) National Highway Institute.—Section 504(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

["(3) Courses.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures in areas including surface transportation, environmental stewardship and streamlining, acquisition of rights-of-way, relocation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.".

[(b) Federal Share.—Section 504(b) of title 23, United States Code, is amended by adding at the end the following:

["(3) Federal share.—

["(A) Grants.—The grant funds authorized to carry out this subsection may be used to cover up to 50 percent of the program costs relating to local technical assistance. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.

["(B) Tribal technical assistance centers.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (b)(2)(D)(ii) of this subsection shall be 100 percent.".

[(c) Surface Transportation Workforce Development, Training, and Education.—Section 504 of title 23, United States Code, is amended by adding at the end the following:

["(d) Surface Transportation Workforce Development, Training, and Education.—

["(1) Funding.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(1), (3), and (4) and 144(e) of this title for surface transportation workforce development, training and education, including:

["(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

["(B) employee professional development;

["(C) student internships;

["(D) university or community college support; or

["(E) education outreach activities to develop interest and promote participation in surface transportation careers.

["(2) Federal share.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.".

[(d) Definitions and Declaration of Policy.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

[(1) in paragraph (3), by—

[(A) striking "and" after subparagraph (H);

[(B) striking the period after subparagraph (I) and inserting "; and"; and

[(C) adding after subparagraph (I) the following:

["(J) surface transportation workforce development, training, and education.";

[(2) by redesignating paragraphs (36) through (39), as redesignated by this Act, as paragraphs (37) through (40) respectively; and

[(3) by adding after paragraph (35), as redesignated by this Act, the following:

["(36) Surface transportation workforce development, training, and education.—The term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers.".

### [SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

[(a) Continuation and Acceleration of TRANSIMS Deployment.—The Secretary shall accelerate the deployment of the advanced transportation model known as the Transportation Analysis Simulation System ("TRANSIMS"), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

[(b) Eligible Activities.—The Secretary shall use funds made available under section 5101(a)(1) of this Act to—

[(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under the metropolitan planning section of chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions and analytic needs to implement TRANSIMS;

[(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit operational considerations into the transportation planning process; and

[(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments and Metropolitan Planning Organizations with responsibility for travel modeling.

[(c) Allocation of Funds.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

## [Subtitle C—Multimodal Research Programs; Scholarship Opportunities

### [SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.

[Section 5505 of title 49, United States Code, is revised to read as follows:

### ["§ 5505. University transportation research

["(a) University Industry Government Partnerships.—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to address transportation management and research and development matters, with special attention to increasing the number of highly skilled individuals entering the field of transportation.

["(b) Objectives.—

["(1) Each university receiving a grant under this section shall conduct the following programs and activities:

["(A) Basic and applied research that supports the Department's transportation research agenda, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation.

["(B) An education program that includes multidisciplinary course work, faculty and student participation in research, and an opportunity for practical experience.

["(C) An ongoing program of technology transfer that makes the results of research and education activities broadly available to potential users in a form that can be implemented, utilized, or otherwise applied.

["(2) Each university shall elect as its primary objective either subsection (b)(1)(A) or (b)(1)(B) of this section and shall direct at least 50 percent of total costs to the accomplishment thereof.

["(c) Selection of Grant Recipients.—

["(1) In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

["(2) The Secretary shall select each recipient of a grant under this section through a competitive process in which applications are evaluated on the basis of the following:

["(A) The demonstrated research and extension resources available to the applicant to carry out this section.

["(B) The capability of the applicant to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

["(C) The applicant's demonstrated commitment of at least $200,000 in regularly-budgeted institutional amounts each year to support ongoing transportation research and education programs.

[“(D) The amount of matching funds for which the applicant has obtained binding commitments.

[“(E) Evidence of the applicant's research and education partnerships with at least one private sector partner and at least one non-Federal Government partner.

[“(F) The applicant's demonstrated ability to disseminate results of transportation research and education programs through national and statewide or regionwide continuing education and capacity-building programs.

[“(G) The strategic plan the applicant proposes to achieve the objectives of the grant and—

[“(i) if the applicant's primary objective is subsection (b)(1)(A) of this section, the strategic plan shall include a research plan that addresses more than one mode of transportation; or

[“(ii) if the applicant's primary objective is subsection (b)(1)(B) of this section, the strategic plan shall include an education plan that addresses multimodal issues.

[“(d) Maintenance of Effort.—In order to be eligible to receive a grant under this section, a recipient shall enter into an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to carry out the objectives of a grant at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

[“(e) Federal Share.—The Federal share of the costs of activities carried out using a grant made under this section shall not exceed 50 percent of costs. The non-Federal share may include funds provided to a recipient under section 503, or 104(i) of title 23, United States Code.

[“(f) Program Administration.—

[“(1) The Secretary shall conduct all grant management and administration functions necessary to facilitate the research, education, training, and technology transfer activities that grant recipients carry out under this section; to coordinate these activities among the grant recipients; to ensure that the results of the research, education, training and technology transfer activities are widely disseminated; and to ensure the effective use of program resources.

[“(2) At least annually and consistent with the plan developed under section 508 of title 23, United States Code, the Secretary shall review and evaluate programs the grant recipients carry out.

[“(3) The Secretary may not use more than 1 percent of amounts made available from Government sources to carry out this subsection.

[“(g) Use of Transportation Research Information Services (TRIS) Databases.—

[(1) Recipients of awards under this section shall make use of the National Research Council (NRC), Transportation Research Board (TRB), Transportation Research Information Services (TRIS) online databases for the following purposes:

[“(A) Program development and strategic planning.

[“(B) Reporting of active R&T activities undertaken with funding provided here.

[“(C) Input and dissemination of results and reports from completed research.

[“(2) Recipients shall recommend a representative to serve as liaison to the Transportation Research Board.

[“(h) Limitation on Availability of Funds.— Funds made available to carry out this program shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.”.

### [SEC. 5302. MULTIMODAL RESEARCH PROGRAM.

[(a) In General.—Section 5506 of title 49, United States Code, is revised to read as follows:

**[“§ 5506. Multimodal research program**

[“(a) Purpose.—The Secretary shall establish a program to encourage and promote the research, development, demonstration and testing of technologies that have multimodal transportation applications, and shall foster adoption of those technologies in transportation through demonstration and testing to remove impediments to an efficient, safe, and cost-effective national transportation system.

[“(b) Other Research Activities.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies shall coordinate their research, development and demonstration activities related to heavy-duty vehicle technologies and hydrogen transportation and refueling infrastructure. Nothing in this section may be construed to authorize the Secretary to conduct research, development, demonstration or testing activities that the Secretary of Energy or the Administrator of the Environmental Protection Agency is authorized to conduct, or to modify the authorities of the Secretary of Energy or the Administrator of the Environmental Protection Agency.

[“(c) Advanced Heavy-Duty Vehicle Technologies.—

[“(1) The Secretary of Transportation shall conduct research, development, demonstration and testing to integrate emerging multimodal heavy-duty vehicle technologies in order to provide seamless, safe, secure and efficient transportation.

[“(2) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $24,000,000 for fiscal year 2005, $25,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $18,000,000 for fiscal year 2008, and $10,000,000 for fiscal year 2009.

[“(3) The funding made available under paragraph (2) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

[“(d) Hydrogen Infrastructure Safety Research and Development.—

[“(1) The Secretary of Transportation is authorized to conduct research, development, demonstration and testing on the safety aspects of hydrogen transportation and refueling infrastructure necessary to support the use of next generation vehicle technologies.

[“(2) To carry out this subsection, there is authorized to be appropriated $1,000,000 for fiscal years 2004, $15,000,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $11,000,000 for fiscal year 2007, $9,000,000 for fiscal year 2008, and $6,000,000 for fiscal year 2009.

[“(e) Grants, Cooperative Agreements, and Other Transactions.— The Secretary may enter into grants, cooperative agreements, and other transactions with Federal and other public agencies (including State and local governments) and private organizations and other persons to carry out this section.

[“(f) Cost Sharing.—At least 50 percent of the funding for projects authorized in this section must be provided by non-Federal sources.”.

[(b) Conforming Amendment.—The analysis of chapter 55 of title 49, United States Code, is amended by substituting the following for the item designated 5506:

[“Sec. 5506. Multimodal research program.”.

### [SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.

[Section 5113 of the Transportation Equity Act of the 21st Century (23 U.S.C. 502 note) is amended by revising subsection (b) to read as follows:

[“(b) Program.—

[“(1) National policy.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

[“(2) Policy implementation.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under (b)(1) of this section.”.

### [SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

[(a) In General.—(1) The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

[(2) The Secretary may accomplish this objective by developing a program in partnership with appropriate non-governmental institutions.

[(b) Participation and Funding.—An operating administration of the Department of Transportation and the Office of Inspector General of the Department of Transportation (DOT) may participate in the scholarship program. Notwithstanding any other law, the Secretary may use funds available to an operating administration or from the Office of Inspector General for the purpose of carrying out this provision.

## [Subtitle D—Transportation Data and Analysis

### [SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.

[Section 111 of title 49, United States Code, is amended by deleting subsections (b) through (k) and inserting the following new subsections, as follows:

[“(b) Director.—

[“(1) The Bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

[“(2) The Director shall be appointed from among individuals who are qualified to serve by virtue of their training and experience in the collection, analysis and use of transportation data.

[“(3) The Director shall report directly to the Secretary of Transportation.

[“(4) The term of the Director shall be 4 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

[“(c) Responsibilities.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and be responsible for carrying out the following duties:

[“(1) Collecting, analyzing and disseminating data concerning the domestic and international movement of freight.

[“(2) Collecting, analyzing and disseminating data concerning travel patterns for local and long-distance travel, at the local, State, national and international levels.

[“(3) Developing, analyzing and disseminating information on the economics of transportation.

[“(4) Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

[“(5) Developing, publishing and disseminating a comprehensive set of measures of investment, use, costs, performance and impacts of the national transportation system, including publishing an annual transportation statistics abstract; and identifying information needs and reviewing such needs at least annually with the Advisory Council on Transportation Statistics.

[“(6) Conducting or supporting research relating to methods of gathering or analyzing transportation statistics and issuing guidelines for the collection of information by the Department in order to ensure that such information is accurate, relevant, comparable, accessible and in a form that permits systematic analysis.

[“(d) COORDINATING COLLECTION OF INFORMATION.—The Director shall work with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

[“(e) SUPPORTING TRANSPORTATION DECISIONMAKING.—The Director shall ensure that the statistics compiled under this section are relevant for transportation policy, planning, and decision making by the Federal Government, State and local governments, transportation-related associations, private businesses, and the public. The Director shall provide, to the Department's other operating administrations, technical assistance on collecting, compiling, analyzing and verifying transportation data and statistics and the design of surveys.

[“(f) RESEARCH AND DEVELOPMENT GRANTS.—

[(1) The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) if the grants—

[“(A) provide for an alternative means of accomplishing program-related research;

[“(B) contribute to research and development of new methods of data collection; or

[“(C) improve the methods for sharing geographic data.

[“(2) Not more than $500,000 of the amounts made available to carry out this section in a fiscal year may be used for Research and Development Grants.

[“(g) TRANSPORTATION STATISTICS ANNUAL REPORT.—By March 31 of each year, the Director shall transmit to the President and Congress a report that includes information on the subjects covered by subsection (c) of this section, documentation of the methods used to obtain the information and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

[“(h) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

[“(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

[“(1) authorize the Bureau to require any other department or agency to collect data; or

[“(2) reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

[“(j) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge, of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee or contractor of the Bureau, to answer completely and correctly to the best of his/her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to records or statistics in his/her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; and if the individual willfully gives a false answer to a question, shall be fined not more than $10,000.

[“(k) PROHIBITION ON CERTAIN DISCLOSURES.—

[“(1) An officer, employee or contractor of the Bureau may not—

[“(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

[“(B) use the information provided under subsection (c) for a nonstatistical purpose; or

[“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

[“(2)(A) No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

[“(B) A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

[“(i) shall be immune from legal process; and

[“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

[“(C) This subsection shall apply only to reports that permit information concerning an individual or organization to be reasonably inferred by direct or indirect means.

[“(3) In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

[“(l) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—

[“(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

[“(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

[“(m) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

[“(1) The Bureau of Transportation Statistics has an Advisory Council on Transportation Statistics.

[“(2) It shall be the function of the advisory council established under this subsection to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

[“(3) The advisory council established under this subsection shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who have expertise in transportation data collection or analysis or application (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics).

[“(4) The Federal Advisory Committee Act (5 App. U.S.C.) shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.”.

### [Subtitle E—Intelligent Transportation Systems Research

**[SEC. 5501. SHORT TITLE.**

[This subtitle may be cited as the “Intelligent Transportation Systems Act of 2003”.

**[SEC. 5502. GOALS AND PURPOSES.**

[(a) GOALS.—The goals of the intelligent transportation system program include—

[(1) Enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

[(2) Achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles as well as improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

[(3) Protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

[(4) Accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, including individuals with disabilities; and

[(5) Improvement of the Nation's ability to respond to security related or other man made emergencies and natural disasters and enhancement of national defense mobility.

[(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

[(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

[(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

[(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

[(4) promote the innovative use of private resources;

[(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing system;

[(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial vehicle operations; and

[(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems.

### [SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.

[(a) Scope.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

[(b) Policy.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

[(c) Cooperation With Governmental, Private, and Educational Entities.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

[(d) Consultation With Federal Officials.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Secretary of Homeland Security, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

[(e) Technical Assistance, Training, and Information.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

[(f) Transportation Planning.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

[(g) Information Clearinghouse.—

[(1) In general.—The Secretary shall—

[(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

[(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

[(2) Agreement.—

[(A) In general.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A) of this subsection.

[(B) Federal financial assistance.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal financial assistance under this section.

[(h) Advisory Committees.—

[(1) In general.—In carrying out this subtitle, the Secretary may use one or more advisory committees.

[(2) Applicability of federal advisory committee act.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(i) Evaluations.—

[(1) Guidelines and requirements.—

[(A) In general.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

[(B) Objectivity and independence.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

[(C) Funding.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

[(2) Special rule.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

[(j) Use of Rights-of-Way.—Intelligent transportation system projects specified in sections 5117(b)(3) and 5117(b)(6) of the Transportation Equity Act for the 21st Century and involving privately owned intelligent transportation system components that are carried out using funds made available from the Highway Trust Fund shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.

### [SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.

[(a) In General.—

[(1) Development, implementation, and maintenance.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

[(2) Interoperability and efficiency.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

[(3) Use of standards development organizations.—In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

[(b) Provisional Standards.—

[(1) In general.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

[(2) Period of effectiveness.—A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

[(c) Conformity With National Architecture.—

[(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

[(2) Secretary's discretion.—The Secretary may authorize exceptions to paragraph (1) for—

[(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

[(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

[(i) would not adversely affect the goals or purposes of this subtitle;

[(ii) is carried out before the end of the useful life of such system; and

[(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

[(3) Exceptions.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subtitle.

### [SEC. 5505. RESEARCH AND DEVELOPMENT.

[(a) In General.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

[(b) Priority Areas.—Under the program, the Secretary shall give higher priority to funding projects that—

[(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems;

[(2) enhance safety through improved crash-avoidance and protection, crash and other notification, commercial vehicle operations, and infrastructure-based or cooperative safety systems;

[(3) enhance security through improved response to security related emergencies, and improved transportation security systems; and

[(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

[(c) Federal Share.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

### [SEC. 5506. USE OF FUNDS.

[(a) Outreach and Public Relations Limitation.—

[(1) In general.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

[(2) Applicability.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

[(b) Infrastructure Development.—Funds made available to carry out this subtitle for operational tests—

[(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

[(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

### [SEC. 5507. DEFINITIONS.

[In this subtitle, the following definitions apply:

[(1) Incident.— In this section, the term "incident" means a crash, a natural disaster, work zone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

[(2) Intelligent transportation infrastructure.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

[(3) Intelligent transportation system.—The term "intelligent transportation system" means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

[(4) National architecture.—The term "national architecture" means the common framework for interoperability that defines—

[(A) the functions associated with intelligent transportation system user services;

[(B) the physical entities or subsystems within which the functions reside;

[(C) the data interfaces and information flows between physical subsystems; and

[(D) the communications requirements associated with the information flows.

[(5) Project.—The term "project" means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

[(6) Standard.—The term "standard" means a document that—

[(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

[(B) may support the national architecture and promote—

[(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

[(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

[(7) State.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.

[(8) Transportation systems management and operations.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of title 23, United States Code, as amended by section 1701 of this Act.

### [SEC. 5508. REPEAL.

[The Transportation Equity Act for the 21st Century is amended by striking subtitle C of title V.

## [TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

### [SEC. 6001. TRANSPORTATION PLANNING.

[(a) In General.—Subtitle III of title 49, United States Code, is amended by adding the following after chapter 51:

## [“CHAPTER 52—TRANSPORTATION PLANNING

[“Sec.
[“5201. Policy.
[“5202. Definitions.
[“5203. Metropolitan transportation planning.
[“5204. Statewide transportation planning.

### [“§ 5201. Policy

[“(a) It is in the national interest to—

[“(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air and water pollution through metropolitan and statewide transportation planning processes identified in this chapter;

[“(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State Departments of Transportation, and public transit operators through the use of performance-based approaches in the development of transportation plans and investments as guided by the planning factors identified in subsection 5203(f) and 5204(d) of this chapter; and

[“(3) encourage private enterprise participation in projects and transportation services.

[“(b) The provisions of sections 5203–5204 of this chapter shall be jointly administered by the Federal Highway and Federal Transit Administrators.

### [“§ 5202. Definitions

[“(a) Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 of this title are applicable to this chapter.

[“(b) As used in this chapter—

[“(1) Consultation.—The term ‘consultation’ means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party’s views and periodically informs that party about action(s) taken.

[“(2) Metropolitan planning area.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization and the Governor as defined in section 5203(c) of this title.

[“(3) Metropolitan planning organization (MPO).—The term ‘metropolitan planning organization’ means the Policy Board of the organization created as a result of the designation process defined in section 5203(b) of this title.

[“(4) Non-metropolitan area.—The term ‘non-metropolitan area’ means the geographic area outside designated metropolitan planning areas.

[“(5) Non-metropolitan local official.—The term ‘non-metropolitan local official’ means elected and appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

[“(6) Urbanized area.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

[“(7) State.—The term ‘State’ means a State of the United States, the District of Columbia, and Puerto Rico.

### [“§ 5203. Metropolitan transportation planning

[“(a) General Requirements.—

[“(1) Development of plans.—To accomplish the objectives stated in section 5201, metropolitan planning organizations designated under subsection (b) of this section, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State.

[“(2) Contents.—The plans for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

[“(3) Process of development.—The process for developing the plans shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[“(4) Planning and project development.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

[“(b) Designation of Metropolitan Planning Organizations.—

[“(1) In general.—To carry out the transportation planning process required by this section, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals—

[“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

[“(B) in accordance with procedures established by applicable State or local law.

[“(2) Structure.—Each metropolitan planning organization that serves an area identified as a transportation management area, [(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

[(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

[(4) promote the innovative use of private resources;

[(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing system;

[(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial vehicle operations; and

[(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems.

**[SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.**

[(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

[(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

[(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

[(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Secretary of Homeland Security, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

[(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

[(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

[(g) INFORMATION CLEARINGHOUSE.—

[(1) IN GENERAL.—The Secretary shall—

[(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

[(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

[(2) AGREEMENT.—

[(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A) of this subsection.

[(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal financial assistance under this section.

[(h) ADVISORY COMMITTEES.—

[(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use one or more advisory committees.

[(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(i) EVALUATIONS.—

[(1) GUIDELINES AND REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

[(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

[(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

[(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

[(j) USE OF RIGHTS-OF-WAY.—Intelligent transportation system projects specified in sections 5117(b)(3) and 5117(b)(6) of the Transportation Equity Act for the 21st Century and involving privately owned intelligent transportation system components that are carried out using funds made available from the Highway Trust Fund shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.

**[SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.**

[(a) IN GENERAL.—

[(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

[(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

[(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

[(b) PROVISIONAL STANDARDS.—

[(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

[(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

[(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

[(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

[(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

[(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

[(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

[(i) would not adversely affect the goals or purposes of this subtitle;

[(ii) is carried out before the end of the useful life of such system; and

[(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

[(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subtitle.

**[SEC. 5505. RESEARCH AND DEVELOPMENT.**

[(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

[(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

[(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems;

[(2) enhance safety through improved crash-avoidance and protection, crash and other notification, commercial vehicle operations, and infrastructure-based or cooperative safety systems;

[(3) enhance security through improved response to security related emergencies, and improved transportation security systems; and

[(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

[(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

### [SEC. 5506. USE OF FUNDS.

[(a) OUTREACH AND PUBLIC RELATIONS LIMITATION.—

[(1) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

[(2) APPLICABILITY.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

[(b) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this subtitle for operational tests—

[(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

[(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

### [SEC. 5507. DEFINITIONS.

[In this subtitle, the following definitions apply:

[(1) INCIDENT.— In this section, the term "incident" means a crash, a natural disaster, work zone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

[(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

[(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term "intelligent transportation system" means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

[(4) NATIONAL ARCHITECTURE.—The term "national architecture" means the common framework for interoperability that defines—

[(A) the functions associated with intelligent transportation system user services;

[(B) the physical entities or subsystems within which the functions reside;

[(C) the data interfaces and information flows between physical subsystems; and

[(D) the communications requirements associated with the information flows.

[(5) PROJECT.—The term "project" means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

[(6) STANDARD.—The term "standard" means a document that—

[(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

[(B) may support the national architecture and promote—

[(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

[(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

[(7) STATE.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.

[(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of title 23, United States Code, as amended by section 1701 of this Act.

### [SEC. 5508. REPEAL.

[The Transportation Equity Act for the 21st Century is amended by striking subtitle C of title V.

## [TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

### [SEC. 6001. TRANSPORTATION PLANNING.

[(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding the following after chapter 51:

## [“CHAPTER 52—TRANSPORTATION PLANNING

[“Sec.
[“5201. Policy.
[“5202. Definitions.
[“5203. Metropolitan transportation planning.
[“5204. Statewide transportation planning.

### [“§ 5201. Policy

[“(a) It is in the national interest to—

[“(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air and water pollution through metropolitan and statewide transportation planning processes identified in this chapter;

[“(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State Departments of Transportation, and public transit operators through the use of performance-based approaches in the development of transportation plans and investments as guided by the planning factors identified in subsection 5203(f) and 5204(d) of this chapter; and

[“(3) encourage private enterprise participation in projects and transportation services.

[“(b) The provisions of sections 5203-5204 of this chapter shall be jointly administered by the Federal Highway and Federal Transit Administrators.

### [“§ 5202. Definitions

[“(a) Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 of this title are applicable to this chapter.

[“(b) As used in this chapter—

[“(1) CONSULTATION.—The term ‘consultation’ means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party’s views and periodically informs that party about action(s) taken.

[“(2) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization and the Governor as defined in section 5203(c) of this title.

[“(3) METROPOLITAN PLANNING ORGANIZATION (MPO).—The term ‘metropolitan planning organization’ means the Policy Board of the organization created as a result of the designation process defined in section 5203(b) of this title.

[“(4) NON-METROPOLITAN AREA.—The term ‘non-metropolitan area’ means the geographic area outside designated metropolitan planning areas.

[“(5) NON-METROPOLITAN LOCAL OFFICIAL.—The term ‘non-metropolitan local official’ means elected and appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

[“(6) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

[“(7) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and Puerto Rico.

### [“§ 5203. Metropolitan transportation planning

[“(a) GENERAL REQUIREMENTS.—

[“(1) DEVELOPMENT OF PLANS.—To accomplish the objectives stated in section 5201, metropolitan planning organizations designated under subsection (b) of this section, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State.

[“(2) CONTENTS.—The plans for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

[“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[“(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

[“(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

[“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals—

[“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

[“(B) in accordance with procedures established by applicable State or local law.

[“(2) STRUCTURE.—Each metropolitan planning organization that serves an area identified as a transportation management area, when designated or redesignated under this subsection, shall consist of—

[“(A) local elected officials;

[“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

[“(C) appropriate State officials.

[“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

[“(A) develop plans and programs for adoption by a metropolitan planning organization; and

[“(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

[“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

[“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

[“(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

[“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

[“(2) INCLUDED AREA.—Each metropolitan planning area—

[“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

[“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

[“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

[“(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (c)(5).

[“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

[“(A) shall be established in the manner described in subsection (b)(1);

[“(B) shall encompass the areas described in paragraph (c)(2)(A);

[“(C) may encompass the areas described in paragraph (c)(2)(B); and

[“(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

[“(d) COORDINATION IN MULTISTATE AREAS.—

[“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

[“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

[“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

[“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

[“(3) LAKE TAHOE REGION.—

[“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

[“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

[“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

[“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5204.

[“(C) INTERSTATE COMPACT.—

[“(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

[“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

[“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

[“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and under chapter 53 of this title, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

[“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

[“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

[“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

[“(e) COORDINATION OF MPOS.—

[“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

[“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the highway trust fund, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

[“(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for NHS, commuter rail projects or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous MPOs and States.

[“(4) COORDINATION WITH OTHER PLANNING PROCESSES.—The Secretary shall encourage each MPO to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local planned growth, economic development, environmental protection, airport operations, and freight. The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

[“(A) recipients of assistance under chapter 53 of this title;

[“(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

[“(C) recipients of assistance under section 204 of title 23.

[“(f) SCOPE OF PLANNING PROCESS.—

[“(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems to—

[“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

[“(B) increase the safety of the transportation system for motorized and nonmotorized users;

[“(C) increase the security of the transportation system for motorized and nonmotorized users;

[“(D) increase the accessibility and mobility of people and for freight, including through services provided by public and private operators;

[“(E) protect and enhance the environment, promote energy conservation, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

[“(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

[“(G) promote efficient system management and operation; and

[“(H) emphasize the preservation of the existing transportation system, including services provided by public and private operators.

[“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

[“(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

[“(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update at least every five years a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

[“(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

[“(A) An identification of transportation facilities (including but not necessarily limited to major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

[“(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. However, no illustrative project may be advanced without an action of the Secretary. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

[“(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

[“(D) Capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

[“(E) Proposed transportation and transit enhancement activities.

[“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

[“(4) TRANSPORTATION CONFORMITY.—

[“(A) For the purposes of Section 7506 of title 42, United States Code, the transportation plan shall be considered to be a transportation plan or a portion of a transportation plan, developed pursuant to this section that extends for the longest of the following periods—

[“(i) the first 10-year period of any such plan,

[“(ii) the latest year in the area's applicable implementation plan which contains a motor vehicle emissions budget, or

[“(iii) the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

[“(B) A regional motor vehicle emissions analysis for the last year of the transportation plan shall be developed for information purposes only, if such year extends beyond the time frame established by subparagraph (A). The results of the analysis shall be provided to involved governors, the Administrator of the Environmental Protection Agency, and the Secretary of the Department of Transportation, and should be considered by air quality and transportation planning agencies in subsequent updates of air quality and transportation plans. The results of this analysis shall be made available to the public.

[“(5) PARTICIPATION BY INTERESTED PARTIES.—Before the approval of a transportation plan by the Governor and metropolitan planning organization, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

[“(6) APPROVAL OF TRANSPORTATION PLAN.—

[“(A) Each transportation plan prepared by a metropolitan planning organization shall be—

[“(i) approved by the MPO, and

[“(ii) submitted to the Governor for approval of the first five years of the plan.

[“(B) The projects listed in the first five years of the plan may be selected for advancement consistent with the project selection requirements. Major amendments (addition, deletion, or concept and scope change of a regionally significant project) to this list would require appropriate public involvement, financial planning, transportation conformity analyses and a finding by the FHWA and FTA that the amended plan was produced in a manner consistent with this section.

[“(7) INCLUDED PROJECTS.—

[“(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND CHAPTER 53 OF TITLE 49.—A transportation plan developed under this section for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of title 49.

[“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23—REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation plan.

[“(C) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation plan.

[“(8) SELECTION OF PROJECTS.—

[“(A) IN GENERAL.—Except as otherwise provided in subsection (h)(4) the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

[“(i) by—

[“(I) in the case of projects under chapter 1 of title 23, the State;

[“(II) in the case of projects under section 5307 of this title, the designated transit funding recipients; and

[(III) in the case of projects under 5308, 5310, 5311, and 5317, the State; and

[“(ii) in cooperation with the metropolitan planning organization.

[“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project from the first five years of the plan included in the approved transportation plan in place of another project in the same five-year period.

[“(9) PUBLICATION.—

[“(A) PUBLICATION OF TRANSPORTATION PLAN.—A transportation plan involving federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

[“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding five years shall be published or otherwise made available by the cooperative effort of the State, transit operator and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in the first five years of the transportation plan.

[“(h) TRANSPORTATION MANAGEMENT AREAS.—

[“(1) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

[“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

[“(3) CONGESTION MANAGEMENT SYSTEM.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one-year after the identification of a transportation management area.

["(4) SELECTION OF PROJECTS.—

["(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of this title shall be selected for implementation from the approved transportation plan by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

["(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects, carried out within the boundaries of a metropolitan planning area serving a transportation management area, on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved transportation plan by the State in cooperation with the metropolitan planning organization designated for the area.

["(5) CERTIFICATION.—

["(A) IN GENERAL.—The Secretary shall—

["(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

["(ii) subject to subparagraph (B), certify, not less often than once every 5 years that the requirements of this paragraph are met with respect to the metropolitan planning process.

["(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

["(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

["(ii) there is a transportation plan for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

["(C) EFFECT OF FAILURE TO CERTIFY.—

["(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of an metropolitan planning organization serving a TMA is not certified, the Secretary may withhold a portion or all of the funds available to metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53 of this title.

["(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

["(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

["(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

["(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

["(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

["(j) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

["(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

["(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

["(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

["(l) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(h) of this title shall be available to carry out this section.

["(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans described in this section are subject to a reasonable opportunity for public comment, individual projects included in plans are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning plans described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

["(n) RELATIONSHIP TO THE NEPA PROCESS.—

["(1) To expedite the planning and development of transportation improvements in compliance with this section and section 5204 and the National Environmental Policy Act (42 U.S.C. 4321 et seq.), to facilitate compliance with the Clean Water Act (33 U.S.C. 1251 et seq.) and other Federal environmental laws, and to fulfill the directive in section 1308 of the Transportation Equity Act for the 21st Century, Public Law 105–206, to integrate the major investment study requirement into the transportation planning and National Environmental Policy Act processes, the Secretary and heads of other Federal agencies shall presume that the results of studies developed as part of the planning process establish the basis for an environmental assessment or impact statement, provided that such studies, pursuant to the provisions of this section—

["(A) are consistent with subsection (a)(4) of this section;

["(B) provided opportunities for citizens and interested parties to participate during the studies;

["(C) included consideration of an appropriate range of alternatives, such as alternative modes, technologies, general alignments, and policies; and

["(D) considered the planning factors of subsection (f)(1).

["(2) The results of studies developed as part of the planning process and that are presumed to establish the basis for an environmental assessment or impact statement, as described in subsection (1) of this section, include, but are not limited to—

["(A) the purpose and need;

["(B) the alternatives selected for evaluation in an environmental assessment or impact statement; and

["(C) an assessment of environmental impacts related to development growth, including indirect and cumulative effects, that is consistent with local land use, growth management, or development plans.

["(3) The results of studies developed during the planning process may be appended to or incorporated by reference in and used to substantiate an environmental assessment or impact statement.

**["§ 5204. Statewide transportation planning**

["(a) GENERAL REQUIREMENTS.—

["(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5201, each State shall develop a statewide transportation plan and a statewide Transportation Improvement Program (STIP) for all areas of the State subject to section 5203.

["(2) CONTENTS.—The statewide transportation plan and the STIP developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

["(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the STIP shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

["(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

["(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 of this title for metropolitan areas of the State and with other related Statewide planning activities such as trade and economic development and related multi-State planning efforts,

["(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.), and

["(3) participate in the integration of planning and environmental studies pursuant to section 5203(n) of this chapter.

["(c) INTERSTATE AGREEMENTS.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

["(d) SCOPE OF PLANNING PROCESS.—

["(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration of projects, strategies and implementing projects and services that will—

["(A) support the economic vitality of the United States, the States, non-metropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

["(B) increase the safety of the transportation system for motorized and non-motorized users;

["(C) increase the security of the transportation system for motorized and non-motorized users;

["(D) increase the accessibility and mobility of people and freight;

["(E) protect and enhance the environment, promote energy conservation, promote consistency between transportation improvements and State and local planned growth and economic development patterns, and improve the quality of life;

["(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

["(G) promote efficient system management and operation; and

["(H) emphasize the preservation of the existing transportation system.

["(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) of this subsection shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the STIP, a project or strategy, or the certification of a planning process.

["(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

["(1) with respect to non-metropolitan areas, the concerns of affected local officials with responsibility for transportation;

["(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

["(3) coordination of transportation plans, the STIP, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States;

["(f) STATEWIDE TRANSPORTATION PLAN.—

["(1) DEVELOPMENT.—Each State shall develop a statewide transportation plan, with a minimum 20-year forecast period, updated at least every five years, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

["(2) CONSULTATION WITH GOVERNMENTS.—

["(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

["(B) NON-METROPOLITAN AREAS.—With respect to non-metropolitan areas, the statewide transportation plan shall be developed in consultation with affected non-metropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

["(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

["(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the statewide transportation plan, the State shall—

["(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

["(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

["(4) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

["(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

["(6) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

["(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP).—

["(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State.

["(2) CONSULTATION WITH GOVERNMENTS.—

["(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

["(B) NON-METROPOLITAN AREAS.—With respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected non-metropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

["(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal Government and the Secretary of the Interior.

["(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed program.

["(4) INCLUDED PROJECTS.—

["(A) IN GENERAL.—A transportation improvement program developed under this subsection for a state shall include federally supported surface transportation expenditures within the boundaries of the State. The program shall cover a minimum of five years, identify projects by year, be fiscally constrained by year, and be updated at least every five years. An annual listing of projects for which funds have been obligated in the preceding five years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. Other projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually. The listing shall be consistent with the funding categories identified in the first five years of each metropolitan transportation plan.

["(B) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

["(i) consistent with the statewide transportation plan developed under this section for the State;

["(ii) identical to the project or phase of the project as described in each year of the initial five years of an approved metropolitan transportation plan; and

["(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

["(C) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The STIP shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

["(D) FINANCIAL PLAN.—The STIP may include a financial plan that demonstrates how the approved STIP can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the STIP, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

["(E) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

["(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (D), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (D).

["(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (D) for inclusion in an approved STIP.

["(F) PRIORITIES.—The STIP shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and chapter 53 of this title, and transportation control measures included in the State's air quality implementation plan.

["(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved STIP (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program under title 23 or sections 5308, 5310, 5311, and 5317 of this title), by the State in cooperation with the affected non-metropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the interstate maintenance program under title 23 or under sections 5308, 5310, 5311, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials with responsibility for transportation.

[''(6) STIP APPROVAL.—A STIP developed under this subsection shall be reviewed and based on a current Planning Finding approved at least every five years by the Secretary.

["(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every five years that the transportation planning process(es) through which statewide transportation plans and programs are developed are consistent with this section and section 5203.

["(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved STIP in place of another project in the program.

["(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5305(h) of this title shall be available to carry out this section.

["(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5203 of this title, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5203(h)(3) if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of section 5203, as appropriate.

["(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the STIP described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the STIP are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the STIP described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the STIP described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

["(k) INTEGRATION OF PLANNING AND ENVIRONMENTAL STUDIES.—Section 5203(n) of this chapter shall also apply to the planning process established under this section, except that the planning factors to be considered shall be those set forth in subsection (d) of this section.".

[(b) CONSISTENCY OF CONFORMITY TIMING WITH THE TRANSPORTATION PLAN.—Section 7506(c)(4) of title 42, United States Code, is amended—

[(1) in subparagraph (B)(ii) by striking ", but in no case shall such determinations for transportation plans and programs be less frequent than every three years", and inserting "but the frequency for making conformity determinations for transportation plans must be consistent with subparagraph (E)"; and

[(2) by inserting after subparagraph (D) the following:

["(E) The frequency for making conformity determinations on updated transportation plans shall be every five years, except when:

["(i) the metropolitan planning organization chooses to update a transportation plan more frequently, or

["(ii) changes to the applicable implementation plan trigger a new conformity determination, as provided in regulations promulgated by the Administrator pursuant to subparagraph (A) above.".

[(c) CONFORMING CLARIFICATION.—Upon date of enactment of this Act, the references to "program" and "improvement program" in section 7506 of title 42, United States Code, shall refer to the transportation plan developed pursuant to section 5203 of title 49, United States Code.

[(d) STREAMLINED STATE CONFORMITY RULE REQUIREMENTS.—Section 7506(c)(4)(C) of title 42, United States Code, is amended to read as follows:

["(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation, within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (B)(i) of this paragraph.".

[(e) CONFORMING AMENDMENTS.—(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

["52. Transportation Planning .......... 5201".

[(2) The chapter analysis for Subtitle III of title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

["52. Transportation Planning .......... 5201".

### [SEC. 6002. INTERMODAL PASSENGER FACILITIES.

[(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding the following at the end:

### ["SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

### [§ 5571. Policy and purposes

["(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

["(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

["(1) assuring intercity public transportation access to intermodal passenger facilities;

["(2) encouraging the development of an integrated system of public transportation information; and

["(3) providing intercity bus intermodal passenger facility grants.

### [§ 5572. Definitions

["In this subchapter—

["(1) 'capital project' means a project for—

["(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

["(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

["(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

["(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

["(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intra-city rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

["(5) 'local governmental authority' includes—

["(A) a political subdivision of a State;

["(B) an authority of at least one State or political subdivision of a State;

["(C) an Indian tribe; and

["(D) a public corporation, board, or commission established under the laws of the State.

["(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

["(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

["(8) 'Secretary' means the Secretary of Transportation.

["(9) 'state' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

["(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

**[“§ 5573. Assurance of access to intermodal passenger facilities**

[“Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities including, but not limited to, those passenger facilities seeking funding under section 5574.

**[“§ 5574. Intercity bus intermodal passenger facility grants**

[“(a) General Authority.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project, as defined in section 5572 of this chapter, only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

[“(b) Competitive Grant Selection.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

[“(c) Share of Net Project Costs.—

[“(1) A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

[“(2) The portion of the net costs of an eligible project that is not funded under this section shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital and may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal government that are eligible to be expended for transportation.

[“(d) Regulations.—The Secretary may issue regulations necessary to carry out this section.

**[“§ 5575. Funding**

[“(a) Mass Transit Account.—

[“(1) Funding.—To carry out this Subchapter, there is authorized to be appropriated for each of fiscal years 2005 through 2009 from the Mass Transit Account of the Highway Trust Fund the amounts made available under section 5338(a)(2)(O) of this title.

[“(2) Contractual obligations.—A grant approved by the Secretary of Transportation that is financed with amounts made available under subsection (a) of this section is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[“(b) Highway Account.—

[“(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

[“(2) The funding made available under paragraph (1) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

[“(c) Period of Availability.—Amounts made available by subsection (a) of this section shall remain available until expended.”.

[(b) Conforming Amendment.—The table of contents for chapter 55 of title 49, United States Code, is amended by inserting the following at the end:

[“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

[Sec.
[“5571. Policy and Purposes.
[“5572. Definitions.
[“5573. Assurance of access to intermodal facilities.
[“5574. Intercity bus intermodal facility grants.
[“5575. Funding.”.

## [TITLE VII—MISCELLANEOUS

## [Subtitle A—Railroads

### [SEC. 7101. RAIL CORRIDOR PLANNING.

[Section 26101(b)(1) of title 49, United States Code, is amended in the first sentence thereof by adding “(1)” after the word “determines” and by adding “or (2) that it is necessary to help promote an effective and efficient system of conventional speed intercity rail passenger operations” after the word “improvements”.

### [SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.

[Section 26104 of Title 49, United States Code, is revised to read as follows:

**[“§ 26104. Authorization of appropriations**

[“(a) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26101 (including payment of administrative expenses related thereto).

[“(b) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26102 (including payment of administrative expenses related thereto).”

[“(c) Funds made available under this section shall remain available until expended.”.

## [Subtitle B—Miscellaneous Technical Corrections to Title 49

### [SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO INTERSTATE COMMERCE COMMISSION.

[(a) Except as otherwise provided, a reference in this section to an amendment to, or a repeal of, a section or other provision is deemed to be a reference to a section or other provision of title 49, United States Code.

[(b)(1) Section 307 (Safety information and intervention in Interstate Commerce Commission proceedings) is repealed.

[(2) The analysis of chapter 3 is amended by striking the item designated “307”.

[(c) Subsections (d)(1)(C) and (e) of section 333 (Responsibility for rail transportation unification and coordination projects) are amended by striking “Interstate Commerce Commission” and “Commission” each place the words appear and substituting “Surface Transportation Board” and “Board”, respectively.

[(d) Section 10903(b)(2) is amended by striking “24706(c) of this title” and substituting “24706(c) of this title before May 31, 1998”.

[(e) Section 13541(a) is amended by striking “finds that” and all that follows, and substituting—“finds that the exemption is in the public interest and that the application of that provision—

[“(1) is not necessary to carry out the transportation policy of section 13101; and

[“(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope.”.

[(f)(1) Section 14704 (Rights and remedies of persons injured by carriers or brokers) is amended as follows:

[(A) In subsection (a) —

[(i) strike “In general.—” and all that follows through “injured” and substitute “Enforcement of order.—A person injured”; and

[(ii) redesignate paragraph (2) as subsection (b)(2); and

[(B) In subsection (b), by striking “Liability and damages” and all that follows through “A carrier” and substitute “Liability and damages.—(1) A carrier”.

[(2) Section 14705(c) is amended by striking “14704(b)” and substituting “14704(b)(2)”.

[(g)(1) Subsection (c)(3) of section 24307 (Special transportation) is amended by striking “Interstate Commerce Commission” and substituting “Surface Transportation Board”.

[(2) Section 24308 (Use of facilities and providing services to Amtrak) is amended by striking “Interstate Commerce Commission” and “Commission” each place the words appear and substituting “Surface Transportation Board” and “Board”, respectively.

[(3) Section 24311 (Acquiring interests in property by eminent domain) is amended by striking “Interstate Commerce Commission” and “Commission” each place the words appear and substituting “Surface Transportation Board” and “Board”, respectively.

[(4) Section 24902 (Goals and requirements) is amended by striking “Interstate Commerce Commission” and “Commission” each place the words appear and substituting “Surface Transportation Board” and “Board”, respectively.

[(5) Section 24904 (General authority) is amended by striking “Interstate Commerce Commission” and “Commission” each place the words appear and substituting “Surface Transportation Board” and “Board”, respectively.

## [Subtitle C—Hazardous Material Transportation

### [SEC. 7301. DEFINITIONS.

[Section 5102 of title 49, United States Code, is amended by revising paragraph (1) to read as follows:

[“(1) ‘commerce’ means trade or transportation in the jurisdiction of the United States

[“(A) between a place in a State and a place outside of the State;

[“(B) that affects trade or transportation between a place in a State and a place outside of the State; or

[“(C) on a United States-registered aircraft.”

### [SEC. 7302. REPRESENTATIONS AND TAMPERING WITH HAZARDOUS MATERIAL PACKAGING.

[Section 5103(b)(1) of title 49, United States Code, is amended by revising subparagraph (A) to read as follows:

[“(A) apply to a person that—

[“(i) transports a hazardous material in commerce;

[“(ii) causes a hazardous material to be transported in commerce;

[“(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce;

[“(iv) prepares, accepts, or rejects hazardous material for transportation in commerce;

[“(v) is responsible for the safety of transporting hazardous material in commerce;

[“(vi) certifies compliance with any requirement issued under this chapter;

[“(vii) misrepresents whether it is engaged in any of the above activities; or

[“(viii) performs any other act or function relating to the transportation in commerce of a hazardous material; and”.

### [SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFETY AND SECURITY.

[(a) Enhanced Authority To Discover Hidden Shipments of Hazardous Material.—Section 5121 of title 49, United States Code, is amended by revising subsection (c) to read as follows:

[“(c) INSPECTIONS AND INVESTIGATIONS.—(1) A designated officer or employee of the Secretary may—

[“(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to a function described in section 5103(b)(1) of this chapter;

[“(B) except for the packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;

[“(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures established by the Secretary;

[“(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages, to ascertain the nature and hazards of the contents of the package or packages;

[“(E) as necessary, under terms and conditions specified by the Secretary, order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages to have the package or packages transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

[“(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

[“(2) An officer or employee acting under this subsection shall display proper credentials when requested.

[“(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package or transport unit.”.

[(b) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended by striking subsection (e), redesignating subsection (d) as subsection (e), and adding a new subsection (d) to read as follows:

[“(d) EMERGENCY ORDERS.—

[“(1) If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

[“(2) The Secretary's action under paragraph (1) of this subsection shall be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.

[“(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5, if a petition for review is filed within 20 calendar days after issuance of the order.

[“(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

[“(5) For purposes of this subsection, “out-of-service order” means a mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until specified conditions have been met.”

[(c) SECURITY-SENSITIVE INFORMATION.—Section 5121 is revised by adding a new subsection (f) to read as follows:

[“(f) SECURITY-SENSITIVE INFORMATION.—

[“(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the information may be disclosed only—

[“(A) to an owner, custodian, offeror or carrier of the hazardous material;

[“(B) to an officer, employee or agent of a Federal, State, or local government, including a volunteer fire department, concerned with carrying out transportation safety laws, protecting hazardous material during the course of transportation in commerce, protecting public safety, or national security issues, or enforcing federal laws designed to protect public health or the environment; or

[“(C) in an administrative or judicial proceeding brought under this chapter, under other federal law designed to protect public health or the environment, or one that addresses terrorist actions or threats of such actions.

[“(2) The Secretary may make a determination under subsection (1) of this section with respect to a category of information by regulation.

[“(3) A release of information pursuant to a determination under subsection (1) of this section is not a release to the public within the meaning of 5 U.S.C. 552.”.

[(d) ENHANCEMENTS TO SECURITY RISK ASSESSMENT AND EMERGENCY PREPAREDNESS.—Section 5121 is amended by inserting the following after subsection (f):

[“(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other entity to expand the risk assessment and emergency response capability with respect to hazardous materials security issues and to carry out this chapter.”.

[(e) CARGO INSPECTION PROGRAM.—The Secretary of Transportation may randomly inspect cargo at U.S. Customs ports of entry in order to determine the extent to which undeclared hazardous material is being offered for transportation in commerce. Under this program, an officer or employee of the Secretary may open and inspect any cargo shipment at a U.S. Customs port of entry if that shipment has been randomly selected for inspection by a Department supervisor who is not on site. The Department of Transportation shall ensure that random inspections under this program are coordinated in advance with the Department of Homeland Security and provide for the effective handling and disposition of any violations found. The Secretary shall initiate such a program within one year after the date of enactment of this Act.”

### [SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPORTATION SERVICE AND INFRASTRUCTURE ASSURANCE RESEARCH.

[Section 112 of title 49, United States Code, is amended by adding the following new subsection to the end:

[“(f) ADMINISTRATIVE AUTHORITY.—

[“(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal or other public agencies (including State and local governments) and private organizations and other persons to conduct research into transportation service and infrastructure assurance and to carry out research activities of the Administration.

[“(2) PROHIBITION ON CERTAIN DISCLOSURES.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, the information may be disclosed only to a person responsible for the security of the transportation service or infrastructure or with protecting public safety or to an officer, employee, or agent of a Federal, State or local government unit whose need for the information in the performance of duties is concurred in by the Administrator. A release of information subject to a determination under this section is not a release to the public within the meaning of 5 U.S.C. 552.”.

### [SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.

[(a) Section 3001 of title 39, United States Code, is amended by adding a new subsection (o) as follows:

[“(o)(1) Except as permitted by law and Postal Service regulation, hazardous material is nonmailable.

[“(2) For purposes of this section, the term ‘hazardous material’ means a substance or material the Secretary of Transportation designates under section 5103(a) of title 49.”.

[(b) Chapter 30 of title 39, United States Code, is amended by adding a new section 3018 at the end as follows:

**[“Sec. 3018. Hazardous material; civil penalty**

[“(a) REGULATIONS.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

[“(b) HAZARDOUS MATERIAL IN THE MAIL.—No person may—

[“(1) mail or cause to be mailed a hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

[“(2) mail or cause to be mailed a hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which a hazardous material may be mailed; or

[“(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

[“(A) is represented, marked, certified, or sold by such person for use in the mailing of a hazardous material; and

[“(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of a hazardous material.

[“(c) CIVIL PENALTY.—

[“(1) A person that knowingly violates this section or a regulation issued under this section is liable to the Postal Service for a civil penalty of at least $250 but not more than $100,000 for each violation, and for any clean-up costs and damages. A person acts knowingly when—

[“(A) the person has actual knowledge of the facts giving rise to the violation; or

[“(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

[“(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Postal Service is not an element of an offense under this section.

[“(3) A separate violation occurs for each day a hazardous material, mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section, is in the mail.

[“(4) A separate violation occurs for each item containing a hazardous material that is mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section.

[“(d) Hearing Requirement.—The Postal Service may find that a person has violated this section or a regulation issued under this section only after notice and an opportunity for a hearing. Under this section, the Postal Service shall impose a penalty and recover clean-up costs and damages by giving the person written notice of the amount of the penalty, clean-up costs, and damages.

[“(e) Penalty Considerations.—In determining the amount of a civil penalty under this section, the Postal Service shall consider—

[“(1) the nature, circumstances, extent, and gravity of the violation;

[“(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

[“(3) the impact on postal operations; and

[“(4) other matters that justice requires.

[“(f) Civil Actions to Collect.—

[“(1) In accordance with section 409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, or damages assessed under this section. In such action, the validity, amount, and appropriateness of the civil penalty, clean-up costs, or damages shall not be subject to review.

[“(2) The Postal Service may compromise the amount of a civil penalty, clean-up costs, or damages assessed under this section before civil action is taken to collect the penalty, costs, or damages.

[“(g) Civil Judicial Penalties.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Postal Service in an administrative case under this section.

[“(h) Depositing Amounts Collected.—Amounts collected under this section shall be paid into the Postal Service Fund established by section 2003 of this title.”.

[(c) Conforming Amendment.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding the following:

[“3018. Hazardous material; civil penalty.”.

**[SEC. 7306. REGISTRATION.**

[(a) In General.—Section 5108 of title 49, United States Code, is amended—

[(1) by striking “class A or B explosive” in subsection (a)(1)(B) and inserting “Division 1.1, 1.2, or 1.3 explosive material”; and

[(2) by revising subsection (a)(2)(B) to read as follows:

[“(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting a hazardous material in commerce.”.

[(b) Clarification of Title 18 Exemption.—Section 845(a)(1) of title 18, United States Code, is amended to read as follows:

[“(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;”.

**[SEC. 7307. SHIPPING PAPER RETENTION.**

[Section 5110 of title 49, United States Code, is amended—

[(1) in subsection (a), by striking “under subsection (b) of this section” and inserting “by regulation”;

[(2) by striking subsection (b) and redesignating subsections (c)-(e) as subsections (b)-(d); and

[(3) by revising the first sentence in subsection (d), as redesignated, to read as follows: “The person that provided the shipping paper and the carrier required to keep it under this section shall retain the paper, or an electronic image of it, for a period of 3 years after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.”.

**[SEC. 7308. PLANNING AND TRAINING GRANTS.**

[(a) Section 5116 of title 49, United States Code, is amended—

[(1) in the second sentence of subsection (e), by striking “of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)” and inserting “received by the State or tribe under subsections (a)(1) and (b)(1)”;

[(2) revising subsection (f) to read as follows:

[“(f) Monitoring and Technical Assistance.—The Secretary of Transportation shall monitor public-sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.”;

[(3) in subsection (g), by striking “Government grant” and inserting “Federal financial assistance”;

[(4) by revising subsection (i) to read as follows:

[“(i) Emergency Preparedness Fund.—The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

[“(1) to make grants under this section;

[“(2) to monitor and provide technical assistance under subsection (f) of this section;

[“(3) to publish and distribute the Emergency Response Guidebook;

[“(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.”; and

[“(5) by striking subsection (k).”.

[(b) Chapter 51 is amended by—

[(1) revising the section heading for section 5116 to read “Planning and training grants; emergency preparedness fund”; and

[(2) striking the item for section 5116 in the analysis of the chapter and inserting “5116. Planning and training grants; emergency preparedness fund.”.

**[SEC. 7309. ENFORCEMENT.**

[Section 5122 of title 49, United States Code, is amended—

[(1) in subsection (a), by revising the last sentence to read as follows: “The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123 of this chapter.”; and

[(2) in subparagraph (b)(1)(B), by striking “or ameliorate the” and inserting “or mitigate the”.

**[SEC. 7310. PENALTIES.**

[(a) Section 5123 of title 49, United States Code, is amended—

[(1) by revising subsection (a) to read as follows:

[“(a) Penalty.—

[“(1) A person that knowingly violates this chapter, or a regulation, order, special permit, or approval issued under this chapter, is liable to the United States Government for a civil penalty of at least $250 but not more than $100,000 for each violation.

[“(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary is not an element of an offense under this section.

[“(3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues”; and

[(2) by redesignating subsections (b)-(g) as subsections (c)-(h) and inserting a new subsection (b) to read as follows:

[“(b) Knowing Violations.—In this section, a person acts knowingly when—

[“(1) the person has actual knowledge of the facts giving rise to the violation; or–

[“(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.”;

[(3) in subsection (c), as redesignated, by striking the first sentence and inserting the following: “The Secretary of Transportation may find that a person has violated this chapter, or a regulation, order, special permit or approval issued under this chapter, only after notice and an opportunity for a hearing.”;

[(4) by revising subsection (e), as redesignated, to read as follows:

[“(e) Civil Actions To Collect.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on that penalty calculated in the manner described under section 2705 of title 33. In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.".

[(b) Section 5124 is revised to read as follows:

**[“§ 5124. Criminal penalty**

[“(a) General.—A person knowingly violating section 5104(b) of this title or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

[“(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this chapter, or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.

[“(c) Knowing Violations.—In this section, a person acts knowingly when—

[“(1) the person has actual knowledge of the facts giving rise to the violation; or

[“(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

[“(d) Willful Violations.—In this section, a person acts willfully when—

[“(1) the person has knowledge of the facts giving rise to the violation; and

[“(2) the person has knowledge that the conduct was unlawful.

[“(e) Reckless Violations.—In this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard for the consequences of that person's conduct.

[“(f) Knowledge of Requirements.—Knowledge by a person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary, is not an element of an offense under this section.

[“(g) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports hazardous material or who causes hazardous material to be transported, continues.”.

[(c) Section 46312 is amended—

[(1) in subparagraph (a), by striking “under this part” and inserting “under this part or under chapter 51 of this title”; and

[(2) in subparagraph (b), by striking “by the Secretary” and inserting “by the Secretary under this part or under chapter 51 of this title”.

[(d) Section 3663, title 18 United States Code, is amended in subparagraph (a)(1)(A) by striking “or section 46312, 46502, or 46504 of title 49” and inserting “or section 5124, 46312, 46502, or 46504 of title 49.”.

**[SEC. 7311 EMERGENCY WAIVER OF PREEMPTION.**

[“Section 5125 of title 49, United States Code, is amended by adding new subsections (h), (i), and (j) to read as follows:

[“(h) Emergency Waiver of Preemption.—

[“(1) The Secretary, upon a finding of good cause, may waive preemption on an expedited basis without notice and public procedure. Good cause exists when there is a possible threat that hazardous material being transported in commerce may be used in an attack on people or property, and notice and public procedure are impracticable or contrary to the public interest.

[“(2) An emergency waiver of preemption shall remain in effect for no more than 6 months unless, prior to its expiration, the Secretary determines that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

[“(3) An action of the Secretary under paragraphs (1) and (2) of this subsection shall be in writing and shall describe the standards and procedures for seeking reconsideration of the Secretary's action.

[“(4) After taking action under paragraphs (1) or (2) of this subsection, the Secretary shall provide an opportunity for review of that action if a petition for reconsideration is filed within 20 calendar days after the Secretary issues or extends an emergency waiver.

[“(5) If a petition for reconsideration is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the emergency waiver will cease to be effective at the end of that period unless the Secretary determines, in writing, that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

[“(i) Independent Application of Each Standard.—Each preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in section 5119(b) of this chapter is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.

[“(j) Nonfederal Enforcement Standards.—This section does not apply to procedure, penalty, or required mental state or other standard used by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to transportation of a hazardous material.”.

**[SEC. 7312. JUDICIAL REVIEW.**

[Chapter 51 of title 49, United States Code, is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

**“§ 5127. Judicial review**

[“(a) Filing and Venue.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary of Transportation under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

[“(b) Judicial Procedures.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

[“(c) Authority of Court.—The court has exclusive jurisdiction, as provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

[“(d) Requirement for Prior Objection.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.”.

[(b) Conforming Amendment.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

[“5127. Judicial review.
[“5128. Authorization of appropriations.”.

**[Subtitle D—Sanitary Food Transportation**

**[SEC. 7401. SHORT TITLE.**

[This Subtitle may be cited as the “Sanitary Food Transportation Act of 2003”.

**[SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.**

[(a) Unsanitary Transport Deemed Adulteration.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following new subsection:

[“(i) If it is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.”.

[(b) Sanitary Transportation Requirements.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

**[“§ 416. Sanitary transportation of food**

[“(a) Sanitary Transportation Practices.—The Secretary shall establish by regulation sanitary transportation practices which shippers, carriers, receivers, and other persons engaged in the transportation of food shall be required to follow to ensure that the food is not transported under conditions that may render it adulterated, including such practices as the Secretary may find appropriate relating to—

[“(1) sanitation;

[“(2) packaging, isolation, and other protective measures;

[“(3) limitations on the use of vehicles;

[“(4) information to be disclosed—

[“(A) to a carrier by a person arranging for the transport of food, and

[“(B) to a manufacturer or other persons arranging for the transport of food by a carrier or other person furnishing a tank or bulk vehicle for the transport of food; and

[“(5) recordkeeping.

[“(b) List of Unacceptable Nonfood Products.—The Secretary, by publication in the Federal Register, may establish and periodically amend—

[“(1) a list of nonfood products that the Secretary determines may, if shipped in a tank or bulk vehicle, render adulterated food transported subsequently in such vehicle; and

[“(2) a list of nonfood products that the Secretary determines may, if shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render adulterated food transported simultaneously or subsequently in such vehicle.

[“(c) Waiver Authority.—

[“(1) In general.—The Secretary may waive all or part of this section, or any requirement under this section, with respect to any class of persons, of vehicles, of food, or of nonfood products, if the Secretary determines that such waiver—

[“(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

[“(B) will not be contrary to the public interest or this Act.

[“(2) Publication.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

[“(d) Preemption.—

[“(1) In general.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning that transportation of food that is not identical to the requirement of this section.

[“(2) EFFECTIVE DATE.—The provisions of this subsection apply only with respect to transportation occurring on or after the effective date of regulations prescribed under subsection (a).

[“(e) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance upon request, to the extent resources are available, to the Secretary of Health and Human Services for the purposes of carrying out this section.

[“(f) DEFINITIONS.—For purposes of the section:

[“(1) The term ‘transportation’ means any movement of property in commerce by motor vehicle or rail vehicle.

[“(2) The term ‘tank or bulk vehicle’ includes any vehicle in which food is shipped in bulk and in which the food comes directly into contact with the vehicle, including tank trucks, hopper trucks, rail tank cars, hopper cars, cargo tanks, portable tanks, freight containers, or hopper bins.”.

[(c) INSPECTION OF TRANSPORTATION RECORDS.—

[(1) REQUIREMENT.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting after section 703 the following new section:

### [“§ 703A. Food transportation records

[“Shippers, carriers by motor vehicle or rail vehicle, and other persons subject to section 416 shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires them to make or retain under section 416(a)(5) of this Act.”.

[(2) CONFORMING AMENDMENT.—Section 703 of the Act (21 U.S.C. 373) is amended by striking “in the usual course of business as carriers.” and inserting “in the usual course of business as carriers, unless otherwise explicitly provided.”.

[(d) PROHIBITED ACTS.—

[(1) RECORDS INSPECTION.—Section 301(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended—

[(A) by striking “or 703” and inserting “, 703, or 703A”; and

[(B) by inserting “416,” before “504”.

[(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Act (21 U.S.C. 331) is further amended by adding at the end the following new subsection:

[“(gg) The failure, by a shipper, carrier, receiver, or any other person engaged in the transportation of food, to comply with the sanitary transportation practices prescribed by the Secretary under section 416.”.

### [SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

[Chapter 57 of title 49, relating to sanitary food transportation is revised to read as follows:

## [“CHAPTER 57—SANITARY FOOD TRANSPORTATION

[“Sec.

[“5701. Food transportation safety inspections.

### [“§ 5701. Food transportation safety inspections

[“(a) INSPECTION PROCEDURES.—

[“(1) The Secretary of Transportation, in consultation with the Secretaries of Health and Human Services and Agriculture, shall establish procedures to be used in performing transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of food that may violate regulations issued under section 416 of title 21, United States Code, and of meat and poultry products subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672) and section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a), and shall train personnel of the Department of Transportation in the appropriate use of such procedures.

[“(2) The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to the Department of Transportation personnel who perform commercial motor vehicle and railroad safety inspections.

[“(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN SERVICES AND AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

[“(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.”.

### [SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.

[Unless otherwise specified, the provisions of this title are effective October 1, 2003.

## [Subtitle E—Sport Fishing and Boating Safety

### [SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMENDMENTS.

[(a) IN GENERAL.—Section 4 of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes” (August 9, 1950)(16 U.S.C. 777c) is amended—

[(1) in subsection (b),

[(A) by striking “2003” each place it appears and inserting “2009”; and

[(B) by striking “Secretary of Transportation” each place it appears and inserting “Secretary of Homeland Security”; and

[(2) in subsection (c)(5), by striking “fiscal year 2003” and inserting “fiscal years 2003 through 2009”.

[(b) CLEAN MARINA INITIATIVES.—To further enhance the natural environment, Federal agencies administering programs funded under the Aquatic Resources Trust Fund should promote, to the extent practicable, “Clean Marina Initiatives” in each of the following programs:

[(1) Clean Vessel Act “Pumpout” Program.

[(2) Boating Infrastructure Grant Program.

[(3) National Outreach and Communications Program.

[(4) Recreational Boating Access Facilities.

## [TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

### [SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.

[(a) DEFINITION OF HIGHWAY CATEGORY AND MASS TRANSIT CATEGORY.—

[(1) Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

[(A) striking “Transportation Equity Act for the 21st Century” and inserting “Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003”; and

[(B) adding after item (iv) the following new clauses:

[“(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

[“(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).”.

[(2) Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

[“(C) The term ‘mass transit category’ refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or for which appropriations are provided pursuant to authorizations contained in that Act:

[“(i) 69–1120–0–1–401 (Administrative Expenses).

[“(ii) 69–1134–0–1–401 (Capital Investment Grants).

[“(iii) 69–8191–0–7–401 (Discretionary Grants).

[“(iv) 69–1129–0–1–401 (Formula Grants).

[“(v) 69–8303–0–7–401 (Formula Grants and Research).

[“(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

[“(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

[“(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

[“(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

[“(x) 69–1121–0–1–401 (Research, Training and Human Resources).

[“(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

[“(xii) 69–1137–0–1–401 (Transit Planning and Research).

[“(xiii) 69–1136–0–1–401 (University Transportation Research).

[“(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).”.

[(b) CONTINUATION OF SEPARATE CATEGORIES.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraphs:

[“(8) with respect to fiscal year 2004—

[“(A) for the highway category: $29,990,000,000 in outlays; and

[“(B) for the mass transit category: $6,909,000,000 in outlays.

[“(9) with respect to fiscal year 2005—

[“(A) for the highway category: $30,589,000,000 in outlays; and

[“(B) for the mass transit category: $6,462,000,000 in outlays.

[“(10) with respect to fiscal year 2006—

[“(A) for the highway category: $31,249,000,000 in outlays; and

[“(B) for the mass transit category: $6,070,000,000 in outlays.

[“(11) with respect to fiscal year 2007—

[“(A) for the highway category: $32,402,000,000 in outlays; and

[“(B) for the mass transit category: $5,843,000,000 in outlays.

[“(12) with respect to fiscal year 2008—

[“(A) for the highway category: $33,358,000,000 in outlays; and

[“(B) for the mass transit category: $6,374,000,000 in outlays.

[“(13) with respect to fiscal year 2009—

[“(A) for the highway category: $34,109,000,000 in outlays; and

[“(B) for the mass transit category: $6,470,000,000 in outlays.”.

[(c) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

[(1) in clause (i),

[(A) by inserting "for fiscal year 2006, 2007, 2008, or 2009" after "submits the budget";

[(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to";

[(C) by striking "provided in clause (ii)(I)(cc)." and substituting "follows:"; and

[(D) by inserting the following at the end:

[''(I) OMB shall calculate the change in the obligation limitation for the highway category for the budget year by taking the actual level of highway receipts for the year before the current year and subtracting the sum of the estimated level of highway receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).";

[(2) by striking clause (ii) and substituting the following:

[''(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

[''(I) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the amount calculated under subclause (I)."; and

[(3) by inserting the following at the end:

[''(iii) The estimated level of highway receipts for the purposes of this subparagraph are—

[''(I) for fiscal year 2004, $30,119,000,000;

[''(II) for fiscal year 2005, $31,109,000,000;

[''(III) for fiscal year 2006, $32,191,000,000;

[''(IV) for fiscal year 2007, $33,146,000,000;

[''(V) for fiscal year 2008, $34,018,000,000; and

[''(VI) for fiscal year 2009, $34,844,000,000.

[''(iv) In this subparagraph, the term "highway receipts" means the governmental receipts credited to the highway account of the Highway Trust Fund.".

[(d) TRANSIT FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C)) is amended to read as follows:

[''(C) ADJUSTMENT TO ALIGN MASS TRANSIT SPENDING WITH REVENUES.—

[''(i) When the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

[''(I) OMB shall calculate the change in the obligation limitation for the mass transit category for the budget year by taking the actual level of mass transit receipts for the year before the current year and subtract the sum of the estimated level of mass transit receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).

[''(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

[''(I) OMB shall take the current estimate of mass transit receipts for the current year and subtract the estimated level of mass transit receipts in clause (iii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).

[''(iii) The estimated level of mass transit receipts for the purposes of this subparagraph are—

[''(I) for fiscal year 2004, $4,793,000,000;

[''(II) for fiscal year 2005, $4,926,000,000;

[''(III) for fiscal year 2006, $5,050,000,000;

[''(IV) for fiscal year 2007, $5,164,000,000;

[''(V) for fiscal year 2008, $5,270,000,000; and

[''(VI) for fiscal year 2009, $5,377,000,000.

[''(iv) In this subparagraph, the term "mass transit receipts" means the governmental receipts credited to the Mass Transit Account of the Highway Trust Fund.".

[(e) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is further amended—

[(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

[(2) in subparagraph (E)(i) as redesignated—

[(A) by striking "1999" and substituting "2005;

[(B) by striking "2000" and substituting "2006";

[(C) by striking "2003" and substituting "2009; and

[(D) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and substituting "section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

[(3) in subparagraph (E)(ii) as redesignated—

[(A) by striking "2000, 2001, 2002, or 2003" and substituting "2006, 2007, 2008, and 2009; and

[(B) by striking "by subparagraphs (B) and (C)" and substituting "made by subparagraphs (B), (C), and (D)";

[(4) in subparagraph (F) as redesignated, by striking "(B) and (C)" and substituting "(B), (C), and (D)"; and

[(5) by inserting the following after subparagraph (C):

[''(D) In addition to the adjustments required by subparagraphs (B) and (C), when the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

[''(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (E), as adjusted, using current technical assumptions; minus

[''(ii) the outlays for the applicable category set forth in the subparagraph (E) estimates, as adjusted.".

[(f) ENFORCEMENT OF GUARANTEE.—Rule XXI of the Rules of the House of Representatives is amended by striking "section 8103 of the Transportation Equity Act for the 21st Century" in clause 3 and substituting "section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003".

**[SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.**

[(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

[(1) for fiscal year 2004, $30,280,000,000;

[(2) for fiscal year 2005, $31,270,000,000;

[(3) for fiscal year 2006, $32,352,000,000;

[(4) for fiscal year 2007, $33,307,000,000;

[(5) for fiscal year 2008, $34,179,000,000; and

[(6) for fiscal year 2009, $35,005,000,000.

[(b) MASS TRANSIT CATEGORY.—

[(1) For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

[(A) for fiscal year 2004, $5,936,000,000;

[(B) for fiscal year 2005, $6,054,720,000;

[(C) for fiscal year 2006, $6,180,659,000;

[(D) for fiscal year 2007, $6,319,723,000;

[(E) for fiscal year 2008, $6,475,820,000; and

[(F) for fiscal year 2009, $6,633,183,000.

[(2) For purposes of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

**[SEC. 8103. EFFECTIVENESS OF TITLE.**

[This title, and the amendments made by this title, become effective on the day that section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 comes into effect after the enactment of this Act.

## [TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

### [SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.

[(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 2004".

[(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### [SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUSTFUND.

[(a) EXTENSION OF TAXES.—

[(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2011":

[(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

[(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

[(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels).

[(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

[(E) Section 4071(d) (relating to termination of tax on tires).

[(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

[(G) Section 4481(e) (relating to period tax in effect).

[(H) Section 4482(c)(4) (relating to taxable period).

[(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

[(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

[(A) by striking "2005" each place it appears and inserting "2011", and

[(B) by striking "2006" each place it appears and inserting "2012".

[(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2011":

[(1) Section 4221(a) (relating to certain tax-free sales).

[(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

[(c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—Subsections (b), (c)(2), and (c)(3) of section 9503 (relating to the Highway Trust Fund) are amended—

[(1) by striking "2005" each place it appears and inserting "2011", and

[(2) by striking "2006" each place it appears and inserting "2012".

[(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

[(1) HIGHWAY ACCOUNT.—Section 9503 is amended by striking subsection (c)(1) and inserting the following:

["(1) FEDERAL-AID HIGHWAY AND SAFETY PROGRAMS.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures authorized by law to be paid out of the Highway Trust Fund before October 1, 2011, to meet those obligations of the United States heretofore or hereafter incurred under the following Acts, as in effect on the date of enactment of the last Act listed:

["(A) The Highway Revenue Act of 1956.

["(B) The Surface Transportation Assistance Act of 1982.

["(C) The Surface Transportation and Uniform Relocation Assistance Act of 1987.

["(D) The Intermodal Surface Transportation Efficiency Act of 1991.

["(E) The Transportation Equity Act for the 21st Century.

["(F) The Motor Carrier Safety Improvement Act of 1999.

["(G) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.".

[(2) MASS TRANSIT ACCOUNT.—Section 9503(e)(3) is amended to read as follows:

["(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital-related expenditures before October 1, 2011 (including capital expenditures for new projects) in accordance with the following Acts and provisions of law, as in effect on the date of enactment of the last Act listed:

["(A) Section 5338(a)(1) or (b)(1) of title 49.

["(B) The Intermodal Surface Transportation Efficiency Act of 1991.

["(C) The Transportation Equity Act for the 21st Century.

["(D) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.".

### [SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL FUELS.

[(a) EXTENSION OF TAX BENEFITS.—

[(1) EXTENSION.—The following provisions are each amended by striking "2007" each place it appears and inserting "2014":

[(A) Section 4041(b)(2)(C)(ii) and (D) (relating to termination of reduction in tax for qualified methanol and ethanol fuel).

[(B) Section 4041(k)(3) (relating to termination of rates relating to fuels containing alcohol).

[(C) Section 4081(c)(8) (relating to termination of special rate for taxable fuels mixed with alcohol).

[(D) Section 4091(c)(5) (relating to termination of reduced rate of tax for aviation fuel in alcohol mixture, etc.).

[(E) Section 40(h) (relating to termination of credit for ethanol blenders).

[(2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels), as amended by the Taxpayer Relief Act of 1997, is amended by striking "2007" and inserting "2012".

[(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of section 40(e) (relating to termination of credit for alcohol used as a fuel) is amended—

[(A) by striking "December 31, 2007" in subparagraph (A) and inserting "December 31, 2014", and

[(B) by striking "January 1, 2008" and inserting "January 1, 2015".

[(4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "10/1/2014".

[(b) CONFORMING AMENDMENTS.—

[(1) AMOUNT OF REDUCED CREDIT FOR ETHANOL BLENDERS.—The table in paragraph (2) of 40(h) is amended by striking "2005, 2006, or 2007" and inserting "2005 through 2014".

[(2) APPLICABLE BLENDER RATE FOR EXEMPTED QUALIFIED METHANOL AND ETHANOL FUEL.—Section 4041(b)(2)(C) is amended by striking "2001" and inserting "2008".

### [SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE TRANSPORTATION INFRASTRUCTURE.

[(a) EXEMPT FACILITY BONDS.—Section 142 is amended—

[(1) in subsection (a) by—

[(A) striking "or" at the end of paragraph (12);

[(B) striking the period at the end of paragraph (13) and inserting a comma; and

[(C) adding after paragraph (13) the following new paragraphs:

["(14) highway facilities, or

["(15) surface freight transfer facilities."; and

[(2) by adding new subsections (l), (m), and (n) at the end, as follows:

["(l) HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'highway facilities' means—

["(1) a surface transportation project eligible for Federal assistance under title 23, United States Code (as in effect on the date of enactment of this subsection), or

["(2) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible.

["(m) SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term "surface freight transfer facilities" means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers).

["(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR HIGHWAY FACILITIES AND SURFACE FREIGHT TRANSFER FACILITIES.

["(1) IN GENERAL.—The aggregate face amount of bonds issued pursuant to subsections (a)(14) (relating to highway facilities) and (a)(15) (relating to surface freight transfer facilities) shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund a bond issued pursuant to either of such subsections (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

["(2) ALLOCATION.—The Secretary of Transportation shall allocate the amount described in paragraph (1) among eligible projects satisfying the requirements of subsection (a)(14) or (a)(15).".

[(b) VOLUME CAP, EXCEPTION FOR CERTAIN BONDS.—Section 146(g) is amended in paragraph (3), by—

[(1) striking "(12), or (13)" and inserting "(12), (13), (14), or (15)"; and

[(2) striking "and qualified public educational facilities" and inserting "qualified public educational facilities, highway facilities, and surface freight transfer facilities".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

### [SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

[(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

[(1) by adding "or" at the end of subparagraph (C);

[(2) in subparagraph (D)(iii), by striking ", and" after "2005" and inserting a period; and

[(3) by striking subparagraphs (E) and (F).

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

### [SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO BOAT SAFETY ACCOUNT.

[(a) IN GENERAL.—Section 9503(c)(4)(A) is amended by striking "2005" and inserting "2011".

[(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

[(1) by striking "2003" and inserting "2009", and

[(2) by striking "2004" each place it appears and inserting "2010".

[(c) TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.—Section 1511(e)(2) of the Homeland Security Act of 2002 (Public Law No. 107–296) is amended by striking "and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs", and inserting "and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Boat Safety Account of the Aquatic Resources Trust Fund for boating safety programs.".

[(d) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Section 9504(c) is amended by striking "2003" and inserting "2009".

### [SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.

[Section 9503(c)(5)(A) is amended by striking the year "2005" and inserting "2011".

### [SEC. 9008. TECHNICAL CORRECTION.

[The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

### [SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL, OR BARGE REQUIRED FOR FUEL TAX EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES; DISPLAY OF REGISTRATION REQUIREMENT.

[(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended by inserting ", bulk carrier," after "the taxable fuel".

[(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

[(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**["§ 6717. Failure to register under section 4101**

["(a) FAILURE TO REGISTER.—Any person who fails to register with the Secretary as required by regulations under section 4101 shall pay a penalty of $1,000 for each day during the period of such failure in which such person engages in an activity for which registration is required.

["(b) JOINT AND SEVERAL LIABILITY.—

["(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

["(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

[(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

["6717. Failure to register under section 4101.".

[(c) DISPLAY OF REGISTRATION.—

[(1) IN GENERAL.—Section 4101 (relating to registration and bond) is amended by adding at the end the following new subsection:

["(e) DISPLAY OF REGISTRATION.—Every vessel operator required by the Secretary to register under this section with respect to the tax imposed by section 4081 shall display proof of such registration in such manner as the Secretary may prescribe.".

[(2) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

[(A) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**["§ 6718. Failure to display proof of registration by vessels or barges**

["(a) FAILURE TO DISPLAY PROOF OF REGISTRATION.—Every vessel operator who fails to display proof of registration when required to do so pursuant to section 4101(e) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

["(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person or operator, subsection (a) shall be applied by increasing the amount imposed in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).".

[(B) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

["6718. Failure to display proof of registration by vessels or barges.".

[(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

### [SEC. 9010. RETURNS FILED ELECTRONICALLY.

[(a) INFORMATION REPORTING.—Section 4101(d) (relating to information reporting) is amended to read as follows:

["(d) INFORMATION REPORTING.—

["(1) The Secretary may require—

["(A) information reporting by any person registered under this section, and

["(B) information reporting by such other persons as the Secretary deems necessary to carry out this part.

["(2) Information reporting required by the Secretary under paragraph (1) of this subsection shall be by electronic format for any person having at least 25 reportable transactions in a month.".

[(b) USE TAX ON CERTAIN VEHICLES.—Section 4481(b) is amended by adding the following new sentence at the end: "Any return of tax imposed by this section reporting at least 25 vehicles shall be filed by electronic format.".

[(c) ELECTRONIC FORMAT.—The Secretary of the Treasury shall describe the electronic formats for filing under subsections (a) and (b) not later than 90 days after the date of the enactment of this Act.

[(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (a) and the amendment made by subsection (b) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (b).

### [SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.

[(a) Section 4083(c)(3) is amended by adding at the end a new sentence as follows: "For purposes of this subsection, the penalty provided by section 7342 shall be treated as an assessable penalty and assessed in accordance with section 6671.".

[(b) EFFECTIVE DATE.— The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

### [SEC. 9012. REQUIREMENT OF TAX PAYMENT DECAL; ELIMINATION OF INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.

[(a) DISPLAY OF PROOF OF PAYMENT OF TAX.—Section 4481(b) (relating to imposition of tax on use of certain highway motor vehicles) is amended by adding a sentence at the end as follows: "Every person, agency, or instrumentality who has paid the tax imposed by this section shall display proof of such payment in a manner as the Secretary may prescribe.".

[(b) CIVIL PENALTY FOR FAILURE TO DISPLAY PROOF OF TAX PAYMENT DECAL.—

[(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**["§ 6719. Failure to display proof of tax payment decal**

["(a) IMPOSITION OF PENALTY.—Each person, agency, or instrumentality who fails to display proof of payment of tax when required to do so pursuant to the last sentence of section 4481(b) (relating to the display of proof of payment of tax) shall pay a penalty of $50. With respect to any vehicle, only one penalty shall be imposed by this section during any calendar month.

["(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, agency, or instrumentality, subsection (a) shall be applied by increasing the amount imposed in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person, agency, or instrumentality. ".

[(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

["6719. Failure to display proof of tax payment decal.".

[(c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY USE TAX IN INSTALLMENTS.—

[(1) REPEAL.—Section 6156 (relating to the privilege to pay in installments the tax imposed under section 4481 of such Code on use of highway motor vehicles) is repealed.

[(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

### [SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS OF RECORDS.

[(a) PROVISION OF COPIES OF RECORDS.—Section 4102 (relating to inspection of records by local officers) is amended by inserting ", and copies shall be furnished upon request of," after "inspection by".

[(b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.—Section 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by inserting "; such records and information on returns required to be filed with respect to taxes under section 4481 shall be open to inspection by officers of any State agency charged with the registration and licensing of vehicles described in such section and officers of any other Federal or State agency charged with the enforcement of Federal or State law regarding taxable fuels or criminal activities regarding taxable fuels" after "section 4083)".

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.]

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. General definitions.*
*Sec. 3. Definitions for title 23.*

*TITLE I—FEDERAL-AID HIGHWAYS*

*Subtitle A—Funding*

*Sec. 1101. Authorization of appropriations.*
*Sec. 1102. Obligation ceiling.*
*Sec. 1103. Apportionments.*
*Sec. 1104. Minimum guarantee.*
*Sec. 1105. Revenue aligned budget authority.*

*Subtitle B—New Programs*

*Sec. 1201. Infrastructure performance and maintenance program.*
*Sec. 1202. Future of surface transportation system.*
*Sec. 1203. Freight transportation gateways; freight intermodal connections.*
*Sec. 1204. Construction of ferry boats and ferry terminal facilities.*
*Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.*

*Subtitle C—Finance*

*Sec. 1301. Federal share.*
*Sec. 1302. Transfer of highway and transit funds.*
*Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.*
*Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.*
*Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.*
*Sec. 1306. State infrastructure banks.*

*Subtitle D—Safety*

*Sec. 1401. Highway safety improvement program.*
*Sec. 1402. Operation lifesaver.*
*Sec. 1403. License suspension.*
*Sec. 1404. Bus axle weight exemption.*
*Sec. 1405. Safe routes to schools program.*
*Sec. 1406. Purchases of equipment.*
*Sec. 1407. Workzone safety.*
*Sec. 1408. Worker injury prevention and free flow of vehicular traffic.*

*Subtitle E—Environmental Planning and Review*

*CHAPTER 1—TRANSPORTATION PLANNING*

*Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.*
*Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.*
*Sec. 1503. Integration of natural resource concerns into transportation project planning.*
*Sec. 1504. Public involvement in transportation planning and projects.*
*Sec. 1505. Project mitigation.*

*CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS*

*Sec. 1511. Transportation project development process.*
*Sec. 1512. Assumption of responsibility for categorical exclusions.*
*Sec. 1513. Surface transportation project delivery pilot program.*
*Sec. 1514. Regulations.*

*CHAPTER 3—MISCELLANEOUS*

*Sec. 1521. Critical real property acquisition.*
*Sec. 1522. Planning capacity building initiative.*

*Subtitle F—Environment*

*Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.*
*Sec. 1602. National scenic byways program.*
*Sec. 1603. Recreational trails program.*
*Sec. 1604. Exemption of Interstate System.*
*Sec. 1605. Standards.*
*Sec. 1606. Use of high occupancy vehicle lanes.*
*Sec. 1607. Bicycle transportation and pedestrian walkways.*
*Sec. 1608. Idling reduction facilities in interstate rights-of-way.*
*Sec. 1609. Toll programs.*
*Sec. 1610. Federal reference method.*
*Sec. 1611. Addition of particulate matter areas to CMAQ.*
*Sec. 1612. Addition to CMAQ-eligible projects.*
*Sec. 1613. Improved interagency consultation.*
*Sec. 1614. Evaluation and assessment of CMAQ projects.*
*Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.*
*Sec. 1616. Transition to new air quality standards.*
*Sec. 1617. Reduced barriers to air quality improvements.*
*Sec. 1618. Air quality monitoring data influenced by exceptional events.*
*Sec. 1619. Conforming amendments.*
*Sec. 1620. Highway stormwater discharge mitigation program.*

*Subtitle G—Operations*

*Sec. 1701. Transportation systems management and operations.*
*Sec. 1702. Real-time system management information program.*

*Subtitle H—Federal-Aid Stewardship*

*Sec. 1801. Future Interstate System routes.*
*Sec. 1802. Stewardship and oversight.*
*Sec. 1803. Design-build contracting.*
*Sec. 1804. Program efficiencies—finance.*
*Sec. 1805. Set-asides for interstate discretionary projects.*
*Sec. 1806. Federal lands highways program.*
*Sec. 1807. Emergency relief.*
*Sec. 1808. Highway bridge program.*
*Sec. 1809. Appalachian development highway system.*
*Sec. 1810. Multistate corridor program.*
*Sec. 1811. Border planning, operations, technology, and capacity program.*
*Sec. 1812. Puerto Rico highway program.*
*Sec. 1813. National historic covered bridge preservation.*
*Sec. 1814. Transportation and community and system preservation pilot program.*
*Sec. 1815. Tribal-State road maintenance agreements.*
*Sec. 1816. Forest highways.*
*Sec. 1817. Territorial highway program.*
*Sec. 1818. Magnetic levitation transportation technology deployment program.*
*Sec. 1819. Donations and credits.*
*Sec. 1820. Disadvantaged business enterprises.*

*Subtitle I—Technical Corrections*

*Sec. 1901. Repeal or update of obsolete text.*
*Sec. 1902. Clarification of date.*
*Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.*
*Sec. 1904. Inclusion of Buy America requirements in title 23.*
*Sec. 1905. Technical amendments to nondiscrimination section.*

*TITLE II—TRANSPORTATION RESEARCH*

*Subtitle A—Funding*

*Sec. 2001. Authorization of appropriations.*
*Sec. 2002. Obligation ceiling.*
*Sec. 2003. Notice.*

*Subtitle B—Research and Technology*

*Sec. 2101. Research and technology program.*
*Sec. 2102. Study of data collection and statistical analysis efforts.*
*Sec. 2103. Centers for surface transportation excellence.*

*Subtitle C—Intelligent Transportation System Research*

*Sec. 2201. Intelligent transportation system research and technical assistance program.*

*TITLE III—INTERMODAL PASSENGER FACILITIES*

*Sec. 3002. Intermodal passenger facilities.*

*TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS*

*Sec. 4001. Amendment of Federal Aid in Fish Restoration Act.*
*Sec. 4002. Authorization of appropriations.*
*Sec. 4003. Division of annual appropriations.*
*Sec. 4004. Maintenance of projects.*
*Sec. 4005. Boating infrastructure.*
*Sec. 4006. Requirements and restrictions concerning use of amounts for expenses for administration.*
*Sec. 4007. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, Commonwealth of the Northern Marina Islands, and Virgin Islands.*
*Sec. 4008. Multistate conservation grant program.*

**SEC. 2. GENERAL DEFINITIONS.**

*In this Act:*

*(1) DEPARTMENT.—The term "Department" means the Department of Transportation.*

*(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.*

**SEC. 3. DEFINITIONS FOR TITLE 23.**

*Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:*

*"(a) DEFINITIONS.—In this title:*

*"(1) APPORTIONMENT.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.*

*"(2) CARPOOL PROJECT.—*

*"(A) IN GENERAL.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.*

*"(B) INCLUSIONS.—The term 'carpool project' includes a project—*

*"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;*

*"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;*

*"(iii) to acquire vehicles for carpool use;*

*"(iv) to designate highway lanes as preferential carpool highway lanes;*

*"(v) to provide carpool-related traffic control devices; and*

*"(vi) to designate facilities for use for preferential parking for carpools.*

*"(3) CONSTRUCTION.—*

*"(A) IN GENERAL.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.*

*"(B) INCLUSIONS.—The term 'construction' includes—*

*"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);*

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational movements; and

"(xii) transportation system management and operations.

"(4) COUNTY.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—

"(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

"(E) a parkway;

"(F) a refuge road;

"(G) an Indian reservation road that is a public road; and

"(H) a public lands highway.

"(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) is open to public travel.

"(9) FOREST ROAD OR TRAIL.—

"(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

"(B) INCLUSIONS.—The term 'forest road or trail' includes—

"(i) a classified forest road;

"(ii) an unclassified forest road;

"(iii) a temporary forest road; and

"(iv) a public forest service road.

"(10) FREIGHT TRANSPORTATION GATEWAY.—

"(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

"(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

"(11) HIGHWAY.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

"(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

"(13) INDIAN RESERVATION ROAD.—

"(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(B) AREAS.—The areas referred to in subparagraph (A) are—

"(i) an Indian reservation;

"(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

"(iii) an Indian or Alaska Native village, group, or community.

"(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(15) MAINTENANCE.—

"(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

"(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

"(i) the surface, shoulders, roadsides, and structures of a highway; and

"(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

"(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

"(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

"(A) labor costs;

"(B) administrative costs;

"(C) costs of utilities and rent;

"(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

"(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

"(i) an integrated traffic control system;

"(ii) an incident management program; and

"(iii) a traffic control center.

"(20) OPERATIONAL IMPROVEMENT.—

"(A) IN GENERAL.—The term 'operational improvement' means—

"(i) a capital improvement for installation or implementation of—

"(I) a transportation system management and operations program;

"(II) traffic and transportation security surveillance and control equipment;

"(III) a computerized signal system;

"(IV) a motorist information system;

"(V) an integrated traffic control system;

"(VI) an incident management program;

"(VII) equipment and programs for transportation response to manmade and natural disasters; or

"(VIII) a transportation demand management facility, strategy, or program; and

"(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

"(B) EXCLUSIONS.—The term 'operational improvement' does not include—

"(i) a resurfacing, restorative, or rehabilitative improvement;

"(ii) construction of an additional lane, interchange, or grade separation; or

"(iii) construction of a new facility on a new location.

"(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

"(23) PROJECT.—The term 'project' means—

"(A)(i) an undertaking to construct a particular portion of a highway; or

"(ii) if the context so implies, a particular portion of a highway so constructed; and

"(B) any other undertaking eligible for assistance under this title.

"(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and a State transportation department under section 106.

"(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

"(A) that is open to public travel;

"(B) for which title and maintenance responsibility is vested in the Federal Government; and

"(C) that has been designated a public road by the Forest Service.

"(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

"(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

"(A) a forest road that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(29). PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(31) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(34) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(35) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Conduct of scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Control and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(40) URBAN AREA.—The term 'urban area' means—

"(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

"(B) an urban place designated by the Bureau of the Census that—

"(i) has a population of 5,000 or more;

"(ii) is not located within any urbanized area; and

"(iii) is located within boundaries that—

"(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

"(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

"(A) has a population of 50,000 or more;

"(B) is designated by the Bureau of the Census; and

"(C) is located within boundaries that—

"(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

## TITLE I—FEDERAL-AID HIGHWAYS

### Subtitle A—Funding

### SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,500,000,000 for fiscal year 2004;

(B) $6,300,000,000 for fiscal year 2005; and

(C) $6,550,000,000 for each of fiscal years 2006 through 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,650,000,000 for fiscal year 2004;

(B) $7,650,000,000 for fiscal year 2005; and

(C) $7,950,000,000 for each of fiscal years 2006 through 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,700,000,000 for fiscal year 2004;

(B) $5,400,000,000 for fiscal year 2005; and

(C) $5,600,000,000 for each of fiscal years 2006 through 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,950,000,000 for fiscal year 2004;

(B) $7,950,000,000 for fiscal year 2005; and

(C) $8,250,000,000 for each of fiscal years 2006 through 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,900,000,000 for fiscal year 2004;

(B) $2,150,000,000 for fiscal year 2005; and

(C) $2,225,000,000 for each of fiscal years 2006 through 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,200,000,000 for fiscal year 2004;

(B) $1,300,000,000 for fiscal year 2005; and

(C) $1,350,000,000 for each of fiscal years 2006 through 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $325,000,000 for fiscal year 2005;

(iii) $350,000,000 for fiscal year 2006;

(iv) $375,000,000 for fiscal year 2007;

(v) $400,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $310,000,000 for fiscal year 2005; and

(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;
(B) $135,000,000 for fiscal year 2005;
(C) $157,500,000 for fiscal year 2006;
(D) $180,000,000 for fiscal year 2007;
(E) $202,500,000 for fiscal year 2008; and
(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;
(B) $35,000,000 for fiscal year 2005;
(C) $36,000,000 for fiscal year 2006;
(D) $37,000,000 for fiscal year 2007; and
(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title—

(A) $2,500,000,000 for each of fiscal years 2004 through 2006;

(B) $2,000,000,000 for each of fiscal years 2007 and 2008; and

(C) $500,000,000 for fiscal year 2009.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $38,000,000 for each of fiscal years 2004 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;
(B) $145,000,000 for fiscal year 2005;
(C) $149,000,000 for fiscal year 2006;
(D) $154,000,000 for fiscal year 2007;
(E) $160,000,000 for fiscal year 2008; and
(F) $163,000,000 for fiscal year 2009.

**SEC. 1102. OBLIGATION CEILING.**

[RESERVED]

**SEC. 1103. APPORTIONMENTS.**

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $450,000,000 for fiscal year 2004;
"(B) $465,000,000 for fiscal year 2005;
"(C) $480,000,000 for fiscal year 2006;
"(D) $495,000,000 for fiscal year 2007;
"(E) $510,000,000 for fiscal year 2008; and
"(F) $525,000,000 for fiscal year 2009.

"(2) PURPOSES.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.".

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for expenditure upon programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) IN GENERAL.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "1998 through 2002" and inserting "2004 through 2009".

**SEC. 1104. MINIMUM GUARANTEE.**

Section 105 of title 23, United States Code, is amended by striking subsections (a) through (f) and inserting the following:

"(a) GENERAL RULE.—For each of fiscal years 2004 through 2009, the Secretary shall ensure that the percentage of apportionments of each State is sufficient to ensure that, based on the percentage of tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available, no State's percentage return from the Highway Trust Fund is less than 90.5 percent.

"(b) APPORTIONMENTS—In making an apportionment described in subsection (a) for a fiscal year, the Secretary shall ensure that the rate of return of each State from the Highway Trust Fund includes the total apportionments made for the fiscal year for—

"(1) the Interstate maintenance program under section 119;

"(2) the National Highway System under section 103;

"(3) the bridge program under section 144;

"(4) the surface transportation program under section 133;

"(5) the congestion mitigation and air quality improvement program under section 149;

"(6) the highway safety improvement program under section 148;

"(7) the Appalachian development highway system program under section 170;

"(8) the recreational trails program under section 206;

"(9) the infrastructure performance and maintenance program under section 139;

"(10) the metropolitan planning program under section 104(f);

"(11) the equity bonus program under this section;

"(12) the high priority projects program under section 1601 of the Transportation Equity Act for the 21st Century (112 Stat. 255);

"(13) the safe routes to school program under section 150; and

"(14) the railway-highway crossings under section 130.".

**SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" each place it appears and inserting "2006"; and

(B) in paragraph (2)—

(i) by striking "the succeeding" and inserting "that"; and

(ii) by striking "and the motor carrier safety grant program";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

## Subtitle B—New Programs

**SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 138 the following:

**"§ 139. Infrastructure performance and maintenance program**

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge replacement and rehabilitation program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(A) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(B) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(2) SET-ASIDE.—Notwithstanding any other provision of law, of the amounts made available under section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, $439,000,000 shall be available for obligation to carry out this section without further appropriation.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) Redistribution of Allocated Funds and Obligation Authority.—

"(1) In general.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(a)(14) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) Equity bonus.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) Federal Share Payable.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

**SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.**

(a) Declaration of Policy.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) Declaration of Policy.—

"(1) Acceleration of construction of federal-aid highway systems.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) Completion of interstate system.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) Transportation needs of 21st century.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) National Surface Transportation System Study.—

(1) In general.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

(i) the National Highway System;

(ii) the Interstate System;

(iii) the strategic highway network;

(iv) congressional high priority corridors;

(v) intermodal connectors;

(vi) freight facilities;

(vii) navigable waterways;

(viii) mass transportation;

(ix) freight and intercity passenger rail infrastructure and facilities; and

(x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) Specific issues.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns in recommended alternatives;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and system operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) Technical advisory committee.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) Report.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investigation and study conducted under this subsection.

**SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.**

(a) Freight Transportation Gateways.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

**"§ 325. Freight transportation gateways**

"(a) In General.—

"(1) Establishment.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) Purposes.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) State Responsibilities.—

"(1) Project development process.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) Freight transportation coordinator.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of Federal-aid system highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

### SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

**"§ 147. Construction of ferry boats and ferry terminal facilities**

"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals under this section shall be 80 percent.

"(c) SET ASIDE FOR PROJECTS ON NATIONAL HIGHWAY SYSTEM.—Before any apportionment is made under section 104(b)(3), the Secretary shall set aside $20,000,000 for each of fiscal years 2004 through 2009, for obligation by the Secretary, for—

"(1) the construction or refurbishment of ferry boats and ferry terminal facilities;

"(2) the acquisition of zero- or low-emission ferry boats, or projects that advance the shipbuilding capacities of the United States through the introduction of new technology; and

"(3) approaches to facilities described in paragraph (1) located within marine highway systems that are part of the National Highway System.

"(d) FUNDING.—There shall be made available to the Secretary to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), for obligation at the discretion of the Secretary and to remain available until expended, $38,000,000 for the period of fiscal years 2004 through 2009.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

### SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—Interstate Highway 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (a) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

## Subtitle C—Finance

### SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park and monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.

"(C) DECREASED FEDERAL SHARE.—Unless the State voluntarily agrees to a decreased Federal share, the Secretary shall provide the maximum Federal share allowable under subsections (a) and (b), as adjusted by this subsection.".

### SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

*Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:*

*"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—*

*"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.*

*"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.*

*"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.*

*"(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—*

*"(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—*

*"(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or*

*"(II) a State transportation department consents to the transfer of funds;*

*"(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and*

*"(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.*

*"(B) ADMINISTRATION.—*

*"(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.*

*"(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.*

*"(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.*

*"(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—*

*"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.*

*"(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.*

*"(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.*

*"(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.*

*"(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.".*

### SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

*(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—*

*(1) in paragraph (3), by striking "category" and "offered into the capital markets";*

*(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;*

*(3) in paragraph (8) (as redesignated by paragraph (2))—*

*(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and*

*(B) by striking subparagraph (D) and inserting the following:*

*"(D) a project that—*

*"(i)(I) is a project for—*

*"(aa) a public freight rail facility or a private facility providing public benefit;*

*"(bb) an intermodal freight transfer facility;*

*"(cc) a means of access to a facility described in item (aa) or (bb);*

*"(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or*

*"(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;*

*"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and*

*"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and*

*(4) in paragraph (10) (as redesignated by paragraph (2)) by striking "bond" and inserting "credit".*

*(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) by striking paragraphs (1) and (2) and inserting the following:*

*"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.*

*"(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.";*

*(B) in paragraph (3)(A)—*

*(i) in clause (i), by striking "$100,000,000" and inserting "$50,000,000"; and*

*(ii) in clause (ii), by striking "50" and inserting "20"; and*

*(C) in paragraph (4)—*

*(i) by striking "Project financing" and inserting "The Federal credit instrument"; and*

*(ii) by inserting before the period at the end the following: "that also secure the project obligations"; and*

*(2) in subsection (b)—*

*(A) in paragraph (1), by striking "criteria" the second place it appears and inserting "requirements"; and*

*(B) in paragraph (2)(B), by inserting "(which may be the Federal credit instrument)" after "obligations".*

*(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1)—*

*(i) by striking "of any project selected under section 182." at the end;*

*(ii) in subparagraphs (A) and (B), by inserting "of any project selected under section 182" after "costs" ; and*

*(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and*

*(B) in paragraph (4)—*

*(i) by striking "funding" and inserting "execution"; and*

*(ii) by striking "rating," and all that follows and inserting a period;*

*(2) in subsection (b)—*

*(A) by striking paragraph (2) and inserting the following:*

*"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—*

*"(A) 33 percent of the reasonably anticipated eligible project costs; or*

*"(B) the amount of the senior project obligations.";*

*(B) in paragraph (3)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and*

*(C) in paragraph (4), by striking "marketable"; and*

*(3) in subsection (c)—*

*(A) by striking paragraph (3);*

*(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and*

*(C) in paragraph (3) (as redesignated by subparagraph (B))—*

*(i) in subparagraph (A), by striking "during the 10 years"; and*

*(ii) in subparagraph (B)(ii), by striking "loan" and all that follows and inserting "loan.".*

*(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (3), by striking "interest, any debt service reserve fund, and any other available reserve" and inserting "interest (but not including reasonably required financing reserves)";*

*(B) in paragraph (4), by striking "marketable United States Treasury securities as of the date on which the line of credit is obligated" and inserting " United States Treasury securities as of the date of execution of the line of credit agreement"; and*

*(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and*

*(2) in subsection (c)—*

*(A) in paragraph (2)—*

*(i) by striking "scheduled";*

*(ii) by inserting "be scheduled to" after "shall"; and*

*(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and*

*(B) by striking paragraph (3).*

*(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:*

### "§ 185. Program administration

*"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.*

*"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.*

*"(c) SERVICER.—*

*"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.*

*"(2) DUTIES.—The servicer shall act as the agent for the Secretary.*

*"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.*

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

**"§ 188. Funding**

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $130,000,000 for each of fiscal years 2004 through 2009.

"(2) COLLECTED FEES.—All fees collected under this subchapter shall be made available to the Secretary, without further appropriation, to carry out this subchapter.

"(3) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

"(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

### SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

**"§ 31708. Facilitation of international registration plans and international fuel tax agreements**

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

### SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System" (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) TERMS.—A member shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) SPECIFIC MATTERS.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) FACTORS.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

*(e) Commission Personnel Matters.—*

*(1) Members.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.*

*(2) Contractor.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.*

*(3) Administrative support.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.*

*(4) Detail of department personnel.—*

*(A) In general.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.*

*(B) Civil service status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.*

*(5) Cooperation.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.*

*(f) Relationship to Other Laws.—*

*(1) In general.—Except as provided in paragraphs (2) and (3), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(2) Federal share.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.*

*(3) Availability.—Funds made available to carry out this section shall remain available until expended.*

*(g) Authorization of Appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for fiscal year 2004.*

*(h) Termination.—*

*(1) In general.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).*

*(2) Records.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Administrator of General Services for deposit in the National Archives.*

### SEC. 1306. STATE INFRASTRUCTURE BANKS.

*Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".*

## Subtitle D—Safety

### SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

*(a) Safety Improvement.—*

*(1) In general.—Section 148 of title 23, United States Code, is amended to read as follows:*

### "§ 148. Highway safety improvement program

*"(a) Definitions.—In this section:*

*"(1) Highway safety improvement program.—The term 'highway safety improvement program' means the program carried out under this section.*

*"(2) Highway safety improvement project.—*

*"(A) In general.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—*

*"(i) corrects or improves a hazardous road location or feature; or*

*"(ii) addresses a highway safety problem.*

*"(B) Inclusions.—The term 'highway safety improvement project' includes a project for—*

*"(i) an intersection safety improvement;*

*"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);*

*"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;*

*"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;*

*"(v) an improvement for pedestrian or bicyclist safety;*

*"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;*

*"(II) construction of a railway-highway crossing safety feature; or*

*"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;*

*"(vii) construction of a traffic calming feature;*

*"(viii) elimination of a roadside obstacle;*

*"(ix) improvement of highway signage and pavement markings;*

*"(x) installation of a priority control system for emergency vehicles at signalized intersections;*

*"(xi) installation of a traffic control or other warning device at a location with high accident potential;*

*"(xii) safety-conscious planning;*

*"(xiii) improvement in the collection and analysis of crash data;*

*"(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;*

*"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;*

*"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or*

*"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.*

*"(3) Safety project under any other section.—*

*"(A) In general.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.*

*"(B) Inclusion.—The term 'safety project under any other section' includes a project to—*

*"(i) promote the awareness of the public and educate the public concerning highway safety matters; or*

*"(ii) enforce highway safety laws.*

*"(4) State highway safety improvement program.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).*

*"(5) State strategic highway safety plan.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—*

*"(A) is developed after consultation with—*

*"(i) a highway safety representative of the Governor of the State;*

*"(ii) regional transportation planning organizations, if any;*

*"(iii) representatives of major modes of transportation;*

*"(iv) local traffic enforcement officials;*

*"(v) persons responsible for administering section 130 at the State level;*

*"(vi) representatives conducting Operation Lifesaver;*

*"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;*

*"(viii) motor vehicle administration agencies; and*

*"(ix) other major State and local safety stakeholders;*

*"(B) analyzes and makes effective use of State, regional, or local crash data;*

*"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;*

*"(D) considers safety needs of, and high-fatality segments of, public roads;*

*"(E) considers the results of State, regional, or local transportation and highway safety planning processes in existence as of the date of enactment of this section;*

*"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;*

*"(G) is approved by the Governor of the State or a responsible State agency; and*

*"(H) is consistent with the requirements of section 135(f).*

*"(b) Program.—*

*"(1) In general.—The Secretary shall carry out a highway safety improvement program.*

*"(2) Purpose.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.*

*"(c) Eligibility.—*

*"(1) In general.—To receive funds under this section, a State shall have in effect a State highway safety improvement program under which the State—*

*"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);*

*"(B) produces a program of projects or strategies to reduce identified safety problems; and*

*"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements.*

*"(2) Identification and analysis of highway safety problems and opportunities.—As part of the State strategic highway safety plan, a State shall—*

*"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;*

*"(B) based on the analysis required by subparagraph (A), identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users;*

*"(C) adopt strategic and performance-based goals that—*

*"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;*

*"(ii) focus resources on areas of greatest need; and*

*"(iii) are coordinated with other State highway safety programs;*

*"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—*

*"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;*

*"(ii) includes all public roads; and*

*"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, and pedestrians;*

*"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;*

*"(ii) identify opportunities for preventing the development of such hazardous conditions; and*

*"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and*

*"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and*

*"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.*

*"(d) Eligible Projects.—*

*"(1) In general.—A State may obligate funds apportioned to the State under this section to carry out—*

*"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or*

*"(B) as provided in subsection (e), for other safety projects.*

*"(2) Use of other funding for safety.—*

*"(A) Effect of section.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.*

*"(B) Use of other funds.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).*

*"(e) Flexible Funding for States With a Strategic Highway Safety Plan.—*

*"(1) In general.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.*

*"(2) Other transportation and highway safety plans.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.*

*"(f) Reports.—*

*"(1) In general.—A State shall submit to the Secretary a report that—*

*"(A) describes progress being made to implement highway safety improvement projects under this section;*

*"(B) assesses the effectiveness of those improvements; and*

*"(C) describes the extent to which the improvements funded under this section contribute to the goals of—*

*"(i) reducing the number of fatalities on roadways;*

*"(ii) reducing the number of roadway-related injuries;*

*"(iii) reducing the occurrences of roadway-related accidents;*

*"(iv) mitigating the consequences of roadway-related accidents; and*

*"(v) reducing the occurrences of roadway-railroad grade crossing accidents.*

*"(2) Contents; schedule.—The Secretary shall establish the content and schedule for a report under paragraph (1).*

*"(g) Federal Share of Highway Safety Improvement Projects.—The Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.".*

*(2) Allocations of apportioned funds.—Section 133(d) of title 23, United States Code, is amended—*

*(A) by striking paragraph (1);*

*(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;*

*(C) in paragraph (2) (as redesignated by subparagraph (B))—*

*(i) in the first sentence of subparagraph (A)—*

*(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and*

*(II) by striking "80 percent" and inserting "90 percent";*

*(ii) by striking subparagraph (C);*

*(iii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and*

*(iv) in subparagraph (C) (as redesignated by clause (iii)), by adding a period at the end; and*

*(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".*

*(3) Conforming amendments.—*

*(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:*

*"148. Highway safety improvement program.".*

*(B) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".*

*(b) Apportionment of Highway Safety Improvement Program Funds.—Section 104(b) of title 23, United States Code, is amended—*

*(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and*

*(2) by adding at the end the following:*

*"(5) Highway safety improvement program.—*

*"(A) In general.—For the highway safety improvement program, in accordance with the following formula:*

*"(i) 25 percent of the apportionments in the ratio that—*

*"(I) the total lane miles of Federal-aid highways in each State; bears to*

*"(II) the total lane miles of Federal-aid highways in all States.*

*"(ii) 40 percent of the apportionments in the ratio that—*

*"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to*

*"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.*

*"(iii) 35 percent of the apportionments in the ratio that—*

*"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to*

*"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.*

*"(B) Minimum apportionment.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".*

*(c) Elimination of Hazards Relating to Highway Facilities.—*

*(1) Funds for protective devices.—Section 130(e) of title 23, United States Code, is amended—*

*(A) in the heading, by striking "Protective Devices" and inserting "Railway-Highway Crossings";*

*(B) by striking the first sentence and inserting the following:*

*"(1) In general.—For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings."; and*

*(C) by striking "Sums authorized" and inserting the following:*

*"(2) Obligation.—Sums authorized".*

*(2) Biennial reports to Congress.—Section 130(g) of title 23, United States Code, is amended in the third sentence—*

*(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and*

*(B) by striking "not later than April 1 of each year" and inserting "every other year".*

*(3) Expenditure of funds; apportionment.—Section 130 of title 23, United States Code, is amended by adding at the end the following:*

*"(k) Expenditure of Funds; Apportionment.—Funds made available to carry out this section shall be—*

*"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and*

*"(2) apportioned in accordance with section 104(b)(5).".*

*(d) Transition.—*

*(1) Implementation.—Except as provided in paragraph (2), to qualify for funding under section 148 of title 23, United States Code (as amended by subsection (a)), a State shall develop and implement a State strategic highway safety plan as required by subsection (c) of that section not later than October 1 of the second fiscal year after the date of enactment of this Act.*

*(2) Interim period.—*

*(A) In general.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.*

*(B) No strategic highway safety plan.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.*

*(C) Penalty.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b) of title 23, United States Code.*

***SEC. 1402. OPERATION LIFESAVER.***

*Section 104(d)(1) of title 23, United States Code, is amended—*

*(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and*

*(2) by striking "$500,000" and inserting "$600,000".*

***SEC. 1403. LICENSE SUSPENSION.***

*Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:*

"(3) LICENSE SUSPENSION.—The term 'license suspension' means—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.".

### SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

"(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

### SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 149 the following:

**"§ 150. Safe routes to schools program**

"(a) DEFINITIONS.—In this section:

"(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) PURPOSES.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

"(viii) pedestrian-railroad grade crossing improvements.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

"(i) any public road in the vicinity of a school; or

"(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

"(2) BEHAVIORAL ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

"(i) public awareness campaigns and outreach to press and community leaders;

"(ii) traffic education and enforcement in the vicinity of schools; and

"(iii) student sessions on bicycle and pedestrian safety, health, and environment.

"(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

"(f) FUNDING.—

"(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $70,000,000 to carry out this section.

"(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

"(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

"(4) FEDERAL SHARE.—The Federal share of the cost of a project or activity funded under this section shall be 90 percent.

"(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

"150. Safe routes to school program.".

### SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

**"§ 152. Purchases of equipment**

"(a) IN GENERAL.—Subject to subsection (b), a State or other entity carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

"(b) APPLICABILITY.—This section shall apply to—

"(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

"(2) aerial work platforms with a purchase price in excess of $25,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

"152. Purchases of equipment.".

### SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

"(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

"(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

"(A) provided by a qualified vendor; and

"(B) monitored continuously.

"(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.".

### SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

## Subtitle E—Environmental Planning and Review

## CHAPTER 1—TRANSPORTATION PLANNING

### SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.".

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and *(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and*

*(B) in subparagraph (G), by inserting "and efficient use" after "preservation";*

*(2) by redesignating paragraph (2) as paragraph (3); and*

*(3) by inserting after paragraph (1) the following:*

*"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".*

### ***SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.***

*(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—*

*(1) in paragraph (2)—*

*(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and*

*(B) by inserting after subparagraph (A) the following:*

*"(B) MITIGATION ACTIVITIES.—*

*"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—*

*"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and*

*"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.*

*"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";*

*(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and*

*(3) by inserting after paragraph (3) the following:*

*"(4) CONSULTATION.—*

*"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.*

*"(B) ISSUES.—The consultation shall involve—*

*"(i) comparison of transportation plans with State conservation plans or with maps, if available;*

*"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or*

*"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".*

*(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—*

*(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:*

*"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—*

*"(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—*

*"(I) land use management;*

*"(II) natural resources;*

*"(III) environmental protection;*

*"(IV) conservation; and*

*"(V) historic preservation.*

*"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—*

*"(I) comparison of transportation plans to State conservation plans or maps, if available;*

*"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or*

*"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".*

*(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—*

*(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and*

*(B) by inserting after paragraph (3) the following:*

*"(4) MITIGATION ACTIVITIES.—*

*"(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—*

*"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and*

*"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.*

*"(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.*

*"(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".*

### ***SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.***

*Section 109(c)(2) of title 23, United States Code, is amended—*

*(1) by striking "consider the results" and inserting "consider—*

*"(A) the results";*

*(2) by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;*

*"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and*

*"(D) any other material that the Secretary determines to be appropriate.".*

### ***SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.***

*(a) METROPOLITAN PLANNING.—*

*(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—*

*(A) by striking "Before approving" and inserting the following:*

*"(A) IN GENERAL.—Before approving"; and*

*(B) by adding at the end the following:*

*"(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—*

*"(i) hold any public meetings at convenient and accessible locations and times;*

*"(ii) employ visualization techniques to describe plans; and*

*"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".*

*(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".*

*(b) STATEWIDE PLANNING.—*

*(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:*

*"(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—*

*"(i) hold any public meetings at convenient and accessible locations and times;*

*"(ii) employ visualization techniques to describe plans; and*

*"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".*

*(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:*

*"(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".*

### ***SEC. 1505. PROJECT MITIGATION.***

*(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—*

*(1) by inserting "(i)" after "(M); and*

*(2) by adding at the end the following:*

*"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".*

*(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—*

*(1) by inserting "(A)" after "(11)"; and*

*(2) by adding at the end the following:*

*"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".*

*(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:*

### ***"§155. State habitat, streams, and wetlands mitigation funds***

*"(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').*

*"(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway projects to—*

*"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and*

*"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.*

*"(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—*

*"(1) section 104(b)(1) for the National Highway System; and*

*"(2) section 104(b)(3) for the surface transportation program.*

*"(d) USE.—*

*"(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects*

*funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).*

*"(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—*

*"(A) Federal or State listed threatened or endangered species of plants and animals; and*

*"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).*

*"(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".*

*(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:*

*"155. State habitat, streams, and wetlands mitigation funds.".*

## CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

### SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:*

### "§326. Transportation project development process

*"(a) DEFINITIONS.—In this section:*

*"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or tribal government.*

*"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(3) ENVIRONMENTAL REVIEW PROCESS.—*

*"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing, for a project—*

*"(i) an environmental impact statement; or*

*"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*

*"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(4) PROJECT.—The term 'project' means any highway or transit project that requires the approval of the Secretary.*

*"(5) PROJECT SPONSOR.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.*

*"(6) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.*

*"(b) PROCESS.—*

*"(1) LEAD AGENCY.—*

*"(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.*

*"(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.*

*"(2) REQUEST FOR PROCESS.—*

*"(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.*

*"(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—*

*"(i) grant a request under subparagraph (A); and*

*"(ii) provide public notice of the request.*

*"(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).*

*"(c) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—*

*"(A) identify and invite cooperating agencies in accordance with subsection (d);*

*"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);*

*"(C) determine the purpose and need for the project in accordance with subsection (f);*

*"(D) determine the range of alternatives to be considered in accordance with subsection (g);*

*"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);*

*"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and*

*"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.*

*"(d) ROLES AND RESPONSIBILITIES OF COOPERATING AGENCIES.—*

*"(1) IN GENERAL.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.*

*"(2) INVITATION.—*

*"(A) IN GENERAL.—The lead agency shall—*

*"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—*

*"(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and*

*"(II) agencies with special expertise relevant to the project;*

*"(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and*

*"(iii) grant requests to become cooperating agencies from agencies not originally invited.*

*"(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—*

*"(i) shall be 30 days after the date of receipt by the agency of the invitation; but*

*"(ii) may be extended by the lead agency for good cause.*

*"(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—*

*"(A) has no jurisdiction or authority with respect to the project;*

*"(B) has no expertise or information relevant to the project; and*

*"(C) does not intend to submit comments on the project.*

*"(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—*

*"(A) supports a proposed project; or*

*"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.*

*"(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—*

*"(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.*

*"(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.*

*"(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—*

*"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and*

*"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.*

*"(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—*

*"(1) COORDINATION PLAN.—*

*"(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or .category of projects.*

*"(B) WORKPLAN.—*

*"(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.*

*"(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—*

*"(I) each cooperating agency for the project;*

*"(II) the State in which the project is located; and*

*"(III) if the State is not the project sponsor, the project sponsor.*

*"(C) SCHEDULE.—*

*"(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.*

*"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—*

*"(I) the responsibilities of cooperating agencies under applicable laws;*

*"(II) resources available to the cooperating agencies;*

*"(III) overall size and complexity of a project;*

*"(IV) the overall schedule for and cost of a project; and*

*"(V) the sensitivity of the natural and historic resources that could be affected by the project.*

*"(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.*

*"(E) MODIFICATION.—The lead agency may—*

*"(i) lengthen a schedule established under subparagraph (C) for good cause; and*

*"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.*

*"(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—*

*"(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and*

*"(ii) made available to the public.*

*"(2) COMMENTS AND TIMELINES.—*

*"(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—*

*"(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and*

*"(ii) except as otherwise provided under paragraph (1)—*

*"(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and*

*"(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—*

*"(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or*

*"(bb) if a minimum period is not required under Federal law (including regulations), 30 days.*

*"(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.*

*"(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.*

*"(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—*

*"(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and*

*"(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.*

*"(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).*

*"(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—*

*"(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.*

*"(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.*

*"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.*

*"(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.*

*"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.*

*"(6) CONTENTS.—*

*"(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.*

*"(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.*

*"(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:*

*"(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.*

*"(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).*

*"(C) Economic development plans adopted by—*

*"(i) units of State, local, or tribal government; or*

*"(ii) established economic development planning organizations or authorities.*

*"(D) Environmental protection plans, including plans for the protection or treatment of—*

*"(i) air quality;*

*"(ii) water quality and runoff;*

*"(iii) habitat needs of plants and animals;*

*"(iv) threatened and endangered species;*

*"(v) invasive species;*

*"(vi) historic properties; and*

*"(vii) other environmental resources.*

*"(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.*

*"(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—*

*"(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.*

*"(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.*

*"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—*

*"(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.*

*"(B) ALTERNATIVES.—The lead agency shall consider—*

*"(i) alternatives that meet the purpose and need of the project; and*

*"(ii) the alternative of no action.*

*"(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.*

*"(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.*

*"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.*

*"(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:*

*"(A) The overall size and complexity of the proposed action.*

*"(B) The sensitivity of the potentially affected resources.*

*"(C) The overall schedule and cost of the project.*

*"(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.*

*"(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).*

*"(F) Economic development plans adopted by—*

*"(i) units of State, local, or tribal government; or*

*"(ii) established economic development planning organizations or authorities.*

*"(G) environmental protection plans, including plans for the protection or treatment of—*

*"(i) air quality;*

*"(ii) water quality and runoff;*

*"(iii) habitat needs of plants and animals;*

*"(iv) threatened and endangered species;*

*"(v) invasive species;*

*"(vi) historic properties; and*

*"(vii) other environmental resources.*

*"(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.*

*"(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—*

*"(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—*

*"(A) delay completion of the environmental review process; or*

*"(B) result in denial of any approvals required for the project under applicable laws.*

*"(2) LEAD AGENCY RESPONSIBILITIES.—*

*"(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—*

*"(i) the environmental and socioeconomic resources located within the project area; and*

*"(ii) the general locations of the alternatives under consideration.*

*"(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.*

*"(3) COOPERATING AGENCY RESPONSIBILITIES.—*

*"(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.*

*"(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.*

*"(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.*

*"(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—*

*"(A) the heads of all cooperating agencies;*

*"(B) the project sponsor;*

*"(C) the Governor involved;*

*"(D) the Committee on Environment and Public Works of the Senate; and*

*"(E) the Committee on Transportation and Infrastructure of the House of Representatives.*

*"(i) PERFORMANCE MEASUREMENT.—*

*"(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.*

*"(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—*

*"(A) the establishment of criteria for measuring consideration of—*

*"(i) State and metropolitan planning, project planning, and design criteria; and*

*"(ii) environmental processing times and costs;*

*"(B) the collection of data to assess performance based on the established criteria; and*

*"(C) the annual reporting of the results of the performance measurement studies.*

*"(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—*

*"(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.*

*"(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.*

*"(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—*

*"(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds, for a highway project made available under this title, or for a mass transit project made available under chapter 53 of title 49 to the State or recipient for the project, subject to the coordinated environmental review process established under this section, to affected Federal and State agencies to provide the resources necessary to meet any time limits established under this section.*

*"(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—*

*"(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and*

*"(B) if those time limits are less than the customary time necessary for that review.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:*

*"326. Transportation project development process.".*

*(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is amended—*

*(A) by striking subsections (a), (b), (c), (d), and (e);*

*(B) by redesignating subsections (f) and (g) as subsections (b) and (a), respectively, and moving the subsections so as to appear in alphabetical order; and*

*(C) in subsection (a) (as redesignated by subparagraph (B)), in the subsection heading, by striking "FEDERAL AGENCY DEFINED.—" and inserting "DEFINITION OF FEDERAL AGENCY.—".*

### *SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.*

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:*

***"§ 327. Assumption of responsibility for categorical exclusions***

*"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—*

*"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).*

*"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.*

*"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(b) OTHER APPLICABLE FEDERAL LAWS.—*

*"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.*

*"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.*

*"(c) MEMORANDA OF UNDERSTANDING.—*

*"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.*

*"(2) TERM.—A memorandum of understanding—*

*"(A) shall have term of not more than 3 years; and*

*"(B) shall be renewable.*

*"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.*

*"(4) MONITORING.—The Secretary shall—*

*"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and*

*"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.*

*"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.*

*"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:*

*"327. Assumption of responsibility for categorical exclusions.".*

### *SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.*

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:*

***"§ 328. Surface transportation project delivery pilot program***

*"(a) ESTABLISHMENT.—*

*"(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').*

*"(2) ASSUMPTION OF RESPONSIBILITY.—*

*"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—*

*"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but*

*"(ii) the Secretary may not assign—*

*"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or*

*"(II) any responsibility imposed on the Secretary by section 134 or 135.*

*"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility*

*under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.*

*"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.*

*"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.*

*"(b) STATE PARTICIPATION.—*

*"(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.*

*"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—*

*"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;*

*"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and*

*"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.*

*"(3) PUBLIC NOTICE.—*

*"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.*

*"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.*

*"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—*

*"(A) the regulatory requirements under paragraph (2) have been met;*

*"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and*

*"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).*

*"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.*

*"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—*

*"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;*

*"(2) be in such form as the Secretary may prescribe;*

*"(3) provide that the State—*

*"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);*

*"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;*

*"(C) certifies that State laws (including regulations) are in effect that—*

*"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and*

*"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and*

*"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.*

*"(d) JURISDICTION.—*

*"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.*

*"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.*

*"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).*

*"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).*

*"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.*

*"(g) AUDITS.—*

*"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—*

*"(A) semiannual audits during each of the first 2 years of State participation; and*

*"(B) annual audits during each subsequent year of State participation.*

*"(2) PUBLIC AVAILABILITY AND COMMENT.—*

*"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.*

*"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).*

*"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.*

*"(i) TERMINATION.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.*

*"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—*

*"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;*

*"(B) the Secretary provides to the State—*

*"(i) notification of the determination of noncompliance; and*

*"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and*

*"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:*

*"328. Surface transportation project delivery pilot program.".*

**SEC. 1514. REGULATIONS.**

*Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.*

### CHAPTER 3—MISCELLANEOUS

**SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

*Section 108 of title 23, United States Code, is amended by adding at the end the following:*

*"(d) CRITICAL REAL PROPERTY ACQUISITION.—*

*"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.*

*"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition, the Secretary determines that—*

*"(A) the property is offered for sale on the open market;*

*"(B) in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and*

*"(C) immediate acquisition of the property is critical because—*

*"(i) based on an appraisal of the property, the value of the property is increasing significantly;*

*"(ii) there is an imminent threat of development or redevelopment of the property; and*

*"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.*

*"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).*

*"(4) ENVIRONMENTAL REVIEW.—*

*"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until any required environmental reviews for the project have been completed.*

*"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.*

*"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".*

**SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

*Section 104 of title 23, United States Code, is amended by adding at the end the following:*

*"(m) PLANNING CAPACITY BUILDING INITIATIVE.—*

*"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—*

*"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;*

*"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;*

*"(C) participate in the metropolitan and statewide transportation planning programs under this title; and*

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $4,000,000 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

## Subtitle F—Environment

### SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**"§ 165. Eligibility for environmental restoration and pollution abatement**

"(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

"(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

**"§ 166. Control of invasive plant species and establishment of native species**

"(a) DEFINITIONS.—In this section:

"(1) INVASIVE PLANT SPECIES—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) NATIVE PLANT SPECIES.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) CONTROL OF SPECIES.—

"(1) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species.

"(2) INCLUDED ACTIVITIES.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation; and

"(D) training.

"(3) CONTRIBUTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.".
"166. Control of invasive plant species and establishment of native species.".

### SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads; or

"(iii) America's Byways; and";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways"; and

(ii) in subparagraph (B), by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(3) in subsection (c)(4), by striking "passing lane,".

(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

"(1) IN GENERAL.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) FUNDS.—The Secretary may use not more than $2,000,000 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) PRIORITY.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120(b), as adjusted under subsection (d) of that section".

### SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) IN GENERAL.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) CONTRACTS AND AGREEMENTS.—The Secretary".

(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking "To be eligible for apportionments under this section" and inserting the following:

"(1) IN GENERAL.—To be eligible for apportionments under this section"; and

(C) by adding at the end the following:

"(2) OBLIGATION REQUIREMENT.—If a State does not meet the requirements under paragraph (1) within a fiscal year, the State shall not be eligible for an apportionment in the following fiscal year.";

(2) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities."; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting in its place "be determined in accordance with section 120(b)";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120(b) for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120(b)"; and

(4) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

### SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

### SEC. 1605. STANDARDS.

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) consider the preservation, historic, scenic, natural environmental, and community values.".

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

### SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

"(i) a State transportation department; and

"(ii) a local agency in a State that is responsible for transportation matters.

"(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high *occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.*

*"(2) REQUIREMENTS.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.*

*"(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—*

*"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and*

*"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.*

*"(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—*

*"(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—*

*"(i) shall not be considered to be a single occupant vehicle; and*

*"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—*

*"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and*

*"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.*

*"(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—*

*"(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—*

*"(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or*

*"(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and*

*"(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.*

*"(ii) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—*

*"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;*

*"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);*

*"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and*

*"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.*

*"(C) TOLLING OF VEHICLES.—*

*"(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.*

*"(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—*

*"(I) be subject to section 129;*

*"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;*

*"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;*

*"(IV) continuously monitor, evaluate, and report on performance of the system;*

*"(V) establish such policies and procedures as are necessary—*

*"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and*

*"(bb) to enforce violations; and*

*"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.*

*"(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—*

*"(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—*

*"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and*

*"(II)(aa) is owned or operated by a public entity; or*

*"(bb) is operated under a contract with a public entity.*

*"(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—*

*"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;*

*"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and*

*"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.*

*"(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—*

*"(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).*

*"(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—*

*"(I) individual high occupancy vehicle lanes; and*

*"(II) the entire high occupancy vehicle lane system.*

*"(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—*

*"(I) individual high occupancy vehicle lanes; and*

*"(II) the entire high occupancy vehicle lane system.".*

### *SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.*

*(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—*

*(1) in subsection (a), by inserting "pedestrian and" after "safe";*

*(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";*

*(3) by striking subsection (f) and inserting the following:*

*"(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";*

*(4) by redesignating subsection (j) as subsection (l);*

*(5) by inserting after subsection (i) the following:*

*"(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—*

*"(1) IN GENERAL.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—*

*"(A) to operate a national bicycle and pedestrian clearinghouse;*

*"(B) to develop information and educational programs regarding walking and bicycling; and*

*"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.*

*"(2) FUNDING.—The Secretary may use funds apportioned under section 104(n) to carry out this subsection.*

*"(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended.*

*"(k) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians."; and*

*(6) in subsection (l) (as redesignated by paragraph (4))—*

*(A) by redesignating paragraph (4) as paragraph (5); and*

*(B) by inserting after paragraph (3) the following:*

*"(4) SHARED USE PATH.—The term 'shared use path' means a multiuse trail or other path that is—*

*"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and*

*"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".*

*(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1601(b)), is amended by adding at the end the following:*

*"(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $500,000 of the remaining funds apportioned under subsection (b)(3) for*

*use in carrying out the bicycle and pedestrian safety grant program under section 217.".*

### *SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.*

*Section 111 of title 23, United States Code, is amended by adding at the end the following:*

*"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—*

*"(1) IN GENERAL.—Notwithstanding subsection (a), a State may—*

*"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State; and*

*"(B) may charge, or permit charges, for the use of those facilities.*

*"(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—*

*"(A) to turn off their engines while parked; and*

*"(B) to have heating, air conditioning, electricity, and communication services in the vehicle without use of the engine.".*

### *SEC. 1609. TOLL PROGRAMS.*

*(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—*

*(1) is amended—*

*(A) in paragraph (1)—*

*(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and*

*(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";*

*(B) in paragraph (3), by striking subparagraph (C) and inserting the following:*

*"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.";*

*(C) in paragraph (4)—*

*(i) by striking subparagraph (A) and inserting the following:*

*"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;";*

*(ii) by striking subparagraph (B) and inserting the following:*

*"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;";*

*(iii) by striking subparagraph (C); and*

*(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;*

*(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and*

*(3) by striking "of title 23, United States Code" each place it appears.*

*(b) VARIABLE TOLL PRICING PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:*

*"(e) VARIABLE TOLL PRICING PROGRAM.—*

*"(1) DEFINITIONS.—In this subsection:*

*"(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—*

*"(i) a facility in existence on the date of enactment of this subsection that collects tolls;*

*"(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicle lanes; and*

*"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds).*

*"(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).*

*"(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary may permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—*

*"(A) to manage high levels of congestion; or*

*"(B) to reduce emissions in a nonattainment area or maintenance area.*

*"(3) LIMITATION ON USE OF REVENUES.—*

*"(A) IN GENERAL.—All toll revenues received under paragraph (2) shall be used by a State or public authority for—*

*"(i) debt service;*

*"(ii) a reasonable return on investment of any private financing; and*

*"(iii) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); and*

*"(iv) projects eligible for Federal assistance under this title.*

*"(B) REQUIREMENTS.—*

*"(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that charges tolls under this subsection, that the tolls vary in price according to time of day, as appropriate to manage congestion or improve air quality.*

*"(ii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.*

*"(C) AGREEMENT.—*

*"(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State or public authority shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).*

*"(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State or public authority to discontinue the variable tolling program under this subsection for the facility.*

*"(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.*

*"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.*

*"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State or public authority shall provide to the Secretary—*

*"(A) a description of the congestion or air quality problems sought to be addressed under the program;*

*"(B) a description of—*

*"(i) the goals sought to be achieved under the program; and*

*"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and*

*"(C) such other information as the Secretary may require.*

*"(f) AUTOMATION.—A facility created or modified under this section shall use an electronic toll collection system that uses a transponder or other means to specify an account for the purposes of collecting a toll as a vehicle passes through the collection facility.*

*"(g) INTEROPERABILITY.—*

*"(1) RULE.—*

*"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.*

*"(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—*

*"(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;*

*"(ii) take into account the use of transponders currently deployed within an appropriate geographical area of travel and the transponders likely to be in use within the next 5 years; and*

*"(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.*

*"(2) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under paragraph (1)(A), as appropriate.".*

*(c) CONFORMING AMENDMENTS.—*

*(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).*

*(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.*

### *SEC. 1610. FEDERAL REFERENCE METHOD.*

*(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:*

*"(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Administrator shall—*

*"(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;*

*"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;*

*"(3) develop a method of measuring the composition of coarse particles; and*

*"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—*

*"(A) the Committee on Commerce of the House of Representatives; and*

*"(B) the Committee on Environment and Public Works of the Senate.".*

### *SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.*

*Section 104(b)(2) of title 23, United States Code, is amended—*

*(1) in subparagraph B—*

*(A) in the matter preceding clause (i), by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)";*

*(B) by striking clause (i) and inserting the following:*

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi), by striking "or" after the semicolon; and

(D) in clause (vii), by striking "area as described in section 149(b) for ozone," and inserting "area for ozone (as described in section 149(b)) or for PM-2.5";

(2) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard;

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM-2.5 standard.";

(3) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

### SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

### SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.".

### SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

"(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

"(B) ensure the effective implementation of the program.

"(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

"(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.".

### SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking "periodically, according to a schedule that the Secretary determines to be appropriate," and inserting "every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))),".

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking "2 years" and inserting "4 years"; and

(B) in paragraph (2)(A), by striking "3-year" and inserting "4-year".

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after "program" the following: "(which program shall cover a period of 4 years and be updated every 4 years)".

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking "(2) Any transportation plan" and inserting the following:

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan";

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking "Any project" and inserting "any transportation project"; and

(ii) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

"(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

"(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

"(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.";

(2) in paragraph (4)(B)(ii), by striking "but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and" and inserting "but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

"(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

"(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and";

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.";

(4) by adding at the end the following:

"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

"(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

"(i) The first 10-year period of any such transportation plan.

"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

"(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

"(8) DEFINITIONS.—In this subsection:

"(A) REGIONALLY SIGNIFICANT PROJECT.—

"(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

"(I) access to and from the area outside of the region;

"(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

"(III) most transportation terminals.

"(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

"(I) all principal arterial highways; and

"(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

"(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

"(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

"(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

"(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

"(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

"(i) a regionally significant project; or

"(ii) a project that makes a significant revision to an existing project."; and

(5) in the matter following paragraph (3)(B), by inserting "transportation" before "project" each place it appears.

### SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

"(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

"(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, as selected through the consultation process required under paragraph (4)(D)(i), with—

"(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

"(ii) other such tests as the Administrator shall determine to ensure that—

"(I) the transportation plan or program—

"(aa) is consistent with the most recent estimates of mobile source emissions;

"(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.".

### SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is approved.

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

### SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

### "SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT. In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

"(ii) is not reasonably controllable or preventable;

"(iii) is—

"(I) a natural event; or

"(II) an event caused by human activity that is unlikely to recur at a particular location; and

"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

"(B) EXCLUSIONS.—The term 'exceptional event' does not include—

"(i) stagnation of air masses or meteorological inversions;

"(ii) a meteorological event involving high temperatures or lack of precipitation; or

"(iii) air pollution relating to source noncompliance.

"(2) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

"(3) PRINCIPLES AND REQUIREMENTS.

"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

"(i) the principle that protection of public health is the highest priority;

"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

"(B) Requirements.—Regulations promulgated under this section shall, at a minimum, provide that—

"(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

"(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

"(iii) there is a public process for determining whether an event is exceptional; and

"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

"(4) Interim provision.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

"(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

"(B) Areas affected by PM-10 natural events, May 30, 1996.

"(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.".

### SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking "(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate" and inserting the following:

"(4) Criteria and procedures for determining conformity.—

"(A) In General.—The Administrator shall promulgate, and periodically update,";

(3) in subparagraph (A)—

(A) in the second sentence, by striking "No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate" and inserting the following:

"(B) Transportation plans, programs, and projects.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,"; and

(B) in the third sentence, by striking "A suit" and inserting the following:

"(C) Civil action to compel promulgation.—A civil action"; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

"(E) Inclusion of criteria and procedures in SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).".

### SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) Highway Stormwater Mitigation Projects.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

"(5) Highway stormwater discharge mitigation projects.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.".

(b) Highway Stormwater Discharge Mitigation Program.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

**"§ 167. Highway stormwater discharge mitigation program**

"(a) Definitions.—In this section:

"(1) Administrator.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) Eligible mitigation project.—The term 'eligible mitigation project' means a practice or technique that—

"(A) improves stormwater discharge water quality;

"(B) attains preconstruction hydrology;

"(C) promotes infiltration of stormwater into groundwater;

"(D) recharges groundwater;

"(E) minimizes stream bank erosion;

"(F) promotes natural filters;

"(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

"(H) reduces flooding caused by highway stormwater discharge.

"(3) Federal-aid highway and associated facility.—The term 'Federal-aid highway and associated facility' means—

"(A) a Federal-aid highway; or

"(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

"(4) Highway stormwater discharge.—The term 'highway stormwater discharge' means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

"(5) Highway stormwater discharge mitigation.—The term 'highway stormwater discharge mitigation' means—

"(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

"(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

"(6) Program.—The term 'program' means the highway stormwater discharge mitigation program established under subsection (b).

"(b) Establishment.—The Secretary shall establish a highway stormwater discharge mitigation program—

"(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

"(2) to enhance groundwater recharge.

"(c) Priority of Projects.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(d) Guidance.—

"(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

"(2) Requirements for guidance.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.".

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

"167. Highway stormwater discharge mitigation program.".

## Subtitle G—Operations

### SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) Surface Transportation Program Eligibility.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) Rush hour congestion relief.—

"(A) In general.—Subject to subparagraph (B), a State may spend not more than 2 percent of the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) Use of funds.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) Congestion Mitigation and Air Quality Improvement Program Eligibility.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) Transportation Systems Management and Operations.—

(1) In general.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

**"§ 168. Transportation systems management and operations**

"(a) In General.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective transportation systems management and operations on Federal-aid highways through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of highway and transit facilities for travelers and carriers.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

### SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

**"§169. Real-time system management information program**

"(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) REGIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) DATA EXCHANGE FORMATS.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) ELIGIBLE FUNDING.—Subject to project approval by the Secretary, a State may—

"(1) use funds apportioned to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

### Subtitle H—Federal-Aid Stewardship

### SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "25"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

### SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) VALUE ENGINEERING ANALYSIS.—

"(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

"(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the design phase, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as recommendations described in subparagraph (B) for—

"(i) reducing the total cost of the project; and

"(ii) improving the quality of the project.

"(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of expensive parts of the original proposal design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) OVERSIGHT PROGRAM.—

"(1) PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) MINIMUM REQUIREMENTS.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—

"(i) IN GENERAL.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) REVIEW AREAS.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) PROJECT COSTS.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—

"(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

"(II) adequate project delivery systems for projects approved under this section.

"(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall—

"(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

"(B) employ risk assessment procedures to identify areas to be reviewed.

"(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

"(A) specifically provided for under this title or other Federal law; or

"(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

"(h) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.".

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and

(B) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

**"§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries**

"(a) MANDATORY ENFORCEMENT POLICY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

"(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

"(B) subject to approval by the Attorney General—

"(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

"(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

"(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

"(A) may waive the debarment or suspension; and

"(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

"(b) SHARING OF MONETARY RECOVERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law—

"(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

"(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

"(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

"(A) determined by the Attorney General, in consultation with the Secretary; and

"(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

"(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

"307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.".

### SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.".

### SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking "(a) CONGESTION.—" and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

"(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

"(1) without the use of Federal funds; and

"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

"(A) with the aid of Federal funds previously apportioned or allocated to the State; or

"(B) with obligation authority previously allocated to the State.

"(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.".

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) OBLIGATION AND RELEASE OF FUNDS.—

"(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

"(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

"(A) credited to the same class of funds previously apportioned or allocated to the State; and

"(B) immediately available for obligation.

"(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.".

### SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking "$50,000,000" and all that follows through "2003" and inserting "$100,000,000 for each of fiscal years 2004 through 2009"; and

(2) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003".

### SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking "Federal-aid highway"; and

(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) RECOVERY AND CREDITING OF FUNDS.—Any sums".

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) ALLOCATION BASED ON NEED.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grassland.

"(2) PLANNING.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

"(1) PUBLIC LANDS HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) NATIONAL FOREST SYSTEM.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On"; and

(B) by adding at the end the following:

"(2) PRIORITY.—

"(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2004"; and

(iv) by adding at the end the following:

"(E) TRANSFERRED FUNDS.—

"(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

"(ii) FORMULA.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.";

(C) in paragraph (3)(A)—

(i) by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by inserting "and the approved Indian reservation road transportation improvement program" before the period at the end; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) RESERVATION OF FUNDS.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, for any fiscal year not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture

"(ii) the Department of Defense; or

"(iii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

**"§205. National Forest System roads and trails";**

*and*

*(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".*

*(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:*

*"205. National Forest System roads and trails.".*

*(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".*

### SEC. 1807. EMERGENCY RELIEF.

*Section 125(c)(1) of title 23, United States Code, is amended by striking "$100,000,000" and inserting "$300,000,000".*

### SEC. 1808. HIGHWAY BRIDGE PROGRAM.

*(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—*

*(1) by striking the section heading and all that follows through subsection (a) and inserting the following:*

**"§144. Highway bridge program**

*"(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.";*

*(2) by striking subsection (d) and inserting the following:*

*"(d) PARTICIPATION IN PROGRAM.—*

*"(1) IN GENERAL.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—*

*"(A) replacing the bridge with a comparable bridge; or*

*"(B) rehabilitating the bridge.*

*"(2) SPECIFIC KINDS OF REHABILITATION.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.*

*"(3) ELIGIBILITY.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.*

*"(B) PREVENTATIVE MAINTENANCE.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.";*

*(3) in subsection (e)—*

*(A) in the third sentence, by striking "square footage" and inserting "area";*

*(B) in the fourth sentence—*

*(i) by striking "by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and*

*(ii) by striking "1997" and inserting "2003"; and*

*(C) in the seventh sentence, by striking "the Federal-aid primary system" and inserting "Federal-aid highways";*

*(4) by striking subsections (f) and (g) and inserting the following:*

*"(f) SET ASIDES.—*

*"(1) DISCRETIONARY BRIDGE PROGRAM.—*

*"(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $150,000,000 shall be apportioned as provided in subsection (e).*

*"(B) AVAILABILITY.—The $150,000,000 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $25,000,000 of that amount shall be available only for projects for the seismic retrofit of bridges.*

*"(C) SET ASIDES.—For fiscal year 2004, the Secretary shall provide—*

*"(i) $50,000,000 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and*

*"(ii) $50,000,000 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.*

*"(2) OFF-SYSTEM BRIDGES.—*

*"(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2004 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway.*

*"(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.";*

*(5) in subsection (i)—*

*(A) in paragraph (3), by striking "and";*

*(B) in paragraph (4), by striking the period at the end and inserting "; and";*

*(C) by striking "Such reports" and all that follows through "to Congress."; and*

*(D) by adding at the end the following:*

*"(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).";*

*(6) in the first sentence of subsection (n), by striking "all standards" and inserting "all general engineering standards";*

*(7) in subsection (o)—*

*(A) in paragraph (3)—*

*(i) by striking "title (including this section)" and inserting "section"; and*

*(ii) by inserting "200 percent of" after "shall not exceed"; and*

*(B) in paragraph (4)(B)—*

*(i) in the second sentence, by inserting "200 percent of" after "not to exceed"; and*

*(ii) in the last sentence, by striking "title" and inserting "section";*

*(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and*

*(9) by adding at the end the following:*

*"(q) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.".*

*(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:*

*"144. Highway bridge program.".*

### SEC. 1809. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:*

**"§170. Appalachian development highway system**

*"(a) APPORTIONMENT.—*

*"(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(a)(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for fiscal years 2004 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.*

*"(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.*

*"(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(a)(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—*

*"(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and*

*"(2) the funds shall remain available until expended.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) USE OF TOLL CREDITS.—Section 120(i)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".*

*(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:*

*"170. Appalachian development highway system.".*

### SEC. 1810. MULTISTATE CORRIDOR PROGRAM.

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1809(a)), is amended by adding at the end the following:*

**"§171. Multistate corridor program**

*"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—*

*"(1) support and encourage multistate transportation planning and development; and*

*"(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.*

*"(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.*

*"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.*

*"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—*

*"(1) STUDIES.—All studies funded under this program shall be consistent with the continuing.*

*cooperative, and comprehensive planning processes required by sections 134 and 135.*

*"(2) Construction.—All construction funded under this program shall be consistent with section 133(b)(1).*

*"(e) Selection Criteria.—The Secretary shall select studies and projects to be carried out under the program based on—*

*"(1) the existence and significance of signed and binding multijurisdictional agreements;*

*"(2) endorsement of the study or project by applicable elected State and local representatives;*

*"(3) prospects for early completion of the study or project; or*

*"(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).*

*"(f) Program Priorities.—In administering the program, the Secretary shall—*

*"(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and*

*"(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—*

*"(A) increase—*

*"(i) mobility;*

*"(ii) freight productivity;*

*"(iii) access to marine or inland ports;*

*"(iv) safety and security; and*

*"(v) reliability; and*

*"(B) enhance the environment.*

*"(g) Federal Share.—The Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.*

*"(h) Applicability.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".*

*(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)) is amended by adding at the end the following:*

*"171. Multistate corridor program.".*

**SEC. 1811. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.**

*(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:*

***"§172. Border planning, operations, technology, and capacity program***

*"(a) Definitions.—In this section:*

*"(1) Border state.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.*

*"(2) Program.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).*

*"(b) Establishment and Purpose.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.*

*"(c) Eligible Recipients.—State transportation departments and metropolitan planning organizations at or near an international land border in a border State may receive and administer funds allocated under the program.*

*"(d) Eligible Activities.—*

*"(1) In general.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.*

*"(2) Eligible activities.—The eligible activities referred to in paragraph (1) are—*

*"(A) highway and multimodal planning or environmental studies;*

*"(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;*

*"(C) technology and information exchange activities; and*

*"(D) right-of-way acquisition, design, and construction, as needed—*

*"(i) to implement the enhancements or applications described in subparagraphs (B) and (C);*

*"(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or*

*"(iii) to increase highway capacity at or near international borders.*

*"(e) Other Provisions Regarding Eligibility.—*

*"(1) In general.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.*

*"(2) Regionally significant projects.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.*

*"(f) Selection Criteria.—The Secretary shall select projects to be carried out under the program based on—*

*"(1) expected benefits, including air quality benefits, of the project in relation to the cost of the project;*

*"(2) prospects for early completion of the project;*

*"(3) endorsement of the project by formally constituted bi-national organizations with Federal and State or provincial representation;*

*"(4) the existence and significance of signed and binding multijurisdictional agreements;*

*"(5) contributions, in amounts at least equal to required minimums, of—*

*"(A) Federal funds made available for other programs under this title; and*

*"(B) Federal funds made available under a provision of law other than this title; and*

*"(6) the extent to which the benefits of the project are multimodal.*

*"(g) Program Priorities.—In administering the program, the Secretary shall give priority to projects that emphasize—*

*"(1) multimodal planning;*

*"(2) improvements in infrastructure; and*

*"(3) operational improvements that—*

*"(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and*

*"(B) enhance the environment.*

*"(h) Federal Share.—The Federal share of the cost of a project carried out under the program shall be 80 percent.*

*"(i) Obligation.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.*

*"(j) Information Exchange.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.*

*"(k) Projects in Canada or Mexico.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—*

*"(1) constructed in accordance with standards equivalent to applicable standards in the United States; and*

*"(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.*

*"(l) Transfer of Funds to the General Services Administration.—*

*"(1) State funds.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—*

*"(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and*

*"(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.*

*"(2) Non-federal share.—*

*"(A) In general.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (h).*

*"(B) No augmentation of appropriations.—Funds provided by a border State under subparagraph (A)—*

*"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and*

*"(ii) shall be—*

*"(I) administered in accordance with the procedures of the General Services Administration; but*

*"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.*

*"(C) Obligation authority.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).*

*"(3) Direct transfer of authorized funds.—*

*"(A) In general.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—*

*"(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and*

*"(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.*

*"(B) No augmentation of appropriations.—Funds transferred by the Secretary under subparagraph (A)—*

*"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and*

*"(ii) shall be—*

*"(I) administered in accordance with the procedures of the General Services Administration; but*

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).

"(D) NONAPPLICABILITY OF CERTAIN PROVISION.—Section 120 shall not apply to the transfer of funds under this paragraph.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

"172. Border planning, operations, and technology program.".

### SEC. 1812. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

**"§ 173. Puerto Rico highway program**

"(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(a)(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for each of fiscal years 2004 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—

"(1) IN GENERAL.—Amounts made available by section 1101(a)(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

"(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

"(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

"(1) APPORTIONMENT.—For purposes of this section, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206, for each program funded under those sections in an amount determined by multiplying—

"(A) the aggregate of the amounts for the fiscal year; by

"(B) the ratio that—

"(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 2003; bears to

"(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 2003.

"(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

"(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"173. Puerto Rico highway program.".

### SEC. 1813. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

**"§ 174. National historic covered bridge preservation**

"(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

"(1) collect and disseminate information on historic covered bridges;

"(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; or

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

### SEC. 1814. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

**"§ 175. Transportation and community and system preservation pilot program**

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are—

"(1) to improve the efficiency of the transportation system in the United States;

"(2) to reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) to provide efficient access to jobs, services, and centers of trade; and

"(5) to examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

"(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

"(A) have instituted preservation or development plans and programs that—

"(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

"(ii)(I) are coordinated with State and local adopted preservation or development plans;

"(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

"(III) are intended to promote innovative private sector strategies.

"(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

"(i) spending policies that direct funds to high-growth areas;

"(ii) urban growth boundaries to guide metropolitan expansion;

"(iii) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

"(iv) other similar programs or policies as determined by the Secretary;

"(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

"(D) examine ways to encourage private sector investments that address the purposes of this section; and

"(E) propose projects for funding that address the purposes described in subsection (b)(2)

"(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

"(4) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

"(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for

"(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

"(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

"(I) transit-oriented development plans;

"(II) traffic calming measures; or

"(III) other coordinated transportation and community and system preservation practices.

"(d) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 2004 through 2009.

*"(2) Contract Authority.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".*

*(b) Eligible Projects.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:*

*"(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:*

*"(A) Improvement of the efficiency of the transportation system in the United States.*

*"(B) Reduction of the impacts of transportation on the environment.*

*"(C) Reduction of the need for costly future investments in public infrastructure.*

*"(D) Provision of efficient access to jobs, services, and centers of trade.*

*"(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).*

*"(19) Projects relating to intersections, including intersections—*

*"(A) that—*

*"(i) have disproportionately high accident rates;*

*"(ii) have high levels of congestion, as evidenced by—*

*"(I) interrupted traffic flow at the intersection; and*

*"(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than 'F' during peak travel hours; and*

*"(iii) are directly connected to or located on a Federal-aid highway; and*

*"(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.".*

*(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(b)), is amended by adding at the end the following:*

*"175. Transportation and community and system preservation pilot program.".*

### SEC. 1815. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

*Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:*

*"(n) Tribal-State Road Maintenance Agreements.—*

*"(1) In general.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—*

*"(A) Indian reservation roads; and*

*"(B) roads providing access to Indian reservation roads.*

*"(2) Tribal-state agreements.—Agreements entered into under paragraph (1)—*

*"(A) shall be negotiated between the State and the Indian tribe; and*

*"(B) shall not require the approval of the Secretary.*

*"(3) Annual report.—Effective beginning with fiscal year 2004, the Secretary shall prepare and submit to Congress an annual report that identifies—*

*"(A) the Indian tribes and States that have entered into agreements under paragraph (1);*

*"(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and*

*"(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".*

### SEC. 1816. FOREST HIGHWAYS.

*Section 204 of title 23, United States Code (as amended by section 1815), is amended by adding at the end the following:*

*"(o) Forest Highways.—Of the amounts made available for forest highways, $15,000,000 for each fiscal year shall be used to repair culverts and bridges on forest highways to—*

*"(1) facilitate appropriate fish passage and ensure reasonable flows; and*

*"(2) maintain and remove such culverts and bridges as appropriate.".*

### SEC. 1817. TERRITORIAL HIGHWAY PROGRAM.

*(a) In General.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:*

### "§215. Territorial highway program

*"(a) Definitions.—In this section:*

*"(1) Program.—The term 'program' means the territorial highway program established under subsection (b).*

*"(2) Territory.—The term 'territory' means the any of the following territories of the United States:*

*"(A) American Samoa.*

*"(B) The Commonwealth of the Northern Mariana Islands.*

*"(C) Guam.*

*"(D) The United States Virgin Islands.*

*"(b) Program.—*

*"(1) In general.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—*

*"(A) designated by the Governor or chief executive officer of each territory; and*

*"(B) approved by the Secretary.*

*"(2) Federal assistance.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).*

*"(c) Technical Assistance.—*

*"(1) In general.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—*

*"(A) engage in highway planning;*

*"(B) conduct environmental evaluations;*

*"(C) administer right-of-way acquisition and relocation assistance programs; and*

*"(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.*

*"(2) Form and terms of assistance.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).*

*"(d) Nonapplicability of Certain Provisions.—*

*"(1) In general.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.*

*"(2) Applicable provisions.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).*

*"(e) Agreement.—*

*"(1) In general.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003), providing that the government of the territory shall—*

*"(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);*

*"(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—*

*"(i) appropriate for each territory; and*

*"(ii) approved by the Secretary;*

*"(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and*

*"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.*

*"(2) Technical assistance.—The new agreement required by paragraph (1) shall—*

*"(A) specify the kind of technical assistance to be provided under the program;*

*"(B) include appropriate provisions regarding information sharing among the territories; and*

*"(C) delineate the oversight role and responsibilities of the territories and the Secretary.*

*"(3) Review and revision of agreement.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.*

*"(4) Existing agreements.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—*

*"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and*

*"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.*

*"(f) Permissible Uses of Funds.—*

*"(1) In general.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:*

*"(A) Eligible surface transportation program projects described in section 133(b).*

*"(B) Cost-effective, preventive maintenance consistent with section 116.*

*"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.*

*"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.*

*"(E) Studies of the economy, safety, and convenience of highway use.*

*"(F) The regulation and equitable taxation of highway use.*

*"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.*

*"(2) Prohibition on use of funds for routine maintenance.—None of the funds made available for the program shall be obligated or expended for routine maintenance.*

*"(g) Location of Projects.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".*

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

### SEC. 1818. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "Not later than" and inserting the following:

"(1) INITIAL SOLICITATION.—Not later than"; and

(B) by adding at the end the following:

"(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.";

(2) in subsection (e), by striking "Prior to soliciting applications, the Secretary" and inserting "The Secretary";

(3) in subsection (h)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2004 through 2009."; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(I) $375,000,000 for fiscal year 2004;

"(II) $400,000,000 for fiscal year 2005;

"(III) $415,000,000 for fiscal year 2006;

"(IV) $425,000,000 for fiscal year 2007;

"(V) $435,000,000 for fiscal year 2008; and

"(VI) $450,000,000 for fiscal year 2009."; and

(4) by striking subsection (i).

### SEC. 1819. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

### SEC. 1820. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

## Subtitle I—Technical Corrections

### SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

### SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

### SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

**"§321. Signs identifying funding sources".**

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

### SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

**"§313. Buy America".**

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

### SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

## TITLE II—TRANSPORTATION RESEARCH

## Subtitle A—Funding

### SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $211,000,000 for each of fiscal years 2004 and 2005;

(ii) $215,000,000 for fiscal year 2006;

(iii) $218,000,000 for fiscal year 2007;

(iv) $220,000,000 for fiscal year 2008; and

(v) $223,000,000 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, the Secretary shall set aside $20,000,000 of the funds apportioned under subparagraph (A) to carry out the surface transportation-environmental cooperative research program.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $27,000,000 for fiscal year 2004;

(B) $28,000,000 for fiscal year 2005;

(C) $29,000,000 for fiscal year 2006;

(D) $30,000,000 for fiscal year 2007;

(E) $31,000,000 for fiscal year 2008; and

(F) $32,000,000 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $28,000,000 for each of fiscal years 2004 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $120,000,000 for fiscal year 2004;

(B) $123,000,000 for fiscal year 2005;

(C) $126,000,000 for fiscal year 2006;

(D) $129,000,000 for fiscal year 2007;

(E) $132,000,000 for fiscal year 2008; and

(F) $135,000,000 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code—

(A) $40,000,000 for fiscal year 2004; and

(B) $45,000,000 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $27,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code; and

(B) $18,000,000 for fiscal years 2004 and 2005, $17,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $12,000,000 for fiscal year 2008, and $10,00,000 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $60,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $3,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $500,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $15,000,000 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $19,000,000 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $13,000,000 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $20,000,000 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $5,000,000 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $3,000,000 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $30,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

**SEC. 2002. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $496,000,000 for fiscal year 2004;

(2) $510,000,000 for fiscal year 2005;

(3) $518,000,000 for fiscal year 2006;

(4) $525,000,000 for fiscal year 2007;

(5) $531,000,000 for fiscal year 2008; and

(6) $538,000,000 for fiscal year 2009.

**SEC. 2003. NOTICE.**

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

## Subtitle B—Research and Technology

**SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

## "CHAPTER 5—RESEARCH AND TECHNOLOGY

"Subchapter I—Surface Transportation

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environment cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"521. Finding.
"522. Goals and purposes.
"523. Definitions.
"524. General authorities and requirements.
"525. National ITS Program Plan.
"526. National ITS architecture and standards.
"527. Commercial vehicle intelligent transportation system infrastructure program.
"528. Research and development.
"529. Use of funds.

### "SUBCHAPTER I—SURFACE TRANSPORTATION

**"§501. Definitions**

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to—

"(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

"(B) accident investigations;

"(C) communications;

"(D) emergency medical care; and

"(E) transportation of the injured.

**"§502. Surface transportation research**

"(a) IN GENERAL.—

"(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

*"(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and*

*"(B) the effect of State laws on the activities described in subparagraph (A).*

*"(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.*

*"(3) COOPERATION, GRANTS, AND CONTRACTS.—*

*"(A) IN GENERAL.—The Secretary may carry out this section—*

*"(i) independently;*

*"(ii) in cooperation with—*

*"(I) any other Federal agency or instrumentality; and*

*"(II) any Federal laboratory; or*

*"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—*

*"(I) the National Academy of Sciences;*

*"(II) the American Association of State Highway and Transportation Officials;*

*"(III) planning organizations;*

*"(IV) a Federal laboratory;*

*"(V) a State agency;*

*"(VI) an authority, association, institution, or organization;*

*"(VII) a for-profit or nonprofit corporation;*

*"(VIII) a foreign country; or*

*"(IX) any other person.*

*"(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—*

*"(i) on a competitive basis; and*

*"(ii) on the basis of the results of peer review of proposals submitted to the Secretary.*

*"(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).*

*"(5) FUNDS.—*

*"(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.*

*"(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.*

*"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—*

*"(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—*

*"(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and*

*"(B) Federal laboratories.*

*"(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).*

*"(3) FEDERAL SHARE.—*

*"(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.*

*"(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).*

*"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

*"(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.*

*"(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—*

*"(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—*

*"(A)(i) increasing to 50 years the expected life of pavements;*

*"(ii) increasing to 100 years the expected life of bridges; and*

*"(iii) significantly increasing the durability of other infrastructure;*

*"(B) lowering the life-cycle costs, including—*

*"(i) construction costs;*

*"(ii) maintenance costs;*

*"(iii) operations costs; and*

*"(vi) user costs.*

*"(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;*

*"(3) the investigation of—*

*"(A) the application of current natural hazard mitigation techniques to manmade hazards; and*

*"(B) the continuation of hazard mitigation research combining manmade and natural hazards;*

*"(4) the improvement of safety—*

*"(A) at intersections;*

*"(B) with respect to accidents involving vehicles run off the road; and*

*"(C) on rural roads;*

*"(5) the reduction of work zone incursions and improvement of work zone safety;*

*"(6) the improvement of geometric design of roads for the purpose of safety;*

*"(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—*

*"(A) the most useful types of data are being collected; and*

*"(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;*

*"(8) the improvement of the infrastructure investment needs report described in subsection (g) through—*

*"(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;*

*"(B) monitoring of the surface transportation system in a system-wide manner, through the use of—*

*"(i) intelligent transportation system technologies of traffic operations centers; and*

*"(ii) other new data collection technologies as sources of better quality performance data;*

*"(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and*

*"(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;*

*"(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—*

*"(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;*

*"(B) improvements in calculating life-cycle costs; and*

*"(C) valuation of assets;*

*"(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;*

*"(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as*

*"(A) planning;*

*"(B) environmental decisionmaking and project delivery; and*

*"(C) freight movement;*

*"(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;*

*"(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;*

*"(14) the conduct of extreme weather research, including research to—*

*"(A) reduce contraction and expansion damage;*

*"(B) reduce or repair road damage caused by freezing and thawing;*

*"(C) improve deicing or snow removal techniques;*

*"(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;*

*"(E) improve concrete and asphalt installation in extreme weather conditions; and*

*"(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;*

*"(15) the improvement of planning processes and project development through the development and application of collaboration tools and strategies for finding transportation solutions; and*

*"(16) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.*

*"(d) ADVANCED, HIGH-RISK RESEARCH.—*

*"(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.*

*"(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.*

*"(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c)*

*a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.*

*“(e) Long-Term Pavement Performance Program.—*

*“(1) Authority.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.*

*“(2) Grants, cooperative agreements, and contracts.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—*

*“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;*

*“(B) analyze the data obtained in carrying out subparagraph (A); and*

*“(C) prepare products to fulfill program objectives and meet future pavement technology needs.*

*“(3) Conclusion of program.—*

*“(A) Summary report.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—*

*“(i) an analysis of any research objectives that remain to be achieved under the program;*

*“(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;*

*“(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;*

*“(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and*

*“(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.*

*“(B) Deadline; usefulness of advances.—The Secretary shall, to the maximum extent practicable—*

*“(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and*

*“(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.*

*“(f) Seismic Research.—The Secretary shall—*

*“(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research; and*

*“(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—*

*“(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and*

*“(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)).*

*“(g) Infrastructure Investment Needs Report.—*

*“(1) In general.—Not later than July 31, 2004, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—*

*“(A) estimates of the future highway and bridge needs of the United States; and*

*“(B) the backlog of current highway and bridge needs.*

*“(2) Comparison with prior reports.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.*

*“(h) Security Related Research and Technology Transfer Activities.—*

*“(1) In general.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.*

*“(2) Components of plan.—The plan shall include—*

*“(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;*

*“(B) a description of the manner in which those activities will be coordinated; and*

*“(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and*

*“(D) a systematic evaluation of the research that should be conducted to address, at a minimum—*

*“(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;*

*“(ii) recommended upgrades of traffic management during crises;*

*“(iii) enhanced communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;*

*“(iv) protection of critical, security-related infrastructure; and*

*“(v) structural reinforcement of key facilities.*

*“(3) Submission.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—*

*“(A) a copy of the plan developed under paragraph (1); and*

*“(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.*

### ***“§503. Technology application program***

*“(a) Technology Application Initiatives and Partnerships Program.—*

*“(1) Establishment.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology application initiatives and partnerships program.*

*“(2) Purpose.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.*

*“(3) Application goals.—*

*“(A) Establishment.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).*

*“(B) Design.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.*

*“(C) Strategies for achievement.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.*

*“(4) Integration with other programs.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—*

*“(A) disseminate the results of research sponsored by the Secretary; and*

*“(B) facilitate technology transfer.*

*“(5) Leveraging of Federal resources.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.*

*“(6) Grants, cooperative agreements, and contracts.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.*

*“(7) Reports.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).*

*“(8) Allocation.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.*

*“(b) Innovative Surface Transportation Infrastructure Research and Construction Program.—*

*“(1) In general.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.*

*“(2) Goals.—The goals of the program shall include—*

*“(A) the development of new, cost-effective, and innovative materials;*

*“(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;*

*“(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;*

*“(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;*

*“(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and*

*“(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.*

*“(3) Grants, cooperative agreements, and contracts.—*

*“(A) In general.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—*

*“(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and*

*“(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and*

new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

"(B) APPLICATIONS.—

"(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

"(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

"(B) encourage the use of the information and technology.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

**"§504. Training and education**

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

"(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—

"(A) IN GENERAL.—The Institute shall—

"(i) develop or update existing courses in asset management, including courses that include such components as—

"(I) the determination of life-cycle costs;

"(II) the valuation of assets;

"(III) benefit-to-cost ratio calculations; and

"(IV) objective decisionmaking processes for project selection; and

"(ii) continually develop courses relating to the application of emerging technologies for—

"(I) transportation infrastructure applications and asset management;

"(II) intelligent transportation systems;

"(III) operations (including security operations);

"(IV) the collection and archiving of data;

"(V) expediting the planning and development of transportation projects; and

"(VI) the intermodal movement of individuals and freight.

"(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

"(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

"(i) review the course inventory of the Institute; and

"(ii) revise or cease to offer courses based on course content, applicability, and need.

"(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be expended by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(5) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

"(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) exercise the authority of the Institute independently or in cooperation with any—

"(i) other Federal or State agency;

"(ii) association, authority, institution, or organization;

"(iii) for-profit or nonprofit corporation;

"(iv) national or international entity;

"(v) foreign country; or

"(vi) person.

"(7) COLLECTION OF FEES.—

"(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

"(A) paragraph (7);

"(B) memoranda of understanding;

"(C) regional compacts; and

"(D) other similar agreements.

"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

"(A) highway and transportation agencies in urbanized areas;

"(B) highway and transportation agencies in rural areas;

"(C) contractors that perform work for the agencies; and

"(D) infrastructure security.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) develop technical assistance for tourism and recreational travel;

"(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

"(D) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

"(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(c) RESEARCH FELLOWSHIPS.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

### "§505. State planning and research

*"(a) In General.—Two percent of the sums apportioned to a State for fiscal year 2004 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—*

*"(1) the conduct of engineering and economic surveys and investigations;*

*"(2) the planning of—*

*"(A) future highway programs and local public transportation systems; and*

*"(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;*

*"(3) the development and implementation of management systems under section 303;*

*"(4) the conduct of studies on—*

*"(A) the economy, safety, and convenience of surface transportation systems; and*

*"(B) the desirable regulation and equitable taxation of those systems;*

*"(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;*

*"(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and*

*"(7) the conduct of activities relating to the planning of real-time monitoring elements.*

*"(b) Minimum Expenditures on Research, Development, and Technology Transfer Activities.—*

*"(1) In general.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—*

*"(A) are described in subsection (a); and*

*"(B) relate to highway, public transportation, and intermodal transportation systems.*

*"(2) Waivers.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—*

*"(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and*

*"(B) the Secretary accepts the certification of the State.*

*"(3) Nonapplicability of assessment.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).*

*"(c) Federal Share.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.*

*"(d) Administration of Sums.—Funds subject to subsection (a) shall be—*

*"(1) combined and administered by the Secretary as a single fund; and*

*"(2) available for obligation for the period described in section 118(b)(2).*

*"(e) Eligible Use of State Planning and Research Funds.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).*

### "§506. International highway transportation outreach program

*"(a) Establishment.—The Secretary may establish an international highway transportation outreach program—*

*"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;*

*"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and*

*"(3) to increase transfers of United States highway transportation technology to foreign countries.*

*"(b) Activities.—Activities carried out under the program may include—*

*"(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;*

*"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;*

*"(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;*

*"(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;*

*"(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and*

*"(6) the gathering and dissemination of information on foreign transportation markets and industries.*

*"(c) Cooperation.—The Secretary may carry out this section in cooperation with any appropriate—*

*"(1) Federal, State, or local agency;*

*"(2) authority, association, institution, or organization;*

*"(3) for-profit or nonprofit corporation;*

*"(4) national or international entity;*

*"(5) foreign country; or*

*"(6) person.*

*"(d) Funds.—*

*"(1) Contributions.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.*

*"(2) Eligible uses of funds.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—*

*"(A) promotional materials;*

*"(B) travel;*

*"(C) reception and representation expenses; and*

*"(D) salaries and benefits.*

*"(3) Reimbursements for salaries and benefits.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.*

*"(e) Report—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.*

### "§507. Surface transportation-environment cooperative research program

*"(a) In General.—The Secretary shall establish and carry out a surface transportation-environment cooperative research program.*

*"(b) Contents.—The program carried out under this section may include research—*

*"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;*

*"(2) to improve understanding of the factors that contribute to the demand for transportation;*

*"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;*

*"(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and*

*"(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.*

*"(c) Program Administration.—The Secretary shall—*

*"(1) administer the program established under this section; and*

*"(2) ensure, to the maximum extent practicable, that—*

*"(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—*

*"(i) on the basis of merit of each submitted proposal; and*

*"(ii) through the use of open solicitations and selection by a panel of appropriate experts;*

*"(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;*

*"(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and*

*"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.*

*"(d) National Academy of Sciences.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.*

### "§508. Surface transportation research technology deployment and strategic planning

*"(a) Planning.—*

*"(1) Establishment.—The Secretary shall—*

*"(A) establish, in accordance with section 306 of title 5, a strategic planning process that—*

*"(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and*

*"(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, taking into consideration national surface transportation system needs and intermodality requirements;*

*"(B) coordinate Federal surface transportation research, technology development, and deployment activities;*

*"(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and*

*"(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.*

*"(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—*

*"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').*

*"(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—*

*"(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—*

*"(I) safety;*

*"(II) operations;*

*"(III) infrastructure (including pavements and structures);*

*"(IV) planning and environment;*

*"(V) policy; and*

*"(VI) asset management; and*

*"(ii) of which—*

*"(I) 3 members shall be individuals representing the Federal Government;*

*"(II) 3 members—*

*"(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and*

*"(bb) shall not be officers or employees of the United States;*

*"(III) 3 members—*

*"(aa) shall represent the transportation industry (including the pavement industry); and*

*"(bb) shall not be officers or employees of the United States; and*

*"(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.*

*"(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.*

*"(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—*

*"(i) the determination of surface transportation research priorities;*

*"(ii) the improvement of the research planning and implementation process;*

*"(iii) the design and selection of research projects;*

*"(iv) the review of research results;*

*"(v) the planning and implementation of technology transfer activities and*

*"(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).*

*"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $200,000 for each fiscal year.*

*"(b) IMPLEMENTATION.—The Secretary shall—*

*"(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and*

*"(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.*

*"(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—*

*"(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—*

*"(A) safety;*

*"(B) operations;*

*"(C) infrastructure (including pavements and structures);*

*"(D) planning and environment; and*

*"(E) policy.*

*"(2) COMPONENTS.—The strategic plan shall specify—*

*"(A) surface transportation research objectives and priorities;*

*"(B) specific highway research projects to be conducted;*

*"(C) recommended technology transfer activities to promote the deployment of advances resulting from the highway research conducted; and*

*"(D) short- and long-term technology development and deployment activities.*

*"(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—*

*"(A) the Transportation Research Board shall—*

*"(i) review the research and technology planning and implementation process used by Federal Highway Administration; and*

*"(ii) evaluate each of the strategic plans prepared under this subsection—*

*"(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and*

*"(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and*

*"(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).*

*"(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).*

*"(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.*

***"§509. New strategic highway research program***

*"(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.*

*"(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—*

*"(1) the program shall be based on—*

*"(A) National Research Council Special Report No. 260, entitled 'Strategic Highway Research'; and*

*"(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.*

*"(2) the scope and research priorities of the program shall—*

*"(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and*

*"(B) include an examination of—*

*"(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;*

*"(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;*

*"(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);*

*"(iv) measures that may save the greatest number of lives in the short- and long-term;*

*"(v) renewal of aging infrastructure with minimum impact on users of facilities;*

*"(vi) driving behavior and likely crash causal factors to support improved countermeasures;*

*"(vii) reduction in congestion due to nonrecurring congestion;*

*"(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;*

*"(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and*

*"(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.*

*"(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—*

*"(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—*

*"(A) on the basis of the merit of each submitted proposal; and*

*"(B) through the use of open solicitations and selection by a panel of appropriate experts;*

*"(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;*

*"(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and*

*"(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.*

*"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.*

*"(e) REPORT ON IMPLEMENTATION OF RESULTS.—*

*"(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the*

*National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.*

*"(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—*

*"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);*

*"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;*

*"(C) an estimate of costs that would be incurred in expediting implementation of those results; and*

*"(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.*

*"(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—*

*"(A) the American Association of State highway Officials;*

*"(B) the Federal Highway Administration; and*

*"(C) the Surface Transportation Research Technology Advisory Committee.*

*"(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.*

**"§510. University transportation centers**

*"(a) CENTERS.—*

*"(1) IN GENERAL.—During fiscal year 2004, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.*

*"(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.*

*"(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—*

*"(A) comply with applicable requirements under subsection (c); and*

*"(B) be located at the institutions of higher learning specified in paragraph (4).*

*"(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:*

*"(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).*

*"(B) GROUP B.—Group B shall consist of the following:*

*"(i) [ ].*
*"(ii) [ ].*
*"(iii) [ ].*
*"(iv) [ ].*
*"(v) [ ].*
*"(vi) [ ].*
*"(vii) [ ].*
*"(viii) [ ].*
*"(ix) [ ].*
*"(x) [ ].*
*"(xi) [ ].*

*"(C) GROUP C.—Group C shall consist of the following:*

*"(i) [ ].*
*"(ii) [ ].*
*"(iii) [ ].*
*"(iv) [ ].*
*"(v) [ ].*
*"(vi) [ ].*
*"(vii) [ ].*
*"(viii) [ ].*
*"(ix) [ ].*
*"(x) [ ].*
*"(xi) [ ].*

*"(D) GROUP D.—Group D shall consist of the following:*

*"(i) [ ].*
*"(ii) [ ].*
*"(iii) [ ].*
*"(iv) [ ].*
*"(v) [ ].*
*"(vi) [ ].*
*"(vii) [ ].*
*"(viii) [ ].*

*"(b) REGIONAL CENTERS.—*

*"(1) IN GENERAL.—Not later than September 30, 2004, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.*

*"(2) SELECTION OF REGIONAL CENTERS.—*

*"(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.*

*"(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2004 through 2006 and once for the period of fiscal years 2007 through 2009.*

*"(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.*

*"(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—*

*"(i) the location of the center within the Federal region to be served;*

*"(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;*

*"(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;*

*"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and*

*"(v) the strategic plan that the recipient proposes to carry out using funds from the grant.*

*"(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—*

*"(i) the Research and Special Programs Administration;*

*"(ii) the Federal Highway Administration; and*

*"(iii) the Federal Transit Administration.*

*"(c) CENTER REQUIREMENTS.—*

*"(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—*

*"(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;*

*"(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—*

*"(i) civil engineering;*

*"(ii) transportation engineering;*

*"(iii) transportation systems management and operations; or*

*"(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and*

*"(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—*

*"(i) a description of the purposes of programs to be conducted by the center;*

*"(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;*

*"(iii) a description of the nature and scope of research to be conducted by the center;*

*"(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and*

*"(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and*

*"(D) shall establish an advisory committee that—*

*"(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;*

*"(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and*

*"(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.*

*"(2) PEER REVIEW.—*

*"(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.*

*"(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—*

*"(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;*

*"(ii) the research covered by the report, and to recommend modifications to individual project plans;*

*"(iii) the results of the research before publication of those results; and*

*"(iv) the overall outcomes of the research.*

*"(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—*

*"(i) by the Secretary, on the Internet website of the Department of Transportation; and*

*"(ii) by the University Transportation Center.*

*"(3) APPROVAL OF PLANS.—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.*

*"(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a*

program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

"(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

"(B) the Secretary shall select a replacement recipient for the forfeited grant.

"(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

"(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

"(1) undergraduate or graduate education programs that include—

"(A) multidisciplinary coursework; and

"(B) opportunities for students to participate in research;

"(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

"(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

"(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

"(2) provide the annual institutional contribution required under subsection (c)(1); and

"(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 that contains, at a minimum, for the fiscal year covered by the report, a description of—

"(A) the goals of the center;

"(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

"(C) teaching activities of faculty at the center;

"(D) each research project carried out by the center, including—

"(i) the identity and location of each investigator working on a research project;

"(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

"(iii) the current schedule for each research project; and

"(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

"(E) overall technology transfer and implementation efforts of the center.

"(f) PROGRAM COORDINATION.—The Secretary shall—

"(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

"(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

"(g) FUNDING.—

"(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

"(A) GROUP A.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $20,000,000 to each of the institutions in group A (as described in subsection (a)(4)(A)).

"(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $4,000,000 for each of fiscal years 2004 and 2005; and

"(ii) $6,000,000 for each of fiscal years 2006 and 2007.

"(C) GROUP C.—For each of fiscal years 2004 through 2007, the Secretary shall make a grant in the amount of $10,000,000 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) GROUP D.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $25,000,000 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make a grant in the amount of $10,000,000 to each of not more than 15 institutions.

"(2) USE OF FUNDS—

"(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

### **"§511. Multistate corridor operations and management**

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) INTERSTATE ROUTE I–95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall use to carry out this subsection—

"(A) $8,000,000 for fiscal year 2004;

"(B) $10,000,000 for fiscal year 2005;

"(C) $12,000,000 for fiscal year 2006;

"(D) $12,000,000 for fiscal year 2007;

"(E) $12,000,000 for fiscal year 2008; and

"(F) $12,000,000 for fiscal year 2009.".

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

### **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Highway Administration.

(2) BOARD.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term "Department" means the Department of Transportation.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for

use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—

(1) Section 111 of title 49, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (m);

(B) by inserting after subsection (j) the following:

"(k) ANNUAL REPORT.—

"(1) IN GENERAL.—For fiscal year 2004 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) AVAILABILITY.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(C) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

(2) The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

"5505. University transportation centers.".

### SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the 22 safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For each of fiscal years 2004 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $10,000,000 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

## Subtitle C—Intelligent Transportation System Research

### SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

## *"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM*

### ***"§521. Finding***

*"Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—*

*"(1) are incorporated into the national surface transportation network; and*

*"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.*

### ***"§522. Goals and purposes***

*"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—*

*"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—*

*"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and*

*"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;*

*"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;*

*"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;*

*"(4) accommodation of the needs of all users of surface transportation systems, including—*

*"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;*

*"(B) users of public transportation users (with respect to intelligent transportation system user services); and*

*"(C) individuals with disabilities; and*

*"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and*

*"(B) enhancement of national security and defense mobility.*

*"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—*

*"(1) assist in the development of intelligent transportation system technologies;*

*"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;*

*"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;*

*"(4) promote the innovative use of private resources;*

*"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;*

*"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;*

*"(7) advance commercial vehicle operations components of intelligent transportation systems—*

*"(A) to improve the safety and productivity of commercial vehicles and drivers; and*

*"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;*

*"(8) evaluate costs and benefits of intelligent transportation systems projects;*

*"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and*

*"(10) ensure access to transportation information and services by travelers of all ages.*

### ***"§523. Definitions***

*"In this subchapter:*

*"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.*

*"(2) COMMERCIAL VEHICLE OPERATIONS.—*

*"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.*

*"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—*

*"(i) the issuance of operating credentials;*

*"(ii) the administration of motor vehicle and fuel taxes; and*

*"(iii) roadside safety and border crossing inspection and regulatory compliance operations.*

*"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.*

*"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.*

*"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—*

*"(A) the functions associated with intelligent transportation system user services;*

*"(B) the physical entities or subsystems within which the functions reside;*

*"(C) the data interfaces and information flows between physical subsystems; and*

*"(D) the communications requirements associated with the information flows.*

*"(6) STANDARD.—The term 'standard' means a document that—*

*"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and*

*"(B) may—*

*"(i) support the national ITS architecture; and*

*"(ii) promote—*

*"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and*

*"(II) interoperability among intelligent transportation system technologies implemented throughout the States.*

### ***"§524. General authorities and requirements***

*"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—*

*"(1) to research, develop, and operationally test intelligent transportation systems; and*

*"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.*

*"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.*

*"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—*

*"(1) State and local governments and other public entities;*

*"(2) the private sector;*

*"(3) Federal laboratories (as defined in section 501); and*

*"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.*

*"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—*

*"(1) the Secretary of Commerce;*

*"(2) the Secretary of the Treasury;*

*"(3) the Administrator of the Environmental Protection Agency;*

*"(4) the Director of the National Science Foundation; and*

*"(5) the Secretary of Homeland Security.*

*"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.*

*"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.*

*"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—*

*"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and*

*"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.*

*"(h) ADVISORY COMMITTEES.—*

*"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—*

*"(A) may use 1 or more advisory committees; and*

*"(B) shall designate a public-private organization, the members of which participate in ongoing research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).*

*"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,500,000 for each fiscal year for advisory committees described in paragraph (1).*

*"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).*

*"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system*

*projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).*

*"(j) EVALUATIONS.—*

*"(1) GUIDELINES AND REQUIREMENTS.—*

*"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.*

*"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—*

*"(i) parties to any such test; or*

*"(ii) any other formal evaluation carried out under this subchapter.*

*"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.*

*"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.*

### "§525. National ITS Program Plan

*"(a) IN GENERAL.—*

*"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.*

*"(2) SCOPE.—The National ITS Program Plan shall—*

*"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—*

*"(i) major metropolitan areas;*

*"(ii) smaller metropolitan and rural areas; and*

*"(iii) commercial vehicle operations;*

*"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;*

*"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and*

*"(D) establish a cooperative process with State and local governments for—*

*"(i) determining desired surface transportation system performance levels; and*

*"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.*

*"(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).*

### "§526. National ITS architecture and standards

*"(a) IN GENERAL.—*

*"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.*

*"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.*

*"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.*

*"(b) PROVISIONAL STANDARDS.—*

*"(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—*

*"(A) after consultation with affected parties; and*

*"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.*

*"(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—*

*"(A) after consultation with affected parties; and*

*"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.*

*"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—*

*"(A) be published in the Federal Register; and*

*"(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.*

*"(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—*

*"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).*

*"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—*

*"(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);*

*"(B) the reasons for and effects of granting the waiver; and*

*"(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).*

*"(3) WITHDRAWAL OF WAIVER.—*

*"(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.*

*"(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—*

*"(i) each standard for which the waiver has been withdrawn; and*

*"(ii) the reasons for withdrawing the waiver.*

*"(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—*

*"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).*

*"(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—*

*"(A) the National ITS Program Plan under section 525; or*

*"(B) the surface transportation research and technology development strategic plan developed under section 508(c).*

*"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.*

### "§527. Commercial vehicle information systems and networks deployment

*"(a) DEFINITIONS.—In this section:*

*"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—*

*"(A) improve the safety of commercial vehicle operations;*

*"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;*

*"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;*

*"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and*

*"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.*

*"(2) COMMERCIAL VEHICLE OPERATIONS.—*

*"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.*

*"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—*

*"(i) the issuance of operating credentials;*

*"(ii) the administration of motor vehicle and fuel taxes; and*

*"(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.*

*"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—*

*"(A) safety information exchange to—*

*"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;*

*"(ii) connect to the Safety and Fitness Electronic Records system for access to—*

*"(I) interstate carrier and commercial vehicle data;*

*"(II) summaries of past safety performance; and*

*"(III) commercial vehicle credentials information; and*

*"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;*

*"(B) interstate credentials administration to—*

*"(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and*

"(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

"(II) have the capability to add more carriers and to extend to branch offices where applicable; and

"(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that—

"(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

"(B) improve safety and the productivity of commercial vehicle operations; and

"(C) enhance transportation security.

"(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles and drivers; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(d) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the core deployment of commercial vehicle information systems and networks.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

### "§528. Research and development

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

### "§529. Use of funds

"(a) In General.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) Applicability.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) Conforming Amendment.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

## TITLE III—INTERMODAL PASSENGER FACILITIES

### SEC. 3001. INTERMODAL PASSENGER FACILITIES.

(a) In General.—Chapter 55 of title 49, United States Code, is amended by adding the following at the end:

### "SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

### §5571. Policy and purposes

"(a) Development and Enhancement of Intermodal Passenger Facilities.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) General Purposes.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

### §5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

### "§5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

### "§5574. Intercity bus intermodal passenger facility grants

"(a) General Authority.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project, as defined in section 5572 of this chapter, only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) Competitive Grant Selection.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) Share of Net Project Costs.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) Regulations.—The Secretary may promulgate such regulations as are necessary to carry out this section.

### "§5575. Funding

"(a) Highway Account.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) Period of Availability.—Amounts made available by subsection (a) of this section shall remain available until expended.".

(b) Conforming Amendment.—The analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

## TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

### SEC. 4001. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

### SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States, as provided for in section 4(b) of this Act.".

### SEC. 4003. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (d) and redesignating subsections (e), (f), and (g) as subsections (b), (c), and (d);

(2) by inserting before subsection (b), as redesignated, the following:

"(a) In General.—For fiscal years 2004 through 2009, each annual appropriation made in accordance with the provisions of section 3 of this Act shall be distributed as follows:

"(1) Coastal wetlands.—18 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) Boating safety.—18 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) Clean vessel act.—1.9 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) Boating infrastructure.—1.9 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(5) National outreach and communications.—1.9 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (b) of this section.

"(6) Set-aside for expenses for administration of this chapter.—

"(A) In general.—2.1 percent to the Secretary of the Interior for expenses for administration incurred in implementation of this Act, in accordance with this section, section 9, and section 14 of this Act.

"(B) Apportionment of unobligated funds.—If any portion of the amount made *available to the Secretary under subparagraph (A) remains unexpended and unobligated at the end of a fiscal year, that portion shall be apportioned among the States, on the same basis and in the same manner as other amounts made available under this Act are apportioned among the States under subsection (b) of this section, within 60 days after the end of that fiscal year. Any amount apportioned among the States under this subparagraph shall be in addition to any amounts otherwise available for apportionment among the States under subsection (b) for the fiscal year.'';*

*(3) by striking ''of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder'' in subsection (b), as redesignated, and inserting ''shall apportion 55.3 percent'';*

*(4) by striking ''per centum'' each place it appears in subsection (b), as redesignated, and inserting ''percent'';*

*(5) by striking ''subsections (a), (b)(3)(A), (b)(3)(B), and (c)'' in paragraph (1) of subsection (d), as redesignated, and inserting ''paragraphs (1), (3), (4), and (5) of subsection (a)''; and*

*(6) by adding at the end the following:*

*''(e) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.*

### *SEC. 4004. MAINTENANCE OF PROJECTS.*

*Section 8 (16 U.S.C. 777g) is amended—*

*(1) by striking ''in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.'' in subsection (b)(2) and inserting ''to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this Act.''; and*

*(2) by striking ''subsection (c) or (d) of section 4'' in subsection (d)(3) and inserting ''paragraph (5) or (6) of section 4(a)''.*

### *SEC. 4005. BOATING INFRASTRUCTURE.*

*Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking ''section 4(b)(3)(B)'' and inserting ''section 4(a)(4)''.*

### *SEC. 4006. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.*

*Section 9 (16 U.S.C. 777h) is amended—*

*(1) by striking ''section 4(d)(1)'' in subsection (a) and inserting ''section 4(a)(6)''; and*

*(2) by striking ''section 4(d)(1)'' in subsection (b)(1) and inserting ''section 4(a)(6)''.*

### *SEC. 4007. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, COMMONWEALTH OF THE NORTHERN MARINA ISLANDS, AND VIRGIN ISLANDS.*

*Section 12 (16 U.S.C. 777k) is amended by striking ''in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.'' and inserting ''to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this Act.''.*

### *SEC. 4008. MULTISTATE CONSERVATION GRANT PROGRAM.*

*Section 14 (16 U.S.C. 777m) is amended—*

*(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:*

*''(a) IN GENERAL.—*

*''(1) AMOUNT FOR GRANTS.—For each of fiscal years 2004 through 2009, 0.9 percent of each annual appropriation made in accordance with the provisions of section 3 of this Act shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.'';*

*(2) by striking ''section 4(e)'' each place it appears in subsection (a)(2)(B) and inserting ''section 4(b)''; and*

*(3) by striking ''Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—'' in subsection (e) and inserting ''Of amounts made available under section 4(a)(6) for each fiscal year—''.*

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. As chairman of the EPW Committee and with the concurrence of the majority of the committee, I ask unanimous consent that the committee amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification to the reported committee substitute is as follows:

Beginning on page 672, strike line 13 and all that follows through page 678, line 5, and insert the following:

### SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,442,371,792 for fiscal year 2004;
(B) $6,425,168,342 for fiscal year 2005;
(C) $6,683,176,289 for fiscal year 2006;
(D) $6,702,365,186 for fiscal year 2007;
(E) $7,036,621,314 for fiscal year 2008; and
(F) $7,139,130,081 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,580,322,257 for fiscal year 2004;
(B) $7,801,990,130 for fiscal year 2005;
(C) $8,111,641,450 for fiscal year 2006;
(D) $8,134,931,791 for fiscal year 2007;
(E) $8,540,631,977 for fiscal year 2008; and
(F) $8,664,991,297 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,650,754,076 for fiscal year 2004;
(B) $5,507,287,150 for fiscal year 2005;
(C) $5,713,860,644 for fiscal year 2006;
(D) $5,730,266,418 for fiscal year 2007;
(E) $6,016,042,650 for fiscal year 2008; and
(F) $6,103,714,622 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,877,178,900 for fiscal year 2004;
(B) $8,107,950,527 for fiscal year 2005;
(C) $8,417,741,127 for fiscal year 2006;
(D) $8,441,910,349 for fiscal year 2007;
(E) $8,862,919,976 for fiscal year 2008; and
(F) $8,992,134,975 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,880,092,073 for fiscal year 2004;
(B) $2,192,716,180 for fiscal year 2005;
(C) $2,270,239,273 for fiscal year 2006;
(D) $2,276,757,639 for fiscal year 2007;
(E) $2,390,302,660 for fiscal year 2008; and
(F) $2,425,236,569 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,187,426,572 for fiscal year 2004;
(B) $1,325,828,388 for fiscal year 2005;
(C) $1,377,448,548 for fiscal year 2006;
(D) $1,381,403,511 for fiscal year 2007;
(E) $1,450,295,996 for fiscal year 2008; and
(F) $1,471,607,029 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;
(ii) $325,000,000 for fiscal year 2005;
(iii) $350,000,000 for fiscal year 2006;
(iv) $375,000,000 for fiscal year 2007;
(v) $400,000,000 for fiscal year 2008; and
(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;
(ii) $310,000,000 for fiscal year 2005; and
(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;
(B) $135,000,000 for fiscal year 2005;
(C) $157,500,000 for fiscal year 2006;
(D) $180,000,000 for fiscal year 2007;
(E) $202,500,000 for fiscal year 2008; and
(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;
(B) $135,000,000 for fiscal year 2005;
(C) $157,500,000 for fiscal year 2006;
(D) $180,000,000 for fiscal year 2007;
(E) $202,500,000 for fiscal year 2008; and
(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;
(B) $35,000,000 for fiscal year 2005;
(C) $36,000,000 for fiscal year 2006;
(D) $37,000,000 for fiscal year 2007; and
(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title—

(A) $2,500,000,000 for each of fiscal years 2004 through 2006;

(B) $1,750,000,000,000 for fiscal year 2007.

(14) Construction of Ferry Boats and Ferry Terminal Facilities.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $38,000,000 for each of fiscal years 2004 through 2009.

(15) Commonwealth of Puerto Rico Highway Program.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

On page 678, strike lines 6 and 7 and insert the following:

**SEC. 1102. OBLIGATION CEILING.**

(a) General Limitation.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,326,300 for fiscal year 2004;

(2) $37,900,000,000 for fiscal year 2005;

(3) $39,100,000,000 for each of fiscal years 2006 and 2007;

(4) $39,400,000,000 for fiscal year 2008; and

(5) $44,400,000,000 for fiscal year 2009.

(b) Exceptions.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009, only in an amount equal to $639,000,000 per fiscal year).

(c) Distribution of Obligation Authority.—For each of fiscal years 2004 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) Redistribution of Unused Obligation Authority.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) Applicability of Obligation Limitations to Transportation Research Programs.—

(1) In general.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) Exception.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) Redistribution of Certain Authorized Funds.—

(1) In general.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) Ratio.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) Availability.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) Special Rule.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) Adjustment in Obligation Limit.—

(1) In general.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(A)(B)) for the fiscal year.

(2) Distribution.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) Limitations on Obligations for Administrative Expenses.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $450,000,000 for fiscal year 2004;

(2) $465,000,000 for fiscal year 2005;

(3) $480,000,000 for fiscal year 2006;

(4) $495,000,000 for fiscal year 2007;

(5) $510,000,000 for fiscal year 2008; and

(6) $525,000,000 for fiscal year 2009.

Beginning on page 681, strike line 7 and all that follows through page 683, line 4, and insert the following:

**SEC. 1104. EQUITY BONUS PROGRAM.**

(a) In General.—Section 105 of title 23, United States Code, is amended to read as follows:

**“§ 105. Equity bonus program**

“(a) PROGRAM.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

“(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the bridge program under section 144;

“(D) the surface transportation program under section 133;

“(E) the highway safety improvement program under section 148;

“(F) the congestion mitigation and air quality improvement program under section 149;

“(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

“(H) the infrastructure performance and maintenance program under section 139;

“(I) the equity bonus program under this section;

“(J) the Appalachian development highway system program under subtitle IV of title 40;

“(K) the recreational trails program under section 206;

“(L) the safe routes to schools program under section 150; and

“(M) the rail-highway grade crossing program under section 130.

“(b) STATE PERCENTAGE.—

“(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

“(A) 95 percent of the quotient obtained by dividing—

“(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

“(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

“(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

“(i) the percentage under paragraph (1); or

“(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

“(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003)—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the bridge program under section 144;

“(D) the surface transportation program under section 133;

“(E) the recreational trails program under section 206;

“(F) the high priority projects program under section 117;

“(G) the minimum guarantee provided under this section;

“(H) revenue aligned budget authority amounts provided under section 110;

“(I) the congestion mitigation and air quality improvement program under section 149;

“(J) the Appalachian development highway system program under subtitle IV of title 40; and

“(K) metropolitan planning programs under section 104(f).

“(c) SPECIAL RULES.—

“(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

“(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

“(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(d) LIMITATION ON ADJUSTMENTS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

“(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

“(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

“(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

“(A) fiscal year 2004, 120 percent;

“(B) fiscal year 2005, 130 percent;

“(C) fiscal year 2006, 134 percent;

“(D) fiscal year 2007, 137 percent;

“(E) fiscal year 2008, 145 percent; and

“(F) fiscal year 2009, 250 percent.

“(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

“(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

“(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

“(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.”

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

“105. Equity bonus program.”

(2) Section 104(a)(1) of title 23, United States Code, is amended by striking “minimum guarantee” and inserting “equity bonus”.

On page 683, strike lines 8 through 16 and insert the following:

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking “2000” and inserting “2006”;

(B) in paragraph (1), by inserting “(as in effect on September 30, 2002)” after “(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))”; and

(C) in paragraph (2)—

(i) by striking “If the amount” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount”;

(ii) by inserting “(as in effect on September 30, 2002)” after “(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)”;

(iii) by striking “the succeeding” and inserting “that”;

(iv) by striking “and the motor carrier safety grant program”; and

(v) by adding at the end the following:

“(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.”.

On page 684, strike lines 19 and 20 and insert the following:

“(b) ELIGIBLE PROJECTS.—A State may obligate funds

On page 685, strike lines 6 and 7 and insert the following:

“(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of

On page 685, strike lines 9 and 10 and insert the following:

“(2) provide operational improvements (including traffic management and intelligent

On page 685, strike lines 14 through 19.

Beginning on page 703, strike line 20 and all that follows through page 704, line 15, and insert the following:

section shall be 80 percent.”.

On page 923, strike lines 7 through 10.

On page 923, line 11, strike “**1808**” and insert “**1807**”.

On page 929, line 14, strike “**1809**” and insert “**1808**”.

On page 931, line 5, “**1810**” and insert “**1809**”.

On page 931, line 7, strike “1809(a)” and insert “1808(a)”.

On page 933, line 22, strike “1810(b)” and insert “1809(b)”.

On page 934, line 1, strike “**1811**” and insert “**1810**”.

On page 934, line 4, strike “1810(a)” and insert “1809(a)”.

On page 942, line 3, strike “1810(b)” and insert “1809(b)”.

On page 942, line 5, strike “**1812**” and insert “**1811**”.

On page 942, line 7, strike “1811(a)” and insert “1810(a)”.

On page 944, line 5, strike "1811(b)" and insert "1810(b)".

On page 944, line 7, strike "**1813**" and insert "**1812**".

On page 944, line 10, strike "1812(a)" and insert "1811(a)".

On page 946, line 23, strike "1812(b)" and insert "1811(b)".

On page 947, line 1, strike "**1814**" and insert "**1813**".

On page 947, line 4, strike "1813(a)" and insert "1812(a)".

On page 953, line 10, strike "1813(b)" and insert "1812(b)".

On page 953, line 12, strike "**1815**" and insert "**1814**".

On page 954, line 22, strike "1815" and insert "1814".

On page 955, line 7, strike "**1817**" and insert "**1816**".

On page 962, line 1, strike "**1818**" and insert "**1817**".

On page 963, line 23, strike "**1819**" and insert "**1818**".

On page 964, line 6, strike "**1820**" and insert "**1819**".

Mr. INHOFE. Mr. President, with the agreement of both sides, we will recognize the Senator from Florida, Mr. NELSON, for 10 minutes on a subject other than the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have been yielding to Members on other subjects. I was glad to do so, but we were supposed to be on the highway bill for discussion about an hour ago. It is my wish not to recognize anyone, so long as we have speakers on the highway bill. I understand I get primary recognition, and I can't do this as managed time, but it is my desire to recognize the ranking member of the Environment and Public Works Committee for whatever time he should take, and immediately following that, the Senator from Ohio, Mr. VOINOVICH.

Before Senator JEFFORDS talks, let me say, again, as I did several times yesterday, how much I appreciate his cooperation in working together on this very difficult bill and coming to the point where we are today.

Mr. JEFFORDS. I thank the Senator. I echo those words with respect to the chairman's cooperation as well. It has been a pleasure to work with him and his staff. I am glad we are where we are now.

I wish to speak briefly on yesterday's incident that apparently involved ricin. First, I thank Majority Leader FRIST for his calm and professional approach to this matter. I also thank the Capitol Police, the Attending Physician, and everyone who assisted in responding to this incident.

As many of my colleagues know, my personal office is adjacent to Senator FRIST's office on the first floor, and my committee staff is located across the hall from Senator FRIST, so we were hit twice as hard on this episode.

Nearly a dozen of my staff members were quarantined last night and later decontaminated. They did not get home until after 2 in the morning. I would like to say a special thank you to them. Thankfully, everyone is feeling fine, and they don't appear to have any ill effects.

We should not have to go through this type of episode as we go about our business every day, but, unfortunately, these are the times we are living in.

I am hopeful we will get to the bottom of who is responsible, close this chapter, and return to our normal routines as soon as possible. Incidentally—and I may be getting a little paranoid—we are the only office to have also been involved in the other episode because we moved from Hart to Dirksen this year. I want to warn everyone, watch where I am. You may save yourself some problems.

Some 2½ years ago when I assumed the leadership of the Committee on Environment and Public Works, I set my sights on reauthorization of the Nation's Surface Transportation Program. I recognized this to be the most challenging task confronting the committee.

I have spent these last 2 years working with my colleagues, meeting with Americans, and studying the Nation's transportation needs. I have traveled the country visiting local communities and seeing firsthand our many national transportation challenges.

My observations on the road were reinforced by our committee's hearing process. The committee and our Transportation Subcommittee held 11 public hearings and sponsored three roundtable discussions to prepare for renewal of the Nation's Surface Transportation Program. We heard from over 100 witnesses from 30 States, representing over 60 organizations. The process generated a hearing record of over 1,500 pages.

What I heard is our current national program is working well; that we should refine it and not replace it. Our national transportation policy must serve the public good. In my view, the outcomes we seek are a strong economy, safe and healthy communities, and a clean environment. A balanced transportation system is necessary for us to attain these goals.

The success of our Surface Transportation Program will rest on four fundamental pillars.

Asset management is the first pillar. We must maintain and preserve our infrastructure investment. We cannot allow highways and bridges to deteriorate.

Access and mobility is the second pillar. Most Americans now live in metro areas, and most metro areas are congested and getting worse. We need to focus on these problems.

The third pillar is freight and trade. The value of trade and tonnage of goods moved in this country is enormous and growing. We need new facilities to accommodate this growth.

The fourth pillar is safety. We must continue the progress we have made over the last 10 years reducing the rate of highway fatalities and work now to reduce the actual number of lives lost on our roadways.

In partnership with our chairman, Senator INHOFE, and with the leaders of our subcommittee, Senators BOND and REID, we have helped construct a bill, SAFETEA, on these pillars. SAFETEA retains the strengths of our current national transportation program while enhancing its effectiveness to deal with the challenges facing our States and communities.

The bill meets highway system needs for strong growth in a manner that increases assistance to every State and every region. It is funded at a level of $255 billion that will enable the States to improve road and bridge conditions.

The bill will generate millions of well-paying jobs since every billion dollars spent on the highway program can generate up to 47,500 jobs. These jobs come at a time of great economic need in our communities.

A well-funded safety title is also included. It features a new program—Safe Routes to Schools—to protect children as they walk or ride their bikes to school.

Significant growth in congestion mitigation and air quality funding will help States improve air quality, reduce pollution, and address congestion. The bill makes it easier for States to mitigate project effects on habitat and wetlands, and retains and expands popular programs such as enhancements, recreational trails, and scenic byways. The increased intermodal flexibility set forth in the bill will allow States, if they wish, to improve freight handling and movement. But fundamentally, this massive transportation bill is about people.

It is about making it easier to commute to work; making roads safer for our families; preserving scenic beauty for future generations; helping our children get to school safely; moving freight efficiently and cheaply; and making America better.

Working with my colleagues, I have done my level best to write a bill that is fair to all States and regions of our country. I am committed to maintaining the legacy I inherited from my dear friends and former colleagues, Pat Moynihan and John Chafee. I look forward to completing this job, working with Chairman INHOFE, with the leaders of the other authorizing committees, and with all my fellow Members to produce legislation that will build a strong America.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

First, I congratulate Senators INHOFE, BOND, JEFFORDS, and REID, and their staffs on the impressive work they have done to put together a bipartisan bill. The fact this is a bipartisan product means we can actually get something done. It is a process of which I am glad to be a part as a member of the Environment and Public Works Committee.

Lately, all I have heard in the media and even from some of my colleagues is this is going to be a very difficult year to get anything done. I hope this bill and bipartisan spirit is an indication of the progress we can make this year for the American people. To borrow from one of my mottos as Governor: Together we can do it. And the other motto is the Ohio motto: With God, all things are possible.

This is one of the most important pieces of legislation Congress will consider this year. Although recent economic reports indicate positive job growth in the Nation as a whole, manufacturing jobs, including in Ohio, continue to experience slow growth and prolonged unemployment.

In recent months, I have met with workers, small business owners and manufacturers throughout Ohio. They all have the same thing to say: Good, high-paying manufacturing jobs are leaving Ohio. Many of these displaced workers would be productively employed on construction projects.

We have an opportunity with the highway bill not only to improve and repair our crumbling highways and bridges but to create and to let folks know that we know they are hurting. I will never forget when I was mayor of the city of Cleveland back in 1983. President Reagan and Congress realized the pain the people in this country were experiencing and Congress passed the emergency jobs bill, including an increase in the gas tax which stimulated tremendous highway construction jobs during 1983 and into 1984.

According to the American Road and Transportation Builders Association, ARTBA, employment in the transportation construction industry was down in July of 2003, during the peak of the construction season, compared to July 2002. Specifically, there were 12,100 fewer workers on project sites over the last year, a decrease of 3.7 percent.

In Ohio, according to the Bureau of Labor Statistics, heavy construction jobs were up slightly from last year. However, there were still on average 3,500 fewer jobs in 2003 than in 2000 when they were at their peak. Investing in our Nation's transportation infrastructure through a 6-year reauthorization bill will create hundreds of thousands of jobs and move our sluggish economy down the road to recovery.

The transportation construction industry generates more than $200 billion in economic activity and helps sustain 2.5 million jobs in the United States each year. According to the U.S. Department of Transportation, every $1 billion invested in highway construction creates 47,500 jobs and generates more than $2 billion in economic activity. It is also estimated that every dollar invested in the Nation's highway system generates $5.70 in economic benefits, including reduced delays, improved safety and reduced vehicle operating costs. This is a 6-to-1 return on investment. This has to be one of the best investments that the Federal Government can make.

We also need to ensure that we are investing adequate resources into our transportation infrastructure. According to the Federal Highway Administration's 2002 Conditions and Performance Report, the average annual investment level needed to make improvements to highways and bridges is projected to be $106.9 billion through 2020. This amount is 65 percent higher than the $64 billion of total capital investments spent by all levels of government in 2000. There is just no question that the need is there.

The average annual investment level necessary to maintain the current condition and performance of highways and bridges is projected to be $75.9 billion to 2020. This amount is 17.5 percent higher than capital spending in 2000. Nationwide, 162,000 bridges are structurally deficient or functionally obsolete, and 160,000 miles of highway pavement are in poor or mediocre condition. Americans pay approximately $49 billion a year in extra vehicle repairs and operating costs due to road conditions. That is $255 a driver in this country. In addition, the average urban rush hour driver spends almost 62 additional hours a year stuck in traffic. Congestion is responsible for 5.7 billion gallons of wasted gasoline each year. Wasted fuel and low productivity due to traffic congestion costs the U.S. economy nearly $70 billion annually. In other words, this legislation will help reduce our reliance on oil, improve our environment, and relieve the stress and road rage that we see so often throughout our country.

Nearly 43,000 people were killed on America's roads in 2002. Poor road conditions were a factor in one-third of those fatalities. The Federal Government predicts highway fatalities will grow to nearly 52,000 by 2009, absent any new Federal investment in highway safety. Studies report that every $1 billion invested in road improvements since 1950 has helped prevent 1,400 premature deaths and nearly 50,000 injuries, as well as help save over $2 billion in health care, insurance, lost wages, and productivity costs.

If we continue to ignore the upkeep and allow the deterioration of our infrastructure, we risk disruptions in commerce and reduced protection for public safety, health, and the environment. In my view, it is the responsibility of Congress to ensure that funding levels are adequate and efficiently allocated to the Nation's priority needs.

In 1998, Congress recognized the importance of the Nation's transportation system through the enactment of TEA-21, a 6-year bill that increased Federal investment in highways and transit by nearly 40 percent to $218 billion. Under TEA-21, my State received a 23 percent increase in transportation funding. Ohio's share of highway funding also increased under TEA-21 to 90.5 percent of its share of contributions to the trust fund. When I took office as Governor in 1991, Ohio's share was less than 80 percent. ISTEA took us to 85 and TEA-21 to 90.5.

As chairman of the National Governors Association, I was involved in negotiating TEA-21 and lobbied Congress and worked with BUD SHUSTER to ensure that all highway trust fund revenues were spent on transportation. TEA-21 dedicated nearly all highway gas taxes to transportation funding and guarantees that States will receive at least 90.5 percent of their share of contributions to the fund.

I also fought to even out highway funding fluctuations and assure a predictable flow of funding to eliminate the peaks and valleys that we experienced on the State and local level under ISTEA. TEA-21 achieved this role with record guaranteed levels of funding, and I am glad to be in the Senate at this time to work on reauthorizing this important legislation.

The administration's 6-year surface transportation reauthorization proposal, the Safe, Flexible, and Efficient Transportation Equity Act, would provide $247 billion, including $201 billion for highway and safety programs and $46 billion to transit programs. On November 12, 2003, the Senate Environment and Public Works Committee approved $255 billion in contract authority for highways over the next 6 years, or an average of $42.5 billion annually.

Again, one of my top priorities for reauthorization is to increase the minimum rate of return for donor States from 90.5 percent to at least 95 percent. In May 2003, Senator CARL LEVIN and I, along with House Majority Leader TOM DELAY and Congressman BARON HILL, introduced legislation, the Highway Funding Equity Act of 2003, to increase donor States' minimum rate of return to 95 percent.

Currently, there are 144 sponsors of this bill in the House and 22 cosponsors in the Senate. It has been a pleasure to lead this effort on behalf of the SHARE, States' Highway Alliance for Real Equity, coalition in the Senate. SHARE believes all States have highway infrastructure needs that surpass available resources. For this reason, each donor State seeks to get back as much of the taxes paid by its motorists as possible. SHARE's objectives are to increase the size of the guarantee to 95 percent and to apply the scope of the guarantee to all dollars being distributed to the States.

I commend Chairman INHOFE, Senator BOND, Senator JEFFORDS, and others not only for their hard work in writing this bill but also for increasing the guaranteed share of all donor States to 95 percent by 2009, while balancing limited resources and the needs of the States. It is a very difficult job, but if one really looks at what has been done, it was a Solomon-like job and they should be congratulated for it. I hope other Members of the Senate are respectful of the fact that it was an intellectually honest effort on our part to try to remedy a problem that we have had for too long around this country.

Specifically, my State is going to receive $2.2 billion, which is a 38 percent increase over the 6-year period, compared to the last 6 years under TEA 21. We lost billions of dollars compared to other States, because we are a donor State—over the last number of years. The total amount of funding Ohio will receive over the next 6 years is more than $8 billion. Much of this additional funding is due to Ohio's increased share of the highway trust fund dollars.

Another of my priorities for increasing highway funding and improving equity is to no longer penalize States that consume ethanol-blended fuel to help reduce our national dependence on imported oil. Last year, I cosponsored language written by Senator GRASSLEY and reported out of the Finance Committee that would transfer 2.5 cents of the Federal tax on ethanol-blended fuel from the general fund of the Treasury to the highway account of the highway trust fund and replace the 5.2-cents-per-gallon reduced tax rate for ethanol-blended fuel with a tax credit. This was also in the Senate-passed energy bill.

As a result, the same Federal tax will be collected and deposited into the highway trust fund, regardless of whether a gallon of fuel contains ethanol. The Ohio Department of Transportation estimates that enactment of this legislation will restore up to $170 million annually to the State of Ohio.

I congratulate the Finance Committee for coming up with the revenue offsets to reach the outlays of $231 billion to pay for highways over the next 6 years. I urge the Senate to support the committee's recommendations.

This morning I congratulated Senator GRASSLEY, the chairman of the Finance Committee, for getting in there and finding the dollars and the offsets so we can talk to our colleagues about supporting this legislation as something fiscally responsible.

When gasohol contributions are included, Ohio's highway funding over the next 6 years will increase more than $3.1 billion, 54.2 percent over TEA-21 for a total of $8.9 billion. The surface transportation reauthorization bill is extremely important to Ohio, which has one of the largest surface transportation networks in the country. Ohio has the 10th largest highway network, the 5th largest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country.

There are also 62 public transit systems serving 59 of Ohio's 88 counties. In 2002, these systems made approximately 138.6 million trips. Ohio has the Nation's 4th largest rural transportation program, the 5th largest bus fleet, the 9th most transit vehicle miles traveled, and the 10th overall highest ridership in the country.

This bill, if enacted, will meet the essential needs of the entire surface transportation system of my State. It will also create thousands of jobs and provide a significant boost to Ohio's economy. I am very proud that Ohio approved a motor fuel tax increase in 2003 that will ensure an annual $250 million new construction program for the next 10 years, while maintaining bridge and highway conditions. With additional Federal funds, the Ohio Department of Transportation has set a goal of having a $5 billion, 10-year Ohio construction program entitled Jobs and Progress Plan, dedicated to addressing Ohio's most pressing congestion, safety, and rural access needs.

The plan is predicated on Congress enacting legislation to correct the ethanol penalty which reduces Ohio's transportation revenue and increases donor States' minimum rate of return to 95 percent, and provides an increased level of investment in the Nation's highways and bridges. This highway bill achieves all of those goals. It is a bill that is very important to my State and its economy.

As a result, a half billion dollar a year new construction program in our State would employ approximately 4,000 construction workers directly and create another almost 10,000 indirect highway jobs.

Ohio's Jobs and Progress Plan would help finance several major projects throughout the State, including a $350 million project to rebuild I-75 in Dayton, a $400 million project to begin rebuilding the Central Viaduct, or as we call it in Cleveland, the Dead Man's Curve, and a $600 million project to improve I-70 and I-71 in Columbus. The plan also calls for $60 million annual investment to address high-crash locations, as well as funding to address freight corridors such as U.S. 24 and U.S. 30 in northwest Ohio. Too many people have died on these highways.

This is a jobs bill. In addition, the Ohio Department of Transportation has $164.3 million worth of projects that are ready to go. These are projects ready to go if the money were there. The 128 projects on the shelf include major reconstruction, resurfacing, bridge replacement and repair, traffic signals, signs, culvert construction, guardrail rebuilding, pavement marking, and preventive maintenance. If this funding were made available, approximately 1,300 direct and some almost 3,500 indirect jobs would be created in the State.

Finally, I have several comments about the environmental, planning, and project delivery provisions of the bill. As chairman of the Clean Air Subcommittee and the past chairman of the Transportation Subcommittee, I understand full well the importance and significance of the overlap between highway planning and air quality.

When I began my term as Governor, 28 Ohio counties were in nonattainment for ozone. I spent considerable effort to get them into attainment. In addition to working with utilities to reduce their emissions, I implemented an automobile emissions testing program called E-check to help bring Ohio's counties into compliance. At that time, Ohio was one of only a few States to have an enhanced auto emissions test in its urban areas.

That all came about because we were trying to comply with the Clean Air Act. This program was a success. According to the 1997 EPA report, volatile organic compounds and nitrogen oxides, which are a major component in the formation of ozone and are emitted by cars and trucks, have been dramatically reduced from 1970 to 1996. Emissions of VOCs were reduced by 49 percent, $\mathrm{NO_X}$ by 26 percent. Additionally, air toxins in Ohio were reduced from approximately 381 million pounds in 1987 to 144 million pounds in 1996.

Due to these reductions, all 88 counties have met the national air quality standards. But this has not been an easy battle. The E-Check program has been criticized because it required vehicle owners in smoggy areas to pay for annual emissions testing and to make the necessary repairs. Due to its unpopularity, Ohio's General Assembly passed a bill revoking the program. However, I stood up for the program and vetoed the bill because I believed it was an important and necessary step to cleaning up Ohio's air. That veto, by the way, was not overridden.

I believe hard choices such as these are important. The conformity program has helped encourage cleaner air, and transportation planning has benefited from coordination with the air quality planners. As requested by Federal, State, and local officials, this bill makes important improvements in the conformity process by synchronizing planning and conformity timelines and requirements. So I congratulate the chief sponsors again.

I am also pleased that this bill modifies the Congestion Mitigation and Air

Quality Improvement Program, called CMAQ, to include the nonattainment areas for the fine particulate matter standard—PM2.5—and the 8-hour ozone standard. EPA will make designations for both these standards this year, and these areas will need all the help they can get to attain the new standards.

While these are two areas in which I believe we have made progress, I am a little disappointed with the metropolitan and statewide planning and transportation project delivery process in this bill. I don't think these provisions will do much to expedite the project delivery process and, quite frankly, actually create a more burdensome process than under current law.

As a former Governor, I was frustrated at how long it took to do a highway project from beginning to end. As Senator, I have wanted to do something meaningful on this issue, since I was chairman of the Subcommittee on Transportation and Infrastructure and, in fact, we held a number of oversight hearings on the implementation of the streamlining provisions included in TEA–21. One of my top priorities for this reauthorization is to enact efficient transportation project delivery that will actually expedite the project delivery process.

Regulations implementing these provisions were disappointing and later scrapped. I regret that we have wasted an opportunity to realize the benefits of the expedited process that was envisioned 6 years ago, the 1309 process. In other words, we talked 6 years ago, in the TEA–21, that we were going to streamline the process and put a provision in the law that said we should do it. After 6 years, fundamentally nothing has happened—after 6 years.

The transportation project delivery process provisions in this bill that we are going to consider, as I say, are disappointing because I think they are going to do little to expedite the project delivery process, given that the bill requires State and local planning agencies to meet process burdens that are even more burdensome than in the current law.

Do you hear me? They are more burdensome than in the current law, which we were trying to change and improve during the last 6 years.

I hope we can fix these provisions on the floor with the support of AASHTO, ARTBA, AGC, and the American Highway Users, and many State and local government organizations.

Furthermore, one more thing I am concerned about is one of the most significant elements of environmental streamlining missing from this bill, and that is to reform the process known as section 4(f). This process causes more delay in my State than any other planning or environment review requirement. I will bring that situation to the attention of my colleagues during debate on this bill.

This is a good bill. I urge my colleagues to support S. 1072. The current surface transportation authorization expires at the end of this month. People are waiting. They want it passed. They want to see the jobs. The time to act is now.

Nationwide, this bill would create 2.8 million new jobs, including 106,000 new jobs in Ohio. This is important jobs-creation legislation that will put hard-working Americans back to work and jump-start our sluggish economy, especially States like Ohio, where our economy is still struggling.

Mr. INHOFE. Mr. President, I see the minority leader. I certainly defer to the minority leader.

Mr. DASCHLE. I thank the distinguished Senator from Oklahoma. I am happy to accommodate the order at whatever time someone may come to the floor. I have a few comments to make as we begin this debate.

Let me express our gratitude to the two managers of the bill and other Members of the Senate who have put so much effort into this legislation. We have come a long way. I am grateful to them for producing a bill that merits strong bipartisan support.

The debate on this bill is long overdue. We have already lost 90,000 jobs by our inability to pass the bill last October. At a time when we have lost 3 million jobs over the last several years, we cannot afford to keep losing jobs. We had the first meager job increase just last month with 1,000 jobs across the entire Nation. The importance we can put on job creation with this legislation should not be underestimated.

Now that the Senate has begun the debate on the bill, we need to ensure it goes forward in a bipartisan fashion—the way this institution has worked on legislation similar to this over its long history.

If we ultimately pass a transportation bill into law, it is expected to create 830,000 jobs over the next 6 years. These would be good jobs for Americans, jobs in engineering, in the environment, in construction—good jobs in all States.

In addition to jobs, there is another critical reason to be moving forward on this bill. Yesterday, there was a lot of talk about the $520 billion Federal budget deficit, a very troubling figure. But there is another deficit we have not talked much about yet and that is in our Nation's infrastructure. Our Nation's transportation infrastructure—our roads, highways, transit, ports, and rail lines—is a thread that holds our Nation together to make it possible to have a free and open society, which is suffering a remarkable deficit, one that can be addressed with the passage of this legislation.

Our transportation infrastructure impacts what we do every single day, and most of the time it is simply taken for granted and unrecognized.

Over 30 percent of our roads and highways are now considered in poor or in substandard condition. Over 30,000 of our Nation's bridges are functionally obsolete or structurally deficient. The transportation bill reported out of the Environment and Public Works Committee will address this infrastructure deficit.

Likewise, we need to ensure this transportation bill is intermodal and includes provisions to improve the conditions of rails and ports. Rail lines in the United States alone require $7 billion each and every year just to maintain them. Our Nation's transit programs are a critical and interconnected portion of our transportation infrastructure.

I am particularly pleased Finance Chairman GRASSLEY and Ranking Member BAUCUS included as a part of the financing provisions reported from the committee yesterday a provision which treats transit in a similar manner to highways. It was the right decision to go forward with some symmetry on transit and highways. Both receive funds from the highway trust funds. I applaud Senators GRASSLEY and BAUCUS for doing so.

I am pleased we are finally working on this bill in the Senate. As I said, Senators INHOFE and JEFFORDS need to be complimented, along with Senators BOND and REID, for the hard work and leadership they have shown in getting us to this point. I look forward to moving ahead in a bipartisan fashion to do not only what is needed but what is required to address our transportation infrastructure deficit.

If we go forward in that fashion with that goal, we will not only improve the condition of our infrastructure but create hundreds of thousands of needed jobs and improve the condition of our country, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the minority leader for the excellent statement. We have a new chart on job opportunities which talks about the cumulative effect when a job is offered—say a construction job on a bridge or highway—and what that does to the rest of the economy. It is about 2.8 million jobs as opposed to some of the figures we have been using, one-fourth of that number. It is very significant.

The Senator from Ohio gave an excellent statement also. The State of Ohio, in terms of new job opportunities, is No. 5 in the Nation under this bill. The Senator has done an excellent job. I am sure the people of Ohio are very appreciative of the job opportunities that will be there as a result of the legislation we hope to pass in the next few days.

The Senator from Ohio, who has vast experience in clean air, was a breath of fresh air when he came in, someone who really has the answers. He was the chairman of the Clean Air Committee of the National Association of Governors. His expertise is very much appreciated.

Senator JEFFORDS and others have already mentioned the difficulties in putting together a formula, considering the fast-growing States, with a ceiling there. We have some of the small States, such as that of the Presiding Officer, in terms of population, which have to be considered because even though it is a small population there are a lot of roads that have to be cared for. Taking into consideration all of these considerations was not easy.

However, when we compare what we have done with what has been done in the past, I am very proud of it. The equity bonus program replaces the minimum guarantees.

Now, I have been criticized for the way I simplify my explanation of minimum guarantees, but it is pretty accurate; that is, we took a percentage of the total amount of money and gave it to each State until we got 60 votes, not caring too much what happened after that. We took into consideration all the issues we have been talking about.

The bill does four things, essentially. It takes care of the donor States. I have been part of a donor State for as long as I can remember, certainly as long as I have been in the Senate. We were down below 80 percent, and as mentioned by the Senator from Ohio, ISTEA, then TEA–21, and now with this bill, we are up to 95 percent.

Streamlining provisions is very important. It is important we have money to spend on road construction, but also we can get the maximum out of the dollars we do spend. We go a long way to making this a reality.

The third major area is that of safety. We have talked about the number of deaths on the highways. It has to be addressed. That is why we named this SAFETEA, with many safety provisions, at the same time allowing the States to come, recognizing they know more about their States than we do in Washington.

And lastly, the area of freight movement.

With that, it is my desire throughout the day today when there are not speakers to be heard on the highway bill to go through this, section by section, and see specifically how these things are handled.

If any Members who come to the floor want to be heard on the highway bill, I will suspend. Of course, we will break in 20 minutes for our policy luncheon.

I start with section 1101, the authorization of appropriations. We are talking about $255 billion in contract authority over the next 6 years. This was difficult to come up with. At the same time, we have $56.5 billion contract authority in transit, for a total of $311 billion, considerably more than the Budget Committee originally came up with, considerably more than in the President's budget.

And we have received, only yesterday, the President's budget message. I think, however—and I did talk to the President yesterday—when he realizes fully the great work the Finance Committee did—the fact that we now have the offsets necessary to do this without increasing the deficit—the President is going to be more supportive than he has been in the past.

So this represents an overall increase of 31 percent over TEA–21. The link between a robust economy and a strong transportation infrastructure is undeniable. The movement of people and goods is one of the foremost indicators of a growing economy and job creation.

The President recommended a funding level of $200 billion for reauthorization. Given the critical infrastructure and safety needs of the program, we thought it imperative to authorize a higher level of funding for the coming 6 years.

I recall a study that was made—and I do not have the exact figures, but the amount of money even that we are suggesting right now merely maintains where we are today. It was discussed by the minority leader that we have a bridge crisis, and I was wanting to interrupt him to say that my State has the distinction of having the largest percentage of functionally obsolete bridges. We are hoping to correct that with this bill.

On the other end of the spectrum, the House Transportation and Infrastructure Committee has introduced a bill funding highways and transit at $375 billion, which is considerably over our $311 billion. However, achieving this astronomical figure would require raising gas taxes by 13.5 cents per gallon during the next 6 years, in addition to utilizing a number of other costly new financing measures.

The vote before you today recognizes the realities of available revenues without the need for increasing gas taxes, and, I might add, or increasing the deficit. It is designed to make the most of every available dollar to produce better and safer roads by creating thousands of new jobs every year and stimulating the national economy.

In that regard, the Department of Transportation estimates that every $1 billion of Federal transportation funds translates into 47,500 jobs. By the way, that is not a fictitious number. We have had several studies that were done. We realize it is accurate. However, when you say new job opportunities, it is about four times that. If someone takes a construction job, that person is buying more goods and services, and that means manufacturing is going to go up and there are going to be many other jobs. So this figure is a very conservative figure.

We estimate that the SAFETEA will increase the size of the job market by 700,000 but create over 2 million new employment opportunities. I think that is what we need to be talking about.

Section 1102 is an obligation ceiling. The principle that was used to develop obligation limitations was to minimize the gap between the OBLIM or obligation limitations in contract authority levels. This empowers the States to utilize as much available contract authority as possible while still providing them maximum flexibility.

We were able to achieve a total obligation limitation of $238 billion. This is what was recommended in the Reid-Bond amendment that carried this Chamber with 79 votes. This is consistent with that amendment to the budget resolution. So there was a lot of hard work from the Finance Committee and the leadership of Chairman GRASSLEY and Ranking Member BAUCUS, and I thank them for the great work they did.

Section 1103 is the apportionment section. In addition to the overall increases experienced by all programs, the bill makes important changes to the apportionment of a few specific programs. Under TEA–21, the administrative expenses of the Federal Highway Administration were funded as a takedown from the various core programs. This bill recognizes the separate importance of costs associated with the administration of the overall highway program. Therefore, the bill funds Federal highway administrative expenses as its own separate apportionment protecting the authority of the individual core programs or the autonomy of the individual core programs and the administrative fund itself.

Of the amount designated for program administration, the Secretary of Transportation is also given the authority to transfer an appropriate amount for the administrative expenses of the Appalachian Highway Development System.

As a result of the 2000 census, 46 new metropolitan planning organizations or MPOs have been established throughout the country and are now eligible for Federal transportation planning funding.

We have devoted a lot of time and a lot of attention in this bill to planning as well as to assisting States in doing what they do best, also, which we will get to in a later section. To respond to this expanded need, we have increased the program set-aside for MPOs from 1 percent under ISTEA to 1.5 percent, along with the overall increase in program funds which will help to address the growing transportation planning needs.

TEA–21 used a minimum guarantee. I have been talking about this, and that really constituted a percentage. And it is just not the way this should be done.

We wanted it in our formulas, and we wanted it in an attempt to get our donor States up to 90.5 percent. We used a minimum guarantee calculation to guarantee that States received back at least 90.5 percent—that is what they did in TEA–21—90.5 percent of their percentage contribution to the highway trust fund.

The Minimum Guarantee Program was driven by the political distribution known as the 1104 table. I will not go into that because this is somewhat redundant. We have talked about this in the past. It was purely politically driven.

To contrast that, the new Equity Bonus Program does away with the table in TEA–21 which determined each State's percentage share of the total highway fund, the political table to which I have been referring. Rather than have a State's return be set by a politically driven table, the Equity Bonus Program determines each State's return by first relying on the program distribution formulas. The equity bonus calculation identifies a justifiable nexus in equity between the underlying formulas and responsible balanced growth for donor and donee States alike.

If a State fails to reach the minimum return in any year based on the formulas, that State would receive an equity bonus award in addition to their formula. It should bring them up to the required level. I cannot think of a better and more equitable way of doing this.

While we allow the formulas to work under the new Equity Bonus Program, we also recognized that there would be some inequities if we allowed the formulas to be the sole factor in distributing dollars to the States. In order to increase the minimum rate of return for donor States, while ensuring an equitable transition for donee States, rates of return are subject to an annual growth ceiling to smooth out the phase-in of the increased minimum returns.

This accomplishes two goals: It keeps the cost of the Equity Bonus Program affordable; secondly, it ensures that donee States are still able to grow so that there are no States with growth less than 10 percent in dollars. I repeat that. Of all 50 States, every State gets at least an increase of 10 percent.

Now, I have heard from a lot of the people whose State falls into the different categories. One is the category of a fast-growing State, and, obviously, they would prefer that the ceilings not be there so they would bump into them. But if you do not do that, then you would hear equally from some of the older States, such as New York and Pennsylvania, that would have to pay the price if we did not have some type of a ceiling.

For donor States, the effect of the growth ceiling is that a State with a rate of return above 90.5 percent in 2003 will reach a 95 percent return sooner than a State that received only a 90.5 percent return, or below, in 2003. The closer a State was to 95 percent in 2003, the sooner it will reach 95 percent.

Conversely, those States at 90.5 percent in 2003, such as my State of Oklahoma, would likely take longer to reach 95 percent. The time it takes a State to reach 95 percent depends on how much equity bonus funding the State receives and how much faster than the national average that State is increasing its contributions to the highway trust fund. That is taken into consideration as a part of this formula.

Recognizing that States with a lower tax basis due to low population, such as the State of Wyoming and others, or low income face an added challenge of maintaining the transportation infrastructure, the bill sets their TEA–21 rate of return as a minimum for future years.

Section 1105 is the revenue aligned budget authority, or RABA, as we have referred to it. The huge 2003 negative adjustment in the revenue aligned budget authority made it clear that some changes were needed in the RABA calculation in order to provide greater stability and more accurate predictions and less fluctuation in coming years. This is true. The States can get so much more for their dollars if they can predict into the future how they are going to use those dollars and what those dollars are going to amount to.

As I have indicated before, I believe the underlying principle of RABA is an important fiscal policy that highway expenditures should be tied to highway trust fund revenues.

The bill modifies the RABA calculations so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent upon actual receipts to the highway trust fund. If the RABA adjustment in any fiscal year is negative, the amount of contract authority apportioned to the State for that year will be reduced by an amount equal to the negative RABA. However, if the balance of the highway trust fund is greater than $6 billion, then there will be no negative RABA adjustments.

Section 1201 is the infrastructure performance and maintenance program, or IPAM. There is a lot of interest in this program, obviously. The IPAM program is intended for ready-to-go projects that States can undertake and complete within a relatively short timeframe. As a result, States are given 6 months to obligate IPAM funds. We designed this discretionary program to promote projects that resulted in immediate benefits for the highway system's condition and performance while avoiding long-term commitments of funds. The program also provides further economic stimulus to the economy and provides a way to aid in spending down balances in the highway trust fund.

That is very important right now. We are very sensitive to the somewhat job crisis. We have seen our economy on its way up again. However, there is a lag between economic recovery and the jobs. IPAM is going to give more construction sooner, provide more jobs and more jobs sooner. Then, of course, when you put the new job opportunities factor to that, that is going to be very meaningful to job recovery in America.

The States may obligate funds for projects eligible under Interstate Maintenance, National Highway System, Surface Transportation System, Highway Safety Improvements Program, Congestion Mitigation and Air Quality Improvement, or CMAC, and the Highway Bridge Program. Eligible projects under IPAM include the preservation, maintenance, or improvement of existing highway infrastructure and operational improvements to address recurring highway congestion.

Section 1202 is the future of the surface transportation system title. In order to be prepared for future reauthorizations of this legislation, we require the Secretary of Transportation to perform a long-term investigation into the surface transportation infrastructure needs of the Nation.

Specifically, the bill directs the Secretary to look at: the current condition and performance of the interstate system; the future of the interstate system in 15 years or 30 years or 50 years; expected demographics and business uses that impact the surface transportation system; the effect of changing vehicle types, modes of transportation, traffic volumes, and fleet size and weights—we have seen such a dramatic change in the types of vehicles that we drive that we never could have anticipated back when we were putting together ISTEA or one of the previous programs—possible design changes; rural, urban, interregional, and national needs; improvements in emergency preparedness; real-time performance data collection; and future funding needs and potential approaches to collect those funds.

What we are saying is, we are trying to prepare for the future. It is important what we do for the next 6 years, as we go through this reauthorization. I think we have done a good job with that. But things will happen 6 years from now that we cannot anticipate. That is what the Secretary of Transportation will be looking at and coming back with, so we will be able to anticipate some of the things we will be looking at 6 years from now.

A very important section is 1203. That is the freight transportation gateways, freight intermodal connections. Freight movement in America is expected to grow dramatically in volume and value over the coming decades.

Throughout the reauthorization hearings, the Environment and Public Works Committee heard concerns about inadequate freight facilities, insufficient capacity, and insufficient connections.

The GAO recently released a report, dated October 2003, a little over a month ago, regarding freight transportation, recommending strategies needed to address planning and financing limitations. The report noted that the major challenges to freight mobility all shared a common theme—congestion, including overcrowded highways, freight specific check points.

Additionally, the GAO reported two main limitations that stakeholders encounter in addressing these challenges. The first related to the limited visibility that freight projects receive in the planning and prioritization process. S. 1072 directly addresses this problem by creating a freight transportation coordinator at the State level to facilitate public and private collaboration in developing solutions to freight transportation and freight gateway problems. This is one more area where we will have an increased emphasis on States.

The bill also ensures that intermodal freight transportation needs are integrated into project development and planning processes. The second limitation that the GAO found was inhibiting stakeholders was that Federal funding programs tend to dedicate funds to a single mode of transportation or nonfreight purpose, thus limiting freight project eligibility among some programs. S. 1072 deals with this problem as well as making intermodal projects eligible for STP and NHS funding.

The Freight Gateways program found in this bill promotes intermodal improvements for freight movement through significant trade gateways, ports and hubs, and intermodal connections to the national highway system. States and localities are encouraged to adopt new financing strategies to leverage State, local, and private investments in freight transportation gateways, thus maximizing the impact of each Federal dollar.

The Freight Gateways program is funded from a set-aside of 2 percent of each State's NHS apportionment. However, in the spirit of State flexibility and ensuring that funds go to the areas of greatest need, a State is not required to spend the 2 percent of their NHS apportionment if they can certify to the Secretary that their intermodal connections are adequate. I think this is a recognition that the States do know more about their needs than the Federal Government. That is one of the trends of this.

I know we are ready to recess. I yield to my colleague Senator JEFFORDS for the remainder of the time.

Mr. JEFFORDS. I will take very little time. I commend the chairman again and all the staffs, his and mine, for the incredible amount of work they have put into this effort.

Mr. INHOFE. They are even talking to each other now.

Mr. JEFFORDS. Yes, right. It is fantastic. We know also that we have a long way to go. The work you have done and my staff has done, all of us, has placed us in a great position to start. But now it is the opportunity for all the Members to check carefully to see how their States are doing and maybe make some improvements. We know we will have a number of amendments. We have a long way to go, but I think we are off to a great start. I expect we will have a great finish.

Mr. INHOFE. I would agree with those comments. However, I think we have the basic formula, and this is something for which I am going to be fighting because once you break into this and change the formula, that is going to change every State. That is something we have spent over a year now working out to get as much equity as possible. We look forward to the input from Members who are not on the committee.

Mr. JEFFORDS. They should all have the opportunity, and I know we will provide it. I think we have done a great job, so there should not be too much problem.

Mr. INHOFE. Mr. President, 12:30 has arrived and we are planning to break.

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## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:19 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## SAFE TRANSPORTATION EQUITY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I know this is a day when we are having discussions about the highway bill, the transportation measure, and the highway portion of it. I appreciate the opportunity to share with my colleagues some of my thoughts on the work that has gone on. As I indicated yesterday, there will be a number of very important amendments. We hope to overcome the technical difficulties which make it impossible for Members to get to their offices so that they can present the amendments.

We have heard from a number of Members who are concerned because they are not getting enough in the bill, but, frankly, this bill has much in it to commend, and we are looking forward to working in a cooperative manner to get this bill passed.

We have lost valuable time, obviously, as we had to get cloture yesterday and we are working under the constraints of the ricin presence today. So we are a bit delayed.

I reiterate, I appreciate and commend the great work of Senator INHOFE, chairman of the Senate Environment and Public Works Committee, the ranking member, Senator JEFFORDS, and my partner on the Transportation Subcommittee, my ranking member, Senator HARRY REID of Nevada. They have done an excellent job.

I believe the committee reported out a bill, S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, which we know as SAFETEA, which accomplishes several very important goals.

First, safety. Safety in this authorization is for the first time given a prominent position, being elevated to a core program. Our bill mirrors the administration's proposal continuing our commitment to our motoring public's safety. This is accomplished by providing much needed funding to reduce highway injuries and fatalities, all without the use of mandates.

A key component of the bill before us will go a long way to saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements. This includes roadside obstacles and unmarked or poorly marked roads that may constitute a danger to motorists, bicyclists, pedestrians, and other highway users.

We know in my own home State of Missouri that inadequate roads delay, deny, and derail economic development opportunities. But most important, inadequate highways kill people. We have more than three deaths a day on Missouri's highways. I think a large number—at least a third and perhaps more—of those are attributed to inadequate infrastructure.

When there is traffic of 10,000, 15,000 to 20,000 cars a day on a narrow two-lane road, there are going to be people passing when they should not and they run into other people head on.

I have lost friends. I know too many families who grieve the loss of loved ones. I can point out roads in Missouri where one can drive not very far and see white cross after white cross put up as a reminder that some lost their lives on those roads. They lost their lives because the traffic was heavy. Very often, someone not from the area or even not from the State has come in and is not familiar with the road and they pass where they should not. They meet someone else head on, and that is a tragedy. Several weeks ago, I attended the funeral of the husband of a former staffer of mine who has been incapacitated. He was killed on a two-lane road. It was a terrible tragedy and an unspeakable loss.

We heard numerous testimony from the administration that nearly 42,000 people are killed on our roads and highways each year. I think the bill reflects a continued commitment to making not only investments in our infrastructure but also to the general safety and welfare of our constituents.

The second feature of this bill which is very important is equity. While previous authorizations have talked about equity, our bill carefully balances the needs of the donor States while also recognizing the needs of the donee States.

For those who may not be familiar with the terminology, donor States such as Missouri and Oklahoma are ones that get less than a dollar back for every dollar they put in. Donee States are ones that get back more than a dollar for every dollar they put in. We are seeking to get a better return on our money, realizing that in this bill we cannot overcome the inequities between the donor and donee States.

There are many sections in the bill I am proud of supporting. One of the most important facts is all donor States will receive a 95 percent rate of return at least by the end of the authorization. These States include Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington. There are 24 States in total. These have been getting less than 95 cents in the past and will be getting up to 95 cents.

My home State of Missouri, like many of the donor States mentioned, has some of the worst roads in the Nation. According to a survey, Missouri has the third worst roads. Fifty-nine percent of its roads are either in poor or mediocre condition, requiring immediate repair or reconstruction. Missouri also has the second worst bridges in the Nation.

I guess I ought to remind people the one State that ranks even worse than Missouri is our neighboring State, Oklahoma, the State of the chairman of our committee. So obviously we have an interest in bringing about some repair and some safety improvements.

During the reauthorization of TEA-21, the previous currently extended highway authorization, donor States did not think it was possible to achieve a 95 percent rate of return. Under our proposal, we are able to get them there—get all of us there. However, I am aware some of the donor States are concerned that they hit the growth caps and they do not achieve a 95 percent return in the first year. We were unable to bring all donor States up as early as we might have wished due to budgetary constraints and balancing the needs of the donor States with the needs of donee States. For this reason, as the donor States grow, the donee States see a gradual decline to bring greater equity between the States.

I am proud to tell all Senators from all States, however, that every State will grow at least 10 percent over the funding provided in the current bill TEA–21. This new bill, SAFETEA, also addresses several environmental issues such as the need to ease the transition under the new air quality standards. The conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage.

The third aspect of the bill which I think is very important is there is a sufficient level of growth. The administration proposed, in my view, an insufficient level of growth for our Nation's aging infrastructure. The reason for offering the Bond-Reid amendment, which was adopted on the budget amendment in this body with 79 votes last year, was because the administration's SAFETEA proposal came in at only $200 billion for highways. During the last year's budget debate, I, along with Senator REID, offered an amendment to fund highways at $255 billion over 6 years, and that was supported by a vote of 79 to 21. I am pleased to report that the bill we have before us follows the Bond-Reid amendment providing a 31 percent increase in funding over TEA–21. While this is not as high as some might have wanted, we are able to achieve this goal without raising fuel taxes.

Last, I think it is important to note that this is a jobs bill. The Department of Transportation estimates that every $1 billion in new Federal investment creates 47,500 jobs, or more. Accordingly, in 2009 our comprehensive 6-year bill at $255 billion will sustain over 2 million jobs.

According to the Associated General Contractors, the same $1 billion investment yields $500 million in new orders from manufacturing and $500 million spread through other sectors of the economy. Construction pay averages, at $19 per hour, 23 percent higher than the private sector average. Failure to enact a 6-year bill will deprive us of the 90,000 jobs that would be created.

Another accomplishment of our package is it will ensure that transportation projects are built more quickly because environmental stakeholders will be brought to the table sooner, environmental issues will be raised earlier, and the public will have better opportunities to shape the projects. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays. The bill also ensures transportation projects will not make air worse in areas with poor air quality while giving local transportation planners more tools and elbow room to meet their Federal air quality requirements.

This bill will put transportation planning on a regular 4-year cycle, require air quality checks for projects large enough to be regionally significant, and reduce the requirements for other projects.

In addition to the benefits of this bill, I want to discuss a couple of specific items. I think these benefits are clear, and I think they commend the bill to anyone who is interested in good highways, safety, and jobs.

There is an amendment that was adopted in the committee which I find troubling. It was adopted in the committee without my support. The Highway Stormwater Discharge Mitigation Program requires 2 percent set-asides from highways. That is about $1 billion. It is a mandate that tells States what they have to do with their highway money.

I was hoping we would not get into mandates such as that. It is a massive environmental program. As the occupant of the chair knows, there are tremendous needs for environmental investment, particularly in clean water, safe drinking water, and other water needs. But this is a highway bill and I do not think it makes sense to tell all the States that they are going to have to set aside 2 percent of the funds apportioned to each State under the surface transportation program for use only on storm water mitigation activities in a new section 176.

I think the bill as introduced more than adequately addresses the issue of contaminated runoff from highways while also protecting States' flexibility to manage their programs to meet their individual needs. The bill as introduced increases State flexibilities and opportunities to address storm water pollution in two ways.

First, it makes storm water projects eligible under the National Highway System program, whereas under current law these projects are only eligible under the STP program.

Second, the underlying bill extends eligibility to storm water mitigation projects that are not tied to ongoing reconstruction, rehabilitation, resurfacing or restoration, only to an existing Federal aid highway. Therefore, the States have the flexibility. The States with storm water problems will know they have those problems and they will have the flexibility to direct the money to storm water. They have much greater flexibility. The bill as introduced allows those States that choose to do so to use their highway money for storm water. The States that have other means for addressing storm water and need the money for roads can use it for roads.

I think we ought to address the problems on water issues, clean water and safe drinking water, but let's stay with the highway bill and not try to shoehorn a new environmental program into it.

While roads certainly contribute to contaminated runoff, the appropriate place to address storm water runoff is in the context of other clean water programs through the water infrastructure bill. If gas receipts increase, it could exceed the amount we provide EPA to address all other clean water programs combined without ever assessing if this is the best place to devote funds.

To me, this could be a serious problem for States where there is not storm water. We have storm water problems in Missouri. We just need the flexibility. We don't need a mandate. There are other States that do not have storm water problems and they should not have to deal with it.

Another item that is important: Many of my colleagues will recall that in 1974, specific Federal money for grade crossing safety was first established, the Rail/Highway Grade Crossing Safety Program. A determination was made by Congress that at least one-half of the funds provided for the crossing program should be utilized for the installation of protective devices—flashing lights, gates, bells, and the circuitry that operates these devices.

The rationale for these provisions was to assure that the constrained funds made available by Congress would not just be "saved" to install costly grade separations. Instead, Congress wanted to assure that the funds would enhance safety in the broadest possible way through the installation and upgrade of crossing warning devices at many more locations would be possible if the funds were reserved mostly for crossing separations, particularly in rural areas of the country.

The committee adopted an amendment in markup that did three things. It increased funding for the section 130 program from $100 million to $200 million. It included specific funding for other hazards and grade separations. But it also eliminated the current law provision that requires at least one-half of the section 130 funds be available for protective devices.

In an effort to assure that the maximum level of safety be realized at the highest number of grade crossings throughout the United States, the current law provision of section 130 that says at least one-half the programs be used for protective devices I think should be restored to the program.

The section 130 program has a very credible safety performance record. When measured as a percentage of reduction in accident fatalities since its inception, the grade crossing program has been the most effective highway safety program. This record of accomplishment certainly justifies maintaining the existing programmatic structure of the program. I hope the Senate will be willing to restore the current law requirement for one-half of the section 130 program for grade crossing protective devices.

Let me just tell you my experience in Missouri. There are 3,879 public highway/rail crossings and 3,011 private highway/rail crossings. Only 1,629 of the public highway/rail crossings in Missouri are equipped with active warning devices, flashing light signals and/or gates—about 42 percent. The remaining 58 percent are referred to as passive crossings and are equipped with crossbuck signs only.

Missouri installed 212 active warning devices between 1997 and 2003 and spent nearly $24 million on these projects from section 130 funds.

Currently, the Highway/Rail Crossing Safety Program in Missouri is required by the Federal Highway Administration to spend $1,999,000 annually for protective devices and the same amount for hazard elimination. The protective device money can only be used to install lights, gates, signs, and/or pavement markings at highway/rail crossings. The highway hazard funds have more flexibility to them and can be used to build a grade separation, close a crossing, improve the roadway at or near a crossing closure in order to reroute traffic.

It is important to maintain funds in the hazard elimination category so our Department of Transportation and departments of transportation around the country can continue to work with local communities on crossing closure projects and corridor projects.

Mr. President, I thank the Chair for giving me the opportunity to address these vitally important programs. I see our other members, leadership members of the EPW committee, are here to address these issues.

With that, I will yield the floor and thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we do not have anyone to speak on the highway bill. There are several people who desire to speak on other matters. We will have no objection, although if we get back on the bill we would like to enjoy some type of priority.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, actually my intention was to speak in favor of the highway bill and compliment our colleagues for the construction of this legislation, but I did also want to comment on several other issues. I will be relatively brief. If others present themselves to the Senate who wish to speak at length on the highway bill, I will accommodate that.

At a time when our economy has had a pretty tough time, the one certain way to produce jobs is through a highway bill. This is the kind of legislation that invests in the infrastructure of our country, and we know exactly its consequences. It produces jobs and it produces them very quickly all across this country. The construction and the maintenance of roads and bridges and the basic investment in infrastructure in this country is a certain way not only to expand the economy but to expand our job base.

In recent years, we have had a slowdown in the economy. Now we see what is called a "recovery," but the recovery does not include a recovery of U.S. jobs. That is a major deficiency and a serious problem. I believe the legislation brought to the Senate today that will be debated for some while dealing with a new highway bill is important legislation for this country.

At a time when we have record budget deficits, if we were really producing an accounting system that worked the way it should work, most Members of the Senate would recognize this bill is funded by money that is put in a trust fund. When people drive up to the gas pumps and fill their tank, they are paying an excise tax. There is a specific purpose for this excise tax, and that is to improve the roads, bridges, and infrastructure of the country. It is important to understand we raised the money for this, by and large, through an excise tax.

I know there is debate about formulas and other issues, but, in my judgment, Senator INHOFE and Senator JEFFORDS have done extraordinary work in bringing this bill to the Senate. I like the bill and intend to support the basic construct of what they have done.

While I mention this bill is largely paid for with excise taxes, the tax on gasoline and other similar excise taxes—when you fill up your tank you are paying a tax and expect that to be invested in America's roads and infrastructure—we have in the rest of Government, in a budget released yesterday by the President, serious deficiencies.

### THE PRESIDENT'S BUDGET

Let me mention in the construct of discussing various spending issues, the budget released yesterday is a roadmap and a series of choices by the President. I heard the President say last week before he released this budget that, with respect to Federal budget deficits, he needed action by Congress. It is important to note that the budget deficit requested by the President in his own submission yesterday was the largest deficit in this country's history of budgets submitted by Presidents. This fiscal year, we are now told by the President and by his own budget in this fiscal year, the budget deficit will be over $520 billion. That, clearly, is a failure of fiscal policy and a failure of choices.

I have said repeatedly the President's construct of fiscal policy just does not add up. I come from a small town and a small school, but mathematics works the say same way in a small school or big school as in a big town or a small town: Two and two equals four. In budgets where we talk about trillions, two and two still equals four. We cannot increase defense spending substantially, increase spending on homeland security substantially, cut taxes again and again and again, and tell the American people it will all work out; that we will just grow sufficiently; and it will all be just fine.

It is not all just fine. In the middle of all of this we ran into a recession, an attack against this country on 9/11, the requirement to wage a war against terrorism. But then at the same time the President is saying, let's increase spending and let's cut our revenue.

The slowest member of my high school class would have understood where that ends up. It ends up in the largest deficits in history. The $520-plus billion deficit is, actually, by the way, a faulty number as well because that is taking all the Social Security trust funds and using them to show that number. The Social Security trust funds also belong over here. They are required to pay for Social Security benefits in the future and they are being saved for that purpose, and we ought not include them in this operating budget. For that reason, the current budget deficit is somewhere around $660 billion this year. That is the amount of money that our children and their children will be obligated to pay in the future.

There is an urgency and a seriousness that I don't see represented in the budget the President sent to us yesterday. In his budget, he proposes a very large Federal budget deficit. But his budget also says, I will request zero spending for operations in Iraq and Afghanistan. At the moment, we know we spend $5 billion a month for operations in Iraq and Afghanistan, a little over $1.25 billion a week. Five billion a month is $60 billion a year. And what does the President say it will cost in this budget? Zero. So this budget is not an honest reflection of what he is going to spend, either.

Frankly, I don't understand that. I don't understand why a budget comes with no plan to fix the serious and urgent problems and, in fact, will miss the mark on what we will actually spend by well over $200 to $300 billion.

Last year at this time the President said he thought the Federal budget deficit for the year we are in would be $307 billion. Well, it is not. It is well over $200 billion more than that 1 year later.

My point is, this is off the track and out of kilter. It needs leadership from the President and the Congress to fix it. It starts with the first step, which is a budget document that honestly reflects what is going to happen to the best of our ability. The budget document sent to us, regrettably, is a political budget, not a budget document. We need to do better than that.

On the issue of spending, I also want to discuss the February 2, Wall Street Journal article, page 1, "Halliburton Hits Snafu in Billing on Kuwait." It says that as a contractor for the Federal Government, where the taxpayers pay the bill, Halliburton, was billing the taxpayers for 42,042 meals every day but they were only serving 14,000 meals a day. What is it called? A "snafu." They are overbilling us by $16 million and it is called a snafu.

I am sorry, not in my hometown. This is either the sloppiest accounting in the world by a contractor that should not be doing the work or it is cheating. One or the other. It is not a snafu.

The fact is, we are throwing money at these problems. We are contracting with companies without bids, and the result is the American people are being overcharged. This, too, is contributing to overspending and an increase in Federal budget deficits.

Let me make one more point about overspending and budgets. The one area in which the President recommended an increase in funding—I was surprised, as I was looking through the small details, cuts in funding and things that affect Indian children's health, for example, or Indian children's education—the one area where the President recommended some increased funding was in the wild horses and burros program. He actually put a few million extra in that program.

I was looking at that. We have 39,000 wild horses and burros, and I like horses—by the way, I grew up raising horses—39,000 wild horses and burros. Do you know how much the program costs to maintain wild horses and burros? Forty-one million dollars requested by the President. That is over $1,000 per horse or burro. They could have their own apartment in my hometown for that.

I don't understand. This is all about choices and priorities. I just pulled one little issue where increased spending exists, wild horses and burros.

### THE FOOD AND DRUG ADMINISTRATION AND THE COST OF PRESCRIPTION DRUGS

Mr. President, let me finally make a point about something that was announced in the last 2 days by the Food and Drug Administration. While this does not relate to the Federal budget, it relates to the budget of every American dealing with the cost of the price of prescription drugs.

The Food and Drug Administration campaign to warn against Canadian drugs. It says: "Next week the FDA will begin a campaign saying it is dangerous to import drugs from Canada."

I am sorry, this is the Food and Drug Administration which is supposed to be a regulatory agency. It is supposed to regulate, not represent, the pharmaceutical industry. Yet here we have the FDA doing all it can to try to tell the American people that importing prescription drugs from Canada is unsafe. It is total nonsense.

The Canadians have the same chain of custody as we do. The same pill, put in the same bottle, made by the same company, is sent to a pharmacy in Winnipeg and is sent to a pharmacy in Pembina, ND. The pills are not different because they are identical, both FDA approved; the difference is price. And often the American is paying double, triple, or 10 times the price that is charged in Canada.

We pay the highest prices in the world, and it is unfair. Those of us who are developing plans by which we would have our pharmacists or our consumers access the identical prescription drug for a much lower price from Canada are now confronting the FDA, which seems to be working full time for the pharmaceutical industry.

I wish Mr. McClellan would take a look at his job description because there is not any way on Earth he can describe a system in which—for example, in the one I propose, North Dakota pharmacists, in a pilot project, buying from licensed pharmacists in Canada FDA-approved drugs—there is not any way the FDA can credibly suggest there is a safety issue. There is no way they can credibly suggest that. Now, they may try, but if they do, they are not being honest with the American people.

### THE 9/11 COMMISSION AND AN INDEPENDENT COMMISSION TO EVALUATE INTELLIGENCE WITH REGARD TO IRAQ

Finally—I know my colleagues are waiting to speak—I want to mention two things about commissions. The 9/11 commission is now meeting. It has a May deadline. That needs to be extended. It has had to issue subpoenas to this administration to get information from the administration about events prior to 9/11. What on Earth could people in the administration be thinking about requiring the issuance of subpoenas to get them to cooperate?

Besides the issue of subpoenas, they still have not gotten adequate cooperation from the White House for interviews and information they want. I believe the time for the commission ought to be extended. I also believe the administration ought to comply fully with all the requests for information immediately. I do not, for the life of me, understand why an independent commission investigating 9/11 and the information that led up to it should have any problem getting any information from anyone in this Government. It makes no sense to me.

And finally, the issue of an independent commission to evaluate the intelligence with respect to Iraq. Mr. Kay, the former chief weapons inspector, says our intelligence community failed, failed the President. He should have said failed the Senate, failed the Congress, failed the American people. What happened?

The President is suggesting an independent commission that he appoints. I do not support that. I do not think the executive branch should or could investigate itself, even with a commission they determined independent, especially when they select the commission.

There should be an independent commission as a matter of Federal law, and this Congress ought to pass legislation that authorizes it and funds it. And we ought to do so soon. The safety and security of this country depends on good intelligence.

We are told by Mr. Kay that the intelligence community has failed this country. We need to urgently get to the bottom of it.

Mr. President, I will have more to say later. The Senate, I believe, is on an abbreviated schedule today for a number of reasons. I know my colleague, Senator KENNEDY, wishes to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from North Dakota.

### EDUCATION AND HEALTH CARE

Mr. President, I want to make a brief comment about the impact of the budget in two important areas; that is, how it relates to the education of the children in this country and, secondly, how it relates to the issues of health care and health care coverage.

Just about every age group will be hurt by this budget. This budget hurts children, hurts our economy, and I believe, it hurts our democracy.

The latest Bush budget does not help young children start school ready to learn. It does not fund public school reform and improvement. It does not extend college opportunity. It does not train workers for new jobs that are needed because of the Bush Administration's poor stewardship of this economy.

For young children and parents, the President's budget cuts the very sound Even Start literacy program. This program helps not only children learn to read but it helps their parents learn to read. By helping previously illiterate or barely literate parents and children learn to read at the same time, you see a quantum increase in both groups' academic achievement and accomplishment. It has been one of the most successful programs we have in terms of expanding literacy in this country. That program is eliminated by the Bush budget.

Over 1 million children and parents will not get Even Start literacy training under the Bush budget. For children in grade school, once again, the President has reneged on his pledge to leave no child behind. This budget leaves over 4.6 million children behind. They will not get better teachers or smaller classes or after-school help they were promised.

In fact, every year President Bush has been in office, he has shortchanged by greater and greater amounts his promise to fund the No Child Left Behind Act.

In 2002, President Bush shortchanged No Child Left Behind by $4.2 billion; in 2003, $5.4 billion; in 2004 by $7.6 billion; and this year by $9.4 billion. In total, President Bush has broken his No Child Left Behind promise by over $26 billion since the day it was signed into law.

That law provided reform in the education of our K through 12th grades. But what we understood when we passed the law was that if we were going to have reform in our education system we had to fund it. That was what was at the heart of the No Child Left Behind Act, the concept of resources for school reform and improvement, and why it had very broad bipartisan support.

If we had reform, in terms of better trained teachers and after-school programs that provided supplementary services, curriculum reforms, and the range of different types of parental involvement, and the kind of help and assistance for those needy schools that needed help and assistance, it was going to require resources to bring the 9 million children, who are the children who are basically the target of No Child Left Behind, up to proficiency over a 12-year period, and all of them had to be included.

That was the agreement. That is why we spent a good deal of time in those negotiations working out what was going to be actually the authorization, because we knew those funds were going to be necessary to be able to achieve those kinds of reforms. We find out now it has been $26 billion short since the time that law was signed.

This budget eliminates 38 different education programs. It eliminates the gifted and talented education. It eliminates the dropout prevention programs. We have schools in this country where they have 30 or 40 or even 50 percent of their children who drop out between the 8th grade and the 12th grade. It is even higher in a number of different schools that I know about. We have about 540,000 children who drop out every single year.

The attempt in terms of No Child Left Behind Act was to try to reach out and find these children and move them back into the education system. When you eliminate any of the dropout prevention programs, you are basically giving up on hundreds of thousands of children. We know what happens to these children if they are not challenged or helped or assisted or given a helping hand to get back into the education system.

One of the most successful new ideas in education has been in the areas where you have very large schools, to try and break those schools down to create smaller schools within the larger schools. It has been extraordinarily successful.

I visited those schools myself in a number of cities in this country. I can remember visiting them in Chicago, as well as in my own city of Boston. We have seen the difference that has made in terms of moving into what we call the "smaller schools," which get smaller class sizes, more intensive kinds of relationships between the teachers and these children. We have seen it has demonstrated to have a marked improvement in terms of academic achievement and accomplishment. Despite all the research on the value of small schools, President Bush wants to eliminate support for smaller learning communities. It just doesn't make sense.

Another program which has had a very significant success has been the Star Schools Program. What we recognized in many States, even including my own, when the State budget is cramped, it is difficult enough to get a well-trained teacher in physics or in the more advanced science areas. Nonetheless, you will have some very gifted and talented children in that school who have an aptitude for math or for science, and the Star Schools Program basically said, with the establishment in the school of what it costs—approximately $1,500 for a receptor—you have a very highly trained educator who teaches those children by distance learning.

They can teach 2,000 or 3,000 children and provide help to maybe a handful of children in a particular school district who have a great aptitude in math and science but do not have the kind of academic teacher who can help them. The Star Schools Program has been invaluable in many different parts of the country. The technology reviews have shown that these children can learn almost as well with this kind of instruction as they can with a teacher in front of them. That program has effectively been eliminated.

For the college students, I refer to the Department of Education Fiscal Year 2005 Budget Summary. Since this President took office, public college tuition is up 26 percent, according to the College Board. Yet the Bush budget provides zero increase for Pell Grant student aid. On page 52 of the Administration's Education Budget Summary, it says, Pell grants: 2003, $4,050; 2004, $4,050; 2005, $4,050. That zero increase in the face of rising tuition. No help. The average income of a Pell recipient is $15,000. These are gifted, talented, hard-working young people who can get into any school, any college in the country, who have to struggle by nature and by circumstances. That Pell grant has been a lifeline to them in terms of their ability to go on to school and to college. And what is the answer of the administration to these young people: Go out and borrow more. See what you can do with your repayments to the banks.

That is bad education policy, and it makes very little sense.

For those out of work or in jobs but seeking to upgrade their skills, this budget adds $250 million for community college, but at the same time the Bush administration has cut $900 million in job training programs over the past three years. For similar programs, they are going to get $250 million, but with the other hand we're going to try to take $900 million. It just doesn't make sense.

So whether it is the very young children, whether it is the children who are going K–12, whether it is the children who are going to college, or whether it is the men and women trying to get new job training, these programs, which I believe are a national priority, have been reduced.

If any one of my colleagues at any time went to any hall anyplace in America and asked the American people how much out of a dollar of Federal money is being spent for education and what would they like it to be—I have done that several times—they will find out, after national security, which is No. 1, they talk about Medicare and Social Security—that is right up there—and right after that comes education. They hope it is 20 percent, 15 percent, 18 percent. Then when they find out that it is about 2 percent, less than 2 percent and declining, they are absolutely appalled. Not that money answers everything, but the money is a reflection of a national priority.

This business about making choices, $2.4 trillion in this budget and shortchanging the investment in education of our children, that is what this is. I would be glad to debate it in very considerable detail with any of my colleagues and will at any time.

I want to add a word with regard to the health care situation, the general concerns that I find in traveling around my own State. People are concerned primarily by two issues. One is the cost of health care and the other is whether they can find affordable coverage in health care insurance.

There is virtually nothing in this budget in terms of controlling cost. We gave up a great opportunity when we passed the alleged Medicare reform bill to permit the Secretary of Health and Human Services to actually negotiate with the drug companies like the Veterans' Administration can to bring lower costs to our seniors. But that proposal was rejected by the administration and by the Republican majority. As a result, we have seen the continued escalation of cost, and costs will continue to rise. There is virtually nothing in this legislation to do anything about getting a handle on health care costs.

And with regard to health insurance coverage, we see we have cut Medicaid. A million people who qualify for Medicaid are going to be off Medicaid. Half of those are going to be children, the poorest of the poor. A half a million are going to be without the Medicaid coverage that provides very good coverage for the children. National priorities? There are close to a trillion dollars in tax breaks in this budget, but denying Medicaid coverage to 500,000 children, the neediest of the children, that is a matter of choice.

We will have a chance to debate it. We are now just talking about what is in the President's proposal.

The insurance industry and the trade associations did very well in the budget. Health savings accounts will benefit, which are products of the insurance companies. Health savings accounts get about $24 billion over a 10-year period with the initiative in this budget. Association health plans will do very well for the trade associations, even though those plans will mean an increase in the cost of premiums for health insurance for others. Then we have the proposal for tax credits for health insurance. That is really some proposal. The budget includes a proposal to give a $1,000 tax credit for health insurance to an individual—but the coverage actually costs $4,000. The budget also proposes giving families a $3,000 credit, but a family policy costs nearly $10,000. That is like throwing someone who is in the river needing help a 4-foot line, when they need a 10-foot line to save them. Just try to find a family health insurance policy that is worthy of its name for $3,000 in this country. We know that is completely unrealistic.

Finally, when we talk about fighting disease, take AIDS or TB, there is a cut of some $356 million for CDC. Two major bioterrorism programs have been cut $144 million. These programs provide the assistance to contain a bioterrorist attack locally. You need the initial help to the primary responders, who are police and firefighters and nurses. Then you need to contain a disease outbreak. For that, we need to help our hospitals and our other health clinics in order to contain disease outbreaks so they do not spread. That is particularly important, as anybody who has listened to the experts on bioterrorism will tell you. Those programs have been seriously cut.

Then the most amazing reduction is the CDC cut, $364 million, when we are confronting the danger of SARS, Ebola, other dangers that come from countries all over the world.

Under Dr. Gerberding, who has been an outstanding public servant at the Centers for Disease Control, CDC has been extraordinary in protecting the American people and people all over the world. The budget provides a reduction in support for the CDC. We are having a hearing in our committee on mad cow disease, in the HELP Committee this week. You name it, there is another disease that comes from overseas every day, and our front line of defense is the CDC. They have some of the most talented experts in the world in that agency, and the budget undermines it in a significant way. It makes no sense.

We will have a chance to debate these issues later as we consider the full budget. For the average American, who is concerned about their job—and they are concerned about their jobs because they find out, with all of the uncertainty about our economy, that they lose their job and they know if they are able to find another job, they will be paid about 22 percent less, average, nationwide than the job they are holding—if they are able to find one. They are uncertain about their jobs, and they are uncertain about what is happening in schools with their children. This budget does little about that uncertainty. They are uncertain whether they will be able to save enough to send their children to college. That is because of the proposals of the administration to eliminate overtime.

We have to understand the amount that is earned on overtime has been used day in and day out to pay tuition for working families for their children who go to college, or to pay a mortgage. So people are worried about the economy. They are worried, if they are unemployed, that their unemployment insurance has been lost. They are worried about that. If they are among the 1 in 7 Americans who are making the minimum wage, they realize they haven't gotten any increase in the last 7 years. Where is anything about that, or anything about education, or anything about health care for the children? It has been missing in that budget. But the trillion dollar tax break for the wealthy is included. It is the wrong priority.

The American people are going to reflect on these misguided priorities as they watch our votes when we debate the budget in the Senate. If they don't do it then, they will do it in November.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I spoke earlier to the Senator from Oklahoma and he indicated one of his colleagues, the Senator from Pennsylvania, may be coming to the floor, and perhaps also the Senator from Arizona. I wanted to defer to them because we want to go back and forth.

Mr. INHOFE. He is in the cloakroom. May I inquire about how much time the Senator from Illinois would like to have?

Mr. DURBIN. About 20 minutes.

Mr. INHOFE. We will go back into a quorum call, then, until the Senator from Pennsylvania arrives.

Mr. DURBIN. That is fine. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to comment on the pending highway bill, and also to offer legislation on the Abandoned Mine Reclamation Program Extension Reform Act of 2004.

The highway bill is pending, and tomorrow Secretary of the Interior Norton will be in Harrisburg to announce the President's program. The administration has made available this statute for introduction which should be done on a timely basis this afternoon since there will not be morning business tomorrow because of the Joint Meeting of Congress.

First, my comments are directed toward the highway bill. Yesterday, I voted against cloture—that is, voted against cutting off debate—because of my view that there ought to be more consideration to the bill before we proceed to take up the bill itself.

I am concerned about the total cost of the bill in light of the position of President Bush's administration where there have been concerns raised about the total cost because we are facing such a large deficit this year. I do believe that infrastructure—highway construction, mass transit, and bridge repairs—is indispensable for economic growth and economic development, but in the very complex Federal budget all of these matters have to be prioritized.

We are looking at a budget next year of $2.4 trillion, where there is a projected increase of close to 10 percent—9.7 percent—for homeland defense, 7 percent for the Department of Defense, and less than 1 percent for discretionary spending.

I am concerned about where we are heading on all of those lines, with very heavy emphasis of concern about a deficit which is projected in excess of $500 billion.

We faced these problems in the past. I am in my 24th year in the Senate, and it is not unusual for us to be facing very difficult problems. Two years ago, we did not even have a budget resolution, a matter of some considerable concern on the political scales where the Democrats were in control and we did not have a budget. Last year, we had major problems in the appropriations process. As it is well known, we did not pass the omnibus bill until last month. So we are not unaccustomed to having major problems as we look forward to the budget.

I am comforted by the famous words of Winston Churchill that somehow we always muddle through and that democracy—paraphrasing Churchill again—is a terrible system except compared to all others. I believe we will be able to work through the budget problems we have.

Notwithstanding the economic problems, we now see an upturn, and I think we are heading for better days on the economy. I think that will have a very profound effect on the deficit in the long run. It is difficult to realize, or surprising, perhaps I should say, that less than 3 years ago we were projecting a $5.6 trillion surplus in 10 years and we were talking about paying off the national debt. Then an economic downturn, facing two wars—one against al-Qaida and one in Iraq—we have had very substantial problems. But we have a very productive country, we have a great work ethic, and I think we will have an economic rebound. I think that will have a very profound effect on easing the difficulties of the deficit.

Notwithstanding those factors, we are looking at a tough deficit, and I think more consideration needs to be given on this bill as to how we are going to face the overall problems and establish priorities.

With respect to the allocations in this bill, I believe that my State, the Commonwealth of Pennsylvania, is not being dealt with appropriately, not being dealt with fairly. My colleague, Senator SANTORUM, and I wrote to the distinguished chairman of the Committee on Environment and Public Works on January 28 listing the concerns we have. I realize there has not been sufficient time for the chairman to respond to this letter, but that is part of the concern.

Senator SANTORUM and I wrote this letter as soon as we could after we knew what was in the highway bill and knew how Pennsylvania was going to be treated. Again, I am not unaware that it is a very difficult matter to make allocations among 50 States and it is not possible to satisfy everyone. I have heard quite a number of my colleagues express concerns that their States were not being appropriately treated. But I believe that when the facts are analyzed, Pennsylvania ought to have more of a share of this highway bill, or even more of a share of a reduced highway bill, if the bill were to be pared down to come within the confines of what the President has in mind for the highway bill.

The allocation that Pennsylvania has is the fourth lowest increase, an increase of 19.54 percent over the 6 years. With that limited increase, Pennsylvania will not even be able to keep up with inflation.

Pennsylvania has a very extensive highway system. It is the fourth largest highway system among the 50 States. It has some 40,500 miles of State highway, totaling more highway miles than New York and New England combined. It has some 25,000 bridges, and the highway system in Pennsylvania—a frost belt State, an older State by contrast with the expansion of the South and the West—has found the highways very heavily used and subject to very difficult weather conditions.

Eighty-eight percent of the nearly $300 billion worth of goods delivered from inside Pennsylvania each year arrive on the State's highways. Pennsylvania's highways are the prime routes for delivering goods imported from ports across the mid-Atlantic region.

We have many interstate highways. When calculating the appropriate share of highway funding, due consideration ought to be given to the usage of the highways. If you take some States and areas—Florida, for example, or Maine, or the State of Washington, or southern California—those areas are not as heavily transited. But Pennsylvania has major interstates both east-west and north-south: Routes 80 and 90, Route 480, Routes 95, 81, 79, 83, in addition to a vast complex of highways across the State.

It is my view that Pennsylvania ought to have a higher allocation and ought not to be limited to an allocation which will be less than the inflation rate over 6 years.

There has been some justification offered on the basis of the contention that Pennsylvania had a very large share in the past when Congressman Bud Shuster was the Chairman of the House Transportation and Infrastructure Committee. It is certainly true that the ways of the House and the ways of the Senate accord some special consideration for people who are chairmen, who can establish the mark, but I do not think that Chairman Shuster's departure from the House of Representatives ought to be used as the basis for saying Pennsylvania ought to be reduced in its share.

When one takes a look at the allocation for Pennsylvania, the rate of increase is the fourth lowest among the 50 States. Nobody can deny that Pennsylvania ranks very high among the States which service the country. Traffic coming from the west coast goes through Pennsylvania; some of it on the Pennsylvania Turnpike but a great deal of it on Interstate 80, some on Interstate 90. There is tremendous traffic north to south on Interstate 81, and I-95 is a major highway transiting the east coast.

It is my hope that before this bill is finished we can have an adjustment. I know other Senators are equally concerned as am I. The vote I cast against cloture to cut off debate yesterday was in the nature of a protest vote. I had no illusions in casting the vote. I did so late in the proceeding when the requisite 60 votes had already been achieved for cloture, so there was no doubt that my vote was not going to be determinative or influential. The cloture was going to be imposed.

I have heard many complaints from my constituents who are very dissatisfied with the allocation both as to highways, which affects bridges as well, and transit. I cast that protest vote. I still think we ought to be considering both of those factors. One factor is what is the appropriate priority taking into account the views of President Bush on the increase in expenditures on this bill over what had been allocated or what has been considered appropriate by the President and factoring in the priorities we have on the budget which we are now considering. I hope yet to be able to support this bill, but I am not going to support a bill which does not treat my State fairly.

My vote and the votes of others who have similar views may not be dispositive because there is great public interest in this bill as a jobs bill, very important on the infrastructure to facilitate transit both on the rail lines and on the highways. But fair is fair and I think there have to be some significant modifications to the total amount of this bill, the priorities established, and how Pennsylvania is treated.

Mr. President, I believe I have already asked unanimous consent that the text of the letter from Senator SANTORUM, Senator INHOFE, and myself, dated January 28, be printed in the RECORD at the conclusion of the comments I made on the highway bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, January 28, 2004.*

Hon. JAMES M. INHOFE,
*Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.*

CHAIRMAN INHOFE: We are writing to express our deep concerns with the recently released highway funding formula to be used in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA) proposal. Were this proposal to be enacted, it would have a significant negative impact on Pennsylvania.

Pennsylvania is a key gateway connecting New England and the Northeast to the Midwest and Mid-Atlantic. As such, our roads are by no means limited to Pennsylvanians but are often used by cars and trucks from around the country. Pennsylvania has the fourth largest highway system among the 50 states, with 25,000 bridges and 40,500 miles of state highway, totaling more highway miles than New York and New England combined. Furthermore, Pennsylvania's highways are the prime routes for delivering goods imported from ports across the Mid-Atlantic region. Truly, Pennsylvania is the "Keystone State" when it comes to moving goods from East-to-West and North-to-South in our region.

In addition to heavy use, the extreme weather conditions of the Mid-Atlantic region have taken their toll on Pennsylvania's highway system. 46 percent of the Commonwealth's roads are in poor condition, while 42 percent of the Commonwealth's bridges are structurally deficient. Such conditions have a tremendous economic impact: driving on Pennsylvania's roads in need of repair costs motorists $2.4 billion each year in extra vehicle operating costs; traffic accidents and fatalities cost Pennsylvania drivers an additional $2.7 billion annually; and congestion leads to costs totaling $2.3 billion per year.

Under your committee's proposal, Pennsylvania's funding increases at the fourth lowest rate among all the states. It is unlikely the proposed 19.54 percent increase over six years will keep pace with inflation, amounting to a cut in Pennsylvania's highway funding. Such meager levels do not account for Pennsylvania's disproportionate needs.

In light of the infrastructure maintenance needs, population, and geographic location of our commonwealth, we find it completely unacceptable for Pennsylvania to be a donor state in the final year (FY2009) of the SAFETEA program and are convinced that the funding levels in other years are insufficient in light of Pennsylvania's place in our national highway network. While we will continue to work on highway and transit issues and will likely be supportive of many provisions in the SAFETEA bill, we could not support a final SAFETEA bill that so unfairly shortchanges Pennsylvania.

We strongly believe that highway funding must be based in large part on the impact each state's transportation system has on its region and the nation and that a national highway program should direct federal funding to national needs. We welcome the opportunity to work with you to address this matter so that Congress can enact positive federal transportation policy this year.

Sincerely,
ARLEN SPECTER.
RICK SANTORUM.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2049 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. In conclusion, I compliment the chairman of the committee, Senator INHOFE. I know how hard he has worked on this bill. I know how many people have come to him with concerns. That is one of the vicissitudes of being a chairman. I get the same treatment when I post my bill on the subcommittee for Labor, Health, Human Services, and Education and I post my bills on Veterans' Affairs.

I compliment Senator INHOFE and the ranking member, Senator JEFFORDS, for what they have done here. It is a major matter, bringing a highway bill to the floor. It is my hope that, working together as Senator INHOFE, Senator JEFFORDS, Senator SANTORUM, and I have always done, we will be able to at least reconcile some of these concerns.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I listened with great interest. I think he has some excellent points. I say to the Senator from Pennsylvania. He extensively quoted Churchill. I would like to add another quote to that:

> Truth is incontrovertible. Ignorance can deride it, panic may resent it, malice may destroy it, but there it is.

I say that because there are some things—It is only natural when the Senator from Pennsylvania is not serving on the committee that he would not be quite as familiar with the development of the formula as perhaps someone who is on the committee. So I would like to respond to a couple of points because I really believe we have a very fair formula.

First of all, the formula Congressman Shuster put together is the basis for this bill. I happened to serve in the other body in the committee under Congressman Shuster back during the development of TEA-21. During that time, of course, he was pretty notorious getting a lot for his State. I understand that. I should be more that way myself.

But I would only like to suggest—if staff would be good enough to hold this chart up—this is Pennsylvania. Over here, take 1384 in the red, that is the average amount for each year. If you took all 6 years in the TEA 21 and averaged them out, that would be the amount. That would be $1.3 billion. Then, if you watch each year as it goes up, you end up with a substantially higher amount.

Let's compare that, if we may, with California. I saw an op-ed piece by the senior Senator from California in which she was very complimentary of the way this worked. If you look, you see they end up in almost the same place as Pennsylvania does percentage wise. But it all comes in the last year. That is because they are a donor State. In order for the large donor States to be able ultimately to reach 95 percent, it has to be done in the last year. I think we all understand that.

But when you compare the two charts, I would say if she is satisfied, then the Senator from Pennsylvania should be elated.

I would like to share one other thing, too. I chair the committee. If you take the total amount of road miles that we have in Oklahoma compared to Pennsylvania, it is almost the same, when you take out the toll roads. Of course, we are not dealing with toll roads here.

With the same number of road miles, each year Pennsylvania gets 3.5 times as much as Oklahoma gets. If anyone should be complaining, using that as a criterion, I should be the one.

I think it is very important you share with your constituents some of the things that are in this bill and how well I believe Pennsylvania is treated.

The Senator from Pennsylvania talked about bridges. According to the surveys that have been taken by the Department of Transportation, Oklahoma's bridges are No. 50 in the Nation—way behind Pennsylvania. These are things that need to be corrected. Many of these things will be corrected in this bill.

So I would only say formulas are very difficult. There is no magic formula that is going to make everyone happy. I remember the formulas in TEA-21 and ISTEA, and there were complaints from many States on those. No formula is going to satisfy everyone, but I honestly believe, when I look at Pennsylvania and compare it to California or Oklahoma or some of the other States, that they are very well cared for.

With that, I yield to any questions the Senator might have.

Mr. SPECTER. Mr. President, just a comment or two. I did compliment the Senator from Oklahoma, the distinguished chairman, for being so well prepared. Perhaps he should have charts on all the States. I don't know. Perhaps he would have charts on the States where you anticipate difficulty or others on a comparative basis. But this Senator is not likely to be satisfied, as a general matter, with what satisfies the Senator from California. I think if we check the voting records of Senator INHOFE and Senator SPECTER and the junior Senator from California, Mrs. BOXER, we will find Senator INHOFE and Senator SPECTER on one side and Senator BOXER is on the other side a lot more times than not.

So, I will take a look at the charts and I will take a look at the statistics. I do agree with the chairman that it is a complex matter.

The first opportunity I have to review it is once I see the bill and I will make the analysis with California, and with Oklahoma. I have some substantial familiarity with Oklahoma because I have traveled the highways of Oklahoma a great deal. As the Senator from Oklahoma knows, I am a native of Kansas and went to the University of Oklahoma and drove that highway from Wichita to Norman on many occasions. To my recollection, it was a pretty good highway, but that has been a while ago.

But I again complement the Senator from Oklahoma, the chairman, on his diligence, having the charts. We will take a very close look at it. The Senator from Oklahoma and I have worked together on many matters in the years we have worked in the Senate together. We approach this in the interests of our States, as we should, but also understanding the needs of other States.

We will try to come to at least some sort of accommodation as we work through the bill. I thank the chairman.

Mr. INHOFE. I appreciate the comments of the Senator from Pennsylvania. I in no way want him to misinterpret the comments I made as being critical of his analysis. Formulas are very difficult. TEA-21 is something we know was totally politically driven. That was a percentage of the total amount of money, so when they got up to 60 votes they could just shut the door and say: Fine, we have our bill. We tried not to do that, take consideration of donor/donee status, fast-growing States.

By the way, you heard the senior Senator from Texas yesterday talking about her dissatisfaction with what Texas was doing. When it gets down to it, under this formula or any other formula, if you do something for a fast growing State that keeps bumping up against the ceiling, you are going to be having a problem. If you try to correct that, it is going to go into the donee States, of which of course Pennsylvania is one.

It is a difficult choice. We spent a whole year working on this and I hope you have a chance to really look at it closely.

Mr. SPECTER. Mr. President, if I might ask the chairman, you say Pennsylvania is a donee State? We are a donor State here in the final year of your bill.

Mr. INHOFE. OK, in the first year, right now, you are a donee State.

Mr. SPECTER. We have been a donee State. If I hadn't been a donee State—for those who do not follow the terms, a donor is one who gives more than the State receives. Senator KYL is bowing. Arizona is in that status. A donee State is one which receives more than it contributes.

Had we really been a donee State throughout the six years of the bill—and I understand it was a slip of the tongue, or at least for 1 year, not the whole projection. But had I been able to hold the chairman to donee status, I would have withdrawn all my remarks and stricken them from the RECORD.

Mr. INHOFE. I was referring to 2003, where it is a very substantial donee State, recognizing it goes up and down.

By the way, Oklahoma has never been a donee State. Oklahoma was bumped against the ceilings: 73 percent, 80 percent, and then 90.5 percent, and of course we are looking forward to getting up to 95 percent, as I am sure the Senator from Arizona is going to share that enthusiasm.

Mr. SPECTER. Mr. President, Oklahoma makes up for donee status with its football team.

Mr. INHOFE. On occasions, yes.

Mr. SPECTER. When you comment about Pennsylvania being a donee State, that is for the existing bill, not the entirety of the one we are voting on now. We are a donor State in the last year, which is the reason for my exchange. I think the exchange has been useful. I see Senators waiting.

I yield the floor.

Mr. KYL. Mr. President, Penn State and the University of Oklahoma have had their share of victories and now it is time for somebody else to have their fair share.

I appreciate the hard work of the chairman, the Senator from Oklahoma. I make it very clear I join those who recognize the need for improvement of our highways. There is not a road in my State that could not stand some improvement. As a very fast growing State, Arizona needs to add to our highway miles.

I appreciate the fact that there is a need to create jobs, and highway construction certainly can help to create jobs in this country. However, it has always been the case that we prioritized because Members would literally ask for everything they could possibly get in the way of funding for their States. We have had to set limits. There is, after all, a limit on the amount of Federal revenue available for all good projects. Certainly, highways are no more important than education or health care or national defense or many of the other categories which also compete for the Federal dollar.

So while we acknowledge there is a need for a highway bill and that can have some jobs benefits, that should not be the driving force in terms of the competition with dollars for other worthwhile projects. We have to set a limit, particularly in this case where we have over a half trillion dollar deficit, according to the OMB; we have to be clear we do not spend more than we are taking in.

The reason this is a bad bill, and why I oppose it, first, it spends far too much money. Second, it spends more money than we collect in revenues from the gas tax. Third, it is very unfair to States such as mine, which are donor States. Arizona has always contributed far more than it has gotten back, and under this bill that gets even worse for the next 5 years.

Let me discuss each of those items very briefly. We start from the premise that we do need highways. We also have a huge budget deficit. Therefore, we have to clearly be sensitive about the kind of bill we pass. In this regard, the Secretary of the Treasury, Secretary Snow, and the Secretary of Transportation, Secretary Mineta, yesterday notified the Senate that they would recommend a veto of this bill if it raises the gas tax or other Federal taxes or draws money from the general fund. They wrote that the bill "should not use any mechanism that conceals the true costs to Federal taxpayers. Highway spending should be financed from the highway trust fund, not the general fund of the Treasury."

The bill before the Senate violates this principle in a significant amount, by billions of dollars. Therefore, if my Senate colleagues insist on going down the road of passing a bill that violates the principles that the President has laid out, we risk having the President veto this bill. At a time when we have this large Federal budget deficit, it seems to me we ought to be joining with the President in trying to prioritize our spending and constraining it to at least the amount of revenue we take in, a balanced budget approach. That is the way we have done it in the past, and that is the way we should do it now.

Just the highway portion—and I make it clear there is a mass transit portion of this bill that has not gotten out of the committee of jurisdiction, the Banking Committee, and in terms of funding it is in the neighborhood of $50 billion; it could be more or less and I do not mean to be tied to a specific figure, $49 billion or 50 billion; I will leave that part out of the discussion because that part is not complete until we know the actual numbers—but the highway portion, the amount the Federal Government has to spend over the next 6 years, is $231 billion. This is what the Bond-Reid amendment from last year in the budget resolution called for the Senate to fund. The House is looking at a number far higher than this. I even heard today that some people in the administration are looking at a number above this.

In any event, the number that the Finance Committee yesterday raised revenue for was $231 billion. I sit on the Finance Committee and our job is to try to figure out what kind of revenues we are getting, and therefore, whether we could pay for $231 billion of highway funding. What we learned was that the gas tax, the use tax, that funds highway construction, is only going to bring in $196 billion during that same period of time. So the bill that the Senate said we should try to fund exceeds the amount of revenues by $35 billion.

Now, there are four choices. We can reduce the amount we had hoped to be able to spend last year when we did not have this big Federal budget deficit number staring us in the face, and now that we know the size of the deficit, acknowledge that we were just a little bit too optimistic last year; we were a little bit too forward leaning, shall we say, and trim back to suit the revenues that we are actually going to be collecting. That is the first thing we could do. That is what we should do and what any family would have to do.

Because we are the Federal Government, we could raise taxes to make up that difference. I don't think that will happen. The President says he would veto the bill if that happened.

We could just go into greater deficit. But on both sides of the aisle I think that would be met with great opposition. We do not want to increase the size of our Federal budget deficit.

That leaves the other alternative, and that is to take money from other areas in the budget and apply it to highways, to take general revenue funds, funds that might be spent on defense or homeland security or education or medical care, for example, to take that money away from those programs and spend it on highways instead. That is what is being proposed.

But it gets worse because the effort that is undertaken here is to confuse the American taxpayer into thinking that it is highway-related revenues. It is not. What the Finance Committee concluded yesterday was that we could legitimately come up with—and I acknowledge this and hope to construct the addition of the funds—that we could come up with about $214 billion in revenues that was, in fact, legitimately connected, money that was connected to highways or to the trust fund.

For example, there is $196 billion from gas taxes. There is an argument that we should be able to count the interest earned on the trust fund balances as part of the trust fund that is currently deposited in the general fund. Most would say that we can legitimately transfer that from the general fund and put it into the trust fund and call that trust fund money, and I agree with that.

I will not get into detail, but there are four or five other areas like that. Some might be a little questionable in some people's eyes, but at least in my view, you could justify $214 billion in revenues, in real money, being transferred from the general fund to the trust fund, but which we could legitimately contend should not belong in the general fund, it should belong in the highway trust fund. That is $214 billion. That leaves a $17 billion deficit. That is just on the amount we were trying to mark up of $231 billion.

So how do we make up the other $17 billion? By sleight of hand, which is why I voted against the bill. We came up with phony money, money that does not really exist but which, for the purposes of paying for this bill, we are going to count in an accounting technique.

There are two key pieces: one $9 billion and the other $8 billion. The $9 billion fund comes from something called the ethanol exemption. The gas tax is 18.4 cents but for ethanol we give a 5.2-cents-per-gallon exemption. We say you do not have to pay that tax. The Finance Committee bill proposes to convert this exemption into a tax credit. But under the new system, even if the money comes in, it will be sent right back to the taxpayer when they seek a refund for it, when they seek to apply for the ethanol tax credit, so the net result is that, even though the Government may collect the money for an instant, it goes right back to the taxpayer who paid it and there is no money, then, to be put in the highway trust fund. So what we have is the Government will collect 5.2 cents it does not currently collect, it will theoretically send that to the taxpayer, and as soon as the taxpayers ask for the refund of the credit, the general fund of the Treasury sends the money back. So no new money has been raised. We collected it; we gave it back. But in the meantime, through an accounting gimmick, we say that the trust fund is 5.2-cents-per-gallon richer. And that amounts to $9 billion over this 6-year period of time. But there is no new money. So that is fraudulent. It is wrong for us to suggest we are actually paying with real money for that part of this bill.

The other is called the fuel tax exemption, and it relates to an exemption that is provided to tax-exempt entities, such as cities and States and schools and churches. They do not pay the gas tax. They receive either a full or a partial exemption from the gas tax.

So the Finance Committee bill just credits the highway trust fund as if it had received those taxes, even though the funds will never have actually been received. That is $8 billion over 6 years. It reminds me of that old riddle Abe Lincoln used to ask. He said: If you call a tail a leg, how many legs does a dog have? And he would always fool the kids, and they would say five. And he would say: No, four. Calling it a leg doesn't make it a leg.

Well, calling this money part of the trust fund does not make it part of the trust fund because it is not ever going to be collected. It is an accounting gimmick. So when the Secretary of Transportation and the Secretary of Treasury write in the letter that they are going to recommend a veto of the bill if it uses mechanisms that conceal the true cost to the Federal taxpayers—they go on to say: Highway spending should be financed from the highway trust fund, not the general fund of the Treasury—I think this is exactly the kind of thing they had in mind.

How does the General Treasury make up this $17 billion? You cannot pay for highway construction with fake money. You have to pay with real money. So you take that money out of the general fund and you somehow have to make that up in the general fund. Do they make it up with a highway user fund or fee? No. Instead, there are a series of tax changes that have nothing to do with highways. Some close down abusive corporate tax shelters, the kind that Enron had used. And there are some other kinds of changes like that—nothing that has anything to do with transportation or highways. Some of these tax changes, by the way, are actually good tax changes and, in fact, we should make the changes, but they should be used to fund other things in general revenue that are traditionally funded by such mechanisms. They should not be transferred from the general fund to the highway trust fund, thus breaking a precedent that has held ever since the beginning of highway transportation.

My view is we should be very clear that by breaking this precedent, by using the general fund against what the Secretary of Treasury warned us, that we would be opening up the possibility that the highway fund or highway spending would be basically unconstrained by any mechanism whatsoever. It would be a honeypot of projects and ways for Members to go home and brag about how much they brought home to their States or their districts with no financial constraint because no longer would it be pegged to the amount of revenues we received through the user fees, from the people who actually used the highways.

So if we go down this road, I think there will be no end to the claim we will make on general revenues for highway projects. And I think it is a very bad precedent for us to undertake.

So, first of all, we are spending too much money. Secondly, we are not funding it in the proper way. We are now going to be spending general revenues to fund the deficit.

The third thing I want to say is that this is not fair to some States. You might imagine that one of them is my State. I am going to describe this very briefly. And with the indulgence of the chairman of the committee, since our offices are closed down right now, I do not have access to the specific information which I wanted to bring to the floor. I am going to say this generally, and then, when we have access to that data, I will come back to the floor with the specific information.

But a bit of history: Arizona has always been a donor State, meaning that Arizonans send a dollar in tax revenue for highways to Washington, and we get back 70, 80 cents. In the last few years, we have gotten 90.5 cents. Just a few years ago that was 83 cents, as I recall.

A lot of the donor States put their foot down and said: Look, we, at least, ought to get 90 percent of what we send. And that is when the 90.5 cents was put into effect. Arizona is a fast-growing State, the fastest growing State in the Union. We have huge new infrastructure needs, including highways. We have large areas of Federal land. Only 12 percent of the land in our State is privately owned. The rest is owned by a governmental entity. We have huge border infrastructure financing requirements. We are now trying to build a new bridge over the Colorado River, below the Hoover Dam, with our sister State of Nevada. We have huge expenses with our highways.

Yet instead of getting back an amount of money that would be commensurate with those needs, Arizonans send a dollar to Washington and get back 90.5 cents.

When the debate about the new highway bill began, we had some thought that perhaps we would finally get to the point where we could be treated fairly relative to other States. But, unfortunately, this was not to be the case. In a very general way, what happened was this: The Senator from Oklahoma, and others, with very good intentions, said we want to try to bring all of the States we possibly can up to 95 cents on the dollar. And they set out to try to do that.

But what they soon learned was there are some States with needs growing so rapidly, with populations growing so rapidly—States such as Arizona, Texas, Colorado, Florida, the fastest growing States—these States are growing so rapidly that it would cost a lot of money to be fair to them. In other words, we are behind the other States now. We are donor States, and to try to bring us up to parity with those States would cost a lot of money because we are so far behind.

Now, if we had been treated fairly in the past, this would not be a problem because, presumably, we would be like everybody else—right around the norm. But we have not been treated fairly in the past, which is why we are so far behind.

Now they are saying: Because you are so far behind, and it would cost so much to let you catch up, sorry, we are going to take care of everybody else, but you all have to stay that far behind for 5 more years. That, I suggest, is not fair.

Now, it might have been fair to say to folks: Look, we can't get to 95 cents on the dollar. Maybe we can get to 93.5 cents for all of the States. I don't know what the exact number was—93, 94, perhaps, somewhere in that neighborhood. If all the States had been brought up to the same level, then that might be where it is—92, 93, 94, somewhere around in there. But, instead, they decided to go to 95 cents for most of the States, and then, for four or five of the States they say: Sorry, we are not going to bring you up to speed for the first 5 years of this program. Perhaps in the sixth year we will try to get you to 95 cents.

Well, in the meantime, every one of those 5 years the gap will grow wider. And because our populations are growing, because our infrastructure needs are increasing disproportionately to these other States, because we have been behind for so many years—and, therefore, have a backlog that a lot of the other States do not have—instead of gradually being brought up to where the other States are, we are basically being left in the dust. That is not fair.

Now, if you only do that to about five States, you can still guarantee your bill gets passed because you do not need their votes. This is all about vote counting. This is the way the highway formula was always developed. And I commend my good friend and colleague, the chairman of the committee, for noting the fact that in the past that is the way the formula has been derived. That is why his State and mine and a lot of others suffered for a lot of years.

But I suggest that since there now seems to be a will to make things right—again, I commend him for that—that we should make it right for everybody, not just for those States where we can afford to make it right. In fact, I would argue that we really ought to start with those States that have been on the short end of the stick all these years. We should start with the States that are the furthest behind, start with the States, such as Arizona, that have so much further to catch up.

If we have money to add to the amount of money that donor States get, why shouldn't we start with those States that have the biggest population growth and infrastructure needs and have received relatively, therefore, the smallest amount of money in the past?

Well, I guess you only get 8, 10 votes out of those States, so we start from a different premise. I do not think it is fair. That is the third reason I have to oppose this bill and why my friends in Arizona are basically saying to me: We can understand why we have to spend more money on homeland security and fighting the war on terror and on fighting in Iraq, and so on. We can understand why there are some other big needs that perhaps could get an increase in funding, such as education and the Medicare prescription drug bill last year. But we will be darned if we are willing to continue to send our money to Washington to be spent by other States when we have such large needs here. And they basically tell us, because you have so many needs, we cannot afford to bring you up to speed with everybody else and, therefore, you are going to have to wait 5 years.

I cannot go back to my friends in Arizona and say: Gee, I am sorry but that is just the way it is in Washington; they expect me to do something about it.

So I hope my colleagues who support this bill will indulge me, and those others, and put themselves in my place and ask what they would do if they were in this position and not give us too hard a time when we ask questions that may be difficult and make sure that from a parliamentary point of view, we use all of the options we have to try to convince our colleagues the bill should be made more fair than it is.

I would be happy if all of us received less money by reducing the top number of this bill down to an amount we can afford, say $214 billion, or to simply reauthorize the existing spending levels for 1 year until we can go back and get this formula right. I would favor either of those two solutions today. I raised them both in the Finance Committee yesterday. Both were defeated. But I would opt for either one of those.

What I can't agree to is a bill that spends far too much money, funds it with general revenues for the first time, and is blatantly unfair to States such as Arizona.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me say how much I always enjoy the junior Senator from Arizona. We were both elected to the other body in the same year, 1986. We both came here to the Senate in 1994. Neither of us is shy about the fact we are conservatives. He has heard me say many times that conservatives in some areas are pretty big spenders—that is, national defense and infrastructure—believing that is really what we are supposed to be doing in Washington.

I don't think you can find a State that has had more road problems than my State of Oklahoma. It is kind of a going joke there. Each holiday, so many people come for Thanksgiving, and they say: We could always tell when we got to Oklahoma because of the roads. We always knew when we left Arizona and got over to Oklahoma because the roads aren't nearly as good as they are in Arizona.

I would suggest a couple of things are worthwhile talking about. I have a chart. I want to help the Senator from Arizona when he goes home. I will let him take this chart home. When you look at Arizona, keeping in mind that the average State increase under SAFETEA is 35.6 percent, that is 40.23 percent. That is a huge amount over the average. The Senator from Arizona says it is because they have been on the short end of the stick for a long period of time. I can identify with that because being from the State of Oklahoma, we were at the very bottom. We had to come up by virtue of formula to 77 percent, to 80, then to 90.5, and now hopefully to 95. So that is a very large amount of money.

If you look in the far left of this chart, you have what Arizona averaged under TEA–21. That was $463 million. Then it shows each year thereafter, for the next 6 years, what happens by comparison. With all the difficulties we have in working on any kind of a formula, the Senator from Arizona and I have talked about the complexities of formulas. We have donee States, donor States, fast-growing States, low-population, low-density States. Consequently, to come up with some kind of a formula that takes care of all that, we took all of those things into consideration.

Contrast that with TEA–21. In TEA–21, they had a formula as a base, but they had a percentage. Every State had a percentage. When they finally got up to 60 votes, that was it: We don't care what happens to the rest of you. We have our 60 votes.

We didn't try to do that. That would have been easier, I suppose. I would probably be making the same number of people mad, but nonetheless we didn't do that. We tried to use the logical things to take into consideration in developing the formula.

The Senator talks about a veto. I know this is just a difference in interpretation. The Senator from Arizona is on the Finance Committee. I am not on it. Consequently, I went to the chairman, Senator GRASSLEY, and I said to him, some time ago: This is what I feel we need to do. It is up to the Finance Committee to figure out how we get there.

The Senator from Arizona ran over it pretty exhaustively, and I bow to his superior intelligence in terms of the finance package because he is on the committee. But when I look over the fuel tax fraud compliance, that is something that came along a little bit later. I think that is real. My staff says that is a conservative figure, the 2.5 cents and the 5.2 cents on ethanol.

The interest, you agree, should go back to the highway trust fund. Spending down the balance is reasonable. I can remember back when we had balances of $18 billion in the highway trust fund. I spent 8 years in the other body on the Public Works and Transportation Committee where we started chipping away on that. And we all know the reason that was there to start with. It goes back to the Lyndon Johnson days, when they were trying to make it look as if the money they were going to be spending was not going to have huge deficits. So they said, let's just go ahead and apply that when we are drawing up our budget. We have changed all that, and we are making great headway in spending that down to a reasonable level.

The $6.5 billion, everybody does agree, is reasonable and I am sure the committee did also. Then on some of the clarifications on the transfer of the gas guzzler tax to the highway trust fund, it should have been there to start with. What we are trying to do is undo some of the damage that has been done to the trust fund over the years. We are doing that with this bill.

As far as a veto is concerned, let me share something that goes into a little more detail than the Senator from Arizona did. We have a letter here that expresses the current feelings, dated February 2, just a couple days ago. And in this letter from Secretary Mineta, this is the administration's position. They said, yes, we recognize we need more money for infrastructure. That is something we all agree and they certainly agree is necessary. They said, if you can get to the Bond-Reid amount without doing three things, then we would support you.

No. 1 would be you would not be increasing gas taxes. We are not going to increase gas taxes. Secondly, we are not going to play around. You know the games you come up with. Let's have a bonding program. You and I both know most of these bonding programs are nothing more than borrowing in some way from the future and encumbering future revenues. Or third—this is our biggest controversy with each other—that highway spending should be financed from the highway trust fund, not from the general fund of the Treasury. I grant you, the last item you talked about is coming from the general fund. I contend it should not have been. It should have been in the trust fund to start with.

That is an argument you and I could have a disagreement on, but I look at it perhaps with a little bit of bias, sitting on the committee and saying: All right, Finance Committee, if you can come up with this, this is what is best for America. I felt they did. And the chairman has told me he believed they did. We had Senator THOMAS on the floor, who is one of your colleagues on the committee, who I think is favorably disposed to the results of the work of the Finance Committee.

Mr. KYL. Will the chairman yield?

Mr. INHOFE. Of course.

Mr. KYL. As to the first items you mentioned, we are in total agreement. Those were items that should have been added to the trust fund, and they make up the difference between the $196 billion in gas tax revenues and the $214 billion. So there is no disagreement there. But as to the last two items, you could argue that the schools and churches and States and cities should have been paying the gas tax all along and that if they do pay it, it should go to the highway trust fund. That is true. You can argue that. But we are not going to collect it from them. We are not going to make them pay.

I suppose what you could say is, from now on churches and schools and cities and States have to pay the gas tax. And when they pay it, it should go to the highway trust funds. We are not saying that. We are going to deem that they have to pay it, but they don't actually have to pay it. There is no real money there. It is the same thing with the gas tax credit on ethanol. There the tax is actually going to be collected but then remitted. So the Government has it for a few days, but when they apply for credit, it goes back. Once again, we are going to credit the trust fund with the money, but it doesn't in fact get the money.

That is why the Finance Committee had to use creativity in finding these other corporate loophole closings and applying the revenue derived from that to make up the difference in the $17 billion or so. So it is not revenue we should have been collecting all along and putting into the highway trust funds. You can argue whether we should have been collecting it or not.

but it is not revenue we are going to be collecting in the future from the cities and schools, for example. We are going to have to get it from the corporate loopholes.

Mr. INHOFE. I appreciate the response. I know the Senator to be very sincere. The time that we spent—we are talking about 12 months we have been anguishing over this issue to come up with something that is fair. It is not perfect. It is better than it was under TEA-21. We went to the Finance Committee and said: Can you get us there? It is my information that we got there and, consequently, I still stand behind the bill. We have an honest disagreement on that.

Mr. KYL. I ask the chairman to yield. This has to do with the chart you showed and the percentage increases. When you talk about percentage increases, I start to smile. You can always make a point with a percentage. I can remember when I was an associate in a law firm and I would be making, let's say, a salary of $25,000 a year. The senior partner was making $150.000 a year. We both get a 3-percent increase in our salary and he would say: That is fair. In fact, I will tell you what; I will take a 3-percent increase and I will give you a 4-percent increase.

At first. I would say that sounds all right. Then I said, wait a minute, you get 3 percent on $150,000 and I get 4 percent on $25,000. I think the gap is widening, not narrowing here. When I got to be more of a senior person in the law firm—and certainly with my Senate staff now, I always try to give the people at the bottom a higher percentage. Otherwise, the gap continues to widen. We see on the chart here how bad the pink or red numbers are, where Arizona is today. I appreciate you pointing that out. It is deceptive to suggest that since we are going up, we ought to be happy.

In terms of real dollars, the States that have collected more money in the past than Arizona, which have been donee States and haven't had this huge gap, are making far more in terms of the collections each year than Arizona will. You can show that it is going up, but the averages don't help Arizona. It is like the saying, how deep is the Mississippi River? The average is 6 feet, but if you get in the middle, you are in very deep water. Averages really don't count.

I would rather be the $150,000 senior partner getting a 3-percent increase than a $25,000 associate getting a 5-percent increase. That is, in effect, what Arizona is being offered.

Mr. President, I criticize the product. I do not criticize the chairman or other members of the committee. I know this is hard. Everybody is looking out for their own States, obviously. You cannot be fair to everybody and everybody's view. I appreciate that. So the comments are, I hope, in no way to be considered a reflection on the good faith of the people who are trying to do the work. My point is that I cannot stand here and represent the interests of my State with the kind of unfairness that I think is inherent in the bill, and that is simply, as the chairman said, something on which we are going to have to disagree.

I thank the chairman.

Mr. INHOFE. Mr. President, I suggest that, as the Senator from Arizona returns home, he ignore the 40-percent increase and go home and say $1.11 billion new dollars. Perhaps they can relate to that.

I know Senator CORZINE wants to speak and several others want to be heard but not necessarily on the highway bill. At the appropriate time, I will ask unanimous consent that there be a period for morning business.

Before I do that, I see the chairman of the subcommittee is here. I ask Senator BOND if he has anything further to say insofar as the highway bill is concerned.

Mr. BOND. Mr. President, I thank the chairman, the good Senator from Oklahoma. He is doing a wonderful job. I have been listening to the comments of our friend from Arizona and I understand his concerns. In order to achieve equity, in order to get the bill passed, we were only able to give certain States, under the formula, an increase that maybe in all rights was not adequate. But anybody who gets a 40-percent increase is certainly doing better than most.

I have driven the highways in Arizona, and I know that my colleague from Arizona does an excellent job representing his State. I hope the additional $1.118 billion will be a help.

This is a problem we always face on the highway bill. I don't know any State that cannot make a compelling case that they have needs that are greater. The chairman of the full committee and I are sitting on the first or second and third worst roads and the first and second worst bridges in the Nation. I am not getting a 40-percent increase. I can tell you in detail about friends who have been killed on the highways in Missouri because there was too much traffic—10,000, 15,000 cars a day on narrow two-lane roads. This is a huge problem.

The State of Oklahoma is a major Southwest-to-Midwest freeway. My State is in the center of the States. When you look at a map that shows the truck traffic and you identify the major corridors by red lines, the center of Missouri is a big red spot, and St. Louis is a big red blotch on the map; there is that much congestion.

We were very proud to have the first interstate in the Nation under President Eisenhower's bill, starting through St. Charles, MO. That is the good news. But the bad news is that the road is badly out of shape, and there is not enough money in this highway bill even to make a beginning on repairing it. The Missouri Department of Transportation may be able to make some improvements. We are giving them some options on how to deal with it in our State, but it is clearly a pressing need.

I can make a case that Missouri is the demographic center, because as many people live north of us as south of us, and as many people live east of us as west of us. The national traffic flow is through the State. We have needs. We don't increase at 40 percent, but we had to stay with the funding formula because this is a compromise. We are trying to take care of everyone and meet the needs that are pressing, meet the highest priority needs, and we were not able to do it.

We want to work with our good friend from Arizona. We understand his concerns and we thank him for his kind comments. Again, I will have to say that the effort we put in was a lengthy effort and much compromise—nobody got really all they need, which, unfortunately, is the nature of a compromise.

Again, I appreciate the comments made. I hope all of us can get together and move quickly. We are ready to offer an amendment. I gather we are urged to wait until tomorrow morning. If others have amendments, I hope we can be open for business tomorrow and get going because there are lots of pressing amendments and there are issues that need to be voted on. I hope we can get up and running and begin a very important debate and have votes on these amendments. I thank the Senator.

Mr. INHOFE. Mr. President, I thank the Senator from Missouri. I also would like to say that it has been a very difficult task developing this legislation. While it seems as though all some colleagues want to talk about is the formula in terms of money, there are many other issues we dealt with—environmental issues, streamlining issues, safety issues, issues that are of paramount concern to everyone. A compromise was made on all of those issues—some I don't like, but we did compromise.

## MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. CORZINE. Reserving the right to object.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from New Jersey.

Mr. CORZINE. Mr. President, I wonder if the Senator from Oklahoma will allow for 20 minutes speaking as in morning business.

Mr. INHOFE. Mr. President, I amend that to up to 20 minutes for the first speaker and 10 minutes thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. I thank the Chair.

Mr. President, I, too, respect very much the challenges the chairman of the committee and the ranking member have been able to work through. I look forward to a good, healthy debate about some of the specifics. I think we are on the right track.

## INTELLIGENCE OPERATIONS

Mr. CORZINE. Mr. President, I rise to speak on an issue about which I have spoken a number of times and which I passionately believe needs to be addressed—frankly, it is one that is well past the maturation stage where it should have been addressed—and that is an independent look at our intelligence operations, particularly as they relate to the pre-Iraqi invasion and how conclusions were drawn, so that can speak to the American people about the facts we had.

It is an issue which I think is essential to the national security of the American people. If we don't learn from our mistakes, we are bound to make those mistakes again. It is high time we have gotten around to it.

In the past few days, the administration and the world have come to understand and acknowledge on a broad basis the colossal intelligence failures that led us to war, a war that may have led to good ends, but the Nation clearly didn't come to those conclusions on the basis of the information we now seem to be discovering.

There is a question about means to an end that I think is pretty simple in the kinds of discussions I think all of us have in the families and in the communities in which we live. I don't think we want to get into a position where means justify ends when they don't relate to them. I just point that out as some of this discussion has evolved.

On January 8, Secretary of State Colin Powell addressed the lack of connection between Iraq and al-Qaida, stating:

> I've not seen a smoking gun, concrete evidence about that connection.

We were told something different.

Then the President, in his latest State of the Union Address, referred only to weapons of mass destruction and related program activities, whatever that is—a far cry from the active nuclear program and stockpiles of chemical and biological weapons warned of in his last State of the Union Message in 2003.

It was last week's testimony from David Kay, the man responsible for the weapons search in Iraq, that finally brought this matter to maturity and captured the attention of the Nation, the administration, and the world, and that has really changed the whole context of this debate and discussion.

Dr. Kay, a man who told us last fall that Iraq's nuclear programs were only at the most rudimentary level, told the Senate Armed Services Committee there was no evidence of stockpiles of chemical or biological weapons.

David Kay has made an important recommendation—one that I think has been obvious for a number of months—that an independent inquiry be established so that the American people, so that the allies of the United States and those who would work with us, so that all of us who are involved in policymaking know we have the facts that allow us to make good decisions so that we are not committing the lives of our men and women in our military to efforts that are based on false premises, whether those are intentional or unintentional.

We need to have the right answers, and that recommendation apparently has now led—some might say forced—the President to announce he will name a panel to look at the intelligence issues related to Iraq.

I welcome the President's reversal on this critical need, and I suspect we will see a reversal of support for that concept among my colleagues, about which there have been some healthy debates in the last months.

This is about the Nation's national security, make no mistake. We need to understand on a collection basis, on an analysis basis, and, yes, on a use basis, just exactly how we got to the kinds of conclusions we did. The means need to be understood so that we can connect them with the end, so that we don't make the same mistakes again and again.

I have serious concerns, however, at least from early reports about what the details of the President's plan for this commission will be, that the response is inadequate—I think seriously inadequate. This needs to be an independent commission.

How do we get to an independent commission? How do we make certain that the judgments we get are not designed or at least limited to only a mission defined by those we are actually looking at? And second, will that commission be allowed to explore the use of intelligence, or the misuse, if you will?

I haven't seen the details. I don't think any of us have. We are reading press reports. But if they are true, it would give the appearance that we don't want to have a commission that is going to deal with the fundamental crux of a lot of these questions. Quite obviously, if we don't deal with the crux of the questions, then are we going to get results that create credibility with the American people, with this body, with the world, on whom we need to count to do things as we go forward? Are we going to get to those kinds of conclusions?

If that is not the case, then I don't think we are headed in the right direction. I am very afraid we are moving into something that may satisfy a call for a commission to investigate our intelligence, but not yet at the fundamental problems that led us to this particular decision in Iraq, but also can be and may have well been replicated in other areas.

I actually think the President is right to talk about it in a broader context. It is just an issue of, sequentially, which one do we look at first. Even by the inspection on the ground, we are told that 15 percent of the issues haven't been examined on the ground in Iraq. We need to deal with where our men and women are being killed now, as opposed to putting off and putting together all of these various issues.

We have what some people might say is a tactical issue with respect to Iraq and a strategic problem with our intelligence operations in a more general context. Fine, we should look at a broader scope of issues to get to the restructuring of our intelligence operations, but we need to deal with the reality of, how did our intelligence serve us so poorly, how were the conclusions so far off the mark? Was there a problem with collection? Was there a problem with analysis? Or was there a problem in selectivity and use of the intelligence provided?

As I said, it was last summer when I first offered legislation to establish an independent commission. I think we ought to get to a truly bipartisan, independent commission, one that is not unlike what we see with the 9 11 Commission, headed by the former Governor of New Jersey, a Republican, who is doing, in my view, an incredible service to our Nation. It is a diligent, independent, bipartisan approach to find out the facts that led to that tragedy with which all of us live each and every day, whether it is in your local hometown, like it is the case in mine, or whether it is in the broader context of the Nation.

Given the fact that we have had Presidential claims that Iraq had sought to purchase uranium in Africa, which could not be justified or substantiated by intelligence, is enough to ask the question whether intelligence was properly used. It clearly was not, because the President himself has denied that that should have been in the State of the Union.

So how did that intelligence get misused? How did that come about? Similarly, with regard to the aluminum tube issue, on which a whole host of folks have spoken out both publicly, and I have read some things privately, that call into question whether that was ever a viable concept for intelligence to be used as one of the justifications for entering into this conflict.

How can that happen? We need to have certainty and independence in judging how we got to the collection, the analysis, and the use of the intelligence. I think that is important if we are going to go forward with certainty and credibility with regard to our efforts in using our intelligence for proper and effective policy formulation in the years ahead. We need it so we can speak to the world with credibility, and it will not take place, in my view, if we do not have that independent commission.

So I want to reemphasize the point that use of the information is also very important. We have seen time after time, and opinion after opinion, of a number of people, outside of the David Kay remarks, that much of the use has actually been disputed within the intelligence community. I cite in particular an officer from the State Department, Gregg Thielmann—and I will try to get his particular title—who has made the assertion that we are basically operating under faith-based interpretations of a lot of information. He goes back and cites the Niger uranium and the use of aluminum tubes, disputes about stockpiles that were reported, and many elements of different perspectives with regard to the intelligence that was available to policymakers.

How did we get such a one-sided view? I think some people would argue it might be misuse. Some may argue it is selectivity. I think we need an independent commission so we can get to the bottom of these. I think we need to understand how the administration could make public statements that contradicted some of the analysis or failed to incorporate the balance that was actually involved in the communities' reports. Why did these reports Congress mandated under the very resolution that granted the President the authority to go to war include some of those unsubstantiated claims I talked about? Were members of the intelligence community pressured to produce analyses that conformed to the administration policies? They even set up an extra body within the Defense Department to derive points of view that would be used in the Defense Department independent of traditional agencies that are involved in the intelligence. Did the administration officials seek to bypass that normal process by cherry-picking?

I think all of these questions are real and they are ones that need to be independently analyzed. There are plenty of outside experts. I think a lot of people have heard about the Carnegie Endowment study that reported last week, and I quote:

> Administration officials systematically misrepresented the threat from Iraq's WMD and ballistic missile programs.

They may not have all of the information. That is why we need a commission to straighten this out and to give us all confidence that we can go forward.

I spoke about Mr. Thielmann, who was the former director of the Office of Strategic Proliferation and Military Affairs in the State Department. He is incredibly offended by the difference between the information he saw and presented to the Secretary of State, as the one who is responsible for collating that, and what he has seen stated in the public. So how did those kinds of differences come to pass? Why are we dealing with such discrepancies?

The commission I proposed would be established by law independent of any executive orders to change its mission, change its role, change its scope. Its members would be selected by the leadership of both parties, balanced, kind of like the 9/11 Commission which I think people would argue as being very independent and is on the right track; receive an independent budget so there would not be issues about how thoroughly they might be able to pursue particular avenues of research; and would be directed to examine every aspect of this critical problem; obviously all elements of the collection, all elements of the analysis, and all elements of use from top to bottom, from our intelligence operatives to the White House.

By the way, in my view, Congress looks to provide the checks and balances that are expected through our constitutional offices.

I think this commission should be thorough and we need an end result that gives us all confidence that when we make decisions that send 120,000, 130,000 or 150,000 of our men and women into battle that they are fighting a war based on information that was intended to give pure advice as best understood. I do not think the looking back—20/20 hindsight is always better, but looking back, one has to question whether the claims that Saddam Hussein posed a dire and immediate threat to the United States were real. It is important that we have a full examination, particularly when there were other alternatives that would not have necessarily cost American lives, such as continued pursuit of U.N. inspections which were claimed to have been ineffective, further diplomacy pointless, when in fact apparently all of those efforts at U.N. inspections and other things had actually been successful. There has been a huge failure, one that is very real in the lives of the families who have given up their sons and daughters, and I think one that morally requires we have an independent, bipartisan commission that gets to answers independently of any of us who have been involved in the decisionmaking, because if we do not have that I think we are going to always have questions of credibility as we go forward.

So I hope we can work together. I certainly intend to offer either on a stand-alone basis or in an amendment format an additional opportunity to support a truly independent and bipartisan commission that can get to the bottom of something I think is fundamental to the national security of this Nation, and make sure all of our sons and daughters are fighting wars and protecting America with the kind of information that is there for the best interests of us executing our policies, not for the best execution of our political desires.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I want to answer some of the concerns raised by my colleague from New Jersey. Basically what he is describing is the Intelligence Committee. For 8 months, our staffs have interviewed over 200 people. They have gone through thousands of pages of documents. We have investigated all of the charges and all of the concerns that have been raised.

There will be a preliminary report provided to the members of the Intelligence Committee on Thursday. Starting afresh with another congressional commission is not warranted. The report of the Intelligence Committee has not been seen.

There are certain things that we know we have seen supported. I believe everybody believes David Kay is credible. When he testified before the Senate Armed Services Committee on January 28 this year, he said: I think the world is far safer with the disappearance and the removal of Saddam Hussein. I have said I actually think this may be one of the cases where it was even more dangerous than we thought. I think when we have the complete record you are going to discover that after 1998 it became a regime that was totally corrupt, individuals were out for their own protection. In a world where we know others are seeking WMD, the likelihood at some point in the future of a seller and buyer meeting up would have made that a far more dangerous country than even we anticipated with what may turn out not to be a fully accurate estimate.

There is no question about it not being a fully accurate estimate. This is one of the areas where I think all of us would agree, we did not have as good intelligence as we should have. We didn't have as good intelligence in the 1990s, when we should have. And President Clinton, on February 17, 1998, said:

> If Saddam rejects peace and we have to use force our purpose is clear. We want to seriously diminish the threat posed by Iraq's weapons of mass destruction program.

Secretary of State Madeleine Albright, a day later, said:

> Iraq is a long way from here but what happens there matters a great deal here. For the risks that the leaders of a rogue state will

> use nuclear, chemical or biological weapons against us or our allies is the present greatest security threat we face.

Sandy Berger, the National Security Adviser, said on that same day:

> He will use those weapons of mass destruction again as he has 10 times since 1983.

All of the people who are making these statements have access to the intelligence information that we as Senators get. We realize, based on what David Kay stated, that we badly underestimated the ballistic missile capability. As a matter of fact, Senator GRAHAM of Florida was prescient in a letter he wrote. In a letter dated December 5, 2001, signed by many others, he said:

> There is no doubt Saddam Hussein has reinvigorated his weapons program. Reports indicate biological, chemical and nuclear programs continue apace and may be back to prewar status. In addition Saddam continues to redefine "delivery system" and is doubtless using the cover of a licit missile program to develop long range missiles that will threaten the United States and our allies.

That one was right on the mark because that is what we found.

What are the needs? Obviously, when there are not people who speak Arabic, when we do not have unofficial agents in the country, we are missing out on one of the important elements of a good intelligence program. But, you know something. It is not just Iraq. We didn't know how far Libya was along until Muammar Qadhafi, not wanting to be pulled out of a spider hole by an American soldier standing over him with a grenade, decided he would come clean. We were unaware of how far Iran has gone. And, clearly, prior to the first gulf war, we did not know just how far advanced Saddam Hussein's programs were.

We also know—and David Kay was clear about this—that we cannot account for weapons of mass destruction that he had. There didn't have to be a large stockpile. A suitcase full of anthrax or ricin, or even a handful, can be a great terrorist weapon, and we will be lucky if we find that small amount, particularly after you look at the lengthy program of denial, deception, and destruction in which he engaged.

There is a lot of intelligence that was lacking with respect to Saddam Hussein. We have to do a better job. The purpose of the Senate Intelligence Committee, one of five or six committees already investigating it, is to find out not only what we lacked but also to recommend changes because the one area on which we would agree is that we have to have a better system of intelligence. What we learn is going to put us on that track.

I know the staff has worked hard. I am looking forward to the report. I will be surprised if it does not confirm what David Kay says and lay out some recommendations. The President has a responsibility as well. We have an oversight responsibility. If he wants people to look at it, to tell him how to improve it: Good luck. Go ahead. But we have the Iraqi Survey Group, internal investigations, and I believe probably the best investigation is what the Senate Intelligence Committee has done.

I apologize. I know my colleague from Illinois wants to speak so I will yield the floor.

Mr. CORZINE. Will the Senator from Missouri be willing to take a question with regard to the Senate Intelligence effort?

Mr. BOND. I will be happy to.

Mr. CORZINE. First of all, I compliment him. I am quite supportive of the Senate Intelligence Committee doing a total rundown on both the collection and the analysis that led both to the Iraq situation and some of the failures he mentioned with regard to Iran and Libya and different points of view. God knows the Pakistani dissemination of technology we have read about in the newspapers in recent months is a pretty horrific proliferation issue about which I think all of us should be concerned.

But there is this fundamental issue of whether intelligence has been misused and whether we are getting the checks and balances in looking at the collected and analyzed information. Are we looking at the full range of possibilities?

I ask my colleague from Missouri, am I correct that the chairman of the Senate Intelligence Committee said that studying the use of the intelligence information was really not part of the efforts the Senate Intelligence Committee would take on in this process? I think the record would be specific. But is that the case or not?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, to respond to that question, what the Intelligence Committee looks at is what is the intelligence that was gathered. There have been some suggestions that the intelligence was influenced or colored by pressure from the administration. David Kay said absolutely not. He said he talked to the analysts, there was absolutely no information—there was absolutely no information—and he said that really the intelligence community owes an apology to the President—and I would say to the American people—for not having done it better. But they are dealing with a very inexact science.

If you follow what other elected officials had said prior, during the 1990s, 2001, 2002—what they were saying shows that they used the same intelligence. We are looking at the intelligence, the national intelligence estimates and all those things. We look at it, and if you want to second-guess, if you want to argue that we should not have gone into Iraq, I think David Kay answers that and says the world is far safer. It was a much more dangerous situation than we thought.

Yes, there are errors. There are areas where we overestimated his capability. There are areas where we underestimated his capability. But the fact remains that Saddam Hussein had so much weaponry, it is going to take 18 months just to destroy it. He still may have chemical and biological weapons. We look at what the intelligence is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DURBIN. I ask unanimous consent to be recognized in morning business for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, let me say at the outset I commend my colleague from New Jersey, Senator CORZINE, who came to this floor several months ago and said we need an independent commission to look at the intelligence that led up to an invasion of Iraq, and the use of that intelligence, and called for a vote on that issue. I don't remember the final outcome of that vote, but I know I stood with him because I thought it was the right thing to do. Many people on our side of the aisle and the other side of the aisle resisted that suggestion, saying the Senate Intelligence Committee would be able to do this investigation.

But the Senator from New Jersey has hit the nail on the head. Senator ROBERTS, the chairman of the Senate Intelligence Committee, made it clear long ago that our committee, the Senate Intelligence Committee, would not look into the use of intelligence but, rather, whether it was accurately gathered and presented to the policymakers. That is a critically important question and one that would be part of any valid investigation.

But equally important, if not more, is whether or not that information, once given to the policymakers, was honestly communicated to the American people. I can think of nothing worse in this open forum of government than to have the suggestion that there were misrepresentations made to the American people on something as critical as a decision to invade a sovereign nation. That is the question before the Senate.

This week's Newsweek cover story is based on Dr. David Kay's testimony last week before Congress. It has pictures of the leaders of the Bush administration and the quote from Dr. Kay, "We Were All Wrong."

The obvious question is, Where was the error made? Was it just in the collection of intelligence data or was it in the portrayal of that data, the description of that data to the American people? That is a painful question and a delicate question but an important question.

Senator CORZINE has said for many months we need to have people come and ask that question, both questions, in an honest and bipartisan way. I salute him for his leadership on this issue. I know he has been frustrated by the rejection of the Senate for his proposal, but now it is full circle. Now, even the President, who once opposed him, says it is time to move to a commission.

Mr. CORZINE. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. CORZINE. It seems to me it is absolutely essential we understand how the President of the United States can put those 16 words—which were in absolute conflict with the information that generally was available in the Intelligence Committee, if I read that properly—into the State of the Union Message of 2003 with regard to aluminum tubes and with regard to uranium and then later the whole discussion, particularly Secretary Powell's presentation to the U.N. of the use of aluminum tubes. This was also in very strong contradiction to much of the information that is now available. We could go on, with unmanned aerial vehicles and a whole series of other issues.

So somehow or another there were disputes about the response that one should make with regard to collection and analysis of data. And that gets at the fundamental question of how did we use or misuse the intelligence that was presented. To not come up with an answer that is credible to the American people, credible to policymakers in this body, and credible to our allies and the world community is a failure of leadership on our part. It becomes absolutely essential that any independent commission needs to deal with the use, not just the collection and analysis.

Is that how the Senator from Illinois feels?

Mr. DURBIN. Yes, which is why I supported the early resolution. I hope the Senate will return to that. I hope we can find a way to choose people who are fair arbiters. There is a fear on the other side that something will be done to embarrass the administration before an election, especially a feeling we should let the chips fall where they may. Can't we find people in this country—I think we can—who will be honest, dispassionate, and nonpartisan?

At issue is not just a question of who comes out ahead on the political ledger sheet. The question before the Senate is one of the most important elements for America's national defense and security. If we had planes being flown in Iraq that were crashing, if we had tanks that could not shoot straight, if we had a lot of equipment over there that was failing, we would hear very quickly from the press, from the public, from the Pentagon, that we need an investigation.

Here we have a failure of something equally important, a failure of intelligence. We need to get to the bottom of it. If we are going to be successful in any war on terrorism, we need the very best intelligence in the world. Clearly, our intelligence failed us in the leadup to the invasion of Iraq.

We find ourselves today in a situation which is likely to be long term, costing American taxpayers $1 billion a week but, more importantly, continuing to cost American lives. That is a compelling reason to move on this with dispatch.

I sincerely hope Senator CORZINE's suggestion is followed up on as quickly as possible.

Mr. DORGAN. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. DORGAN. I ask the Senator from Illinois if it is not the case that the gathering of intelligence—today, tonight, tomorrow morning, yesterday—might be the very function that determines whether our country is able to determine and prevent a future terrorist attack against our country; isn't the intelligence-gathering system that important?

Mr. DURBIN. I say to the Senator from North Dakota, more important than it has ever been, since September 11. It is only with valid, credible, good intelligence that we are able to anticipate someone who is trying to cause harm to the American people or to strike us in our territory or to, frankly, attack our special interests around the world. Intelligence is a critical part of our national defense.

Mr. DORGAN. I inquire if the gathering of intelligence is so critical—and the Newsweek magazine describes it as a failure in the description by Mr. Kay, the top weapons inspector—if, in fact, it is a failure, then I would expect that the President of the United States, the Congress, and the American people would demand, on an urgent basis, that we figure out what happened, what is wrong, and how to fix it. Not later, now. The safety and security of this country depends on it.

With respect to the issue of intelligence, we ought to now understand, having the vision in the rearview mirror, the issue is not what we think but, rather, what we know when a country changes a doctrine, as the President did, with respect to preemptive attacks. If you talk about preemption you better know things rather than think things.

I went back and reread the presentation to the United Nations by the Secretary of State. When he made that presentation, I thought to myself, that is a masterful presentation. And what he did, interestingly enough, is say: We know the following; we know the following; we know. And he put pictures up and he put up pieces of information—we know this from human resources; we know this from inspections; we know this from satellite photos.

They did not know it. What he said we knew turns out to have been fundamentally wrong.

So it seems to me the President, the Congress, and the American people ought to demand on an urgent basis there be an independent commission to find out what on Earth happened and how do we fix it.

Let me make one final point, if I might. Can there really be an independent commission, when a President, who did not want a commission in the first place, and said in recent weeks he did not want a commission, now will say our executive branch and our administration will create a commission that is independent? Can that really be a commission? Or is it not the case that a truly independent commission would be one that follows the course that we usually follow on urgent issues, and that is, we put in law, a law from Congress, that creates and funds a commission and creates a truly independent body to take a hard look at what happened.

The executive branch cannot possibly have a commission that investigates itself. This is not about politics. There is no political way to talk about safety and security of the American people and our great reliance on intelligence.

This is not about Republicans or Democrats. This is about the future of this country and getting it right. It is critically important.

The Senator from New Jersey and what he has been talking about for months about this independent commission is right on the mark, as is the Senator from Illinois. I am pleased to join him in this discussion about how important intelligence really is.

I ask that 10 minutes be added to the Senator's allocation for his presentation.

Mr. DURBIN. I think the Senator said something important in relation to the September 11 commission, a commission which is headed up by former Republican Governor Kean of New Jersey, which has asked for an extension of time, so on a bipartisan basis they can ask all the questions as to whether or not we did anything wrong that led up to September 11, and what we could have done to prevent it.

Former President Bill Clinton said to a gathering of Senators, I am prepared to testify before that commission. I am prepared to cooperate with them completely. If there was any shortcoming or failing in my administration, so be it. It is more important that the American people know that we have done everything in our power to make this a safer nation.

That should be the attitude of all Members. We should swallow our political pride and say this is not about partisanship. If an error was made by any President, Democrat or Republican, which has put us in harm's way or endangered America's security, don't we deserve to know that? The fact that the Senate Intelligence Committee has drawn a line and said they are not going to even ask the question as to whether the intelligence was misused by any member of the Bush administration tells me they are being politically protective. They are protecting the political interests of the White House instead of the paramount concern, which should be protecting the American people.

I hope, frankly, there is an independent commission that asks hard questions of those in the Clinton administration and President George W. Bush's administration and any administration that might have some bearing on the intelligence capacity of America and on the protection of this great Nation. I thank the Senators who joined in on this important issue.

## THE PRESIDENT'S FISCAL YEAR 2005 BUDGET

Mr. DURBIN. Mr. President, I came to the floor to address President Bush's fiscal year 2005 budget. This budget was presented to Congress yesterday. It has been characterized by the Concord Coalition, and others, as one of the most irresponsible Federal budgets to have been filed. It continues President Bush's failed tax policies, unfortunately, at the expense of Social Security and Medicare. It shortchanges funding for schools. It shifts the burden of paying for environmental cleanup from the polluters to ordinary taxpayers. And it hurts States in the Midwest, such as my own State of Illinois, that are facing terrible budget situations. It imposes new Federal mandates without providing adequate Federal funds.

The budget is a fundamental reversal of the very things the President said his administration stands for. It is not compassionate, it is not conservative, and, sadly, it is not credible.

Why is it not compassionate? The President's budget again fails to provide full funding for No Child Left Behind. This was the premier education policy of the Bush administration, supported, on a bipartisan basis, by this Senator and many others on the floor, with the understanding that as we identified the weaknesses and shortcomings in public education, we would come forward with the money to help the students reach the level of testing where they should be.

Now we find in Illinois and States across the Nation that test scores show that kids need help, and the Federal Government continues to say: Take the test, announce whether you are a failing school or a successful school, and we will provide you with less money than we ever promised.

During the debate on No Child Left Behind, Senator Paul Wellstone of Minnesota sat behind me. He opposed the program from the start. He said: You are going to create a program where the tests become the object of education rather than learning. Unfortunately, because the tests create such high stakes, many teachers will have no recourse but to teach to the test, thus dampening the enthusiasm to learn, the creative element that is part of education.

That was Paul Wellstone's point. I said: Paul, I disagree with you. Tests are about accountability. We have taken tests all through our school years, and we should hold our students accountable, our teachers accountable, our school boards and others accountable through testing. So I disagreed with him on that premise.

Then he added: But I will tell you something else. When it comes to providing the Federal resources that you are going to promise, I'll bet they won't be there. When the schools need them, they won't get the help from the Federal Government to improve the education of our children.

Unfortunately, as I have traveled around Illinois, I am afraid former Senator Paul Wellstone was right on both counts. We are finding more and more teachers and principals and school boards complaining that they are spending more and more time focusing on tests, doing their level best to avoid being branded a failing school and facing sanctions from the Federal Government. And when they find some students who are not meeting the test standards, they are hard pressed to come up with the tutoring that is necessary, the afterschool programs or summer school programs to bring these kids back in the mainstream and to bring them up to the level where they should be.

So what do we find in this budget from President Bush when it comes to his premier policy on education? The law in No Child Left Behind authorized $34.3 billion in funding to school districts in this next fiscal year—$34.3 billion. The President's budget only provides $24.9 billion. The President's budget falls short by over $9 billion of keeping its promise to the American schools and people that we would give them a helping hand so that the kids could move forward in their education.

In Illinois, a State which is facing a deficit, which is causing a lot of hardship, we are going to lose over $250 million which would have come to us had the President put in his budget a request for funds adequate to fund his premier policy for education. So in Illinois we are facing a mandate, No Child Left Behind, and no funds to pay for it.

Well, I can tell you, school districts around my State can think of a lot of ways to help their students, ways that do not involve the test we are sending them. Unfortunately, they do not have the resources to deal with it. But they deal with the test, paid for by the Federal Government, and do not have the resources to help the children.

When it comes to housing, the President's budget eliminates entirely the Department of Housing and Urban Development's HOPE VI Program the only Federal program that focuses on revitalizing the Nation's most distressed public housing developments. The Chicago Housing Authority received $105 million in direct HOPE VI grants in fiscal year 2001 and has also given approval to issue another $291 million worth of bonds.

HOPE VI provides grants and unprecedented flexibility to address housing and social service needs. In Chicago, these grants were to be used to demolish 4,500 aging public housing units and to replace 1,675 units with new ones in public and mixed-income housing.

In most States, including my own State of Illinois, we are facing a terrible housing shortage. Working families are struggling to find safe, decent places to live. If we do not provide a helping hand to these working families, these families, with their children, will be pushed into housing situations which, sadly, are going to be very difficult for them to cope with. This decision by the administration to eliminate HOPE VI funding, to say we cannot afford this limited Federal commitment to help with public housing, is going to be an expensive one.

The President's budget also will provide $12.7 billion in additional Federal funding for Medicaid between the current fiscal year and 2009. That sounds good: an additional $12.7 billion for Medicaid, but there is a catch. The President's plan requires that Medicaid funding remain budget neutral over a 10-year period. In other words, in 2011, 2012, and 2013 money going to the States will have to be reduced by the amount that they were compensated in higher payments early on in budget years. Who can believe in these outyears the cost of medical care will go down?

So as the costs go up, the States are going to be asked to give up money that was paid them years before. That is not going to provide health care for a lot of families, particularly lower income families and those who cannot afford health insurance—unfortunately, a growing class in our society.

When it comes to veterans benefits, for the second year in a row the Bush administration proposes that veterans pay a larger share of their health care costs.

All of us come and praise veterans, as we should, the men and women who risk their lives for our country, some of whom I have seen recently at Walter Reed Hospital, and many you find returning from Iraq and Afghanistan. We are all there at the parades to shower them and their families with praise for their contribution to America. But our speeches are cheap and our words are hollow if we do not follow through with support for veterans programs.

The President, in his budget, proposes increased fees for some veterans, including a $250 annual enrollment fee and an increase in monthly pharmaceutical copayments. Congress rejected both of these proposals in recent years. The Bush administration comes back demanding them in their budget.

I might say a word, too, about the global AIDS commitment of the President. I thought the President spoke for this country and our values when he stood up a year ago in his State of the Union speech and said: Let's commit $15 billion over a 5-year period of time to fight the global AIDS epidemic. But for the second year in a row, the President's budget fails to meet his rhetorical promise to the world. It falls short of his full commitment.

The President proposes $2.8 billion, which is again short of the $3 billion annual commitment over 5 years. Furthermore, the President's budget proposes to cut our contributions to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. He cuts it by two-thirds, from $550 million this year to just $200 million in the upcoming year. The problem grows. Our commitment to it recedes and backs off. That does not help.

When it comes to the environment, in the proposed Bush budget, the environmental programs sustained the second largest reduction of any section of the budget, after agricultural programs. For the first time since 1981—almost 22 years now—line items for environmental programs were reduced for two consecutive years.

The President's budget will make taxpayers pay for even more of the cost of cleaning up toxic waste sites in the Superfund Program. Illinois has 40 such contaminated sites that are not to be cleaned up because Superfund is broke. The President refuses to fund it, and the President refuses to hold the polluters responsible. It means that average taxpayers and families across my State will have to pay for pollution caused by industries that are let off the hook by the Bush budget.

The President is asking for $1.38 billion for the Superfund Program this year, all of which will likely come from general revenues because the administration has refused to reinstate the polluter pay program.

To pay for that increase, the President proposes cutting clean water funding from $429 million to $94 million. Last year the Bush administration proposed a 79-percent decrease in the same program.

In agriculture, this is the area hit hardest by the Bush budget. This area sustained the largest cut with a reduction in discretionary spending of 8.1 percent and conservation programs are the first casualties. That is unfortunate, because preserving our soil and water resources are absolutely critical to the future of farming and critical to those who believe that we have a stewardship responsibility for the land. That responsibility is not met.

The President's budget proposal imposes deep cuts in the COPS Program, a program started under the Clinton administration, which has been wildly successful. Cities and counties and local units of government, States as well, have come to the Federal Government and with a very simple application form brought more men and women in uniform onto the streets of America, making it safer. President Bush's fiscal year 2005 budget proposes no funding specifically for the hiring of officers and instead provides $17.6 million for community policing development initiatives, whatever that means.

Even if all of this funding were used to hire law enforcement and school resource officers, it would be a 91-percent cut from the fiscal year 2003 funding level. In Illinois, during fiscal year 2003, COPS hiring grants provided funding for 123 full-time police officers. A cut of 91 percent that the President proposes would mean 111 fewer police officers patrolling Illinois neighborhoods and schools. This is a step in the wrong direction. This program is not only popular: it is needed.

When it comes to homeland security, we can do better than the Bush budget. In Illinois, 671 law enforcement agencies have directly benefited from funding made available through the COPS Program since it was created in 1994. Since that time, over $410 million in COPS grants have been awarded to my State. These grants have funded 5,832 additional police officers and deputies, as well as additional school resource officers who break up gangs and try to find out when children who have problems attending school have much bigger problems at home than even teachers realize.

The President's 2005 budget request for homeland security includes $3.6 billion in the Office of Domestic Preparedness. This funding request represents a 19-percent overall decrease from this year. when $4.4 million was available. So we see that in areas of homeland security, this budget makes cuts.

I am very concerned about this budget. I am also concerned about the fact that this is not a conservative budget. How can you claim to be conservative, as President Bush says he is, when his budget is swimming in more than $500 billion worth of red ink? Let me show you some charts which graphically tell the story.

Every minute the Bush administration spends $991,000 more than it takes in. A few years ago we had a budget surplus under the Clinton administration. The number was $236 billion. A few years later, under this administration, we are anticipating a deficit of $521 billion. So that is a swing of $757 billion from surplus to deficit. It gets worse.

We have asked the President year in and year out: How can you justify this? Look at the quotes from the President and this administration. He said in 2001:

> [We] can proceed with tax relief without fear of budget deficits. . . .

Sadly, he was wrong.

In 2002, the President said:

> [O]ur budget will run a deficit that will be small and short-term. . . .

That is certainly not the case. We are facing recordbreaking deficits.

In 2003:

> Our current deficit . . . is not large by historical standards and is manageable. . . .

Wrong again.

In 2004:

> The deficit will be cut in half over the next five years. . . .

Clearly, he is going to be wrong again on that projection.

Then you take a look at the claim that he will cut the budget deficit in half and you see that it is not credible. By 2009, the operating deficit is likely to be far larger than $237 billion. This is the deficit claim. This is the Social Security surplus which will be included in regular spending for our Government so that the President reaches his goal nominally when, in fact, he is doing it at the expense of Social Security.

The Medicare surplus will be raided for $23 billion. The alternative minimum tax, which I predict will be the biggest single family tax issue this Congress faces over the next 5 years, to even fix that would cost $55 billion by 2009.

And then, of course, we have the additional cost for war. Isn't it interesting that the President's budget doesn't include the cost of the war in Afghanistan and in Iraq, nor does it include increases in homeland security? So the deficit we are talking about doesn't even take into account the billion dollars per week we are spending on that war effort.

Let me tell you how the President will maintain his spending when he runs out of money. President Bush's budget hides the full story. Every penny of the Social Security surplus will be spent by this administration under their proposed budget plan. The amount of Social Security surplus saved between 2005 and 2014: Zero. The amount of Social Security surplus spent in that same period of time: $2.4 trillion. Instead of strengthening Social Security and Medicare as the baby boomers arrive, President Bush's budget plan will make them weaker than ever in our history.

Let me also take a look at what happens with the Bush budget when you look at the full story. The President said repeatedly in his State of the Union Address that the key to our economic prosperity is to make his tax cuts permanent. I think, frankly, the first round of tax cuts were not advisable and were unwise. Not because we didn't need a tax cut and a stimulus but because the majority of the tax breaks went to the wealthiest people in America. The President has said we have to continue on that course, continue to give tax breaks to the highest income Americans.

Sadly, if we follow the President's advice and make those tax cuts permanent, take a look at what this means in terms of the long-term budget picture: a $1.6 trillion, 10-year cost to extend the tax cuts. How can this be sensible, prudent, or conservative? It is a spending spree and cutting spree that fails to take into account the ultimate cost.

I mentioned the cost of the AMT reform, the alternative minimum tax. Just 3 or 4 million people are currently paying this tax. But the way it is geared to take into account inflation, millions more will be brought in to pay this tax. In fact, many families are going to learn that they are paying more in alternative minimum tax than any other tax. You can expect to hear from them. The President ignores this reality. The cost of reform of this alternative minimum tax goes through the roof if we don't do this and do it quickly. Sadly, there is no suggestion that we even consider the problem.

Incidentally, when you take a look at the amount provided in President Bush's budget for ongoing military operations in Iraq and Afghanistan and the war on terror, there is zero provided. So in addition to the budget document we are considering, we will have a supplemental appropriations bill much later in the year which will add on more spending which we must have to sustain the troops in the field. How much: $280 billion is the anticipated cost between 2005 and 2014—a hidden cost which the Bush administration doesn't want to deal with directly in their budget document.

The gross Federal debt, assuming extension of Republican tax cuts on a permanent basis, AMT reform, and defense policies, $15.1 trillion in 2014. What a wonderful and glorious gift we are leaving our children and grandchildren. We are spending them into a debt that, frankly, they are going to have to deal with for the rest of their natural lives.

What do the Bush administration's irresponsible fiscal policies mean? By 2009, each person will have a share of the national debt which will total $35,283. So the President says for the average family: We will send you a check for $300 or $400 for each member of the family, and we will give you a little bit of a helping hand.

What he doesn't tell you is that, at the same time, he is mortgaging the future of this country. For what? For tax cuts for wealthy people.

How do we pay off our debt in this country, how do we sustain it, if we are spending $991,000 a minute more than we are bringing in as the Bush budget proposes? There is only one way to sustain our economy and to pay off that debt. That is to borrow money. Which countries come up to the window and want to buy the securities to fund America's debt? Take a look at the list. The top 10 countries holding America's national debt: Japan, $526 billion; China, $144 billion, United Kingdom, $112 billion. The list goes down the line.

Isn't it interesting that the countries that are holding our national debt in many instances are the same countries that have substantial trade surpluses with the United States? In fact, the two fit together. When China, for example, which now has an inordinate trade surplus with the United States, wants to make good on the extra dollars they have, they buy securities and pay off our national debt in that regard. So we end up beholden to the banking systems in these countries that, frankly, are holding America's debt. They have a powerful position. That has become a reality. In order to fund this debt—the largest deficit in our country, a debt that will grow to record proportions—we do two things. We borrow all the money in the Social Security trust fund and from the Medicare trust fund, and then we turn to nations around the world and ask them to buy the securities to sustain our debt. That is the future which the President is suggesting to us.

During the course of the State of the Union Address, the President said at one point—I remember it well—that manufacturing jobs are increasing. I can say to the President, whether it is the State of Illinois or Iowa or Michigan, manufacturing jobs are not increasing. They are increasing in China. We have lost 20 percent of our manufacturing jobs in the last 5 years, and in Illinois there is no end in sight.

Sadly, as you see the shrinking of our economy in each State, with more than 3 million jobs lost under the Bush administration, you understand that we are not only spending ourselves into long-term debt, we are not getting what is essential for America, and that is strengthening our economic base, making certain that our schools are the best, that we are training our children for the quality jobs of the future, making certain businesses have a helping hand from Government to help meet their health insurance obligations to employees, making certain that our trade laws are enforced in a fair way.

I am a Democratic Senator who has voted for free trade in the past. I believe globalization is as inevitable as gravity. But we have to understand that simply entering into a trade agreement is no assurance that the other party—other country in this case—will live up to the terms of the agreement. We have seen case after case—steel is a classic example, where countries such as Brazil, Japan, and Russia started dumping steel in the U.S. By "dumping," I mean selling it at lower than the cost of production. They were not only trying to bring in dollars from the U.S.; they were trying to close down the American steel industry. Sadly, they were successful, to some extent.

What does it mean today to us to have fewer steel companies and fewer steelmaking jobs? Let me give you one illustration. Today, in Iraq, there are 8,400 Humvees that our troops are using in the field. These 8,400 vehicles are special problems for us because they are not equipped with armored plating. If you go to Walter Reed and meet the amputees and injured soldiers, many will tell you: Senator, do something to make the Humvees safer.

So when I went to the Department of the Army and said, "What are you going to do about the armored doors needed on Humvees?" they said, "It is our highest priority." I asked them how they would make them. They said they are going to turn to arsenals in Rock Island and Anniston Depot and contract it out. I asked: How long will it take to make 8,400 armored doors and get them there as quickly as possible to protect our soldiers? They said: If we work night and day, we can get it done in 1 year. One year? During World War II, we were building bombers every 12 hours and ships every 30 days, and we need a year to build 8,400 sets of doors to protect these Humvees?

I was incredulous and asked why. They said: Senator, we only have one steelmaking plant left in America, which is in Pennsylvania, which has the capacity to make the steel we need for the armor on these doors. There is one left in America.

When countries violate trade agreements and dump steel in the U.S., ruin our steel industry, close down the businesses, kill the jobs, endanger retiree benefits—after that happens, we find ourselves in this situation where we need steel, the best in the world need it desperately, and we cannot make it in the U.S.

When the President talks about a strong America in the future, it involves education and job training and helping businesses pay for health insurance but also enforcing trade agreements. I supported the President's tariffs on steel as the only way to answer this dumping of steel. Are we going to quit now, since the WTO has threatened they will impose $2 billion in tariffs? I hope not. Frankly, I think we need to take a more aggressive stand when it comes to building our economy and jobs for the future.

Don't tell me we are in a recovery. A jobless recovery is no recovery at all. Families who are still unemployed and cannot meet the basic obligations to keep their families together are not families that are better off just because productivity is higher in America. We need a stronger economy that has good growth, including jobs. Right now, we are far from it. The Bush budget doesn't move us in that direction. It is not a credible budget, a compassionate budget; it is not a conservative budget; it is a testament to a failed economic policy, where the U.S. economy is not back on its feet, where we continue to see people losing their jobs, where good-paying jobs are going overseas, and little or nothing is being done.

That will be an issue which drives this electorate in this election, as it should. As we review the budget, I hope Members of Congress will step back and realize that making tax cuts for the wealthy permanent policy in this country will guarantee weakness in Social Security and Medicare for generations to come. If that is the reason my colleagues believe they came to the Senate, then they should stand and cheer this budget. But if they feel a special obligation, as I do and many colleagues do, to Social Security and Medicare, we should demand more.

How can you claim to be conservative when your budget is swimming in more than $500 billion worth of red ink? The President is proposing a paltry $53 billion in revenue-raising measures to offset the budget's $1.3 trillion in tax cuts. And he's proposing changes in the budget process that will make it harder to increase spending on important social programs down the road while failing to place similar constraints on Congress's ability to extend tax giveaways to the rich.

The cost of extending the tax cuts alone will reach $1.6 trillion between 2005–2014. Before the end of this fiscal year, Congress will have to raise the debt ceiling—currently at $7.4 trillion once again. The continuation of the administration's policies could produce a national debt of greater than $15 trillion by 2014. Is this fiscal conservatism?

Even the unofficial voice of the right seems shocked by the fiscal irresponsibility of this administration. Talk show host Rush Limbaugh weighed in on the gloomy fiscal picture painted by this budget on his nationally broadcast radio program. "Bush has outspent Clinton," Limbaugh told listeners last Thursday. "I hate to say this; I'm sorry folks."

And how can you claim to be credible when you increase funding for missions to outer space, provide even more tax breaks for the wealthy but cut money for community oriented policing, for higher education and for critical transportation projects?

In 2000, our Nation had a $236 billion surplus; in 4 short years, the Bush administration has managed to turn that into a deficit for the current fiscal year that they project to be $521 billion. CBO estimates the fiscal year 2004 deficit will be closer to $477 billion. Either way, that is a striking turn of events, and neither figure tells the full story. Once Social Security is factored out of the budget, the OMB's fiscal year 2004 projected deficit soars to $675 billion.

The President claims his budget will cut the deficit in half in 3 years. This promise speaks directly to the credibility gap facing this administration. The President simply isn't leveling with the American people; we've heard this story before.

In 2001, the President, upon inheriting a fiscally sound house, told us that "we can proceed with tax relief without fear of budget deficits." He was wrong.

In 2002, when it was clear that this wasn't the case, he told us that "our budget will run a deficit that will be small and short-term." Wrong again.

In 2003, he said, "Our current deficit is not large by historical standards and is manageable." Once again, wrong.

Now he is promising to cut the deficit by half over the next 3 years and is focusing his deficit reduction plan on limiting domestic discretionary spending. That is not a credible solution. Growth in domestic discretionary spending has been almost non-existent over the past 2 years. Out-of-control spending did not cause these record deficits. The President's irresponsible tax cuts for the wealthiest Americans did.

The OMB's estimates were $134 billion greater than the estimates the Bush administration used to build support for the program in Congress. Democrats in the House are calling for an investigation into when the President knew that the number would be much higher than the one used during deliberations.

The $521 figure is slightly inflated. No one else is this high. CBO is $477 billion. The $521 includes $20 billion in lower revenue estimates for fiscal year 2004 just to be "careful." This would certainly make it easier to cut the deficit in half if the baseline from which you are cutting is artificially inflated tens of billions of dollars higher than anyone else's estimates of that baseline.

Another component of the credibility gap is that the President is engaged in a high-stakes shell game, shifting the actual responsibility for paying for his policies until after he has left town and hiding their true costs from sight in the current budget.

The administration provides no estimates of the cumulative 10-year deficit in this budget, thus masking the real long-term costs of these policies. Groups on the right and the left have estimated that the administration's policies will add over $5 trillion to the federal debt over the next 10 years.

The budget does not include the full cost of the supplemental spending in Iraq that was passed last year, some of which will take place during this fiscal year. We know we will be in Iraq. Why isn't all of this money included in the DOD budget?

Furthermore, the CBO says that as late as 2009, we may still face tens of billions in costs to fight terrorism. Yet, these funds are not included in the budget either. The President has added $250 billion in supplemental requests since taking office; we can certainly expect more of these in the future.

The President's budget ignores the impeding retirement of the baby boomers, and fails to factor in the full cost of the Alternative Minimum Tax relief he requests in this budget.

Finally, despite promising during this campaign to make Social Security solvent, the administration's budget proposals will use every penny of the Social Security surplus over the next 10 years to pay the bills we are racking up today.

Mr. KYL. Mr. President, I will respond to my colleague from Illinois. First, regarding the budget deficit, and comments made earlier regarding intelligence issues, I will find it interesting to see whether those who are so concerned about the Federal budget deficit will back up their words with actions by voting against runaway spending.

Alan Greenspan, head of the Federal Reserve, says the biggest problem is that Congress cannot restrain its bad spending habits. So for colleagues such as the Senator from Illinois—will they vote against the $30 billion in subsidies in the energy bill? Will they vote against twice that much in unpaid for highway funding—that is to say, unpaid for in the highway trust fund? It will be interesting to see how those who complain about the deficits actually vote when it comes to adding to the deficit.

Remember that last year, when we had a whole series of votes, when the Republican majority finally got a budget passed, we had to defeat a whole series of amendments by our Democratic colleagues—we usually got 51 or 52 votes—because almost all of the members of the Democratic Caucus voted in favor of spending more money in these amendments. We defeated something like $88 billion in spending amendments offered by our Democratic colleagues. Thank goodness we did. That amounted to over a trillion dollars in savings over the 10-year period of the budget.

So for my Democratic colleagues to complain about spending and budget deficits and then go on and vote for the projects that they can brag about back home, I think that at least is—shall we call it a dichotomy, in any event.

What about this business of tax cuts for the wealthy? Actually, I have some statistics here which I think are interesting. It shows that the reduction of the tax rate, the top marginal rate—these are the "wealthy" that our

Democratic colleague spoke about—actually, mostly helps small businessowners, the very people who create the bulk of the jobs in this country.

You cannot have it both ways, my friends. You cannot complain on the one hand that we are cutting taxes for the people who create the jobs and then complain we are not doing anything to create jobs. That is just exactly what the tax rate reductions on the highest marginal rate accomplished. About 78 percent of that savings went to small businessowners. These are the people who pay at the top individual rate. They are subchapter S corporations or partnerships; we call them flowthrough entities, which pay at the top individual tax rate. They are small business employers. Sixty-two percent of the income tax filers in the top bracket are small businessowners, and 98 percent of the companies are small businesses.

According to the Small Business Administration, 75 percent of all of the new jobs are created by small businesses, which would suggest that small businesses created over 2 million of the 2.8 million jobs added since the start of 2002. How were these small businesses able to create those jobs? They had the capital to invest to do so. How did they get the capital? We cut their marginal income tax rates. Again, they received, by far and away, over three-fourths of all the relief that went to the top filers, the small businessowners, by cutting that rate.

Tax cut for the rich? No. It was for the small businessowners to create the jobs that have gotten our economy moving again.

Let's recall who actually pays the taxes in this country. These are Internal Revenue figures, I might add. The top 1 percent of taxpayers pays over a third of all of the taxes. One-third of all the taxes are paid by 1 percent of our population. The top 5 percent of the taxpayers pay over half, 53.4 percent. So just the top 5 out of 100 are paying more than half of all the income taxes in the country. The top 10 percent pay about 65 percent—in other words, almost two-thirds.

How much does the top 50 percent pay? Ninety-six percent. In other words, the bottom 50 percent of taxpayers in this country pay less than 4 percent of the taxes. So divide the taxpayers in this country into two parts. One of our Democratic colleagues running for President is fond of saying there are two Americas out there: the wealthy and not so wealthy.

Let's take the top 50 percent and the bottom 50 percent. The top 50 percent is paying 96 percent of the taxes, and the bottom 50 percent is paying less than 4 percent of the taxes. Naturally, if we are going to give a tax cut to taxpayers, you are going to be cutting the taxes of those who are paying most of the taxes. But I wouldn't call these people all rich.

As a matter of fact, if you look at the categories, the top 50 percent makes $28,528. I wouldn't call that rich. How about the top 25 percent? We ought to be getting into the rich category here: $56,000 income a year. Raising a family of four, that is not exactly a big income these days. You can get by on it, but I wouldn't call those people wealthy or "the rich."

I think we have to be a little bit careful. And I know my colleagues wouldn't do this, but there are those outside this Chamber who would demagog this issue saying it is all about dividing America between the wealthy and the deserving, the so-called middle class.

We appreciate the fact that America is made up of every stripe of folks, and they all contribute in one way or another, but when it comes to creating jobs, it turns out if you reduce the highest marginal rate, which is what we did, what we have done is to reduce the rate for small businesses which have created the jobs that have gotten the economy going again. That is the effect of the tax relief that was recommended by President Bush and this Congress approved.

I suggest we give a little credit to the President for helping to stimulate the economy, create jobs, provide economic growth that is unparalleled. We had over 8 percent growth in the third quarter last year, and 4 percent in the last quarter. The stock market is doing very well.

It seems to me the message ought to be one of hope: that we have turned this recession around; that we have reduced taxes. As a result, we are creating jobs and actually things are looking pretty good.

If our Democratic colleagues would like to help us keep a lid on spending, then stop voting for every amendment that spends more money. It is pretty much that simple, Mr. President.

## EXCERPTS FROM DAVID KAY TESTIMONY

Mr. KYL. Mr. President, with respect to the other subject which I wish to briefly deal with, this afternoon several of our Democratic colleagues have criticized the President and the administration and invoked the name of David Kay, a weapons inspector, to make the point that they claim proves the administration somehow misled the American people and the rest of the world in making the case for taking military action against Iraq. That is not true. I think it is time people start quoting David Kay properly to see just exactly what he said. I am briefly going to do that.

I have a few excerpts from his testimony before the Senate Armed Services Committee on January 28 of this year. Senator MCCAIN asked him this question:

> [Y]ou agree with the fundamental principle here that what we did was justified and enhances the security of the world by removing Saddam Hussein from power?

David Kay:

> Absolutely.

Senator KENNEDY asked this interesting question:

> Many of us feel that the evidence so far leads to only one conclusion: that what has happened was more than a failure of intelligence, it was the result of manipulation of the intelligence to justify a decision to go to war. . . .

David Kay responding:

> All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to WMD.

And WMD, as we know, is weapons of mass destruction.

How about its violations of the United Nations resolutions? Somehow the impression has been created that maybe it was just a fraud, that Iraq really wasn't in violation of those resolutions, that somehow the weapons of mass destruction never existed. Here is what David Kay said:

> In my judgment, based on the work that has been done to this point of the Iraq Survey Group, and in fact, that I reported to you in October, Iraq was in clear violation of the terms of Resolution 1441. Resolution 1441 required that Iraq report all of its activities: one last chance to come clean about what it had. We have discovered hundreds of cases, based on both documents, physical evidence, and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441, with Iraqi testimony that not only did they not tell the U.N. about this, they were instructed not to do it, and they hid material.

Going on:

> Iraq was in clear material violation of 1441. They maintained programs and activities, and they certainly had the intentions at a point to resume their program. So there was a lot they wanted to hide because it showed what they were doing was illegal. I hope we find even more evidence of that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, if we are going to be quoting David Kay and talking about the state of our intelligence, go to the transcript and present a more fair and balanced picture than has been done today.

The PRESIDING OFFICER. The Senator from Texas.

## THE PRESIDENT'S BUDGET

Mrs. HUTCHISON. Mr. President, I appreciate my colleague from Arizona talking about some of the statements that have been said on the floor today and really setting the record straight, which I think is very important.

I would like to continue to talk about the President's budget. I heard people say the budget is too much; we are going to have bigger deficits. And then I hear people say: Oh, but it is not compassionate; we are not spending enough.

What the President of the United States has submitted to Congress in a budget is very bold, but it is also very simple. The President of the United States is doing what every family and every small business would do when they are in a budget crunch, when their revenues are not meeting their expenditures. He is prioritizing the spending.

He put as his very first priority the national defense of this country. He raised the spending from last year on national defense by 7 percent. He made a priority the homeland security of our country, protecting our homeland. He increased spending 10 percent on homeland security needs.

He decreased the growth in spending. We never decrease spending in Washington, DC. He holds discretionary spending to below 4 percent and nonsecurity-related spending to .5 percent—less than the rate of inflation.

The President is saying we are going to prioritize our family budget just like families all over our country are doing. We are going to protect our country in national defense, we are going to protect the citizens of our country in homeland defense, and we are going to cut back in areas that are not absolutely necessary.

I wish to talk about what the President has done and let the people of our country decide who is being responsible in our budgeting.

He advances the ongoing efforts in the war on terror by providing $1.2 billion for rebuilding Afghanistan, continuing to build the broad coalition. NATO is now in Afghanistan in force to try to defeat that center of terrorism where the Taliban took hold and was helping al-Qaida. We are making the commitment and keeping our word in Afghanistan.

There is $5.7 billion in military and economic assistance to front-line States supporting the United States in the war on terror.

The President is strengthening and transforming our defense capabilities by providing $402 billion for the Department of Defense, an overall 7 percent increase. The President's budget is providing a 3.5 percent pay raise for our military personnel; improving housing, which is something that I as the chairman of the Military Construction Subcommittee in the Appropriations Committee want to do, working with the President to assure that we have a quality of life improvement for our military personnel who are on the front lines every day protecting our country and in harm's way in many instances.

He also provides a 10 percent increase in homeland security. We are providing $5.3 billion for the Transportation Security Agency, a 20 percent increase; $6.2 billion for the Coast Guard, a 9 percent increase, because the Coast Guard is being called on today to step up to the plate to patrol our borders and our shores. They are doing a great job and we are making sure they have the capability to do that job.

It doubles the level of first responder preparedness grants, targeting the high threat areas that face greater risk. These are the policemen, the firefighters, the front line first responders who can save lives if we have another terrorist attack. In many instances, it is those people who are outside our Senate Chamber today working on perhaps a new terrorist attack that has occurred in the Senate as we speak. The first responders are there trying to go through our buildings, gathering the unopened mail to see if there is any more of this ricin that was found in the Dirksen Office Building. We need to prepare those first responders so that everyone in America who might be vulnerable will also have an immediate response with trained personnel.

It protects our food supply by providing $553 million, a 180 percent increase in funds for a new agriculture and food defense initiative; $274 million for a new vital surveillance initiative; $5.1 billion, an 11 percent increase, for the FBI, to make sure we have the counterterrorism effort that our FBI can give.

So these are the defense initiatives and the homeland security initiatives the President of the United States is providing for our country. That is exactly what I hoped he would do, focus on the big things that only the Federal Government can do to secure our country. That is his first responsibility, and he met the first responsibility in the budget that is being criticized today.

Let us talk about the discretionary spending. Where are we putting the priorities in discretionary spending? We are cutting back on the increases in discretionary spending but we are holding the priorities that are so important. We initiate a job creation plan. We are looking at an economic recovery that is just in its initial stages, but we have not seen the jobs yet. The President is very concerned about people not having jobs. We are talking about a $250 million grant program for our Nation's community colleges. These are the places where we can train for jobs in the future. These are places where we can train for the high-demand occupations that are identified as the places where we can put people to work if they have the training.

Our community colleges are the unsung heroes and heroines in our country because they can put people back to work with training. They can take people who have lost jobs in one sector and train them for something else. There is $333 million to help students make the transition from high school to college.

He provides for a national energy policy, one of our best job creators, to ensure affordable, reliable energy supply; upgrading our Nation's electrical grid so we will not have blackouts and brownouts in any part of our country; promoting energy efficiency and increasing domestic energy production, which will protect the environment and put people back to work.

The budget will also spur job creation by providing more than $20 billion in small business lending and equity programs. Small businesses are the economic engine of our country. If we free small businesses and help them with the capital they need to expand their businesses and grow, we will be able to create the jobs that will stabilize our country.

So through the President's budget we are trying to increase job creation in our country. We will not have a true recovery if we have a jobless recovery. The President understands and knows that, and he is trying to make sure we address that very important issue.

Let us talk about education. President Bush is the education President. He wants to make the commitments that will allow every child to reach his or her full potential in our country. His budget increases title I funding by $1 billion, 52 percent more than in 2001; it provides $1 billion more for special education, a 75 percent increase since 2001; it increases funding for early reading programs, a 12 percent increase over just last year. The President knows that if you can catch a child early, you will be able to correct that child's reading problems and allow that child to absorb the education that allows the child then to reach his or her full potential. The budget helps 5 million students pursue postsecondary education by providing $12.9 billion in Pell grants, an $856 million increase.

He is fulfilling his promise to increase the funding for historically black colleges and universities, minority-serving institutions, by 30 percent, $394 million by 2005. That is this year's budget. It provides $57 billion in direct and guaranteed student loans to postsecondary students and reforms higher education student aid by raising loan limits for first year students, expanding options to offer courses online and increasing loan forgiveness for those teaching certain subjects in high poverty schools, a great trade, a win for everyone. If we can put teachers in schools that have teacher shortages and forgive student loans, we will make up the interest that would be paid on those student loans by giving more children a chance for a quality education.

So how can one say the President is not doing right by education when he is focusing on the increases in spending in education that will fund No Child Left Behind, the act we passed to try to increase options for education so that our public school education can compete with private school education and give parents all the choices they could possibly need to do the best for their children?

We know every parent has the dream for his or her child that that child will be able to get a great education and send that child off into America, into the world, fully ready to earn a living, raise a family, and have a good life.

Let us talk about health care. Let us talk about what the President's priorities are in the budget in health care. The President expands health care coverage by making it more affordable for small businesses to purchase coverage for employees through association health care plans. It is very important that we lower the number of uninsured Americans. We can do that by making health care coverage available to small businesses that want to cover their employees and help their employees but they cannot afford the premiums if they are a small business. If we can pass association health care plans, as the President has requested us to do, we can take millions of Americans off the uninsured rolls. That is what we are asking our colleagues to help the President do.

It implements the prescription drug discount card to give immediate discounts of 10 to 25 percent to cardholders. In the next couple of months, our seniors will be able to take those prescription cards and buy drugs with a 10 to 25 percent discount. So that is immediate help. That is while we are also building up a system that will give even better choices and more options for prescription drug coverage to our seniors. The President's budget will give $600 annually in immediate assistance to low-income individuals to pay for prescription drugs. So the low-income people are going to get that $600 direct, immediate assistance. And then the drug benefit plan should be implemented by 2006.

The President does provide incentives in his budget that will provide immediate help for our seniors for prescription drug discounts now, and to work toward the options that will provide real help for a prescription drug benefit for our seniors.

Environment: The President has several things in his budget to enhance the Nation's supply of clean, affordable energy by increasing funding for clean energy resources, by trying to have more research into hydrogen and fuel cell research and development. He wants a zero emissions coal fuel powerplant and he wants to fund development of that in this budget he is presenting.

He presents the President's Healthy Forests Initiative to prevent the catastrophic wildfires we saw raging through western America. It was just horrible to see what was happening in California this last year, the forest fires that were raging and taking people's homes as well as their property. The President has a $58 million increase to remove excess wood and brush that fuel these fires.

He would accelerate the Great Lakes cleanup by providing $45 million, a fivefold increase over previous levels to clean up the Great Lakes.

He tackles the remaining Superfund sites. We all know the toughest sites to clean up are these Superfund sites. But he is willing to take this on and increase, by 50 percent, the funding for Superfund cleanup so we will be able to get a handle on the worst environmental hazardous areas that we have in our country.

I have heard all the talks on the Senate floor today that have criticized the President's budget. I think the President has a balanced budget. He is prioritizing where we need to prioritize. He is providing for the national defense for our country. He is providing for the homeland security of our country. He is putting the money in education. He is putting the money into job creation and job training, and he is helping to meet the health care costs of our senior citizens and people who work for small businesses.

Our President presented to Congress a balanced budget. Everybody can find something to criticize, something they would not prioritize the same way. But the President is leading and the President has presented us a budget that will cut the deficit in half in 5 years while maintaining the homeland security and defense our people have asked him to provide. I think we should work with the President to pass this budget and have some budget authority that will keep us from overspending and increasing the deficit further.

Mr. President, this should be a team, not a critical debating society. We should be teaming together to help America get through the war on terrorism, fund our priorities, cut the deficits, and be responsible to the people who elected us, as the President is trying to do.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will have a few remarks at the close on what has been a difficult day, but very positive in many ways as we have come together and faced the challenges before this body and have been able to conduct very productive and very useful business over the course of the day in spite of a major distraction on the outside that was magnified and illustrated by the fact that three Senate office buildings closed and people do not have access to a lot of the papers in their own offices. In spite of that, we are continuing the Nation's business in a very productive way.

## COMMENDING A FLORIDA IMMIGRATION OFFICER

Mr. NELSON of Florida. Mr. President, I thank the leaders for giving me this time. I want to have the Senate recognize an American citizen who, very likely, prevented the entry into the United States of what is suspected as the 20th hijacker. I want to tell you this story about this immigration officer, who is at the Orlando International Airport. His name is Jose Melendez Perez.

Mr. Melendez, a little more than a month before the attacks on September 11, 2001, denied entry into the United States at the Orlando Airport of a Saudi national who had arrived at the airport from the Middle East by way of London. Federal authorities now believe that this man, Mohamed al-Qahtani, was the missing 20th hijacker. He was later captured in Afghanistan. He is now being held in Guantanamo Bay, a place I have just visited with our four-star general, General Hill, just before Christmas to have Christmas dinner with our troops who are conducting that operation there.

This story is quite an interesting story. It is beginning to get a flurry of recognition, and that is just recognition for this great American. The fact is, he was just doing his job, but he was so expert in it that he stopped the entry into the United States of this person. He alertly denied al-Qahtani entry into the Orlando Airport based on a combination of indicators that suggested he was up to no good. Mr. Melendez's experience, training, and instincts served our Nation very well.

It is interesting that what he told me, when I met with him last Friday to congratulate him, was that he just got a feeling about this guy as he was referred to Mr. Melendez for secondary questioning, since he did not speak English. After questioning al-Qahtani and discovering many holes in his story—holes about why he was there, how long he was going to stay, who was going to meet him—and it is thought, very possibly, that it was the hijacker pilot of the first plane that went into the World Trade Center who was the guy upstairs to pick him up—Mohamed Atta. We don't know that for sure. But also there was the fact that he didn't have a return ticket or enough cash to purchase one.

After having that uneasy feeling about none of these answers and a very belligerent manner, by the way, by the man being questioned, Mr. Melendez put it into his own hands to make the decision that he was going to have him arrested, put into detention, and sent back the next day on a plane. By refusing al-Qahtani entry into the country, Mr. Melendez very well may have helped save many additional lives on September 11.

So this is a proud professionalism in the Immigration Service which so often gets nothing but complaints. I think it is time for us to stand up and salute Mr. Melendez and his service. He modestly protested to me last Friday that he was only doing his job. But we know because of the replicated actions of folks like him being done every day, not only in our Border Patrol and other immigration activities, but in the State Department and in decisions being made as to whether or not to grant a visa in embassies around this country, and with all of our intelligence services as they are making these decisions day by day, hour by hour, it is working to protect us.

Mr. Melendez has shown us what correct protection of our borders looks like. Now we want to rededicate and congratulate all of the hard-working colleagues at the Department of Homeland Security. We want to provide them with the resources they need to protect our borders and the ports of entry. Dedicated security personnel are not there to make travel more difficult; they are there to make us safer. Mr. Melendez in this instance apparently prevented the compounding of a national tragedy on September 11, 2 years ago.

Mr. President, I thank you for the opportunity that I could recognize a wonderful American, an American who spent 27 years in the U.S. Army.

When Mr. Melendez retired, he decided to continue his Federal service, in this case with the Immigration Service. He is a wonderful American who has a big family centered in Orlando, with nine grandchildren spread over several cities and some back in his native Puerto Rico.

I am very proud today to share his story so our colleagues in the Senate might also recognize his brand of modest heroism.

I thank the Chair.

## ADDITIONAL STATEMENTS

### ANGEL ARELLANO

• Mrs. BOXER. Mr. President, I am pleased to recognize Angel Arellano's efforts in raising funds for the Chaffee Zoo in Fresno, CA.

On Thanksgiving Day, after listening to a family conversation about the Chaffee Zoo's financial struggles, Angel Arellano, a 9-year-old girl from Fresno, CA, wrote a letter to the editor of the Fresno Bee. Her letter contained $1.00 and urged all Fresno residents to match her donation to help pay for the Chaffee Zoo's much needed repairs. Miss Arellano's letter expressed her anguish at the animals' precarious future. She wrote that the animals deserved food, water, and a warm home. Her plea sparked a movement to save the zoo. Her heartfelt letter caught the attention of past and present Fresno residents, inspiring thousands of individuals to send donations, ranging from $1.00 to $10,000.00. Currently, total pledges and donations have reached nearly $180,000.00 and have come from as far away as Great Britain.

Angel Arellano's concern motivated people in Fresno and around the world to help save a Fresno institution. Her letter conjured memories of past visits to the zoo and reminded people of the joy felt by children when visiting with family while spending a Sunday in the sunshine, enjoying one of Fresno's treasures.

Angel is a wonderful example of one person making a difference. To her, I say thank you. She has set a great example for all of us.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 9:48 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House insist upon its amendment to the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon. Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the bill and the House amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. HYDE, Mr. SMITH of Texas, Mr. CHABOT, Mr. CANNON, Ms. HART, Mr. CONYERS, Mr. BOUCHER, Mr. NADLER, and Mr. WATT of North Carolina.

From the Committee on Financial Services, for consideration of sections 901–906, 908–909, 911, and 1301–1309 of the House amendment, and modifications committed to conference: Mr. OXLEY, Mr. BAUCUS, and Mr. SANDERS.

The message also announced that pursuant to section 11054 of the Antitrust Modernization Commission Act of 2002 (15 U.S.C. 1 note), and the order of the House of December 8, 2003, the Speaker appoints the following members on the part of the House of Representatives to the Antitrust Modernization.

Commission: Mr. Donald G. Kempf, Jr., of New York, New York; Mr. John L. Warden of New York, New York.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6027. A communication from the Auditor of the District of Columbia, transmitting, a report entitled "Fiscal Year Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC–6028. A communication from the Auditor of the District of Columbia, transmitting, a report entitled "Audit of Advisory Neighborhood Commission 3C for Fiscal Years 1999 Through 2003 as of March 31, 2003"; to the Committee on Governmental Affairs.

EC–6029. A communication from the Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's 2003 Annual Report; to the Committee on Governmental Affairs.

EC–6030. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–238, "Comprehensive Housing Strategy Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6031. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–239, "Nurse Staffing Agency Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6032. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–240, "Authorization of the Spending of the Commercial Trust Fund Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6033. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–241, "Freedom Forum Newseum Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6034. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–242, "Tax Increment Financing Reauthorization Date Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6035. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–243, "Emmaus Rehabilitation Project Real Property Exemption Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6036. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–244, "PSA Restructuring Council Review Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6037. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–245, "Presidential Primary Petition and Filing Waiver Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6038. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–246, "Unemployment Compensation Funds Appropriation Authorization Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6039. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–247, "Eastern Avenue Tour Bus Parking Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6040. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–248, "Freedom of Information Legislative Records Clarification Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6041. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–249, "Medical Support Establishment and Enforcement Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6042. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–250, "Charity Auction Sales Tax Exemption Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6043. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–251, "Income From Discrimination Exclusion Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6044. A communication from the Deputy Director for Administration and Information Management, Office of Government Ethics, transmitting, pursuant to law, the report of a vacancy for the position of Director, Office of Government Ethics; to the Committee on Governmental Affairs.

EC–6045. A communication from the Director of Selective Service, transmitting, a report submitted in accordance with the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–6046. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, Governmental Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation Federal Acquisition Circular 2001–16" (FAC2001–16) received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6047. A communication from the Chairman, Federal Trade Commission, transmitting, the report of the Office of Inspector General for the period ending March 31, 2003; to the Committee on Governmental Affairs.

EC–6048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–254, "Certified Capital Companies Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–256, "Marriage and Family Therapy Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6050. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–255, "Elimination of Outdated Crimes Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6051. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–259, "Utility Rate Payers Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6052. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–265, "Real Property Classification Clarification Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6053. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–264, "Parking Meter Fee Moratorium Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6054. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–262, "Washington Convention Center Authority Term Limit Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6055. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–286, "Uniform Trust Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6056. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–274, "Automated Traffic Enforcement Fund Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6057. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–272, "Board of Education Campaign Contribution Clarification Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6058. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–271, "Inspector General Appointment and Term Clarification Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6059. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–270, "Procurement Practices Vendor Payment Revised Approval Authorization Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6060. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-269, "Rehabilitation Services Program Establishment Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6061. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-268, "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6062. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-267, "Presidential Primary State Committee Elections Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6063. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-266, "National Capital Medical Center Negotiation Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6064. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-260, "Closing of a Portion of a Public Alley in Square 2677, S.O. 03-0208, Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6065. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-261, "Housing and Community Development Reform Advisory Commission Temporary Amendment Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6066. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-263, "Towing Regulation and Enforcement Authority Temporary Act of 2003" received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6067. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the General Accounting Office; to the Committee on Governmental Affairs.

EC–6068. A communication from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6069. A communication from the Attorney General of the United States, transmitting, the report of the Office of Inspector General for the Department of Justice for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6070. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6071. A communication from the Chair, Corporation for Public Broadcasting, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6072. A communication from the Chair, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6073. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6074. A communication from the Chairman, Federal Communications Commission, transmitting, the Commission's Fiscal Year 2003 Annual Financial Report; to the Committee on Commerce, Science, and Transportation.

EC–6075. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department of Transportation's annual report on the regulatory status of the National Transportation Safety Board's "Most Wanted" Recommendations to the Department of Transportation and its Operating Administrations; to the Committee on Commerce, Science, and Transportation.

EC–6076. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [Including 92 Regulations]" (RIN1625–AA00) received on January 27, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6077. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Reallocation of Pacific Cod Total Allowable Catch Levels" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6078. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Notice of Standard Prices and Fee Percentage for North Pacific Halibut and Sablefish Individual Fishing Quota Cost Recovery Program" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6079. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Quota Transfers; Fishery Reopening" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6080. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Shark Management Measures" (RIN0648–AQQ95) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6081. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Directed Fishing for Community Development Quota Reserve Amounts of Shortraker/Rougheye Rockfish and Northern Rockfish in the Bering Sea Subarea and 'Other Species' in the Bering Sea and Aleutian Islands Management Area" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6082. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Bluefin Tuna Season and Size Limit Adjustments" (RIN0648–AR12) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6083. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Fishery Closure" (ID#120903A) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6084. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Summer Flounder Fishery; Commercial Quota Harvested for New Jersey; Closure of Commercial Fishery" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6085. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Summer Flounder Fishery; Commercial Quota Transfer" (ID#121803C) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6086. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Regulatory Amendment 3 to the Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska" (RIN0648–AQ48) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6087. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement the 2004 Specifications for Surfclams, Ocean Quahogs, and Maine Ocean Quahogs" (RIN0648–AQ79) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6088. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Apportion Amounts of the Reserve to Certain Target Species in the Bering Sea and Aleutian Islands Management Area" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6089. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Approved Measures Contained in Amendment 13 to the Fishery Management Plan for Atlantic Surfclams and Ocean Quahogs" (RIN0648–AR57) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6090. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6091. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6092. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pacific Cod by Catcher Vessels Using Hook-and-Line in the BSAI" received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6093. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Glazing Materials; Low Speed Vehicles" (RIN2127–AJ25) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6094. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–6095. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Change of Broker Revenue Ruling" (Rev. Rul. 2004–15) received on February 3, 2004; to the Committee on Finance.

EC–6096. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 401 of the Code and Certain Rollovers" (Rev. Rule 2004–12) received on February 3, 2004; to the Committee on Finance.

EC–6097. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Republication of Rev. Proc. 99–41" (Rev. Proc. 2004–15) received on February 3, 2004; to the Committee on Finance.

EC–6098. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 416(g)(4) Top-Heavy Status and Special Rules" (Rev. Rule 2004–13) received on February 3, 2004; to the Committee on Finance.

EC–6099. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Special Coverage Rules for Certain Dispositions or Acquisitions" (Rev. Rule 2004–11) received on February 3, 2004; to the Committee on Finance.

EC–6100. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 411 of the Code and DOL FAB 2003–3" (Rev. Rule 2004–10) received on February 3, 2004; to the Committee on Finance.

EC–6101. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Application of Income Tax Treaties to Service Partnerships" (Rev. Rul. 2004–3) received on February 3, 2004; to the Committee on Finance.

EC–6102. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Low-Income Housing Credit Allocation Certification; Electronic Filing" (TD9112) received on February 3, 2004; to the Committee on Finance.

EC–6103. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Correction of User Fee in Appendix A of Rev. Proc. 2004-1" (Announcement 2004-08) received on February 3, 2004; to the Committee on Finance.

EC–6104. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 409(p) and Potentially Abusive ESOP's" (Rev. Rule 2004-4) received on February 3, 2004; to the Committee on Finance.

EC–6105. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Electronic Delivery of Form 1099 and Form 5498 Payee Statements" (Notice 2004–10) received on February 3, 2004; to the Committee on Finance.

EC–6106. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting Relating to Corporate Inversions" (Notice 2004-9) received on February 3, 2004; to the Committee on Finance.

EC–6107. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—February 2004" (Rev. Rule 2004–9) received on February 3, 2004; to the Committee on Finance.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 296. A resolution relating to Senate Adjournments and Recesses; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am introducing two education tax bills today. These bills will help us make permanent the $30 billion in education tax incentives that were contained in the 2001 tax bill.

The first bill will extend and make permanent the tuition deduction that was enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, or EGTRRA. A lot of people think we don't spend enough money on education, but they also don't think we should make the 2001 tax cuts permanent. I don't know how they can justify that position. The education tax incentives in the 2001 tax bill have done a whole lot of good. The tuition tax deduction is available only through December 31, 2005. The cost of the provision for those four years was about $10 billion. So you can see that it was very expensive.

For parents struggling to send their children to college, the tuition tax deduction has been very important. Some of them probably wish it were set at a higher level, but at between $2,000 and $4,000 depending on your income, it is still a beneficial tax incentive for the middle class.

The second bill that I am introducing today will make the rest of the EGTRRA education tax provisions permanent, as well as the deduction for teacher classroom materials that was passed in the stimulus package of March 2002. That provision expired at the end of last year so it is very important that we enact it on a permanent basis and do so as soon as practicable.

I hope my colleagues will join me in sponsoring these bills and will agree to consider them and pass them in the Senate in the next month or two.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2048

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.**

(a) Permanent Deduction.—

(1) In general.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by striking subsection (e).

(2) Conforming amendment.—Subparagraph (B) of section 222(b)(2) of such Code (relating to applicable dollar limit) is amended by striking "2004 and 2005.—In the case of a taxable year beginning in 2004 or 2005." and inserting "2004 and thereafter.—In the case of any taxable year beginning after 2003.".

(b) Repeal of Suspension.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) Exception.—Subsection (a) shall not apply to the amendments made by section 431 (relating to qualified tuition and related expenses).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

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S. 2050

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO AFFORDABLE EDUCATION PROVISIONS OF SUCH ACT.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) Exception.—Subsection (a) shall not apply to the amendments made by subtitles A, B, and C of title IV (relating to affordable education provisions).".

**SEC. 2. PERMANENT DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.**

(a) In General.—Section 62(a)(2)(D) of the Internal Revenue Code of 1986 (relating to certain expenses of elementary and secondary school teachers) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the deductions" and inserting "The deductions".

(b) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2003.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, today I will introduce legislation which is entitled the Abandoned Mine Land Reclamation Program Extension and Reform Act of 2004. As I have explained briefly before, I do so because this program is going to be unveiled tomorrow at a ceremony in the Pennsylvania State Capitol attended by Secretary of the Interior Norton in addition to Governor Rendell and a number of other officials. While I would like to be present in Pennsylvania for the event, the Senate will be in session and there is important business to be conducted here. So in my absence there, I thought it appropriate to introduce this bill. I had planned to do so tomorrow, but there is a joint session of Congress in the morning and I am advised there may not be morning business. So I am taking just a few moments of floor time to introduce the bill now.

The Bush administration has already announced the outline of the bill so I am not in any way preempting the administration by the introduction of this legislation. As I noted earlier, the administration had made this legislation available to me for introduction in conjunction with others in the Pennsylvania delegation, and I am pleased to do so because it will address a very serious problem for my State.

By far, Pennsylvania has the most extensive problem of any of the States in the Union, where we have some 250,000 acres which are in need of reclamation. Some 2,400 miles of streams are affected on our water supply because Pennsylvania has been so heavily mined. Shortly after I came to the Senate in the early 1980s, a little town in Pennsylvania named Centralia received national and international attention when a young man fell into a deep pit and a fire was burning there. It was a fire which resulted from an abandoned mine. For those, if any, who may be watching on C–SPAN, these fires rage underground burning unmined coal. This fire was raging. A large hole enveloped and the young man fell many feet below the surface of the terrain. Fortunately, he was rescued.

It was necessary to move the entire town at a very substantial cost borne in significant measure by the Federal Government, not entirely because homeowners could not fully recoup the losses of their houses. This bill will provide some $3 billion to take care of health and safety. It will be a reauthorization to the year 2018 on an authorization bill which is set to expire in September of this year. There will be a phase-out of payments ramped down until the year 2018 when it is projected that the problem will be solved. This bill will improve the flexibility for the States where they can make a choice of their projects and make a decision based on where they need to go on water quality.

It is obviously a very important matter for the environment, and environmental protection is a high priority in our country. I am pleased to see President Bush and his administration move ahead on this important item. It takes care of all of the smaller States with a minimum allocation of some $2 million. There is some assistance for the Combined Benefit Fund, which has been established for the benefit of the retired mine workers, where the health and benefit plans had been abrogated. We had legislation introduced and enacted several years ago, led by the Senator from West Virginia, Mr. ROCKEFELLER, in conjunction with Senator BYRD, which I cosponsored, and we tried to provide for the retirement health benefits for the mine workers. This bill will make an allocation which will be helpful in that regard. It will not entirely satisfy the matter.

As I noted, this is President Bush's top priority in the Interior section of his budget. Secretary of the Interior Norton will tour some mines in Pennsylvania. Again, I express my regrets not being able to be with her and the Governor when the event will be held in the rotunda of the State Capitol at 11 o'clock tomorrow. Burt we intend to have a news conference here in Washington simultaneously with her announcement there.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 2049

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SEC. 101. SHORT TITLE.

This Act may be cited as the "Abandoned Mine Reclamation Program Extension and Reform Act of 2004."

### SEC. 102. AMENDMENTS TO THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et. seq.) is amended as follows:

(1) Section 401(c) is amended by—

(A) striking paragraph (2);

(B) striking the word "and" after the first occurrence of the word "subsidence" in paragraph (1) and redesignating the portion of paragraph (1) following the deleted word as paragraph (2); and

(C) striking the phrase "section 402(g)(1) of this Act" in paragraph (2) and inserting in its place "section 402(g)(1) or section 403(b)(1) of this Act".

(2) Section 401(c)(5) is amended by inserting before the semicolon ", and other audit and collection activities under sections 402(d) and 414(b) of this Act".

(3) Section 401(c)(6) is amended by striking everything after "Department of the Interior" and inserting in its place "with public and private organizations conducted for the purposes of this title of this Act to such extent and in such amounts as are provided in appropriation acts;".

(4) Section 401(c)(10) is amended by striking "section 411" and inserting in its place "section 415".

(5) Section 401(c)(12) is amended by striking "section 402(h)" and inserting in its place "subsection (f) of this section".

(6) In section 401, subsections (d) and (e) are amended to read as follows:

"(d) AVAILABILITY OF MONEYS FROM FUND.—

"(1) IN GENERAL.—Moneys from the fund shall be available for the purposes of this title of this Act, or for distribution under paragraph (2) of this subsection, only when appropriated therefor. Such appropriations shall be made without fiscal year limitations.

"(2) DISPOSITION OF UNAPPROPRIATED STATE-SHARE BALANCE.—This paragraph applies to the portion of the fund that was allocated to States and Indian tribes under section 402(g)(1) of this Act and that was not appropriated as of the end of the fiscal year ending September 30, 2004.

"(A) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and Indian tribes that have been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation in annual payments beginning with fiscal year 2005 and ending with fiscal year 2014.

"(B) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and Indian tribes that have not been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation as grants awarded in accordance with sections 403(b) and 405(h) of this Act.

"(C) STATES AND INDIAN TRIBES CERTIFYING AFTER SEPTEMBER 30, 2004.—States and Indian tribes that are certified under section 411 of this Act after September 30, 2004, shall receive, subject to appropriation, the portion of their allocation under section 402(g)(1) of this Act that has not been previously disbursed to those States and tribes as grants under paragraph (2)(B) of this subsection. Disbursement shall be made in annual payments, beginning with the fiscal year following certification and ending with fiscal year 2014. These payments shall be made using funds appropriated for the purpose of making grants to States and Indian tribes under section 405(h).

"(D) NO EXPENDITURE RESTRICTION.—Monies disbursed under paragraphs (2)(A) and (C) of this subsection may be expended without regard to any other provision of this Act: *Provided*, That, whenever a certified State or Indian tribe becomes aware of a coal mining-related problem within its borders, the State or tribe must first use those monies to promptly address that problem if the site is eligible for reclamation under section 404 of this Act and if the problem meets one of the priorities in paragraphs (1) and (2) of section 403(a) of this Act.

"(3) REALLOCATION OF OTHER UNAPPROPRIATED BALANCES.—

"(A) RURAL ABANDONED MINE RECLAMATION PROGRAM.—That part of the fund allocated by section 402(g)(2) for the rural abandoned mine reclamation program under section 406 of this Act that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(B) FEDERAL SHARE.—That part of the fund allocated by section 402(g)(3) for use by the Secretary that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(C) HISTORIC PRODUCTION ALLOCATION.—That part of the fund allocated by section 402(g)(5) for historic production supplemental grants to States and Indian tribes that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

"(e) INTEREST.—The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his or her judgment, required to meet current withdrawals. The Secretary of the

Treasury shall invest such portion of the fund in public debt securities with maturities determined by the Secretary of the Interior and suitable for the needs of the fund and achieving the purposes of the transfers under subsection (f). Such securities shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.".

(7) In Section 401, insert a new subsection (f) as follows:

"(f) Transfers to Combined Benefit Fund.—

(1) Notwithstanding any other provision of law, at the beginning of each fiscal year, the Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund (referred to as the "Combined Fund" in this title of this Act), as established under section 9702 of the Internal Revenue Code of 1986 (26 U.S.C. 9702), an amount equal to the amount of expenditures that the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 (26 U.S.C. 9704(e)) for the fiscal year of the Combined Fund in which the transfer is made: *Provided*, That the amount transferred shall not exceed the amount available under paragraph (2) of this subsection.

"(2) In making the transfers, the Secretary shall first use the interest that has been earned by and paid to the fund during the preceding year, followed by any interest earned in prior years and not previously transferred.

"(3) If, for any fiscal year, the amount transferred is more or less than the actual expenditures for the unassigned beneficiaries premium account in that year, the Secretary shall appropriately adjust the amount transferred for the next fiscal year.".

(8) Section 402(a) is amended to read as follows:

"(a) Payment; Rate.—All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee according to the following schedule—

"(1) From October 1, 2004 through September 30, 2009—

"(A) 29.75 cents per ton of coal (except lignite) produced by surface mining;

"(B) 12.75 cents per ton of coal produced by underground mining; and

"(C) 8.5 cents per ton of lignite coal produced.

"(2) From October 1, 2009 through September 30, 2014—

"(A) 28 cents per ton of coal (except lignite) produced by surface mining;

"(B) 12 cents per ton of coal produced by underground mining; and

"(C) 8 cents per ton of lignite coal produced.

"(3) From October 1, 2014 through September 30, 2018—

"(A) 26.25 cents per ton of coal (except lignite) produced by surface mining;

"(B) 11.25 cents per ton of coal produced by underground mining; and

"(C) 7.5 cents per ton of lignite coal produced.

"(4) In lieu of the rates in paragraphs (1) through (3) above, the operator may pay a fee of 10 per cent of the value of the coal at the mine, as determined by the Secretary, for each ton of coal produced by surface or underground mining: *Provided*, That the alternate fee for lignite coal shall be 2 per cent of the value of the coal at the mine, as determined by the secretary.".

(9) Section 420(b) is amended by—

(A) striking "Such fee" and inserting in its place "Reclamation fees"; and

(B) striking "2004" and all that follows and inserting in its place "2018".

(10) Section 402(c) is amended to read as follows:

"(c) Submission of Quarterly Reports.—

(1) All operators of surface coal mining operations shall submit a report no later than thirty days after the end of each calendar quarter. The report shall include—

"(A) a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal;

"(B) an identification of the permittee and the operator of the surface coal mining operation, the owner of the coal, the preparation plant or tipple receiving the coal or the loading point for the coal, and the person purchasing the coal from the operator or permittee;

"(C) the number of their permit required under section 506 of this Act; and

"(D) the identification number issued by the Mine Safety and Health Administration for the operation.

"(2) Each quarterly report shall contain a notification of any changes in the information required by paragraph (1) of this subsection since the date of the preceding quarterly report.

"(3) The operator must certify, under penalty of perjury, that the information in each report is true, correct, and complete. Any person, corporate officer, agent or director who, on behalf of a coal mine operator, knowingly makes any false statement, representation or certification or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

"(4) The information contained in the quarterly reports submitted under this subsection shall be maintained by the Secretary in a computerized database.".

(11) Section 402(d) is amended by—

(A) striking the word "PENALTY" from the title and inserting in its place the word "AUDITS";

(B) striking paragraph (1);

(C) redesignating paragraph (2) as paragraph (1); and

(D) inserting paragraph (2) to read as follows:

"(2) The Secretary is authorized to audit compliance with the excise tax payment requirements of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121) when conducting audits under this subsection.".

(12) Section 402(f) is amended to read as follows:

"(f) Cooperation From Other Agencies.—All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary of the Interior believes that any person has not paid the full amount of the fee payable under section 402(a) of this Act or the excise tax payable under section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121), he or she shall notify the Federal agency responsible for enforcing the provisions of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121).".

(13) Section 402(g) is amended to read as follows—

(A) amending the title to read as follows:

"(g) Allocation of Fee Receipts and Other Monies Prior to September 30, 2004.".—

(B) striking "Except as provided in subsection (h)" in paragraph (g)(1) and inserting in its place "Except as otherwise provide din this Act";

(C) amending paragraphs (1)(A)(ii) and (1)(B)(ii) to read as follows:

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411). In the case of a State certified under section 411, eligible lands and waters shall be those which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and for which there is no continuing reclamation responsibility under State or other Federal laws.";

(D) striking "section 401(c)(2)" at the end of paragraph (2) and inserting in its place "for the purposes of section 406";

(E) striking everything in paragraph (4) after "subparagraph (A)" in subparagraph (B) and inserting in its place "if the requirements of section 404(b) are met.";

(F) striking paragraph (5) in its entirety and inserting in its place "This subsection applies only to fees and other monies payable to the fund as of September 30, 2004, and to monies appropriated from the fund as of that date. Sections 401(d) and 403(b) of this Act govern allocations and disbursements after that date.".

(G) striking paragraphs (6) through (8) in their entirety; and

(H) striking paragraph (h) in its entirety.

(14) Section 403 is amended by—

(A) amending the title to read "**FUND OBJECTIVES AND EXPENDITURES**.";

(B) Striking the phrase "except as provided for under section 411" in subsection (a) and inserting in its place "except as otherwise provided in this section, section 401(e), or section 411";

(C) striking the period at the end of subsection (a)(3) and inserting a semicolon in its place;

(D) amending subsection (b) to read as follows:

"(b) Allocation of Funds After September 30, 2004.—

"(1) Allocations to States and Tribes.—

"(A) At the beginning of each fiscal year, or as soon thereafter as practicable, the Secretary shall allocate the monies appropriated from the fund for that year for grants to States and Indian tribes under section 405(h) of this Act. An allocation shall be made to each State and tribe that is eligible to receive a payment under section 401(d)(2)(C) of this Act and to each State and tribe that—

"(i) has an approved abandoned mine reclamation program under section 405 of this Act that is not subject to the prohibition in paragraph (c) of that section;

"(ii) is not certified under section 411 of this Act; and

"(iii) has within its jurisdiction unreclaimed lands or waters that are eligible pursuant to section 404 and that meet one of the priorities stated in paragraphs (1) and (2) of subsection (a) of this section: *Provided*, That, when all States and Indian tribes have completed or provided for completion of reclamation of all lands and waters meeting the priorities in paragraphs (1) and (2) of subsection (a) of this section, this criterion will no longer apply.

"(B) In making these allocations, the Secretary shall use a formula based on historical coal production prior to August 3, 1977, in those States and tribes: *Provided*, That—

“(i) Donations received under section 401(b)(3) shall be allocated in accordance with any stipulations by the donor;

“(ii) No State or Indian tribe shall receive an allocation of less than $2,000,000 under this paragraph; and

“(iii) No State or Indian tribe shall receive an allocation of more than 25 percent of the total monies appropriated for grants under section 405(h); *Provided further*, That this restriction shall expire when fewer than eight States are eligible to receive an allocation under paragraph (1) of this subsection.

“(C) The amount dedicated by section 401(d)(2)(B) of this Act to each State or Indian tribe that is not certified under section 411 of this Act shall be reduced by the amount allocated to that State or tribe under this paragraph.

“(D) Amounts allocated to States and Indian tribes under this paragraph may be used to fund projects that protect, repair, replace, construct, or enhance facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. In making funding decisions on these projects, the State or tribe need not consider the priorities in subsection (a) of this section. If the adverse effect on water supplies occurred both prior to and after August 3, 1977 (or other applicable date under section 404), section 404 shall not be construed to prohibit a State or Indian tribe from using funds under this paragraph if the State or Indian tribe determines that such adverse effects occurred predominately prior to August 3, 1977 (or other applicable date under section 404).

“(2) FEDERAL EXPENDITURES.—To the extent authorized by annual appropriations, the Secretary may expend monies from the fund for any of the following purposes—

“(A) providing assistance to small operators under section 507(c) of this Act, either directly or through grants to the States, subject to the limitation contained in section 401(c)(11) of this Act;

“(B) conducting emergency reclamation activities and projects under section 507(c) of this Act, either directly or through grants to the States and Indian tribes;

“(C) meeting the objectives of the fund set forth in paragraph (a) of this section for eligible lands and waters pursuant to section 404 of this Act in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405 of this Act;

“(D) the administration of this title of this Act by the Secretary;

“(E) making supplemental grants to States and Indian tribes for the purposes of this title of this Act;

“(F) implementation of section 401(c)(6) of this Act; and

“(G) conducting other activities consistent with this title of this Act.”;

(E) in subsection (c), redesignating the first sentence as paragraph (1), the second and third sentences as paragraph (2), the fourth sentence as paragraph (3), and the last sentence as paragraph (4); and

(F) striking “section 411(a)” in paragraph (c)(1) and inserting in its place “section 411”.

(15) Section 404 is amended to read as follows:

### “SEC. 404. ELIGIBLE LANDS AND WATERS.

“(a) IN GENERAL.—

“(1) Lands and waters eligible for reclamation or drainage abatement expenditures under this title of this Act are those which were mined for coal, or which were affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. For other provisions relating to lands and waters eligible for such expenditures, see subsections (b) and (c) of this section and sections 402(g)(1), 403(b)(1), and 409 of this Act.

“(2) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title of this Act after the release of the bond or deposit for any such operation as provided under section 519 of this Act. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title of this Act may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement. If conditions warrant, the Secretary, State or Indian tribe shall immediately exercise the appropriate authority under section 410 of this Act.

“(b) INITIAL PROGRAM SITES AND BOND FORFEITURE SITES WITH INSOLVENT SURETIES.—

(1) Sites of surface coal mining operations conducted after August 3, 1977, and lands and waters affected by such operations are also eligible for reclamation or drainage abatement expenditures under this title of this Act if they were left in an inadequate reclamation status and if the Secretary or the State, with the concurrence of the Secretary, makes either of the following findings:

“(A) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or before the effective date of the State regulatory program approved by the Secretary pursuant to section 503 of this Act for the State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

“(B) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or before November 5, 1990, and that the surety for the mining operation became insolvent during that period, and, as of November 5, 1990, funds immediately available from proceedings relating to that insolvency, or from any financial guarantee or other source, are not sufficient to provide for adequate reclamation or abatement at the site.

“(2) All sites referred to in paragraph (1) within any State shall be reclaimed before the State or the Secretary may make the certification referred to in section 411 of this Act.

“(3) Amounts collected from assessment of civil penalties under section 518 of this Act are authorized to be appropriated for the purposes of this subsection.”.

(16) Section 405 is amended by—

(A) in subsection (d), striking “sections 402 and 410” and inserting in its place “sections 402, 414, and 415”;

(B) in subsection (f), striking paragraph (5) in its entirety and redesignating paragraphs (6) and (7) as paragraphs (5) and (6);

(C) in subsection (f)(6), striking the colon after “grant” and inserting “and” before “type”;

(D) in subsection (g), striking the colon after “include” and inserting “subsection (f) of” before “this section”; and

(E) amending subsection (h) to read as follows:

“(h) GRANT OF FUNDS.—

“(1) IN GENERAL.—Upon approval of the State Reclamation Plan under this section and of the surface coal mining regulatory program pursuant to section 503 of this Act, the Secretary shall grant, on an annual basis, funds to the State to implement the State reclamation program as approved by the Secretary.

“(2) APPLICATION PROCESSING DEADLINE.—Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State, the Secretary shall grant to that State any and all funds available for such purposes in the applicable appropriations act.

“(3) DISPOSITION OF UNEXPENDED FUNDS.—Except as provided in paragraph (5), any funds not expended within 3 years after the date of any grant award shall be available for reallocation or expenditure by the Secretary for any purpose under section 403(b) of this Act.

“(4) SOURCE OF FUNDS.—In awarding grants to States and Indian tribes that were not certified under section 411 as of September 30, 2004, the Secretary shall exhaust the funds dedicated to those States and tribes in section 401(d)(2)(B) before awarding any funding allocated to those States and tribes under section 403(b)(1).

“(5) STATE SET-ASIDE.—Any State with an abandoned mine reclamation program approved under subsection (d) may retain, without regard to the 3-year limitation referred to in paragraph (3), up to 10 percent of the total amount of the grants awarded annually to the State under paragraph (1), excluding grants made under the authority of section 403(b)(2), if those amounts are deposited into either—

“(A) a special trust fund established under State law that may earn interest and from which the State may make expenditures solely to achieve the priorities stated in section 403(a) after the State is no longer eligible to receive an allocation under section 403(b)(1) of this Act; or

“(B) an acid mine drainage abatement and treatment fund established under State law and from which the State may make expenditures solely for abatement of the causes of acid mine drainage and treatment of the effects of that drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices. Any interest earned by this fund shall be expended for the purposes of this paragraph. For purposes of this paragraph, the term “qualified hydrologic unit” means a hydrologic unit in which water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources and which contains lands and waters that—

“(i) meet the eligibility requirements of section 404 and at least one of the priorities in paragraphs (1), (2), and (3) of section 403(a); and

“(ii) either are or are proposed to be to be the subject of expenditures by the State from bond forfeiture proceeds under section 509 of this Act, or from other State sources, to abate or treat acid mine drainage.”

(17) Section 406 is amended by—

(A) striking the word “Soil” wherever it appears in subsection (h) and inserting in its place the words “Natural Resources”; and

(B) adding the following new subsection at the end:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the

Secretary of Agriculture, from the general fund of the Treasury, such sums as may be necessary to carry out the provisions of this section.".

(18) In section 408(a), the last sentence is amended by striking ", in accordance with this subsection, who owned the surface prior to May 2, 1977, and".

(19) Section 409 is amended—

(A) in the second sentence of subsection (a), by striking the second "the" before "governing body";

(B) in the last sentence of subsection (a), by striking "State regulatory authorities" and inserting in its place "States and Indian tribes";

(C) in subsection (b), by inserting "section 403(b)(1)" before "the provisions"; and

(D) in subsection (c)(3), by striking "which have made the certification referred to in section 411(a)" and inserting in its place "that have been certified under section 411 of this Act".

(20) Section 410 is amended by—

(A) inserting the title "**IN GENERAL**.—" at the beginning of subsection (a);

(B) inserting the title "**RIGHT OF ENTRY**.—" at the beginning of subsection (b);

(C) inserting a new subsection (c) to read as follows:

"(c) State Assumption of Emergency Reclamation Program.—The Secretary may propose, and, after opportunity for public comment, adopt, regulations to require that States assume responsibility for administering the emergency reclamation program under this section to remain eligible to receive grants under section 405(h) of this Act. The regulations must establish procedures for that assumption, including, at a minimum, a requirement that States revise their abandoned mine reclamation plans approved under section 405 of this Act to include provisions that—

"(1) authorize the State to make the findings required under subsection (a) of this section; and

"(2) enable the State to conduct emergency reclamation activities consistent with subsection (b) of this section.".

(21) Section 411 is amended to read as follows:

"Sec. 411. Certification of Completion of Coal Reclamation.

"(a) The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405, may certify to the Secretary that reclamation of all eligible lands and waters under section 404 with the priorities stated in paragraphs (1), (2), and (3) of section 403(a) has been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

"(b) The Secretary may make the certification referred to in subsection (a) on behalf of any State or Indian tribe if, on the basis of the inventory referred to in section 403(c), all reclamation projects relating to the priorities set forth in paragraphs (1), (2), and (3) of section 403(a) for eligible lands and waters under section 404 in such State or tribe have been completed. The Secretary shall only make such certification after notice in the Federal Register and opportunity for public comments.".

(22) Section 413(d) is amended by striking "(33 U.S.C.A. 1151, et seq. as amended)" and inserting in its place "(33 U.S.C. 1251 et seq.)".

(23) Section 413(e) is amended by striking the comma after the word "agencies".

(24) Section 414 is amended to read as follows:

"Sec. 414. Interagency Cooperation.

"(a) In General.—All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this title of this Act.

"(b) Excise Tax Collection.—Notwithstanding any provision of law to the contrary, the Secretary is authorized to collect the excise tax imposed by section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121). The Secretary of the Treasury shall enter into an agreement with the Secretary providing for reimbursement of any additional expenses that the Office incurs in connection with collecting this tax and conducting audits related thereto.".

(25) Section 415 is added to read as follows:

"Sec. 415. Remining Incentives.

"(a) Notwithstanding any other provisions of this Act to the contrary, the Secretary may propose, and, after opportunity for public comment, adopt, regulations that would prescribe conditions under which the fund may be used to promote remining of eligible lands under section 404 to leverage use of monies available from the fund to achieve more reclamation of those lands than would otherwise be likely to occur. Any such regulations shall specify that these incentives will apply only in situations in which the agency administering this title of this Act determines, with the concurrence of the regulatory authority under title V of this Act that the site is otherwise not likely to be remined and reclaimed under the applicable regulatory program.

"(b) Incentives that may be considered include, but are not limited to—

"(1) A rebate or waiver of the reclamation fee payments required under section 402(a) of this Act. The rebate or waiver shall be limited to operations that remove or reprocess abandoned coal mine waste or that remine sites meeting the priorities in paragraph (1) or (2) of section 403(a). The amount of the rebate or waiver shall be limited to the estimated cost of reclaiming those sites under this title of this Act.

"(2) Use of the fund to provide financial assurance for remining operations in lieu of all or part of the performance bond required under section 509 of this Act.".

(26) section 510 is amended by—

(A) inserting a sentence at the end of subsection (c) to read as follows: "In applying the prohibitions of this subsection after October 24, 1992, the regulatory authority shall not include any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making the application."; and

(B) striking subsection (e) in its entirety.

(27) Section 515(b)(22)(B) is amended to read as follows:

"(B) the areas of disposal are within either a bonded permit area or the boundaries of an abandoned mine land reclamation project approved under title IV of this Act, and all organic matter shall be removed immediately prior to spoil placement;".

(28) Section 701 is amended by—

(A) in paragraph (33), striking "section 510(e)" and inserting in its place "section 510(c)"; and

(B) amending paragraph (34) to read as follows:

"(34) the term "lands eligible for remining" means those lands eligible for expenditures under section 404 of this Act.".

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## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 296—RELATING TO SENATE ADJOURNMENTS AND RECESSES

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. Res. 296

*Resolved*, That the Presiding Office of the Senate may suspend any proceeding of the Senate, including a roll call vote or a quorum call, and declare a recess or adjournment of the Senate subject to existing authorities or subject to the call of the Chair, within the limits of article I, section 5, clause 4, of the Constitution, whenever the Presiding Officer has been notified of an imminent threat.

Sec. 2. When the Senate is out of session, the Majority and Minority Leaders, or their designees, may, acting jointly and within the limits of article I, section 5, clause 4, of the Constitution, modify any order for the time or place of the convening of the Senate when, in their opinion, such action is warranted by intervening circumstances.

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## AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on February 4, 2004, at 9:30 a.m., in the Carl Vinson Room of the Rayburn House Office Building, in open session to receive testimony on the Defense Authorization request for fiscal year 2005 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## APPOINTMENT OF COMMITTEE TO ESCORT HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

Mr. FRIST. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Jose Maria Aznar, President of the Government of Spain, into the House Chamber for the joint meeting tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER FOR COMMITTEE TO MEET

Mr. FRIST. Mr. President, I ask another unanimous consent for a committee to meet during tomorrow's session of the Senate. It has the approval of the majority and minority leaders.

I ask unanimous consent that this request be agreed to and that this request be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of Members, Chairman WARNER will hold this hearing tomorrow at 9:30 a.m., in the Rayburn House Office Building, in the Carl Vinson Room. Secretary Rumsfeld will be at the hearing and will provide testimony on the 2004 Defense authorization bill.

Again, this hearing will be in the Rayburn House Office Building at 9:30 tomorrow morning.

## ORDERS FOR WEDNESDAY, FEBRUARY 4, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Wednesday, February 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow at 11 a.m., the Senate and House will conduct a joint meeting to hear an address by President Aznar of Spain. We do ask Senators be in the Senate Chamber at 10:40 a.m. so Senators can proceed together to the Hall of the House of Representatives for that address.

At 1 p.m., the Senate will reconvene and resume consideration of S. 1072, the highways bill. Notwithstanding the recent events, it is still my intention to complete action on this bill before the February recess. Indeed, with the progress demonstrated today, I believe we can indeed accomplish just that.

I do inform my colleagues that rollcall votes should be anticipated during tomorrow's session as we begin the amendment process. I encourage Senators to come to the floor to offer and debate amendments. In addition to the highway bill amendments, the Senate may also consider any available judicial nominations tomorrow. We will alert all Members as these votes are scheduled.

With regard to the events that have occurred over the course of today, I do appreciate the patience of all of the Members with the restrictions we have had to put in place in terms of access to papers and access to their offices. First and foremost, our attention is on the staff and on the safety of the Senate family, the extended Senate family that begins with our own employees in our offices and then extends out through the Senate community and, indeed, beyond the immediate community here.

It has been a difficult day but, as I said earlier, it has given us an opportunity to really come together in some remarkable ways. I contrast it with a lot that we had to go through several years ago with anthrax, which was a very difficult time as well. It was a separate agent, but now another agent has been directed against this body. These agents are weapons that kill. People ask, is it terrorism? Was it a criminal act? To me, both of those demonstrate the intent to harm and to hurt. Both were acts of terror. The whole purpose is not just to physically harm but also to cause insecurity among people.

We have learned over the last several years the best way to alleviate and tone down that feeling of insecurity when dealing with unknown agents—agents that have never been used this way in the history of mankind, poisonous toxins or biological agents that for the most part we cannot really see you can see the powder, but you cannot touch it, and you know the weapons kill when they get into the immediate surroundings and are directed at individuals—is the pulling together and the sharing of information, with openness, holding press conferences, using the Blackberries, the computer and the telephone, the personal interaction. Put that together with good information and accurate information and things can work out in a smooth way, in a way that allays the great fears we all have when dealing with the new powerful agents, we are all more comfortable, more secure, we are all a little more relaxed.

This is very serious business. There is nothing more serious. We are talking about the health and safety and welfare of individuals and, through those individuals, their families. It extends not just on Capitol Hill but the feeling of insecurity around the country.

I keep coming back to the individuals and the families. I do want to share with everybody that the individuals in my office are doing fine. The people who happened to go through the office where this powder was discovered took appropriate procedures on behalf of my staff that went into effect immediately in the response by the police and HAZ-MAT personnel, with appropriate notification all the way up through late last night. I have been very pleased and very proud. They are all doing fine. We have had two conference calls today, one bright and early this morning. Many did not get home until 2 or 2:30 last night, after waiting, of course, for some of the latest results. We had a conference call with everyone early this morning before the Senate session and we just completed another one. We are providing access to medical personnel and physicians and trying to answer as many questions as we possibly can with them. I am mighty proud of them and things are looking fine.

It is remarkable also for me to see, having been involved in both of these attacks with toxins, chemical acts and bioterror agents, the real integration and the working together which people do not see. I share with my colleagues our thanks to the various staff members who, starting immediately yesterday and working through today, include the United States Capitol Hill Police—and they serve on both the Senate and the House side—who demonstrated excellent leadership. Their experience and the protocols immediately came together, working very closely with the response team and the Environmental Protection Agency.

We all asked questions. Yes, you saw a powder, but how far does it aerosolize? How far does it travel over the Capitol grounds? The EPA has been instrumental over the last day having prepared for this sort of event over the last several years.

The United States Marine Corps; a lot of people say, What do you mean? The United States Marine Corps has been very helpful in the process of getting things back up and running.

The Joint Terrorism Task Force is something we did not even think very much about 3 years ago. And that joint terrorism task force is now an organized group. They were prepared for this.

The Federal Bureau of Investigation has been working diligently over the last 24 hours with us and the Department of Homeland Security.

As a physician, of course, I usually start with recognizing the medical personnel. In all public events, we will have the Senate Capitol attending physician there. He, again, walked us through the anthrax threat. He has more experience than anybody in the world today in terms of a bioterrorist or chemical terrorist attack in an institution or society such as this, having gone through anthrax and now the ricin attack, and that is John Eisold who does a tremendous job. One of his physicians was with my staff constantly all last night from early in the evening until the early hours of the morning, sitting with my staff throughout, answering questions and reassuring them and appropriately advising them and counseling them.

The Sergeant at Arms, Bill Pickle, who was not here when we had the anthrax attack but who has been here over the course of the year, again, is doing a superb job. He and I have talked to each other at least every hour except for maybe two hours between 4 and 6 early this morning.

Secretary of the Senate Emily Reynolds' office right now serves as a central hotline point and control room in terms of coordination.

The list could go on and on. I mention all this because Senator DASCHLE and I have worked over the course of today and we are doing our very best in terms of the communication, getting accurate information out, and we are continuing to do just that over the next several days.

The Senate has not missed a beat. We have been in session, had a productive day. We are in session tomorrow, for another productive day. We will have a joint meeting of Congress to hear an address of the President of Spain, a wonderful friend to the United States of America, President Aznar.

Following that, as I mentioned earlier, we will come into session at 1 p.m. and votes will occur.

I mentioned we are moving one committee over to the House side; other committees will be meeting in the Capitol. I do ask that individual committee members check with their committee chairman for the location of individual hearings. We do have three Senate office buildings which are closed: the Hart building, Dirksen, and Russell. All three Senate office buildings will be closed throughout tomorrow. It is primarily to facilitate in the most time-efficient fashion the collection and removal of mail. That is the primary purpose. That is well underway as we speak.

With that, I believe I will bring this session to a close. We will be back working hard tomorrow and we will be staying in touch with everyone over the course of tonight.

Mr. REID. Mr. President, very briefly, I am the only former Capitol policeman here who is a Senator. I have such great respect for the work they do. When I was a Capitol policeman, I did not have near the responsibilities, not even close to what goes on now in this modern police force. We have what I think is, if not the best police force, one of the best. They are the ones who are really talking about first line responders; they are that.

The problem occurred with anthrax, or with this ricin; they are the first to go there. They do it with courage and determination. We see these men and women a lot of times standing at their duty stations and some people wonder what they do. Well, every day they are working—for lack of a better way to say it, as happened in the Capitol just a few years ago, they take bullets for us. They are well trained in any aspect of law enforcement, as well trained as anyone in the country.

I underscore the remarks of the majority leader. We are very proud of our Capitol police force.

## ADJOURNMENT UNTIL 1 P.M., WEDNESDAY, FEBRUARY 4, 2004

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:18 p.m., adjourned until Wednesday, February 4, 2004, at 1 p.m.

## NOMINATIONS

Executive nominations received by the Senate February 3, 2004:

### DEPARTMENT OF ENERGY

JERALD S. PAUL, OF FLORIDA, TO BE PRINCIPAL DEPUTY ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION. (NEW POSITION)

### DEPARTMENT OF STATE

CRAIG A. KELLY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

### DEPARTMENT OF JUSTICE

MATTHEW G. WHITAKER, OF IOWA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE STEVEN M. COLLOTON, RESIGNED.

# HOUSE OF REPRESENTATIVES—*Tuesday, February 3, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. RENZI).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*February 3, 2004.*

I hereby appoint the Honorable RICK RENZI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1879. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

The message also announced that pursuant to section 128, Public Law 108–132, the Chair, on behalf of the Majority Leader, appoints the following individual to the Commission on Review of Overseas Military Facility Structure of the United States—

Major General Lewis E. Curtis III USAF (Retired).

## MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. KELLER) for 5 minutes.

## SALUTE TO JOSE MELENDEZ-PEREZ

Mr. KELLER. Mr. Speaker, I rise today to salute one of my constituents, a man whose diligence in his job as a border agent may well have saved the lives of each and every one of us here in Congress.

Jose Melendez-Perez works at Orlando International Airport, the same airport that I fly in and out of every week, and in August of 2001, he stopped a man named al-Qahtani from entering the United States. As Mr. Melendez-Perez just told the 9/11 panel, al-Qahtani's story about why he was coming to America from Saudi Arabia just had too many holes in it.

In spite of bone-chilling stares and intimidating finger pointing, Mr. Melendez-Perez refused to back down. The FBI and the CIA now believe that al-Qahtani was supposed to be the 20th hijacker during the attacks of 9/11. He should have been on that plane headed towards Washington that crashed in a Pennsylvania field. But thanks to Jose Melendez-Perez of Orlando, he was not.

Every time he has been asked about his role in stopping the 20th hijacker, Mr. Melendez-Perez always says, "I was just doing my job." Well, Mr. Melendez-Perez, I say to you, "Job well done."

## THE GREAT PRETENDER

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Maryland (Mr. HOYER) is recognized during morning hour debates for 5 minutes.

Mr. HOYER. Mr. Speaker, when President Bush took office, he inherited the longest peacetime expansion of the American economy in history. He inherited 4 consecutive years of budget surpluses, the first time that had happened in over 80 years. And he inherited a projected 10-year budget surplus of $5.6 trillion.

In March of 2001, President Bush boldly promised the American people, and I quote, "We can proceed with tax relief without fear of budget deficits, even if the economy softens. Projections for the surplus in my budget are cautious and conservative." That is what the President said.

Well, Mr. Speaker, it should now be clear to the American people that the originator of the term "fuzzy math" has become its foremost practitioner. Any doubt about that was erased yesterday with the submission of the President's fiscal 2005 budget, a budget that threatens to plunge us into an economic abyss for years to come.

The President's failed economic policies, adopted by this House and Senate, are the equivalent of fiscal child abuse because they would force our children to pay our bills for decades to come and force our grandchildren to pay our bills for decades to come. His budget projects a record deficit this year. Fiscal conservatives hear me: $521 billion in deficits this year, $.5 trillion, this on the heels of last year's deficits of $375 billion. And next year the administration projects a deficit of $364 billion.

But even that figure is not accurate, and the President ought to know it and, in my opinion, does know it. It fails to include the cost of additional military operations in Iraq and Afghanistan. The Director of the Office of Management and Budget revealed yesterday that the administration may ask for another $50 billion for our war efforts. It failed to provide a long-term solution for the working class time bomb, the alternative minimum tax, and it failed to include the cost of initiatives such as the administration's ill-conceived Social Security privatization plan.

The fact is the President has no plan to dig our Nation out of the fiscal mess that his policies and the policies of this Congress have created. He pretends that he will halve the deficit by 2009, but almost all the deficit reduction in his budget is attributable to growth in the Social Security Trust Fund. I ask my Republican colleagues: Where have you hidden the Social Security lockbox?

Furthermore, the President pretends that reining in nondefense discretionary spending will return the budget to balance. The No Child Left Behind Act is still underfunded by $9 billion plus. The President would slash funding for the environment and from construction on our Nation's highways. His budget even cuts funding for veterans medical care and the Assistance to Firefighters Grant program.

My good friend, the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), has recognized the fallacy of trying to balance the budget by cutting discretionary spending. Yesterday, Chairman YOUNG said, and I quote, "No one should expect significant deficit reduction as a result of austere nondefense discretionary spending limits. The numbers simply do not add up. Nondefense discretionary represents less than 20 percent, some 18 percent of the Federal budget, and freezing this spending reduces the deficit by a marginal amount."

In fact, if we reduced and eliminated all of discretionary funding, all funding for this Congress, all funding for the executive department, all funding for NIH, all funding for CDC, all funding for CIA, all funding for FBI, and all

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

funding for all other nondefense discretionary spending, we would not balance the budget.

But never fear, while the President proposes draconian and unrealistic spending cuts, he continues to demand that the tax cuts of 2001 and 2003 be made permanent at a cost of $1 trillion over 10 years. Who is going to pay that? Our children and our grandchildren. Because this generation refuses to pay for what it is buying.

And here is the kicker: The President refuses to offer any explanation of how he plans to pay for them. None. Zero. Nada. Even some of our Republican friends are starting to flinch at this administration's fiscal recklessness. Hopefully, they will vote that way as well, it will not be just rhetorical. And some of them, by the way, do vote that way, and I respect them for that.

On Friday, and the majority leader is sitting here on the floor pretending to ignore my compelling remarks, on Friday, former majority leader Dick Armey was quoted in the Wall Street Journal as stating, and this is Dick Armey, the majority leader immediately preceding our present majority leader, and he said, "I'm sitting here and I'm upset about the deficit and I'm upset about spending. There's no way I can pin that on the Democrats. Republicans own the town now." That was Dick Armey, former Republican majority leader.

I implore every one of my colleagues to reject the President's budget out of hand and to face the fiscal train wreck bearing down on the American people with honesty and candor. Some do. Most do not. When it comes to masquerading as a fiscal conservative, the President deserves an academy award.

We do not have the luxury of pretending, my colleagues, any longer that his failed policies are working. Let us hope that all of us have the intellectual honesty and the courage to face this issue and come together. It will be tough. It will be wrenching in many respects. But it will be the right thing to do for our country. It will be the right thing to do for our children. It will be the right thing to do for America.

## THE BUDGET

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Mr. Speaker, we are heading into the legislative year and we are heading into a campaign year, as we just heard. Campaign rhetoric sometimes overshadows reality and truth. But the Republican majority will be guided by three principal themes this year: Ensuring our security, growing the economy, and defending the family. Everything we do this year in this House will get our Nation closer to one of those goals.

First, we will continue to fund the ongoing war on terror and provide our military service men and women with the tools, training, and resources that they need to protect all of us. We will continue to export democracy and freedom to every corner of the globe.

Second, we will continue our successful work here at home in growing the economy, creating jobs for the American people, and bringing fiscal responsibility to the government. We will make sure that the $1,000 child tax credit remains the law of the land, something the Democrats opposed. We will not let the marriage tax penalty come back, as it is scheduled to do at the end of this year, something the Democrats want to see the return of. We will fight to keep the 10 percent tax bracket where it is, so that working families can continue to enjoy more fruits of their labors, something that the Democrats do not want to see happen.

Members, it boggles my mind to notice that the Democrats have all of a sudden become deficit hawks. It is amazing to me. In the 40 years that the Democrats controlled this House, they never balanced the budget once. Not once. Deficits did not matter. Tax increases mattered. More spending mattered. They fought every tax relief bill every President brought before them. They wanted to spend more money. Not once did they balance the budget.

It took less than 4 years for a Republican majority in this House to get to a balanced budget, because we brought fiscal sanity to this House and to this government. So when they talk about the President's budget, what they are screaming about is they want more spending, and the President says no. What they are screaming about is they want to raise taxes, and the President says no. That is what they are screaming about.

And what would happen if they raised taxes on American families? They would kill the growth that has come because we gave tax relief. And if we kill the growth, revenues to the government go down. Then they will want to raise taxes some more; take more money to pay. We just heard the minority whip talk about paying this generation's debt. What he is talking about is raising taxes so that they can spend more. Republicans are interested in growing the economy, the Democrats are interested in growing the government.

Third, this House will protect American families as they struggle to do their all-important work raising their children, caring for their elders, and building their communities. We will pass the Laci and Conner law to protect unborn victims of violence.

We will work with the Senate to finish the reauthorization of the welfare system, to help families get off welfare and into stable and well-paying jobs.

We will make quality and affordable health care more accessible to all Americans regardless of their income level.

And, finally, we will protect the Medicare legislation passed last year from attempts to undermine the promise of guaranteed prescription drug coverage the Congress has made to our seniors.

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Mr. Speaker, as Members know, we are heading into this campaign year with a close election facing us in November. But as contentious as our debates probably will be, although we may have different agendas, our goals of peace and prosperity for the Nation are the same; and further remember that this America is best served when our differences bring out the best in ourselves, not the worst in each other.

## MEDICARE BILL LEAVES AMERICA'S ELDERLY OUT IN THE COLD

The SPEAKER pro tempore (Mr. RENZI). Pursuant to the order of the House of January 20, 2004, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, yesterday felt like Groundhog Day. America woke up, got more bad fiscal news from the Bush administration, and predicted years and years of growing Federal budget deficits.

We learned this weekend that the $400 billion Bush Medicare plan passed and signed in December was, in fact, going to cost $539 billion. Americans were surprised to learn that most of that first extra $139 billion, most of the first $100 billion will go straight into the pockets of the drug companies, the group that helped to write the prescription drug bill in the Oval Office. The other $39 billion is going to shore up the taxpayer-financed payoffs to encourage insurance company HMOs to provide Medicare coverage.

Well, that bad news was not much of a surprise for those of us who work regularly with the White House. President Bush, in the State of the Union, said the new Medicare measure kept a basic commitment to our seniors. The President in that bill may have fulfilled a commitment or two, but it was not to the Nation's elderly. Here are some of the key details the President forgot to tell us about: The estimated cost of the Medicare prescription drug bill over 10 years was $400 billion; the estimated increase in drug industry profits from the Medicare drug bill are $139 billion. The additional government payments to the insurance industry to participate in Medicare were originally tagged at $14 billion. There are 100 Members of the United States Senate, 435 Members of the United States House of Representatives. There are 675 Washington lobbyists working for the drug industry, and we see the influence they have on President Bush and my Republican friends on the other side of the aisle when we look at that bill.

The drug industry gave to Republicans in 2002, $21.7 million in political contributions. The average elderly American's drug cost is $2,400. The portion of that average American's drug cost covered by the new Medicare drug benefit is only 45 percent. The average profit margin of Fortune 500 firms in 2002 was 3 percent. The average profit margin of the top 10 drug companies before the Medicare bill was 17 percent. The increase in elderly Americans' Social Security checks last year, 2.6 percent. The average price increase in the 50 prescription drugs elderly Americans used most in 2002 was 6 percent.

Retirees with health insurance before Medicare was signed into law, 50 percent of retirees in this country had health insurance before Medicare was signed into law. Today about 97 percent of retirees in the United States have health insurance under Medicare. Medicare administrative costs are only 2 percent; average administrative costs for insurance company HMOs are 15 percent. The compensation package, including stock options for one chief executive officer of a Medicare HMO in 2002 was $529 million, even though in the last 4 years 2.5 million of America's seniors were dropped from HMO coverage. The insurance industry gave $25.9 million to House and Senate Republicans supporting President Bush last year.

Most telling, on March 1 the bill that President Bush signed, only 3 months after he signed it. The insurance companies, insurance HMOs in this country, will receive hundreds of millions of dollars from the U.S. Government come March 1. But the bill that President Bush signed to take care of America's elderly and their prescription drug coverage does not go into effect for 2 years. The insurance companies get their money 3 months after President Bush signed the bill. America's elderly do not get their drug coverage until 25 months after President Bush signed the bill.

It is clear that the President talked about his basic commitment to America's seniors when in fact the basic commitment of the Medicare prescription drug bill was to America's drug industry and America's insurance industry. Those are the groups that will do well under the prescription drug bill. America's elderly, by President Bush, will again be left out in the cold.

## DAVID KAY AND WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I am here to sort of elaborate on David Kay's comments dealing with weapons of mass destruction. He is a chief weapons of mass destruction hunter for the United States and he resigned recently, but he made some very interesting statements regarding Iraq's pursuit of the WMD and the possible deception of Iraqi scientists against Saddam Hussein regarding weapons programs. I think it is important to look at the totality of what David Kay said and not just what some of the political pundits have pulled out of his speech. He said that the CIA and other intelligence agencies did not realize that Iraq scientists had presented "ambitious but fanciful weapons programs to Saddam Hussein," and had them use the money that they were going to use for these things for other purposes.

At present, we have not found a huge stockpile of WMD. The search continues. However, we know a few facts. According to a recent New York Times story, Dr. Kay also reported "Iraq attempted to revise its efforts to develop nuclear weapons in 2000 and 2001, but never got as far towards making a bomb as Iran and Libya did." He also said "Baghdad was actively working to produce a biological weapon, using the poison ricin until the American invasion last March." We have all become familiar with this toxin given recent events in the news because of what happened at the Senate office building yesterday.

Many of this administration's detractors have begun using Kay's statements to bolster their particular points of view regarding weapons of mass destruction and Iraq. But let us not forget that the Clinton administration also declared Iraq had WMD and was actively pursuing those types of programs. Dr. Kay's information then supports the assertion of the Clinton administration that Saddam Hussein was pursuing weapons of mass destruction programs.

Saddam Hussein made it clear that he wanted to see the State of Israel and the United States destroyed. He saw himself as a lion standing up to the powerful United States. Although he could not directly attack the United States, it is not unreasonable to conclude that he would transfer weapons of mass destruction, the technology, the weapons themselves and items to a terrorist organization, or to any other rogue nation, to use in a direct attack on our soil; and that is why the President's proposal to look at all of the intelligence activities dealing with weapons of mass destruction, not just in Iraq, but also in other rogue nations, is very important and he is to be commended.

Dr. Kay said the CIA and other agencies failed to recognize that Iraq had all but abandoned its efforts to produce large quantities of chemical or biological weapons after the first Persian Gulf War in 1991. He also stated that contrary to certain allegations, he was convinced that the analysts were not pressed by the Bush administration to make certain their prewar intelligence reports conformed to a White House agenda on Iraq.

The allegations that our intelligence agencies failed to detect the supposed deception within the Iraqi Government and its weapons programs goes to the heart of our problem that many of our colleagues have talked about over the years regarding our intelligence ability. We are far too short of human intelligence, the exact kind of intelligence that can provide what is going on in the minds of our adversaries. CIA does not have people on the inside, to the best of our knowledge. Satellite coverage is great, electronic signals and intercepts are vital, but without human assets on the ground, these intelligence items can project an incomplete picture. They cannot tell what the officials are thinking and what the mood is on the street, or alert analysts to the possibility of deceptive tactics within a particular government.

As a Nation, we must continuously learn from our success and failures. I support President Bush's national security policy and his decision to seek a separate intelligence inquiry. Our credibility is vital if we are to bring more Nations into this fight against terrorism, but we must look at David Kay's statements in their totality.

Mr. Speaker, I commend President Bush for seeking this commission.

## MARCUS DIXON DOES NOT BELONG IN PRISON

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Mr. Speaker, today when regrettably when almost half of high school students report having had sexual intercourse, I want Members to consider the following: How would a court likely react when an 18-year-old star high school athlete, a student from a very disadvantaged background, manages a 3.9 average, 1200 on his SATs, full scholarship from Vanderbilt, is accused by a female acquaintance of rape after having sex with a girl less than 3 years younger. Now color the boy black and the girl white, and Members may not be surprised that Marcus Dixon received 10 years for this teen sex violation.

To the credit of the State of Georgia, the State amended its law almost 10 years ago to deal with sex between teens and made statutory rape a misdemeanor. The prosecutor, however, wanted a conviction very badly here because he piled on six different charges, most of them involving forcible rape, and an additional charge of aggravated child molestation which is reserved for very heinous crimes.

The jury had to contend with two very different versions. He said that she suggested please, let us not go to my house, my father is a racist and he has beaten me for less. She said she was a virgin and he raped her on a table. The jury apparently believed this was one more example of consensual teen sex by virtue of the fact that they convicted only for the misdemeanor rape charge. However, they left the aggregated child molestation charge because of testimony that she was a virgin, therefore bled, therefore had been injured; and he, therefore, was guilty of child molestation causing injury. For that injury, literally millions of teenage boys would be in jail as I speak.

That is where Marcus Dixon is, but many on the jury are dumbfounded because they believed that Marcus would walk out of court with a misdemeanor statutory rape conviction with the white couple who adopted him from his crack-addicted mother. The case is on appeal.

Male black, female white, harsh sentence, sound familiar? Consider if the girl had been black and the boy white, can Members imagine a 10-year sentence? Suppose both had been of the same race, can Members imagine a 10-year sentence?

The villain here is not only an overzealous prosecutor who treats teen sex as a sexual predator case and disregards Marcus' achievement in overcoming the kind of severe deprivation most of us have never had.

The villain also is mandatory minimums. For minor drug offenses, we have put a generation of young black men in jail and left the black community with 70 percent of its children with no fathers and destroyed the black family. Let us be clear: We must do much more to teach our children to abstain from sex, but it is also time to teach prosecutors fairness and equal application of the law and to teach ourselves the injustice of mandatory minimums.

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## IN SUPPORT OF ISRAEL'S SECURITY FENCE

The SPEAKER pro tempore (Mr. RENZI). Pursuant to the order of the House of January 20, 2004, the gentleman from Iowa (Mr. KING) is recognized during morning hour debates for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I rise today in support of Israel's security fence. Next month the International Court of Justice (ICJ) at the Hague is scheduled to hold hearings on the international legality of Israel's security fence and it is my hope that the court will rule Israel's security fence a necessary measure to protect their people from the people who believe that their way to salvation is by killing Jewish women and children.

The construction of the temporary and defensive barrier is a legitimate means of protection and the lawfulness or appropriateness of this measure is not the issue. At issue is simply the question of whether complex and contentious issues can and should be placed before the International Court of Justice. The United Nations should not be imposing their politics on the sovereign nation of Israel.

The ICJ has been acting in an anti-Semitic, anti-capitalistic and anti-self-defensive manner. The court does not mention the fact that Israel is building the security fence to protect Israelis from over 20,000 attacks and that they have the right of self-defense and the attacks are the result of the Palestinian leadership's failure to take measures to prevent terrorism. Furthermore, the Palestinian government glorifies homicide bombers as martyrs and Yasser Arafat, the agent of terror, is still calling the shots and is a clear obstacle to President Bush's road map to peace.

Congress must send a powerful and clear signal to the U.N. and to the Palestinian Authority that the United States will not allow either to compromise the freedom and safety of the Jewish people.

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## U.S. FUNDING CUTS MEAN GREATER HUNGER, ILLITERACY AND POVERTY FOR CHILDREN AROUND THE WORLD

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized during morning hour debates for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, yesterday the President released his fiscal year 2005 budget proposal. Over the next few days there will be many speeches and analyses of his funding proposals. I would like to describe how previous budget cuts have affected just one program that both reduces hunger among children around the world and gets these kids into school. The George McGovern-Robert Dole International Food for Education Program began in 2001 with a $300 million pilot program. Using American surplus commodities, organizations such as Catholic Relief Services, Save the Children and Mercy Corps and the U.N. World Food Program carried out school feeding programs in over 40 countries. Seven million children received at least one nutritious meal every day in a school setting through this program.

Last year, USDA evaluated these programs and found them to be very effective in reducing hunger and dropout rates among many of the world's most vulnerable children. Enrollment, attendance and academic performance increased, especially among girls. In short, providing food for education gave poor children, including girls, a new future. Unfortunately, since 2002, when Congress made this initiative permanent, McGovern-Dole has suffered significant funding cuts. In fiscal year 2003, President Bush only asked for and received $100 million. And now in fiscal year 2004, the program will receive only $50 million.

What does it mean for a program like McGovern-Dole to go from $300 million to $100 million? It means literally that food was taken away from nearly 5 million hungry children and many of their families were forced to take them out of school. In Nicaragua, 339,000 preschool and primary school children benefiting from McGovern-Dole were cut off from this food source. In El Salvador, another 45,000 children stopped receiving food at school. In Honduras, anemia among children benefiting from McGovern-Dole was reduced by 50 percent. Sadly, 167,000 of those children have now been cut off from the program. In Peru, 70,000 children living in areas of high chronic malnutrition no longer receive meals or snacks in school. In Colombia, where we routinely send hundreds of millions of dollars each year in military and security aid, we ended McGovern-Dole funding, forcing USAID to pick up the costs and stopping a planned expansion of the program to 165,000 more children.

In 2003, I visited one of the McGovern-Dole programs in Colombia. I was told by mothers, fathers, grandmothers and community leaders how the school and the meals were the one stable reality in these children's uncertain lives, and often the only food these children receive. And I was told time and again how these kids often leave home and join one of the guerilla or paramilitary groups simply because these groups can provide them a daily meal.

So, thanks to our funding cuts, we are robbing money from USAID development programs to pick up the costs originally covered under McGovern-Dole. Does this make sense to anyone? School feeding programs in Chad and Kenya were also especially hard hit by the McGovern-Dole cutbacks, and 125,000 children in Congo and 35,000 in Eritrea also lost their funding. In Vietnam, the McGovern-Dole program administered by Land O'Lakes that provided meals to over 700,000 children was eliminated. A similar program in Bangladesh reaching 350,000 children has just run out of funds. Mr. Speaker, the list goes on and on and on.

Eliminating these programs also means that food produced by our hard-working farmers no longer finds its way to hungry school children around the world. Mr. Speaker, the McGovern-Dole program deserves to have its funding restored, not just because these programs work, not just because they help our farmers, not just because they reduce hunger among the world's most desperate children, not just because they get poor families to send and keep their children in school but because these programs, I believe, are central to our struggle to defeat terrorism.

For fiscal year 2005, President Bush has proposed $75 million for McGovern-Dole, a modest increase from last year's devastating cutback to $50 million. I am glad to see the number going back up, but it is simply not enough. I would call upon my colleagues and the Bush administration to find a way to bring the funding levels for McGovern-Dole back to $300 million.

## IN MEMORY OF CHRIS DUFFY, INDIANA BROADCASTING LEGEND

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, this week the State of Indiana said farewell to a memorable Hoosier and a dear friend, Chris Duffy, a man whose impact on Indiana broadcasting in the 20th century can scarcely be overstated but whose impact on the lives of thousands of Hoosiers, myself included, was greater still.

Chris Duffy was born in 1936 to George Christopher Duffy, who was himself a legendary band leader back in the days when traveling band leaders were the equivalent of rock stars today. Chris was born to a promoter and he was himself a born promoter. He came by it honestly.

Long before arriving in Indianapolis where he would run or build three out of the five television stations in that city, Chris Duffy cut his teeth on the first successfully syndicated daytime television show in history, the Mike Douglas Show. Young Chris Duffy was a producer for the Mike Douglas Show and his energy and comic timing led not only to the show's success off the air but resulted in Mike Douglas actually routinely pulling a young Chris Duffy on-stage and turning him and his antics into a regular that contributed to that show and still contributes to quality daytime television today.

From the time Chris Duffy moved to Indianapolis in 1975 to his retirement a few years back, he was not so much a business leader as a force of nature. He transformed Channel 13 into an NBC affiliate and turned it into one of the premier local news stations in America. He built Channel 59 Television with several local leaders and then went on to build another independent UPN station. During a time when local broadcasting was thought a thing of the past, Chris Duffy made an investment in high school athletics as the leader of WNDY Television like no other.

His accomplishments, though, in people far outweigh his Indiana Broadcasting Hall of Fame career. Chris Duffy was all about his people. Whether it was recognizing that a young FM radio man named Tom Cochran who could someday reach the highest levels of recognition in local news or even recognizing that a young political has-been could achieve success in talk radio and someday in politics, Chris Duffy loved to bring out people's potential. He did it with toughness, straight talk and a heart that made you want to be better, better even than you ever thought you could be.

Chris Duffy was a devoted American. At the time of his retirement from the Marine Corps Reserve, he put in more than 20 years of distinguished service for his country in uniform and his courage was not just in uniform. While leading the NBC affiliate in Indianapolis in the early eighties, he broadcast a documentary of the Ku Klux Klan that drew death threats before it aired but Chris went ahead undeterred. Chris Duffy believed in America and in the highest ideals of the American people.

And Chris Duffy was about family. His 41-year marriage to Bobbi and his total devotion to Maureen, Karen, Susan and Chris pervaded everything he did. It was impossible to talk to Chris for any length of time and not eventually hear about Bobbi's opinion or some progress in his children's careers.

I last saw Chris Duffy over breakfast this last December. In his usual style he put the bad news up-front. He told me he had cancer and that it did not look good. But he also told me, MIKE, I'm not the least bit worried, and he reflected on his life, his family and his profound faith in God. He thought he had more time. When the Lord called him home last week, like so many other lives that he touched, I felt sorrow in my heart at the loss of a friend but not at the loss of a life. Chris Duffy lived a life and then some. Chris Duffy died, as he told me, rich in family, friends and accomplishments that any 10 men would envy. I have no complaints, he said, I'm not mad at God or anything like that, and he meant it.

Chris Duffy will be missed. He was for so many of us, as his father must have been before him, the leader of the band who believed that behind every instrument was a performer who still does not know how good he could really be. Thank you, Chris, and God bless you.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 11 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMMONS) at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, Creator of the heavens and earth, be attentive to the prayers of the Members of the House of Representatives today.

By Your Provident Care answer the needs of this Nation, that we may enjoy prosperity and peace. Shed light upon the conscience of all, that Your holy will may be accomplished in and through Your people.

Inspire those who serve in leadership positions of government, religion, business, and in families, that the least in our midst be protected and the common good of all may be sought and brought to fruition, both now in our day and always. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. FEENEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FEENEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PRESIDENT'S SIGNATURE ON OMNIBUS BILL MEANS VICTORY FOR AMISH COMMUNITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last Friday, the President signed the omnibus bill into law. H.R. 1943, the Amish Labor bill, a bill I have pushed since I came to this body, was part of that package.

The bill keeps in place common sense safety rules, but allows Amish teenagers to learn a trade after they complete their formal schooling, which is equivalent to the eighth grade, in an apprenticeship program. This is the way they learn to make a living.

After years of trying to win this protection for the Amish community to preserve their way of life, we have finally done it. The President's signature on this bill is a victory for the Amish, for religious liberty, and for diversity in America.

Centuries ago, these people came to America to escape persecution, to worship and live freely, and their life and customs have remained mostly intact since they arrived. They do not ask for Social Security or unemployment or anything from the government; they just want to be left alone to raise their children and make a living. Over the years we have stood up for groups like the Amish when the law has threatened their well-being and survival.

I applaud the Senate for approving the bill, I thank the President for signing it into law, and I thank all of my colleagues who helped us get this into law.

## NEW BILL TRANSFORMS SYSTEM OF TAXATION

(Mr. FATTAH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FATTAH. Mr. Speaker, I give notice to the House today that I have offered a piece of legislation that would have the Department of the Treasury analyze a proposal to transform our system of taxation and to move us away from this very complicated, burdensome form of taxation that now raises the revenues necessary for governmental purposes, to a transaction fee in which we would utilize the great power of our economy to tap into economic resources in a way in which we could transform our country, respond to the needs of all of our people in a responsible way, but to do it without the necessity to pry into the private lives of our citizens or to audit their financial behavior.

This proposal as we present it would have the Treasury prepare a study of this idea. It is offered after a great deal of research and effort. We hope that it will find in the workings of the House the kind of urgency that should be there, given our failure to respond to this problem in any real way for a very, very long time. It is the 90th birthday of the income tax in our country. It started at 2 pages, it is now tens of thousands of pages. Today we can begin not just to curse the darkness but, as has been said, light a candle.

## HONORING THE HANNA BROTHERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I received an inspiring letter from Jim Miles of Columbia, South Carolina, describing the valor of his grandfather, James Hanna and his five granduncles. Incredibly, these six coal-mining brothers from West Virginia served at the same time in World War II.

Roy Hanna, U.S. Army, 10th Mountain Division, fought in Italy and Germany, receiving two bronze stars. Fred Hanna, U.S. Army, 1st Armored Division, was captured at Tunisia and then lost 90 pounds through torture and imprisonment, until he was liberated by British troops. Bert Hanna, U.S. Army, Armored Division, fought at Okinawa. Carl Hanna, U.S. Army Air Corps, 9th Air Force, fought in Europe as part of the anti-aircraft battalion. John Hanna, U.S. Army Air Corps, 8th Air Force, fought in Germany. James Hanna, U.S. Marines, 6th Marine Division, fought in Okinawa as part of a mortar crew, but was quickly recruited as a sniper when battle commenced.

The Hanna brothers returned to Fort Jackson in South Carolina after the war, and John and James stayed to start their families in the Palmetto State. Even though all six brothers have passed away, their service will always be remembered as an enduring symbol of patriotism and duty. I ask my colleagues to join me in honoring the Hanna brothers for their brave service.

In conclusion, God bless our troops. We will never forget September 11.

## HONORING THE FIRST ANNIVERSARY OF THE LOSS OF "COLUMBIA"

(Mr. FEENEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEENEY. Mr. Speaker, today we will pass a resolution honoring the great members of the *Columbia* crew and their sacrifice. As Lincoln reminded us at Gettysburg, such tributes are altogether fitting and proper. But also, as he observed, we can never fully consecrate times and places of sacrifice. That task is ultimately done by those making the sacrifice. Rather, we, the living, are tasked with taking increased devotion to the unfinished business for which the last full measure of devotion was given.

Both NASA and the President have demonstrated such increased devotion. The NASA team entered the crucible of self-examination and emerged with strengthened resolve and will. The President has charted a course for a reinvigorated human space program, breaking out of low earth orbit, returning to the moon, and then exploring our solar system.

I hope this House responds in kind. This resolution reassures the loved ones of the *Columbia*'s crew that last year's loss will strengthen this Nation's resolve to continue the journey of discovery in space. In the weeks ahead, let us carry out this pledge of increased devotion.

## COMMEMORATING "COLUMBIA" CREW, HOSTING THE SUPER BOWL, AND SEEKING THE TRUTH REGARDING INTELLIGENCE-GATHERING

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I will look forward to joining my colleague, the gentleman from Texas (Mr. BURGESS) on the floor of the House, to celebrate and commemorate the heroic lives of the seven *Columbia* astronauts, our friends and neighbors.

Today I would like to cite two disparately different perspectives on some issues that I think are important. First, let me take personal pride in congratulating all of the law enforcement, community leaders, civic leaders, our past mayor, and our present mayor Bill White, for what has been touted beyond other issues as the best played Super Bowl in the NFL's history, and to congratulate Houstonians for being the most welcoming city that I think the Super Bowl has experienced over the last years of its history.

We are proud of what we did. We are proud of the family-oriented entertainment that we offered, and we look forward to extending an invitation back to all of you in years to come. Might I congratulate Bob McNair and all of the civic leaders for what they have done.

Let me conclude, Mr. Speaker, by saying I will continue my representation of important issues as I discuss the need for congressional hearings on seeking the truth about the vulnerability or nonvulnerability of our intelligence-gathering.

## WELCOME TO THE ORANGE MEADOWBRITE

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, the Chicago Botanic Garden is a renowned scientific research facility located in my congressional district and they have made a number of major breakthroughs at their headquarters.

Following a 7-year effort, our Garden developed a new flower called the "Orange Meadowbrite." It is the first orange-blooming coneflower ever produced in cultivation.

The new Orange Meadowbrite will have benefits far beyond the aesthetic. The "green sector" of the Illinois economy employs more people than the traditional agricultural commodities sector. Horticulture employs over 150,000 people with an annual payroll exceeding $1.7 billion. With the fair market value of all assets directly associated with horticulture at over $2.9 billion, the development of this new flower will benefit many Illinois families.

We want to especially congratulate Dr. Jim Ault, Director of Ornamental Plant Research at the Garden. He is the father of the Orange Meadowbrite whose scientific name is Echinacea, "Arts Pride," in honor of Art Nolan, Jr., a long-time benefactor of the Garden's research program.

We here in the Congress want to honor Chicagoland Grows, the Chicago Botanic Garden, and especially Dr. Ault for adding a new and beautiful flower to America's garden.

## HAPPY BIRTHDAY, PRESIDENT REAGAN

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, today Congress will adopt a resolution recognizing the 93rd birthday of President Ronald Reagan. It will take place this coming Friday.

As we in Congress today face difficult choices ahead in crafting a Federal budget, I think we would do well to reflect on the wisdom of the 40th President of the United States who, in October of 1964, said, "There can be no security anywhere in the Free World if there is no fiscal and economic stability in the United States." He said, "Government is not the solution to our problem; government is the problem. And that "the size of the Federal Government is not an appropriate barometer of social conscience or charitable concern."

But he also said in January 1981 in his first inaugural address, "It is not my intention to do away with government. It is rather to make it work; work with us, not over us; stand by our side, not ride our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it. A healthy economy built on a vision of limited government."

Happy birthday, President Reagan. May Congress honor your memory by honoring the principles of limited government in our day that you so tirelessly advanced in yours.

## COMMISSIONER TAGLIABUE MAKES BAD CHOICE IN CHOOSING MTV FOR SUPER BOWL HALFTIME SHOW

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I know many of my constituents will be very pleased with this resolution coming before the House today regarding the *Columbia* disaster, but this issue has not been the one that my phones have been ringing about. I have heard from many of my constituents who are outraged over the offenses that they were exposed to in the NFL halftime show and many of the commercials.

The NFL has promoted football, and the Super Bowl in particular, as a time for families to gather around the television once a year to see the NFL's best and, indeed, I was doing that myself. I had my 5-year-old son and my teenage daughter. Rather than being one of the NFL's finest hours, it was one of their most offensive.

NFL Commissioner Paul Tagliabue issued a statement following the game calling the halftime show offensive, inappropriate, and embarrassing to the NFL.

Commissioner Tagliabue, when you hired one of the most offensive networks, MTV, to do the halftime show, what did you expect? MTV does not produce programming for family audiences. Indeed, my wife and I recognized that the halftime show was going to be offensive, and we changed the channel for 30 minutes.

Commissioner Tagliabue, wake up.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, February 2, 2004.*

Hon. J. DENNIS HASTERT,  
*Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on February 2, 2004 at 2:05 p.m. and said to contain a message from the President whereby he submits the Budget of the United States Government for Fiscal Year 2005.

With best wishes, I am  
Sincerely,

JEFF TRANDAHL,  
*Clerk of the House.*

## BUDGET OF THE UNITED STATES FOR FISCAL YEAR 2005—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–146)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

### THE BUDGET MESSAGE OF THE PRESIDENT

The Budget I am proposing for 2005 is a reflection of this Nation's goals and purpose, and advances our three highest priorities. First, America will prevail in the War on Terror by defeating terrorists and their supporters. Second, we will continue to strengthen our homeland defenses. Third, this Nation is building on the economic recovery that began in earnest in 2003 with policies that further promote growth and job creation. In addition, we will continue to strengthen the domestic institutions that best express our values, and serve the basic needs of all: good schools, quality and affordable health care, and programs that promote hope and compassion in our communities. In meeting these priorities, the Government must exercise fiscal responsibility by limiting spending growth, focusing on the results of Government programs, and cutting wasteful spending.

In 2003, America made great progress in the War on Terror. Afghanistan, which once was ruled by the repressive Taliban regime, now has adopted a new constitution, taking a fundamental step on the path to democracy. In Iraq, the remnants of the Ba'athist regime are being systematically rounded up, and Iraqis are assuming responsibility for their own security and future government. Libya has pledged to disclose and dismantle all of the regime's weapons of mass destruction programs.

These victories do not change a fundamental truth: Our Nation remains at war. In this war, which began on September 11, 2001, our citizens are the strategic targets of our enemy. We have responded in two significant ways: First, we have taken the offensive to hunt down the terrorists, deny them easy refuge, identify and seize their secret finances, and hold them and their sponsors to account. Second, we have moved to secure the Nation's homeland. In 2003, the new Department of Homeland Security began operations in the biggest reorganization of the Federal Government in a half a century. Over this past year, we have taken steps to reduce the terrorist threat to Americans here at home, and protect American interests overseas. This Nation has committed itself to the long war against terror. And we will see that war to its inevitable conclusion: the destruction of the terrorists.

Our Budget reflects the continuing importance of providing for the defense and security of the American people. We will continue to provide whatever it takes to defend our country by fully supporting our military, which is performing with great skill and honor in our battles overseas. We also are providing the necessary resources to our law enforcement and emergency personnel at home to meet the new threats posed by terrorists.

Just as we have taken much-needed steps to strengthen our national security, we have also pursued an aggressive agenda to promote our economic security. In 2003, we worked with the Congress to accelerate much of the tax relief that had been passed in 2001, so that Americans could keep more of their paychecks and so that businesses would have more incentive to invest in new jobs and new equipment. As a result, our economy is strong, and growing stronger. Economic output in the third quarter rose at its fastest annual pace in nearly 20 years. More manufacturers reported rising factory activity than at any point in the last 20 years. American homeownership reached its highest level ever. Employment is on the rise. By cutting tax rates on investment gains and dividend payments, we promoted saving, capital formation, and investment—and Americans' holdings in the stock market rose by almost $3 trillion.

There is still more to do, however. We cannot be satisfied until every American looking for work has found a job. We must sustain the momentum of this recovery by making the tax relief passed in 2001 and 2003 permanent. We will continue to open markets abroad for American products. And as the economy improves, we will also confront the challenge faced by workers who must learn new skills to fill new jobs. As a Nation, we must help Americans develop the skills they need to succeed in a highly competitive, highly productive economy. And so this Budget continues to support high standards in our schools and proposes a Jobs for the 21st Century initiative to ensure older students and adults can gain the skills they need to find work now.

Economic growth and good stewardship of taxpayer dollars will help us meet another important priority: cutting the budget deficit brought on by recession and war. We must continue to evaluate each Federal program, to make sure that it meet its goals, and produces and desired results. I proposed to hold discretionary spending growth below four percent, less than the average rate of growth of American family incomes. And spending unrelated to defense and homeland security will be held below one percent growth—less than the rate of inflation—while continuing to meet education, health care, and other priorities of this Nation. With this spending restraint and continued pro-growth economic policies, we can cut the deficit in half over the next five years.

Finally, this Budget addresses the needs of a great and compassionate Nation, whose values are strong, and whose institutions of hope are enduring. We are helping communities of faith pull the addicted out of dependency. We are lifting children out of a life of despair by making sure they have mentors, and we will continue to press for improvements in our schools, so that no child is left behind. We are extending hope and healing to millions suffering from the global epidemic of AIDS. We will begin to implement of the benefits of our Medicare modernization and reform law, which will bring all our seniors coverage for prescription drugs. And we will make health care more affordable and extend the full benefits of our health care system to more Americans who currently have no health insurance.

Meeting these priorities will require hard work, skill, and the resources of a great Nation. Yet America has always risen to new challenges, and has always set new goals. Challenge and change have revealed the true strengths of this Nation and the enterprise of its people. And as 2004 begins, I am confident those gifts will serve us again, until our work is done.

GEORGE W. BUSH.
*February 2, 2004.*

☐ 1415

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Such record votes, if postponed, will be taken after 6:30 p.m. today.

## EXPRESSING SORROW ON THE ANNIVERSARY OF THE SPACE SHUTTLE "COLUMBIA" ACCIDENT

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 507), expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the crew of the Space Shuttle *Columbia* their lives, and extending heartfelt sympathy to their families.

The Clerk read as follows:

H. RES. 507

Whereas February 1, 2004, marks the one year anniversary of the accident that claimed the Space Shuttle Columbia and the lives of seven heroic astronauts that made up its crew;

Whereas, while in orbit, Columbia's experienced crew conducted important microgravity research into the life sciences, physical sciences, and space and earth sciences, in addition to promoting education initiatives;

Whereas the Columbia experienced a structural failure that resulted in its destruction over the States of Texas and Louisiana as it approached to land on February 1, 2003;

Whereas the seven crew members of STS-107, Rick D. Husband (Commander), William C. McCool (Pilot), Michael P. Anderson (Payload Commander), Kalpana Chawla (Mission Specialist), David M. Brown (Mission Specialist), Laurel B. Clark (Mission Specialist), and Ilan Ramon (Payload Specialist) exhibited unparalleled bravery and commitment to the goal of exploring space and advancing mankind's search for knowledge in the cosmos;

Whereas Rick Husband, 45, was a Colonel in the United States Air Force, a test pilot, and a veteran of STS–96, and held degrees from Texas Tech University and California State University, Fresno;

Whereas William C. McCool, 41, was a Commander in the United States Navy and test pilot, and held degrees from the United States Naval Academy and the University of Maryland;

Whereas Michael P. Anderson, 43, was a Lieutenant Colonel in the United States Air Force, a former pilot instructor and tactical officer, and a veteran of STS–89, and held degrees from the University of Washington and Creighton University;

Whereas Kalpana Chawla, 41, was an aerospace engineer, a Federal Aviation Administration Certified Flight Instructor, and a veteran of STS–87, and held degrees from Punjab Engineering College (India), the University of Texas at Arlington, and the University of Colorado, Boulder;

Whereas David M. Brown, 46, was a Captain in the United States Navy, a naval aviator, and a naval flight surgeon, and held degrees from the College of William and Mary and Eastern Virginia Medical School;

Whereas Laurel B. Clark, 41, was a Commander in the United States Navy and naval flight surgeon, and held degrees from the University of Wisconsin, Madison;

Whereas Ilan Ramon, 48, was a Colonel in the Israeli Air Force, a fighter pilot, and Israel's first astronaut;

Whereas these brave astronauts will never be forgotten by the National Aeronautics and Space Administration family and all those who believe in the importance of exploring our universe; and

Whereas when the National Aeronautics and Space Administration's Mars Exploration Rover (MER) Spirit landed on Mars on January 3, 2004, it brought with it a small commemorative plaque bearing the names of the seven astronauts, establishing an enduring memorial on another planet to the fallen crew of Space Shuttle Columbia: Now, therefore, be it

*Resolved*, That the House of Representatives does offer its gratitude to the seven Space Shuttle Columbia astronauts and its heartfelt sympathy to their families on the anniversary of their loss, with the reassurance that this sacrifice will not have been made in vain, but will strengthen this Nation's resolve to continue their journey of discovery.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BURGESS).

### GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 507.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield such time as he may consume to the majority leader of the House of Representatives, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman from Texas (Mr. BURGESS) for bringing this very important resolution to the floor of the House.

Mr. Speaker, we can still see their faces. Their friends can still hear their hearty laughter. And their families can still feel their embrace. At every mention of their names or reminder of their courage, our hearts ache with the hollow pangs of mourning and our thoughts and prayers turn to their loved ones. For there is no loss like the loss of a hero. And 1 year ago our Nation and our world lost seven.

Though they came from different nations, practiced different faiths, and sought answers to different mysteries, the winding road of providence brought them all to one place on earth where their common calling could be answered. They came to Johnson Space Center.

And there, at America's great laboratory of the impossible, they trained and studied, alongside the finest collection of public servants that I know, inching ever closer to their dreams and their destiny. And though we still mourn 1 year later, it is their lives that we honor in this resolution, not their loss.

*Columbia*'s "corps of discovery" may be gone, but death has no power over the memory of heroes. It is left to us, then, in this House and in this Nation to live up to the challenge their lives of service issued: Will we carry on America's mission in space or will we ignore our deepest yearnings for knowledge and tether mankind to "the surly bonds of earth"? I think we know what the *Columbia* seven would say.

And if there be any doubt, just walk outside on a clear night, look into the southern sky and ask them.

For immortal in death, the *Columbia* heroes live on at home in the heavens, among the ancient stars that first stirred their souls, looking down on us all with love and hope, lighting our way through the darkness. They will answer you.

Mr. BURGESS. Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I come to this floor today just as I did a year ago, unfortunately, with a feeling of sadness.

I am an original cosponsor of this resolution that is before us today, House Resolution 507, because I believe that it is important that we never forget the sacrifices made by the brave and dedicated men and women of STS-107: Rick Husband, William McCool, Michael Anderson, Kalpana Chawla, David Brown, Laurel Clark, Ilan Ramon. Each one of them gave the last full measure of devotion to the cause of space exploration.

There have been numerous ceremonies over the past few days to remember the crew of *Columbia*, including yesterday's memorial service at Arlington Cemetery. I think it is important for this body as well, the United States House of Representatives, also to pause in our deliberations to express again our profound gratitude for their service and our deepest sympathies to their families and loved ones on the anniversary of their deaths.

Back home, the space shuttle and the International Space Station take on a very personal dimension. All the astronauts in the NASA program, including the seven aboard the *Columbia*, are a part of our community. They are our friends, our neighbors. Their kids go to schools with our kids. They shop at the same grocery stores and pray at the same churches and synagogues.

The employees and contractors of Johnson Space Center are connected to the astronauts not just at work but in their everyday life. The community at JSC is an extended family.

Amidst all the lofty talk, ceremonies, and resolutions, let us not forget that a community and seven families lost friends, brothers, fathers, sons, wives, sisters, mothers, and daughters. Back in Clear Lake, right off the campus of JSC, there is a place called Frenchie's. It is a place where astronauts and employees go after work to relax a bit, have a meal or something, share their experiences and bond in a very special way.

I stopped by there the Saturday evening after the *Columbia* tragedy, and that day there was a feeling of crushing sadness and loss but also a hope that the vision and dream that those seven heroes died for will not be lost but instead will be reborn, that their loss will remind the American people of the great challenge we face and the prospect of a better world that the space program gives us.

The crew of STS-107 would not want us to dwell only on their deaths. Instead, I believe they would want us to reflect on the cause for which they gave their lives: the exploration of space. And I have no doubt that they would want us to rededicate ourselves to the task of ensuring that this Nation continues that exploration.

It is unfortunate that it took the *Columbia* tragedy to remind many of our citizens that space flight is not routine, it is hard. It is dangerous. The crew of *Columbia* knew that and yet they did not cease from exploring. Neither should we.

We have serious work to do over the next coming months in determining the best path for our America's space program. There are likely to be strong opinions and differing views on how best to proceed. And that is all to the good. America's space program is too important to the future of this country for us not to give it serious attention.

I welcome the discussion and debate as long as it leads to some clear decisions and commitments by both the Congress and the White House. However, that is not a task for today. Today we pause to remember the crew of STS-107, to offer our condolences to all who loved them.

I speak today not just as a Member of Congress, but as part of a community that firmly believes in what Rick Husband and William McCool and Michael Anderson and David Brown and Kalpana Chawla and Laurel Blair and Ilan Ramon gave their lives for.

On behalf of the Ninth District of Texas and the people of the Johnson Space Center and that community, I urge this country and this body to go forward, and I urge my colleagues to join us in support of H. Res. 507.

Mr. Speaker, I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on January 16, 2003, the Space Shuttle *Columbia* lifted off from Kennedy Space Center on a 16-day mission. The mission would take the *Columbia* seven astronauts on a journey of over 6 million miles. While in orbit the STS-107 conducted important microgravity research in areas that would impact the lives of all mankind.

□ 1430

Mr. Speaker, like many who live in north Texas, I was home in the district that weekend, and I will never forget the sonic boom, a sonic boom that was more felt than heard, that morning in north Texas. When *Columbia* broke up in the Texas sky on the morning of February 1, 2003, the seven astronauts aboard were 16 minutes from home, 16 minutes from completion of a successful mission, 16 minutes from once again seeing their loved ones.

The final comm check to *Columbia* from mission control at Johnson Space Center went unanswered. The families awaiting the crew's return at Kennedy were welcomed by an empty sky.

For those looking up at the north Texas sky that morning, it was painfully evident that something had gone terribly amiss.

Today it is our duty to honor the seven brave astronauts who perished in the Shuttle *Columbia* accident a little over a year ago. The crew included Commander Rick Husband, Pilot William McCool, Payload Commander Michael Anderson, Mission Specialist David Brown, Mission Specialist Kalpana Chawla, Mission Specialist

Laurel Blair Salton Clark, and Payload Specialist Ilan Ramon.

Knowing full well the dangers of space flight, they faced them willingly. Because of their courage, we will miss them even more.

During the past year NASA has undergone a serious investigation in the causes of this accident. And over the last year the agency has learned from its tragedies as well as its triumphs. The recent success of the Mars Rovers, Spirit and Opportunity, show that the United States is a leader in space exploration. But we must remember that failures in this realm can often have very human consequences. Since the loss of *Columbia*, the President and Congress have been working to map out a clear mission for NASA and to restructure human space flight programs around that mission. As we continue this process, we cannot afford to forget the memories of the seven *Columbia* astronauts that fateful day.

Yesterday, the Administrator of NASA, Sean O'Keefe, dedicated a memorial to the *Columbia* astronauts at Arlington National Cemetery. In a place dedicated to fallen liberators and defenders of freedom, it is a fitting memorial to honor those who gave their lives in pursuit of knowledge and in pursuit of discovery.

President Bush has said the cause of "exploration and discovery is not an option that we choose. It is a desire written into the human heart. We find the best among us, send them forth into unmapped darkness, and pray that they will return. They go in peace for all mankind and all mankind is in their debt."

Our sympathies go out to the grieving families and, indeed, the sympathies of this body and of a grateful Nation. It is an honor to stand here today to honor the sacrifices of these explorers.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), who represents many of the friends and family of the lost crew members of the STS–107.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Texas (Mr. LAMPSON) very much. And might I take a personal point of privilege to congratulate the gentleman as the new ranking member of the Subcommittee on Space and Aeronautics of our very great committee, the Committee on Science.

Let me also thank the gentleman from Texas (Mr. BURGESS) for his leadership in allowing us to come to the floor today and join in a bipartisan manner of celebration but also commemoration.

Mr. Speaker, I rise today to support H. Res. 507 enthusiastically but with some sorrow and some recognition. Allow me to acknowledge that day as one of public and global shock. And so we continue to mourn publicly and globally, not just in the United States, but around the world.

As my good friend and colleague said, these were our friends and neighbors, those of us who came from Houston. We knew them as they worshipped, as they have practiced their trade, but also as they played. So I rise in support of this resolution and commend my colleagues from Texas for taking the time to honor the crew of the Space Shuttle *Columbia* who lost their lives a year ago.

When the *Columbia* went down the world lost a great symbol of human ingenuity and creativity. Those of us from Houston, as I said, lost friends and neighbors and, of course, family members and brothers and sisters, mothers and fathers, aunts and uncles and a myriad of relationships.

I would like to look back one more time on what we have lost, seven of humankind's greatest heroes, Colonel Rick Husband, Lieutenant Colonel Michael Anderson, Commander Laurel Clark, Captain David Brown, Commander William McCool, Dr. Kapana Chawla, and Colonel Ilan Ramon.

Let me also acknowledge the thousands upon thousands of NASA employees around the Nation. I know they mourn and I know they care as they are caring and mourning at this time. I also want to pay special respect to Mrs. Anderson and Mrs. Husband, who graced our presence on Sunday, February 1, in their words and remarks at Grace Community Church, again, a place of honor for those two men, along with their colleagues where they attended and where I was able to worship with them just a year ago as we honored and mourned those great fallen heroes.

Those seven courageous explorers paid the ultimate price to improve our understanding of the universe, to advance our medical and engineering services, to keep the United States' economy on the cutting edge of technology, and to inspire young and old.

We look forward to this budgeting process where we hope the President will join us by using his economic and engine arm, if you will, to push the vision forward by the right appropriations for what we may need to do.

Mr. Speaker, I am also a proud cosponsor of this resolution as was noted. I thank the sponsors who are on the floor in joining with 238 of my other colleague who have joined me in cosponsoring the bill to award the Congressional Gold Medal posthumously to the seven members of the *Columbia* crew.

I ask my colleagues to join us in signing on to this resolution, to give to the families a special Congressional Gold Medal that they can hold and pass down to their children and generations to come.

This gold medal would honor the families of the crew members by awarding them this particular tribute, and it would also require the Secretary of the Treasury to make bronze duplicates of that medal available for sale to the public to serve as an enduring reminder of the sacrifice of these brave pioneers. That means that they can have something that will add investment to the future of space.

NASA is a source of dreams for our young and old alike, providing insights into the origins, destiny and wonder of our universe. In pursuing the noble goal of exploration, NASA also conducts scientific space-based research, develops innovations that save lives, spur our economy and keep us on the cutting edge of technology. NASA has developed systems that make our satellites and communications infrastructure more reliable and less vulnerable to cyber-terrorism.

NASA inspires young engineers and scientists. In essence, Mr. Speaker, NASA is worthy of our support. It is worthy of the vision. Let us support NASA as we go into 21st century.

Mr. Speaker, I rise in support of this resolution, and commend my colleague from Texas for taking the time to honor the crew of Space Shuttle *Columbia*, who lost their lives a year ago. When the *Columbia* went down, the world lost a great symbol of human ingenuity and creativity. Those of us from Houston also lost friends and neighbors that day. I would like to look back one more time on what we have lost—seven of humankind's greatest heroes: Colonel Rick Husband, Lieutenant Colonel Michael Anderson, Commander Laurel Clark, Captain David Brown, Commander William McCool, Dr. Kapana Chawla, and Colonel Ilan Ramon. Those seven courageous explorers paid the ultimate price to improve our understanding of the universe, to advance our medical and engineering sciences, to keep the United States economy on the cutting edge of technology, and to inspire young and old alike.

Mr. Speaker, I am a proud cosponsor of this resolution, and would also like to thank Mr. BURGESS for joining with 238 other Members of Congress in cosponsoring a bill I have introduced, which would posthumously award the seven members of the *Columbia* crew with the Congressional Gold Medal. It would honor the families of the crewmembers, but it would do more than that. It would also require the Secretary of the Treasury to make bronze duplicates of that medal available for sale to the public, to serve as an enduring reminder of the sacrifice of those brave pioneers. I am sure sales of those medallions would more than pay for the cost of producing the Gold Medals. I hope to see that bill go forward soon, as we continue to focus on the *Columbia*, what it meant to us, and what it means to our future.

NASA is a source of dreams for our young and old alike, providing insights into the origins, destiny, and wonder, of our universe. In pursuing the noble goal of exploration, NASA also conducts scientific space-based research, develops innovations that save lives, spur on our economy, and keep us on the cutting edge of technology. NASA has developed systems that make our satellites and communications infrastructure more reliable and less vulnerable to cyberterrorism. NASA inspires young engineers, scientists—and all sorts of people who want to a part of something truly great and noble—to push their minds to new levels of excellence. These people become role models for future generations of intellectual pioneers.

The astronauts aboard the *Columbia* were of the highest caliber, exemplifying our Nation's pioneering ideals and always striving for excellence. They were skilled professionals, scientists, clinicians, and adventurers. They were family men and women, and we will cherish their contributions to our country and the world. The crew of the *Columbia* represented the diversity of our Nation, and our spirit of collaboration with other nations.

We honor the seven members of the crew for their heroism and spirit. We pay tribute to the sacrifices made by these men and women on behalf of the country. They helped mankind reach new heights. As we look back with sorrow on what we lost a year ago, I hope we can also celebrate the great accomplishments and spirit of the *Columbia* crew.

Mr. BURGESS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

Mr. BOEHLERT. Mr. Speaker, I thank my colleague from Texas for introducing this resolution and for calling attention to the memory of great Americans and an Israeli.

Husband, McCool, Anderson, Brown, Chawla, Clark, Ramon. One year after their tragic deaths, their names remain seared in our national memory.

Of course, their loss is felt most deeply by those who call them mother, father, husband, wife, neighbor, friends; but they are an inspiration to us all. Their deaths have not been in vain. They have prompted young people to think about what they can be when they grow up and about how Americans take great risk in striving for great achievement.

Our Nation's space program is built on the dreams and aspirations of an exploring people willing to take risk. This Congress is proud of our explorers, those who have returned and those few whom fate has held back.

With this resolution we honor the seven men and women who flew the Shuttle *Columbia*'s final fateful mission. They will never be forgotten. Their memory will live in the hearts and minds of all Americans, and explorers throughout the world will always think of them as they gaze towards the heavens with wonder and amazement and awe.

Mr. LAMPSON. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON), in whose district some of the shuttle actually came down.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me hasten to thank the leaders of this resolution and all of the cosponsors and our esteemed leaders of the committee.

I rise today in support of House Resolution 507, expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the lives of the crew of the Space Shuttle *Columbia*.

Let me express my appreciation to all of the members of the committee that has been nonpartisan and cohesive in considering all of our concerns coming before that esteemed committee.

I am very certain that the lives of these people have not been lost in vain. This space exploration research program has been one of the most successful research programs in the history of our country. We know that because we have investigated, we have listened to reports that we will improve upon what caused this accident, and we can hopefully say that this will never happen again.

Over 40 years ago the foresight of persons that came along before us caused us to get into this type of research. We also owe those leaders some homage for their foresight, and I am hoping that we will then have the foresight to continue the research.

Human space exploration is inherently risky. Distance, speed and environment that cannot support human life combine to make human space flights particularly precarious. Unfortunately, the world has new evidence of the dangers associated with space exploration. Millions watched as images of a singular, brilliant point of light in the sky became two, three and four points of light as the Space Shuttle *Columbia* broke apart over my home State of Texas and my hometown of Dallas.

Today we honor these brave men and women on the anniversary of their fateful 16-day mission dedicated to research in physical, life and space sciences. This most unfortunate and tragic loss of five men and two women, representing the faces of a diversity of races and nationalities, will be mourned for these great American heroes and heroines, and we will never forget the reasons why they were in space, exploring how we can make life better on this Earth.

Mr. BURGESS. Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. TURNER). I know that in East Texas thousands of people turned out to look for the remains of the shuttle and they came down in the district of the gentleman.

Mr. TURNER of Texas. Mr. Speaker, I thank my colleagues, the gentleman from Texas (Mr. BURGESS) and the gentleman from Texas (Mr. LAMPSON), for sponsoring this resolution.

It was one year ago that we all shared in the tragedy of the Space Shuttle *Columbia*. A team of seven astronauts traveling back home from the frontier of outer space paid the ultimate sacrifice as their spacecraft broke apart across the blue skies of East Texas. The seven who perished showed great patriotism and courage, serving our Nation in the field of the space exploration.

The NASA astronaut corps is the very best and brightest of our Nation, men and women unafraid to strap themselves into a spacecraft and launch off into the unknown so that our Nation and our world can expand our knowledge and improve our well-being.

These astronauts were pursuing their dreams and ours. And when tragedy struck their ship, a Nation in grief united to show honor to their service. Over 25,000 workers and volunteers spent months searching through the woods and fields of East Texas, seeking to recover the *Columbia* and her crew. In towns like Hemphill, Rusk, Nacogdoches, San Augustine and Lufkin, the citizens of East Texas and my congressional district responded as did all citizens across America.

East Texans are patriotic folks who are known to help a neighbor or friend in need. For weeks on end they combed through the thickets of the piney woods, they cooked meals, they brought in supplies, they gave shelter to those who came from all across America to help.

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The NASA family became a part of the East Texas family, and they will always remain in our hearts. The scriptures bring us solace and hope in times like these. The psalmist David wrote, "The heavens declare the glory of God. The skies proclaim the work of His hands. Day after day, they pour forth speech. Night after night they display knowledge."

Today, we remember the crew of the *Columbia* and their legacy. We remember their sacrifice and honor their family and friends who remain in our prayers on this difficult anniversary.

The seven brave astronauts who died would want us to look forward to the future with determination to press on. They would want us to uphold the mission of NASA in times of tragedy, as well as in times of triumph, and most of all, they would want us to keep reaching, to keep learning more, to explore more, to venture on into space for the benefit of all mankind.

Today, we honor Colonel Rick Husband, Commander William McCool, Dr. Kalpana Chawla, Dr. Laurel Clark, Dr. David Brown, Lieutenant Colonel Michael Anderson, Colonel Ilan Ramon. A grateful Nation will always remember, and in their memory, may we never cease to reach for the heavens.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS), my friend who was visiting in Houston this weekend.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me the time.

I rise today to join with my colleagues in remembering the loss of the seven astronauts aboard the Space Shuttle *Columbia* on February 1, 2003, as well as to express our heartfelt sympathies to the families of Rick Husband, commander; William C. McCool, pilot; Michael P. Anderson, payload commander; Kalpana Chawla, mission specialist; David M. Brown, mission specialist; Laurel B. Clark, mission specialist; and Ilan Ramon, payload specialist.

The seven astronauts aboard the Space Shuttle *Columbia* were on a 16-day scientific mission. The mission held the promise of answering scientific problems that we confront here on earth. The lives and sacrifices of these seven men and women should be remembered. That is why last year I wrote a letter urging the United States Postal Service to design a stamp that would honor them and the space program.

The space program has meant a great deal to our Nation, and its benefits to mankind are enormous. The brave crew of the Shuttle *Columbia* was disembarking from a mission which they believed in and loved doing. They are indeed fallen heroes who are held in high regard as role models for many children around the world who dream of going to space someday.

Mr. Speaker, these men and women represented the best and the brightest of what America and the world has to offer. They were willing to go to the outer limits to explore for the benefit of all humanity. As Socrates said, "Man must rise above the earth, to the top of the world, to the top of the atmosphere and beyond, for only thus will he fully understand the world in which he lives."

Once again, our heart goes out to the families and colleagues of these brave men and women who gave the most that they had to offer; indeed their lives, for the cost of space.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly want to extend my appreciation and commendation to the managers of this important legislation, commending the 1-year anniversary of this tragic event that occurred to these seven astronauts that represented our Nation. I was privileged to be a member of the congressional delegation that personally visited Texas last year when we conducted a very special service on behalf of these great Americans.

I think if there is anything that I can remember well on this special service that was held last year was the fact of the diversity of these distinguished Americans. I recall one whose ancestry was from the country of India, and we had a gentleman also who was a former pilot representing the State of Israel, showing the idea that this is not just an American project.

I think what this sacrifice extends in my understanding, and certainly my belief, is how much humanity that there was in the efforts and the sacrifices that these great people made and certainly I would like to extend my condolences and appreciation to the families of these seven astronauts who paid the ultimate price, giving of their lives for the betterment of this troubled world that we live in.

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no more speakers at this time. I would just thank the gentleman from Texas (Mr. BURGESS) for the work he has done on H. Res. 507. I urge my colleagues to join us in passage.

Mr. RYAN of Wisconsin. Mr. Speaker, on February 1, 2003, the tragic accident of the Space Shuttle *Columbia* took the lives of seven of our finest Americans. One year later, this sad event remains fresh in our minds, and we continue to share in the sorrow of those who lost their loved ones and family members that terrible day.

Among the brave astronauts aboard the *Columbia* was Dr. Laurel Clark of Racine, Wisconsin. All of those who knew Laurel were touched by her extraordinary life and are still coping with the pain that her absence has caused. It is very difficult to lose a mother, a wife, a daughter, a sister and a friend, and our thoughts should be with Laurel's family and loved ones s they continue to honor her memory.

Although Laurel Clark lived only 41 years on this earth, she was accomplished as a doctor, a scientist and a mother. She poured her energy into her many pursuits and showed us that with focus, passion and dedication, it is possible to achieve your dreams. Laurel also never forgot the importance of family, and it is impossible to quantify the joy that she brought to those closest to her.

Unwavering in her efforts to improve the world, Laurel began with those around her. In the end, she made the ultimate sacrifice in the name of this cause, hoping that the scientific research she conducted in space could provide a better world for all humanity. As we honor the life of Laurel Clark, we must never forget the joy, happiness and everlasting inspiration that she brought to the world, and we should strive to live our lives as she did.

Ms. WATSON. Mr. Speaker, words are not sufficient to describe how I felt on Saturday morning, February 1, 2003, when the Chairman of the Democratic Caucus announced that the Space Shuttle *Columbia* had gone down. My heartfelt sympathy goes out to the families and friends of the astronauts we lost. One year later, we remember and honor *Columbia*'s crew whose lives were precious to all Americans.

As part of the positive legacy emanating from the *Columbia* space shuttle disaster, I want to take this opportunity to commend three Dorsey High School Students from my Congressional District—Atiabet Ijan Amabel, Cristina Mojarro, and Juan Carlos Ortega—for participating in the STARS Academy research mission which assisted the students, along with their counterparts from China, in formulating and constructing a silk worm experiment that was placed aboard the shuttle.

The STARS Academy is an online cultural and scientific global learning program. It incorporates a standards based curriculum in math, science, language arts, geography, and technology. On the STS-107 mission, schools from six countries developed life and physical sciences experiments, while working with astronauts, space scientists, engineers, and other experts. For this mission the participating schools came from: Australia—Spider Experiment; Israel—Crystalline fiber growth; Japan—Medaka fish growth; USA—Syracuse Ants Experiment; Liechtenstein—Carpenter Bee Experiment; and China & USA—Silk Worm Experiment.

Mr. Speaker, despite the tragic events, this is an historic moment for Dorsey High School and its students who participated in the silkworm experiment. Their projects and dedication to science are fitting honors to the astronauts who lost their lives and an inspiration to all future space explorers.

Mr. FROST. Mr. Speaker, I rise today to express my sorrow for the crew and family members of the Space Shuttle *Columbia* disaster.

While Sunday marked the one year anniversary of the space shuttle tragedy, the memory and dedication of the *Columbia* crew must never be forgotten. The seven astronauts aboard the Space Shuttle *Columbia*—six American and one Israeli—exemplified the courage and commitment that have been the hallmark of America's space program for decades. Their efforts to better understand the heavens and advance the cause of scientific discovery added greatly to our society and our Nation's vision for the future.

I am especially saddened by the loss of Flight Engineer and Mission Specialist Dr. Kalpana Chawla. K.C., as she was known by her friends and coworkers, received her master's of aerospace engineering degree from the University of Texas at Arlington in my Congressional District.

A native of India, K.C. was the first woman from her country to enter space. Selected amongst thousands of applicants by NASA in 1994, she never forgot her time in Arlington or her Indian roots. In fact, among some of the items that she took with her into space was a UTA T-shirt with "UT Arlington Aerospace Engineering" printed on one side and "As a matter of fact, I am a rocket scientist," on the other.

K.C. took great pride in her Indian roots. She believed her entry into space was a great accomplishment for her country and was impressed by the level of support that her fellow Indians expressed for her. In a final e-mail that she sent to the students of her hometown school, she said: "The path from dreams to success does exist; may you have the vision to find it, the courage to get onto it and the perseverance to follow it. Wishing you a great journey."

As we stop to remember and reflect upon the life of Dr. Kalpana Chawla and her fellow crew members of *Columbia*, we must assure ourselves that their lives were not lost in vain.

We must continue the mission to explore space and to educate the underprivileged about the mission that K.C. and her fellow astronauts embarked upon.

Mr. Speaker, my thoughts and prayers are with the families of all the astronauts as they continue to mourn the loss of these amazing heroes.

Mr. WELDON of Florida. Mr. Speaker, today I rise to honor the crew of *Columbia*. The names Rick Husband, William McCool, Michael Anderson, Kalpana Chawla, David Brown, Laurel Clark and Ilan Ramon will now forever be linked to the risks and rewards of exploring the frontier. They were all extraordinary people.

Rick Husband. A man of strong faith in God. A man who dreamed of taking part in space travel since his childhood in Amarillo, Texas. A family man, committed to his community. He set the highest of standards for us all.

William McCool. A man who personified excellence in all he did. From San Diego, since the earliest age, he dreamed of flying and followed his dream with an unending fount of energy and skill. While gifted, he never showed any hubris; in fact, he was always humble—something we all could learn from.

Michael Anderson. From Pittsburgh, he had a drive uncommon to most people. He loved science and learning. He followed his passion for science. This led him to NASA and space flight. He knew his responsibility as an astronaut and took every opportunity to talk to schoolchildren about the excitement and value of space exploration.

Kalpana Chawla. She lived a uniquely American life. Born and raised in India, she came to America as an immigrant. She worked hard and studied engineering and science. She became an American citizen and from there became an astronaut. She made her home nation and her adopted nation proud of her in all that she did.

David Brown. Truly a man for all seasons. He was a physician, a Navy pilot, and member of the astronaut corp. Everything he set out to do, he accomplished. He had many other goals he was anxious to accomplish after this mission was completed.

Laurel Clark. A wife. A mother. A physician. An astronaut. She was aware of what a special honor it was to be selected to fly in space. She was thankful for the special opportunity that she had. She lived life to the fullest. She enjoyed scuba diving and flying airplanes. Everything she did, she loved.

Ilan Ramon. The first Israeli in space. A dedicated and brave pilot. The son of Holocaust survivor. He is an inspiration to a small, determined nation.

Commander Husband, on the evening before they launched, shared with his crew and their families, his favorite passage from the book of Joshua. This is instructive for all of us as we reflect on this tragedy: "Be strong and courageous, because you will lead these people to inherit the land I swore to their forefathers to give them. Be strong and very courageous. Be careful to obey all the law my servant Moses gave you; do not turn from it to the right or to the left, that you may be successful wherever you go. Do not let this Book of the Law depart from your mouth; meditate on it day and night, so that you may be careful to do everything written in it. Then you will be prosperous and successful. Have I not commanded you? Be strong and courageous. Do not be terrified; do not be discouraged, for the Lord your God will be with you wherever you go."

That is where we are as a nation right now. We live in a dangerous world with many challenges facing us. The measure of a truly great nation is one that can face down its challenges on earth and excell and lead the world to a higher level.

That is why we have NASA and why we must recommit ourselves, now more than ever, to the dream and adventure of human space flight that was such a part of the lives of these brave men and women.

How we decided to respond to this tragedy will be judged very closely by many generations that come after us. I am proud to say that the President has risen to the occasion and has charted a bold new exploration initiative. We cannot let future generations down and walk away from our destiny in space. The *Columbia* 7 will be memorialized by a great, strong, robust return to space by America.

Ms. BORDALLO. Mr. Speaker, I rise today to join my colleagues and our Nation in remembering the *Columbia* space shuttle tragedy of one year ago. The people of Guam join their fellow Americans today in remembrance, prayer, and tribute for the crew of STS–107 and all that they stood for and represented in their careers and lives.

Michael Anderson, David Brown, Kalpana Chawla, Laurel Clark, Rick Husband, Willie McCool, and Ilan Ramon were many different things to many different people. They were mothers and fathers, wives and husbands, daughters and sons, teachers and friends. There is one thing, however, that unites them all. They are all heroes in the truest sense of the word. Today, we reflect upon their lives and the qualities that they embodied. We draw our strength and resolve from the example they set and we remain committed to our nation's space program in their honor and because of what they have taught us.

Guam remembers today Commander Willie McCool, who piloted the *Columbia* on that fateful day one year ago. Commander McCool lived in Guam while his father served as a Navy pilot and attended Dededo Middle School and John F. Kennedy High School. He later married Lani Vallejos of Dededo, Guam. While America lost a hero, Guam lost a son in the aftermath of the *Columbia* tragedy. Today I extend my prayers and thoughts to his wife Lani, their children, Sean, Christopher, and Cameron, and their extended family in Guam. I also extend my prayers and thoughts to his parents, Barry and Audrey McCool, and to his father and mother-in-law, Albert and Atilana Vallejos, of Dededo, Guam.

My first bill in Congress was H.R. 672, which renamed the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Commander McCool. President Bush signed this bill into law on April 22, 2003 and on August 29, 2003 the school was dedicated in his honor during an emotional ceremony attended by family, military officials, government dignitaries and fellow astronauts Piers Sellers and Stephanie Wilson. At this ceremony, Guam Governor Felix Camacho posthumously bestowed upon Commander McCool the Ancient Order of the Chamorri, the highest award given on behalf of the people of Guam in recognition of substantial contributions to the betterment of society. Commander McCool's beacon of light will continue to shine and inspire young and old alike to look towards the stars and dream big dreams.

Commander McCool blessed our island and indeed our country with his passion, intellect, and purpose. The people of Guam are proud to call him one of our own and will always remember him as a role model for our children. The inspiration Commander McCool has been to our people is something that will not fade and that can never be taken away. This past weekend the people of Guam gathered in the Dulce Nombre de Maria Cathedral Basilica in our capital city of Hagåtña to pay tribute to Commander McCool and the *Columbia* crew, to recall their accomplishments, and to pray for their families.

In remembering Commander McCool I am always touched by a poem he wrote while attending Dededo Middle School in Guam. Reading the poem today, it has an eerie quality that shows not only his love of Guam, but a glimpse into his future career as an astronaut:

I came to an island in the middle of the sea,
It was so nice that I jumped for glee.
There are palm trees, coconuts, and bananas too,
Plus birds and fish so unbelievable but true.
It is so nice that no one can complain.
But he who does must be insane.
This is such a nice and beautiful place,
You'd think it was heaven—or outer space.

He signed this poem, "William 'Willie' McCool, Dededo beep! beep! Roadrunner," referring to his school's mascot.

Let us always remember Willie's devotion to his family, to the people of Guam, to our country, and to the betterment of the world. I thank my colleague, Mr. BURGESS, for offering this resolution today. God Bless the *Columbia* crew and their families.

Mr. LAMPSON. Mr. Speaker, I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Texas, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 507.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF S. 610, NASA FLEXIBILITY ACT OF 2003.

Mr. BURGESS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 354) to correct technical errors in the enrollment of the bill S. 610, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 354

*Resolved by the House of Representatives (the Senate concurring)*, That, in the enrollment of the bill (S. 610) to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) Amend the title so as to read: "An Act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.".

(2) In section 1, strike "2003" and insert "2004".

(3) In section 3(b), strike "by adding at the end" and insert "by inserting after the item relating to chapter 97".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## EXPRESSING SENSE OF HOUSE REGARDING PRISONERS OF CONSCIENCE BY CHINESE GOVERNMENT FOR THEIR INVOLVEMENT IN EFFORTS TO END CHINESE OCCUPATION OF TIBET

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 157) expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet.

The Clerk read as follows:

H. RES. 157

Whereas for more than 1,000 years Tibet has maintained a sovereign national identity that is distinct from the national identity of China;

Whereas armed forces of the People's Republic of China invaded Tibet in 1949 and 1950 and have occupied it since then;

Whereas according to the United States Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in China and Tibet;

Whereas the People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms;

Whereas the Chinese Government has detained hundreds of Tibetan nuns, monks and lay persons as prisoners of conscience for their efforts in speaking out against the Chinese occupation of Tibet;

Whereas on October 14, 1989, Phuntsog Nyidron, a Tibetan Buddhist nun, and 5 other nuns from the Michungri Nunnery were arrested in Lhasa after chanting some slogans and marching in a procession as part of a peaceful demonstration that they organized to protest the Chinese occupation of Tibet;

Whereas Phuntsog Nyidron and the other nuns were kicked, beaten and given electric shocks on their hands, shoulders, breasts, tongue, and face while in Chinese custody;

Whereas in 1993, Phuntsog Nyidron and 13 other nuns secretly recorded songs about Tibetan independence and smuggled the recordings out of Drapchi prison;

Whereas the Chinese Government charged Phuntsog Nyidron with "spreading counter-revolutionary propaganda" for her role in recording and smuggling out the taped songs and, on October 9, 1993, extended her prison sentence to 17 years, one of the longest reported sentences of any female Tibetan political prisoner;

Whereas Phuntsog Nyidron was awarded the Reebok Human Rights Award in 1995;

Whereas Phuntsog Nyidron is just one of many individuals whom the Chinese Government has held as a prisoner of conscience;

Whereas the Chinese Government continues to imprison individuals as prisoners of conscience for their involvement in peaceful protests against the brutal Chinese occupation of Tibet; and

Whereas the Chinese Government continues to exert control over religious and cultural institutions in Tibet, abusing human rights through torture, arbitrary arrest, and detention without public trial of Tibetans who peacefully expressed their political or religious views: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that the Government of the People's Republic of China should, as a gesture of goodwill and in order to promote human rights, immediately release all prisoners of conscience, including Phuntsog Nyidron.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by commending my colleague, the gentleman from New Mexico (Mr. UDALL), for sponsoring this resolution; and this resolution expresses the sense of the House of Representatives regarding individuals being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet. It calls for the Chinese Government to release all its prisoners of conscience.

Mr. Speaker, this resolution notes that the United States Department of State and international human rights organizations have documented continuing and widespread human rights violations committed by the Chinese Government throughout China and throughout Tibet. This resolution specifically highlights the plight of imprisoned Tibetan nun Phuntsog Nyidron who was arrested along with five other nuns back in 1989 for peacefully demonstrating against China's occupation of Tibet. She was beaten and she was tortured for her peaceful protest, and further, her prison sentence was extended when she and 13 other nuns secretly recorded and smuggled out of Drapchi prison songs of Tibetan independence.

Her continued defiance of the Chinese Government earned her one of the longest reported prison sentences of any female Tibetan political prisoner, and, Mr. Speaker, she continues to languish in prison. What is more, she is hardly alone.

This resolution notes that the Chinese Government has detained hundreds of Tibetan nuns and hundreds of monks and laypersons as prisoners of conscience for one crime, and that is speaking out against the Chinese government's occupation.

Mr. Speaker, the United States House of Representatives has a long tradition of being a voice for the voiceless. The United States House of Representatives has a long tradition of being a champion for the oppressed, and, Mr. Speaker, this body has a long tradition of leading the charge for human rights, and I encourage my colleagues to support this H. Res. 157.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my good friend, the gentleman from California, for being the manager of this legislation on the majority side.

Mr. Speaker, I rise in strong support of this resolution, and I would first like to commend my good friend and colleague, the gentleman from New Mexico (Mr. UDALL), for his leadership on this Tibet issue and for his introduction of this important resolution.

I would also like to thank the gentleman from Illinois (Mr. HYDE), the chairman of the House Committee on International Relations, for allowing this resolution to move to the floor and also the gentleman from California (Mr. LANTOS), our senior Democratic ranking member, for his support of this legislation.

Mr. Speaker, this is a bipartisan piece of legislation. The resolution before the House is not the first expression of Congress' great concern regarding the treatment of Tibetans by the Chinese Government. Two years ago, Congress overwhelmingly approved the Tibet Policy Act, and we have also considered several resolutions regarding the lack of political and religious freedom in Tibet, but as Congress debated these larger policy matters, it was easy to lose sight of the impact of Chinese repression on individual Tibetans. To understand the brutality of Chinese rule in Tibet, we need to put a human face on it.

The Udall resolution accomplishes this important task by calling attention to the case of Phuntsog Nyidron, a Tibetan nun who is the longest surviving female political prisoner in Tibet.

What was Phuntsog Nyidron's crime? Three days after learning that His Holiness the Dalai Lama was awarded the Nobel Peace Prize, she led five other nuns in a protest in downtown Lhasa against the Chinese occupation of Tibet. Instead of ignoring these peaceful protests, Chinese authorities arrested the nuns and subjected them to horrific torture.

Phuntsog Nyidron and her fellow nuns were kicked, beaten, and given electric shocks all over their bodies. They were strung up by their hands and beaten with an iron rod, all this because they were unhappy with the Chinese occupation of Tibet and dared to speak their minds.

Mr. Speaker, even torture would not silence Phuntsog Nyidron. In 1993 Phuntsog Nyidron and 13 other imprisoned nuns secretly recorded songs about Tibetan independence and smuggled their recordings out of prison. In one song, the nun thanked, "all of you outside who have done all that you can for us in prison. We will never forget you."

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In another song, the nuns sang of being "beaten and treated brutally, but this will never change the Tibetan people's perseverance."

Mr. Speaker, when the Chinese Government found out about these songs, they extended the sentence of Phuntsog Nyidron to 17 years because she was "spreading counterrevolutionary propaganda." Mr. Speaker, sentencing a Tibetan nun to 17 years in prison for peacefully protesting the treatment of Tibetans and making a musical tape to expose prison conditions is absolutely outrageous, in my humble opinion, and a violation of every international human rights treaty to which China is a party.

Today, Mr. Speaker, we in the House are sending a signal to Phuntsog Nyidron that we have not forgotten her, her fellow nuns, and China's other fellow prisoners of conscience. We are signaling to the Chinese Government that it is time to release Phuntsog Nyidron and other prisoners of conscience as a humanitarian gesture, particularly as China celebrates the Lunar New Year.

Today, we are celebrating the perseverance of the Tibetan people who have suffered enormous repression and deprivation over the last 50 years. The Tibetan people will one day regain their freedom, and those who languish in Chinese prisons for opposing Chinese rule in Tibet will be celebrated as heroes.

Mr. Speaker, years ago it was my privilege to accompany our former chairman of the House Committee on International Relations, my good friend and the gentleman from New York, Mr. Ben Gilman, also an outstanding leader of our Nation who was a great advocate of human rights throughout the world. We traveled to the town of Dharmsala in India, where the Dalai Lama and his Tibetan followers live since they were driven out of Tibet by Chinese authorities. To this day, I will never forget the privilege of meeting with the Dalai Lama and the good people of Tibet who are currently living in this town of Dharmsala in India.

The situation between the people of Tibet and China is not an easy matter to resolve, but we certainly should express our grave concerns with the way the people of Tibet are treated by the Chinese Government. At this time I will not get into the debate as to whether the Tibetans are of Chinese ancestry and if at one time or another Tibet was part of the Chinese empire centuries ago. Of paramount importance is our concern for the inhumane treatment of our fellow human beings anywhere on this planet, the very reason why this resolution is important to note the will of this body before our Nation and to the world.

Mr. Speaker, the great people of Tibet truly appreciate and know the meaning of freedom because they are not free, and so I urge my colleagues to support House Resolution 157.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. UDALL), the author of this resolution.

Mr. UDALL of New Mexico. Mr. Speaker, I am pleased today to rise in support of my bill, House Resolution 157, which calls on China to release its Tibetan prisoners of conscience. I would like to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS), the chairman and ranking member of the Committee on International Relations, for moving this bill to the House floor today.

Around 100 political prisoners remain behind bars in the Drapchi prison in Lhasa, the most notorious Chinese prison in Tibet. I was lucky enough last fall to meet one of Drapchi's most recently released political prisoners. Ngawang Sangdrol was her name. This humble remarkable young woman survived 11 years of torture and deprivation in prison before she reached her 21st birthday. She was released from prison in 2002 and was allowed to travel to the United States for medical treatment in March of 2003.

Despite the horrific treatment she suffered in prison, her spirit was never broken and her dedication to the cause of Tibetan freedom never flagged. The horrific treatment that Ngawang Sangdrol experienced in prison is unimaginable to most of us. She recalls being made to stare at the sun while holding newspapers under her arms and between her knees. If the newspapers fell, she would be beaten. She was electrocuted with a baton and was made to run with her arms behind her while stones were thrown at her.

When I asked this young woman, who had been through so much, what the worst day of her imprisonment was, she responded she had no answer; "they were all the worst day of my life," she said.

Many of the Tibetan nuns and monks who suffered along with Ngawang Sangdrol remain in Drapchi prison today. Mentioned explicitly in this resolution is a nun by the name of Phuntsog Nyidron. This 34-year-old Tibetan nun is the longest serving female political prisoner in Tibet. She was only 20 years old when she was arrested in 1989 for taking part in a peaceful protest. Her sentence was extended in 1993 when she and 13 other nuns recorded and smuggled out of prison songs about their love for their country, their people, and His Holiness the Dalai Lama.

The Tibetans are a peace loving and resilient people, and even under the Chinese occupation they have been able to retain their culture outside Tibet's borders. In my district in New Mexico I enjoy having a significant group of Tibetan refugees as constituents. It is these Tibetans and the people who care about them who led to this resolution's introduction and its eventual passage.

This resolution also comes at a crucial time in the treatment of Tibetan refugees elsewhere. After the Nepalese government handed over 18 Tibetan refugees to the Chinese Government last summer, the U.S. Congress put significant pressure on them to issue an official policy stating that it would not happen again. We now know definitively that at least two of the Tibetans who were given to the Chinese authorities were thrown in prison, whereupon they were tortured. However, even after the Nepalese government issued its new policy, reports continue to surface that they are handing over Tibetan refugees to the Chinese. This is unacceptable. I take this opportunity not only to call on the Chinese Government to release its political prisoners but also to tell the Nepalese government that the United States takes very seriously the welfare of Tibetan refugees everywhere.

With the passage of this resolution today, we send a message to the Chinese Government that we have not turned a blind eye to Tibet. Quite the contrary. We closely monitor what occurs in Tibet and will continue to do so. And with that we call on the Chinese to release its political prisoners out of good will and responsibility.

There is a poem by His Holiness the 14th Dalai Lama that ends: "Work for peace in your heart and in the world work for peace. And I say again never give up. No matter what is going on, never give up."

It is with this sentiment that I urge my colleagues to support this important resolution. There is credible evidence that international action on behalf of prisoners in China improves their situation. Since 2002, nine political prisoners have been released from prison as a result of international pressure.

On behalf of Phuntsog Nyidron and her fellow prisoners who are being so unjustly treated, please join me in voting in favor of House Resolution 157. I thank the gentleman from California (Mr. ROYCE) for his assistance in this matter and all the other Members the bipartisan group of Members that are a part of this resolution.

Mr. ROYCE. Mr. Speaker, in closing, I yield myself such time as I may consume, and I would make the observation that Tibet has been under Beijing rule since 1949, when it was invaded and at that time incorporated into China. In 1959, the Dalai Lama fled in exile to India, and he fled with tens of thousands of his followers.

The Dalai Lama has shed daylight over the years on many human rights violations. More than 1 million Tibetans have died under the Chinese occupation as a result of torture and as a result of starvation and as a result of execution.

No nation is exempt from the demands of human dignity. I should note that this House has a notable record when it comes to Tibet. The cochairmen of the Human Rights Caucus, the gentleman from Virginia (Mr. WOLF) and the gentleman from California (Mr. LANTOS), have been instrumental in this effort. Last year, the Dalai Lama gave the keynote address to the Human Rights Caucus to recognize the 20th anniversary of our Human Rights Caucus here.

The People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted norms of freedom in terms of freedom of belief, or freedom of expression, or freedom of association. China is still holding hundreds of political prisoners of conscience for peaceful protests against the Chinese occupation.

Seventeen years of additional sentence for singing a Tibetan song in prison is truly draconian, but it is not atypical of the treatment of those who try to keep their culture alive or those who try to keep their religion alive; nor are the tortures catalogued here today by the gentleman from New Mexico (Mr. UDALL), nor are those tortures atypical of what we have heard in committee about the condition that goes on in those prisons. That is why this resolution is so important.

The human rights violations, the arbitrary arrests, the detention without public trial of Tibetans who peacefully express their political or religious views must come to an end, and I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the distinguished minority leader would have loved to be here this morning to express her views on this very important issue, but she is necessarily otherwise obligated and will submit a statement for the record on this resolution.

Mr. Speaker, again I commend my good friend from California (Mr. ROYCE) for his comments. Over the years, both of us, as members of the Committee on International Relations, know that the issue of Tibet has always been one of those issues that we want to address forthrightly, but then there is always this idea or the response from the Chinese Government saying, well, this is really an internal affair kind of thing and, therefore, it is not any other country's business. I wonder if my good friend from California agrees with this statement being the response of our Chinese friends.

Mr. ROYCE. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from California.

Mr. ROYCE. In point of fact, Mr. Speaker, I would be happy to respond that China invaded Tibet in 1949 and subjugated its people. So for the government of Beijing to now say this is an internal matter, first there are two points here: First of all, they are claiming it is an internal matter because they subjugated an indigenous people in Tibet and then systematically killed over a million Tibetans and then moved people from mainland China into the Tibetan communities in order to try to erase a culture.

Secondarily, even if this was action taking place in Beijing itself, we would be speaking out. Why? Because there are certain fundamental standards of human rights when it comes to freedom of religion and freedom of speech. And when we have things as egregious as a young woman who is a nun, who is tortured and sent to prison for an additional 17 years for singing a cultural song about Tibetan heritage, that is so outrageous that the international community would speak out regardless of what country that crime against humanity occurred in. And this is truly criminal activity.

Mr. FALEOMAVAEGA. Mr. Speaker, reclaiming my time, I thank my good friend for his edification and certainly providing a better understanding for our colleagues on this important issue.

I also want to thank my good friend, the gentleman from New Mexico, not only for his initiative but for his leadership in bringing this resolution for the Members to discuss. And I certainly would like to emphasize again that we need to support and to pass this legislation to send a clear message to the Chinese Government that this is not acceptable and we should do this at all costs.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 157 which sheds light on the prisoners of conscience being held by the Chinese Government. These peaceful prisoners' only crimes were to speak out against the Chinese occupation of their homeland in Tibet. I would like to thank my distinguished colleague Mr. UDALL for bringing this ongoing matter to the floor of this body. We can not ignore the plight of the Tibetan people while giving tacit support to the Chinese Government.

One of the great marks of our Nation has been as a protector of human rights throughout the world. I recognize we may not be able to stop all international violations of human rights, but we certainly can not look the other way as the world's most populous nation blatantly occupies a peaceful country. For more than 50 years the Chinese Government has imposed its will on the people of Tibet. The Tibetan people have been unable to enjoy even the most basic rights under this Chinese occupation. Tibet had existed as a sovereign nation distinct from Chinese identity for over a thousand years. It was a nation that gave birth to the Buddhist faith and acted as the spiritual center for many people throughout the world. Now the people of Tibet can not even practice their own faith without fear of persecution. If we say we value human rights even a little bit how can we allow this deliberate oppression to continue?

The prisoners of conscience being discussed in this resolution are a prime example of the kind of injustice that is inflicted on the peaceful Tibetan people. On October 14, 1989, Phuntsog Nyidron, a Tibetan Buddhist nun, and 5 other nuns from the Michungri Nunnery were arrested in Lhasa after chanting some slogans and marching in a procession as part of a peaceful demonstration that they organized to protest the Chinese occupation of Tibet. Their only real crime being that they believed they had the right to expression. Their only expression being their belief that Tibet deserved not to be occupied. Again I ask, how can we allow ourselves as a body to look the other way while this oppression continues to take place? Even in our darkest days as a nation we allowed the freedom of protest as long as it was peaceful. In the face of brutal oppression the Tibetan people have been nothing if not peaceful. So many Tibetans including the Dalai Lama have been forced in to exile, and still their message is one of peace. These brave people of Tibet pose no physical threat to China; instead it is their stoic resoluteness to obtain their rights that frightens the Chinese Government.

Phuntsog Nyidron is the latest in the line of Tibetan leaders who have been imprisoned simply because they dared to voice their opposition to the Chinese occupation of their homeland. Let's not forget that Ms. Nyidron and those who were arrested with her were nuns. Since when have nuns become such a great threat to a government that they must be thrown in to prison and tortured? Since 1989 Ms. Nyidron has been subjected to torture and ill-treatment in the notorious Drapchi Prison which houses all female political prisoners. In 1993 Ms. Nyidron had her sentence extended to seventeen years simply because she and thirteen other nuns had secretly recorded songs about Tibetan independence and smuggled the recordings out of Drapchi prison. Once again I ask, where is the great threat to the Chinese government that requires a peaceful nun to be imprisoned for seventeen years? We now know that there are profound concerns for Ms. Nyidron's health as she is known to have liver, stomach and kidney problems which have no doubt been exacerbated by her brutal treatment in prison. It seems likely that the Chinese Government will be more than content to allow her to die in prison. The point of her imprisonment is not to eliminate a dangerous or threatening person, but instead to send a message to every other Tibetan that not only must they suffer Chinese occupation, but that they must do so in silence. This, Mr. Speaker, is unacceptable.

I call on every Member of this body to support this resolution. Let us send a message to every Tibetan who lives in fear that they have an ally in their struggle for their rights. Let us also send a message to the Chinese Government that the United States of America still holds the banner as the international protector of human rights and that we will not turn a blind eye to the open and vicious oppression of the Tibetan people. For more than fifty years they have endured this occupation with great dignity and an enduring faith. They are a living testament to the fact that brutality cannot crush the spirit of even the most oppressed people. I ask the Chinese people to come to the aid of these great human rights proponents. I hope the Chinese government will see fit to listen. I look forward to that dialogue.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H. Res. 157, calling on the government of the People's Republic of China to release all prisoners of conscience, including Phuntsog Nyidron, a Tibetan nun who is currently the longest serving Tibetan political prisoner in China.

We know that the brutal regime in China has detained hundreds of Tibetan nuns, monks, and laypersons for speaking out against the Chinese occupation of Tibet. In the last session of Congress, I sponsored a resolution calling on the PRC to release the Panchen Lama, who is held in high esteem in Tibetan culture as the teacher of the Dali Lama. The Panchen Lama was abducted nearly 10 years ago at age 5. Today, his whereabouts remains unknown.

This regime has been and continues to be relentless in squelching the voices of peaceful dissident. However, even in prison, these voices have been heard. In 1993 Phuntsog Nyidron and 13 other nuns sang and recorded songs about the plight of the Tibetan people that were smuggled out of Draphci prison, inspiring those working for peaceful change. Her prison sentence was extended for 8 years because of the recording. In 1998 it was reported that she was badly beaten after trying to protect another prisoner and that she is in poor health.

Phuntsog Nyidron is a peaceful advocate for change who should be released immediately along with the hundreds of other of prisoners of conscience in China. Although we lack specific information on each case, we know that many other Tibetans are mistreated in Chinese prisons as well. Even though China ratified the U.N. Convention against Torture in 1988, it has been reported that more than 70 Tibetans have died as a direct result of torture and inhumane treatment in Chinese prisons.

We must not forget the many other ethnic and religious groups and political dissident persecuted in the PRC today. Serious human rights abuses are carried out against the Falun Gong, Uighur Muslims, Protestants, and Catholics are well documented in State Department Reports on Human Rights and Religious Freedom.

We know that opponents of the regime continue to be unjustly imprisoned and that women continue to be subject to forced abortions. We also know that the government continues to violate international law through forcibly deporting thousands of North Koreans, many of whom are subsequently placed and concentration camps where they face persecution and death.

As both our administration and other world leaders prepare for the annual U.N. Commission on Human Rights in Geneva, I along with many of my colleagues, strongly believe that a strong resolution on human rights in China should be introduced and passed. Given continued and systematic human rights abuses carried out by the regime, anything less would be simply inexcusable.

I strongly urge my colleagues to strongly support passage of this resolution. I call upon the regime in Bejing to release Phuntsog Nyidron and the hundreds of others of political prisoners languishing in China's prisons. And I strongly urge our Administration and other governments to work towards the introduction and passage of a human rights resolution in Geneva.

Ms. PELOSI. Mr. Speaker, I rise in strong support of House Resolution 157, which urges the Chinese Government to release all prisoners held for exercising their fundamental rights to freedom of expression, belief, or association.

Thank you, Congressman TOM UDALL for taking the lead in introducing this resolution and for all of your efforts for the people of Tibet. I am proud to be a co-sponsor.

The Chinese Government continues to impose severely repressive measures against any display of support for an independent Tibet. We know the facts. The State Department's Annual Country Report on Human Rights states ". . . [Chinese] authorities continued to commit serious human rights abuses, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views."

We know that more than 1 million Tibetans have died under the Chinese occupation. More than 6,000 monasteries and irreplaceable jewels of Tibetan culture have been destroyed. Tibetans are routinely imprisoned and tortured for non-violently expressing their views. Beatings, prolonged exposure to extreme heat and cold, electroshock, sleep and food deprivation and forced labor are among the techniques used to torture Tibetan political prisoners.

Since China's 1988 ratification of the United Nations Convention Against Torture, more than 70 Tibetans have died as a direct result of torture and inhumane treatment in Chinese prisons in Tibet. Hundreds of Tibetans are currently in prison for peaceful expressions of political or religious belief. I would like to mention a few of these brave individuals.

### PHUNTSOG NYIDRON

Phuntsog Nyidron is a nun from outside Lhasa. She has been in prison for 16 years. On October 14, 1989, she participated in a peaceful demonstration to protest China's occupation of Tibet. During the arrest, she and other nuns were subjected to beatings with iron rods, kicks, and punches. She is now the longest serving female Tibetan political prisoner. She is reportedly in poor health and is suffering from a respiratory ailment and severe internal problems.

### THE DRAPCHI 14: "SINGING NUNS"

While in a Chinese prison for political crimes in 1993, Phuntsog Nyidron and 13 other nuns secretly recorded songs proclaiming their love for their Tibetan homeland and their families. On the tape, each nun states her name and dedicates a song to her family and supporters.

The tapes were smuggled out of the prison and the recordings were circulated inside Tibet and around the world. These young women became known as the Drapchi 14 and the Singing Nuns.

### TIBETAN REFUGEES SENT BACK TO TIBET

I am also concerned about Tibetan refugees sent back to China by the Government of Nepal. Last May, in close coordination with the Chinese Embassy, Nepal deported 18 Tibetan refugees who were seeking safe transit through Nepal. This violates the long-standing agreement that Nepal will turn over refugees to UNHCR to facilitate safe transit to the Tibetan exile community in India.

For many years, Nepal has worked cooperatively with UNHCR. They have earned a strong reputation for their humanitarian approached to Tibetan refugees. I am disturbed by the Government of Nepal's recent actions in violation of international and humanitarian norms. The prison conditions awaiting repatriated Tibetans are harsh. From first hand reports we have learned about the torture and maltreatment of the 18 Tibetans deported by

Nepal. Unfortunately, the deportation of Tibetan refugees continues.

On January 9, Radio Free Asia reported on that 21 refugees were deported by Nepalese border security. On January 15, we have learned that three Tibetan refugees were handed over to Chinese border police by Nepalese officials.

We expect Nepal to adhere with its own written policy and turn over all Tibetan refugees to UNHCR. Today we are sending a clear message to the Government of Nepal—the U.S. Government is watching your actions closely.

### CONCLUSION

The survival of the Tibetan identity is an issue of urgent U.S. and international concern. I am proud to stand with my colleagues today to demand that the Chinese Government immediately release all prisoners of conscience in China and Tibet. As we honor the brave and heroic prisoners of conscience, we must heed the guidance of His Holiness the Dalai Lama. He is a constant reminder that the crisis in Tibet is a challenge to the conscience of the world. Unless we are prepared to confront the Chinese Government on the issue of Tibet, we cannot be consistent when we talk about human rights in any other place in the world. We have not forgotten the people of Tibet in their struggle. We must and will continue our efforts.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the resolution, House Resolution 157.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROYCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## CONGO BASIN FOREST PARTNERSHIP ACT OF 2003

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2264) to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

The Clerk read as follows:

Amendments:

Page 5, strike out all after line 23 over to and including line 11 on page 6, and insert:

*(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out the Congo Basin Forest Partnership (CBFP) program $18,600,000 for fiscal year 2004.*

*(b) CARPE.—Of the amounts appropriated pursuant to the authorization of appropriations in subsection (a), $16,000,000 is authorized to be made available to the Central Africa Regional Program for the Environment (CARPE) of the United States Agency for International Development.*

*(c) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.*

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.".

The SPEAKER pro tempore (Mr. GILCHREST). Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

### GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on concurring in the Senate amendments to H.R. 2264.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2264 authorizes the Congo Basin Forest Partnership. This legislation is authored by the gentleman from Florida (Mr. SHAW) and by myself. There are several additional cochairmen present here. There are four of us as Members of this House who launched the Bipartisan International Conservation Caucus late last year: myself, the gentleman from Florida (Mr. SHAW), the gentleman from New Mexico (Mr. UDALL), and the gentleman from Tennessee (Mr. TURNER).

This bill passed the House unanimously last October. It was amended over in the Senate, and the Senate cut authorization from 2 years to 1 year. Although that is unfortunate, the bill is back from the Senate, and it is time to send this bill to the President's desk.

Let me give Members some observations on this measure. The tropical forests of Central Africa's Congo Basin are a key resource to an estimated 20 million people. These forests play a critical role in sustaining the environment of Africa. The Congo Basin contains the most diverse grouping of plants and animals in all of Africa, including rare and endangered species. These plants and animals are invaluable for many reasons, including their genetic and biochemical information. This information from these species could spark technical advances in medicine, in agriculture, and in industry that would benefit people throughout the world. But this is all threatened, and it is threatened because the Congo Basin forests are, under growing pressures, being clear-cut.

I thought I would just for a moment show the location of these forests in Africa: Gabon, Republic of Congo, Democratic Republic of Congo, Equatorial Guinea, Central African Republic, Cameroon, this area in Africa.

Ten years ago, the forests throughout this area were virtually untouched. Today logging operations are shrinking these forests at such a rate that one estimate has the logging taking out Congo Basin forest areas at a rate of twice the size of the State of Rhode Island every year. It is estimated continent-wide that Africa has lost at least 10 percent of its forested area in the last generation. Meanwhile, construction of logging roads is putting intense hunting pressure on the wildlife that exists there. At current levels, most species of apes, like the mountain gorilla and the Eastern lowland gorilla, seen here, as well as the chimpanzee that exists in the Congo Basin, and the white rhino are threatened with extinction. In addition, the large antelope and elephants will disappear from the Congo Basin if action is not taken.

One of the actions that we have urged on the Subcommittee on Africa is the creation of a national parks system in this area of Africa. In 2002, Secretary of State Powell launched the Congo Basin Partnership. He made the announcement in Johannesburg. He traveled to Gabon, and he traveled through the rainforests at that time. The partnership focuses on 11 key landscapes that exist in these six countries. It aims to support a network of national parks, protected areas and well-managed forestry concessions. The partnership is working to combat illegal logging and poaching and other unsustainable practices, and to give local populations an economic stake in the preservation of the forests, including through the development of ecotourism which has great developmental potential for Africans. In fact, the second largest source of foreign exchange right now in Africa is ecotourism. So this is a true partnership with European and other countries making financial contributions into it.

I should recognize the country of Gabon for its dramatic move towards conserving Congo Basin forests. In 1992, President Omar Bongo announced the creation of 13 national parks. Previously, Gabon had no national park system. Since this legislation passed the House last October, President Joseph Kabila of the Democratic Republic of Congo has announced his intention to increase protected area coverage to 15 percent of that vast country which has long been attacked for its natural resources. There are militia that have plundered natural resources in that country.

How vast is the Democratic Republic of Congo; it is as large as the country of the United States east of the Mississippi River. So when national park systems are being set up that are 15 percent of that territory, Members can understand how vast it is going to be.

Across the river is the Republic of Congo, and they have begun an experiment of privately run forests aimed at better managing forest assets. So there is a real African buy-in to this partnership, with six African countries setting up this vast national forest system. The Subcommittee on Africa that I chair held a hearing on the initiative last year. Testifying before us was world-renowned ecologist Michael Faye. Michael has traversed many of Africa's forests, especially in the Congo Basin, and he has had several 400-day treks. Many have read about these walks across Africa in the National Geographic.

This legislation supports conservation efforts by him and others. Conservation is not easy. What Americans take for granted, Yosemite and Yellowstone and our park system, that took great foresight and political commitment to make that a reality. Over 100 years ago we led the world here in the United States, and it will be a major challenge to establish and maintain effective regimes to control logging and hunting in the Congo Basin. But with the partnership, the United States is bringing its unique experience and talents to these efforts. In fact, through the partnership, the U.S. National Park Service plans to bring park managers and rangers from Gabon and other countries to the United States to train in our great national parks. That is one of many efforts that will be undertaken under this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California (Mr. ROYCE) for his management of this legislation. I also want to convey my thanks to the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), and the gentleman from California (Mr. LANTOS) the ranking member, for their efforts in bringing this legislation to the floor.

As the gentleman from California (Mr. ROYCE) alluded to earlier, this is a bipartisan effort on the part of himself, the gentleman from Florida (Mr. SHAW), the gentleman from New Mexico (Mr. UDALL), the gentleman from Tennessee (Mr. TURNER), and the leadership of our committee.

Mr. Speaker, the Congo River and its tributaries make up the most extensive network of navigable waterways in Africa, and carry a volume of water second only to the Amazon River. In addition to being a major ecological region in Africa, it is the home to some of the world's poorest people. Throughout Central Africa, poverty rates are among the highest in the world. The actual prevalence of HIV-AIDS is unknown, but we know that poverty and war are the breeding ground for the rapid spread of diseases.

Mr. Speaker, this legislation represents a unique opportunity to help the people of Central Africa to turn their biggest asset, the natural resources of the Congo River Basin, into a viable economic base. Conservation programs will help preserve natural areas and create jobs. The stewardship of the Congo Basin is the joint responsibility of Central African countries and the international community, including our Nation. Together we must end the deforestation and wildlife depletion, and support the appropriate use of the Congo River Basin forest resources.

Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I would like to associate myself with the fine presentation that the gentleman from California (Mr. ROYCE) gave as to the importance of this bill that is before us.

I was privileged to have introduced the Congo Basin Forest Partnership Act, along with the gentleman from California (Mr. ROYCE), to authorize funding for the Congo Basin Partnership fund. The partnership strives to preserve and protect millions of acres of land in Africa by establishing a network of national parks. The partnership is focused on 11 key landscapes in Cameroon, Central African Republic, Democratic Republic of Congo, Equatorial Guinea, Gabon and the Republic of Congo. I have traveled to Africa on numerous occasions, and I have had the experience of seeing the immense beauty and wonder that this continent holds. And I have also witnessed how the poaching and clear-cutting of forests devastates the people, the land, and the wildlife of Africa.

One of America's greatest assets is our national parks and conservation systems. I can think of no better way to help Africa and the African people than to provide them with the tools to conserve their great continent, just as we do in our national parks. Conservation efforts through the partnership not only provide protection for lands and wildlife, but also provide critical means for human development, political stability, and economic growth in Africa, areas that remain tremendously important to the success and to the future of Africa.

□ 1530

This initiative has received widespread support, as the gentleman just pointed out, from Democrats, Republicans and leading organizations, including Conservation International, the World Conservation Society and the World Wildlife Fund.

I urge Members to support this most important bill. This bill perhaps is not on the top of the list of too many Members of Congress, but I had the privilege of traveling there with my wife in the company of Michael Fay and David Barron and going up the Congo River, traveling by airplane, by piro, by pickup truck, and then piro again and walking into an area by foot with the assistance of some wonderful Pygmy people and being able to watch and actually view these magnificent creatures, the silverback gorillas which are pictured on that easel. Would it not be a poor commentary on humans of this planet if we were responsible for the extinction of the animal most closely related to us as humans? It would absolutely be an indictment, I think, of what we are doing. As was properly pointed out, Gabon has made strides in this area. I did go down and meet with President Bongo in Gabon and have discussed and have had the opportunity to view some of the wildlife area in that wonderful country.

This is terribly important to the future of the globe. Africa is very much a part of the future of the globe. We see the indiscriminate destruction of the habitat by clear-cutting. These profits are going to Indonesia, France, Japan and other countries that are harboring the companies that are buying the logging rights and then destroying the future of this place. I have seen parts of gorillas hanging in marketplaces for sale as a delicacy. I know firsthand where these magnificent animals are actually used for camp meat by the loggers. Even though it is illegal, they still do it with absolute immunity.

This is a good step but it is only a first step. I think that we need to do more and more and figure out ways that we can attach Federal aid to the preservation of forests throughout the continent of Africa. The environment and ecotourism is the future of Africa in a very large way, and to preserve that will preserve Africa for the world and for the American people.

Mr. FALEOMAVAEGA. Mr. Speaker, I am privileged to yield such time as he may consume to the gentleman from New Mexico (Mr. UDALL), one of our Nation's leading advocates of conservation and the environment.

Mr. UDALL of New Mexico. I thank the gentleman from American Samoa for those very warm comments.

Mr. Speaker, let me at the outset thank the gentleman from Florida (Mr. SHAW) for his sponsorship of this bill. There is no doubt that as a cochair of the International Conservation Caucus he has been a real leader in these international forestry issues. His leadership and hard work, I think, are appreciated by all. As we can see, he feels very passionately about these issues as does the gentleman from California (Mr.

ROYCE). I think this is just a great example of how we can work together as Democrats and Republicans to help the rest of the world to move along to a good, solid path of economic development while at the same time sustaining their resources. That is the reason I rise today in support of the Congo Basin Forest Partnership Act. This is an outstanding new initiative that was spawned from the World Summit on Sustainable Development in 2002. This program, which includes individuals and organizations across the board—governments, international advocacy groups, NGOs and industries—uses public-private partnerships to enhance the welfare of the Congo Basin Forest.

There is no doubt that the Congo Basin Forest has a significant impact on the global community. Its rich wildlife population contributes significantly to the economic and environmental health in the region. The value of wilderness and biologically diverse areas such as the Congo Basin is immeasurable. The Congo Basin Forest Partnership works to enhance sustainable development in the region, improve ecotourism practices and prevent harmful activities such as illegal poaching and logging which the sponsor has so eloquently spoken about.

The model offered by the Congo Basin Forest Partnership is one which I believe we can all learn from. The lessons that will come out of this intricate collaboration will serve as a model for local conservation and sustainability issues here in the U.S. I am pleased that the U.S. State Department has made conservation of the Congo Basin Forest a priority. A recent trip with the International Conservation Caucus has highlighted for me the need to take additional bold actions around the world and especially in Africa to preserve the globe's natural resources.

As a cochairman of the House International Conservation Caucus, I would like to thank those in the international community who have spent significant time promoting sustainable development. I would also like to thank my cochairs, the gentleman from California (Mr. ROYCE), the gentleman from Florida (Mr. SHAW) and the gentleman from Tennessee (Mr. TANNER), for their diligent work in the Congress on these conservation issues. I urge my colleagues to support this bill.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume. I again want to compliment the remarks made by my good friend the gentleman from Florida. I certainly appreciate his insight and understanding of this important environmental issue.

There are some 900 million people that live on this continent of Africa, Mr. Speaker. There is a tremendous diversity in cultures of the peoples, even governments. Some governments may not be necessarily stable but the fact of the matter is there is no question that whatever happens in Africa does have very serious implications to our world community. I sincerely hope that our colleagues will support this legislation. I urge my colleagues to support the bill. I again thank my good friend from New Mexico for his leadership and support in providing all the necessary understanding to my colleagues of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

In closing, Mr. Speaker, I would point out that unfortunately Africa is not the only continent under attack. Increasingly, we are seeing the link between resource exploitation, human rights abuses, conflict and corruption. A report by Global Witness last year details how the ruling military junta in Burma is using logging concessions to help maintain its grip on power. In Burma's environmentally damaging resource diplomacy, Chinese logging companies are granted concessions to large sections of Burmese virgin forest in exchange for political loyalty and material support. In light of this sort of activity, the Congo Basin Forest Partnership and similar initiatives are all that much more important. I urge my colleagues to support this initiative.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, H.R. 2264, the Congo Basin Forest Partnership Act of 2003. This bill authorizes U.S. participation in the Congo Basin Partnership (CBFP) that aims to protect 11 key landscapes of more than 30 national parks and thousands of square miles across six countries in central Africa.

The wilderness of the Congo Basin is in a desperate state after years of civil strife, extensive refugee crises, and exploitive logging. These activities have devastated sections of this critical rainforest and have left local people in abject poverty and dependent on unsustainable resource management practices. This bill will authorize the President to appropriate FY 2004 and 2005 funds to the CBFP program. The funding that it promises will allow important goals to be fulfilled: to promote economic development, alleviate poverty, improve the local system of governance, and conserve natural resources through support for a network of national parks and protected areas, well-managed forestry concessions, and assistance to communities that depend on the conservation of the outstanding forest and wildlife resources of eleven key landscapes in six Central African countries (Cameroon, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Republic of Congo).

Increased funds of up to $36 million and a funding scheme of up to $53 million up to 2005 for the Central African Regional Program for the Environment (CARPE) program will allow for the conservation of very precious forest land and the preservation of wildlife that form an important symbiotic relationship.

I particularly applaud CBFP's ability to bring together nations such as Canada, France, Germany, Japan, South Africa, and the United Kingdom—especially in light of our task of standardizing emergency responsiveness on an international level. Also participating in this program are organizations such as the World Bank and the World Conservation Union, NGOs and private sector groups such as the World Wildlife Fund, the World Resources Institute and the Centre for International Forestry Research.

The forestland provides sustenance for a myriad of plant and animal species. They sustain our environment by absorbing carbon dioxide, by cleansing the water, or by holding the soil. Our sources of lumber crops, forests, and tourism play a vital role in our economies. In the last decade, tropical forests have disappeared every year at an average rate of 35 million acres, an area the size of Barbados. The Congo Basin contains a quarter of the world's tropical forest. However, the Forest is being destroyed at a rate of two million acres per year.

H.R. 2264 is a legislative remedy to the crisis that is occurring in the Congo Basin. Therefore, I support its passage, and I urge my colleagues to join me.

Mr. LANTOS. Mr. Speaker, I rise in strong support of H.R. 2264, the Congo Basin Forest Partnership Act, and I urge all of my colleagues to vote in support of it. I want to thank Secretary of State Colin Powell, Congressman CLAY SHAW and all cosponsoring members of Congress for making the preservation of the Congo River Basin a priority.

While it is unfortunate that the other body cut the authorization of funds for fiscal year 2005 for this initiative, the $18.6 million for 2004 will send a strong signal for the need for U.S. investment to preserve the Congo River Basin. The Congo River and its tributaries make up the most extensive network of navigable waterways in Africa and carry a volume of water second only to the Amazon River.

Some of us think first of the Congo River Basin as one of the largest and more important ecological regions of the world, which it is. But, what is more important, it is the home to some of the world's poorest people who have suffered some of Africa's bloodiest conflicts. More than two and a half million people have perished in Eastern Congo as a result of the most recent Congo civil war, with millions left displaced and in unimaginable destitution. Throughout the central African region, poverty rates are among the lowest in the world. Life expectancy ranges from 42 years in the Central Africa Republic to 52 in the Congo Republic.

The overall forest area of the Congo River Basin is declining rapidly as a result of the unchecked growth of timber exports, destructive agricultural expansion, and fuel wood demand for a growing population. These practices are unsustainable if the assets of the Congo River Basin are to be used to improve and sustain the lives of the people who live there.

Mr. Speaker, this legislation represents a unique opportunity to help the people of Central Africa turn their biggest asset—the natural resources of the Congo River Basin—into a viable economic base. The Congo River Basin Partnership is an economic development and conservation program for the six countries of Central Africa. The partnership will combine the preservation of some of the world's richest and most pristine ecosystems with economic development in order to alleviate poverty throughout the region.

Conservation programs will help develop a network of national parks and protected areas, and help local communities better manage the forest and wildlife. People of Central Africa, some of whom live on less than 25-cents per day, will be able to develop sustainable means of livelihood through conservation agriculture and integrated ecotourism programs.

Mr. Speaker, with substantial international efforts, the civil war in the Democratic Republic of Congo that engulfed the region has come to an end. The Congolese and other nations in the region are disarming and demobilizing armed groups, planning for national elections, and embracing the rule of law. This is the beginning of a new beginning for post-colonial Central Africa. The politics of the Cold War failed the region, the post-Cold War neglect turned Central Africa into a human disaster. We don't know how long it will take to establish a stable region in the heart of Africa, but we do know we must start.

Mr. Chairman, the Congo River Basin Initiative has created a window of opportunity to help the people of Central Africa rebuild their communities, establish local economies, and bring health care and other resources to their countries. This initiative will help demonstrate that the stewardship of the Congo River Basin is the joint responsibility of Central African countries and the international community. It is important to note that the first international meeting of the Congo Basin Forest Partnership met in Paris in January of this year to launch a strong effort for international cooperation to preserve the Congo River Basin.

Together, we must end the deforestation and wildlife depletion and support the appropriate use of forest resources. I support this bill and urge my colleagues to vote in favor of its passage.

Mr. ROYCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2264.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

## RECOGNIZING THE 93D BIRTHDAY OF RONALD REAGAN

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 84) recognizing the 93d birthday of Ronald Reagan.

The Clerk read as follows:

H.J. RES. 84

Whereas February 6, 2004, is the 93d birthday of Ronald Wilson Reagan;

Whereas Ronald Reagan is the first former President ever to attain the age of 93;

Whereas both Ronald Reagan and his wife Nancy Reagan have distinguished records of public service to the United States, the American people, and the international community;

Whereas Ronald Reagan was twice elected by overwhelming margins as President of the United States;

Whereas Ronald Reagan fulfilled his pledge to help restore "the great, confident roar of American progress, growth, and optimism" and ensure renewed economic prosperity;

Whereas Ronald Reagan's leadership was instrumental in extending freedom and democracy around the globe and uniting a world divided by the Cold War;

Whereas Ronald Reagan is loved and admired by millions of Americans, and by countless others around the world;

Whereas the recent tragic loss of the space shuttle Columbia and her crew remind us of how, 18 years ago, Ronald Reagan's eloquence helped heal the Nation after the Challenger disaster;

Whereas Nancy Reagan not only served as a gracious First Lady but also led a national crusade against illegal drug use;

Whereas, together Ronald and Nancy Reagan dedicated their lives to promoting national pride and to bettering the quality of life in the United States and throughout the world; and

Whereas the thoughts and prayers of the Congress and the country are with Ronald Reagan in his courageous battle with Alzheimer's disease: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Ronald Reagan on his 93d birthday.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

### GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

House Joint Resolution 84, introduced by the gentleman from Nevada (Mr. GIBBONS), recognizes the 93rd birthday of President Ronald Reagan.

Mr. Speaker, our Nation's 40th President, Ronald Wilson Reagan, turns 93 years of age this Friday, February 6. He will become the first former President to reach the age of 93. While longevity is one aspect of President Reagan's life, he deserves our praise and recognition for so many more momentous accomplishments. This resolution aims to honor the man who led America during the prosperous 1980s, and I am pleased that this House has taken the time to consider it today. During his presidency, President Reagan revived the American spirit and helped all Americans become less reliant on government. From gracefully bouncing back from a would-be assassin's attack, to helping a grief-stricken Nation cope with the *Challenger* tragedy, and from leading the U.S. to a decisive victory in the war on communism, to creating 20 million new jobs, President Reagan's legacy in the White House is one of the most legendary in American history.

Mr. Speaker, we have several Members here today who may want to speak on behalf of President Reagan but I want to briefly offer one perspective of President Reagan's record. Everyone knows that one of President Reagan's top domestic objectives during his presidency was returning much of Americans' hard-earned dollars by reducing income tax rates. But what many do not realize was that these tax cuts did not occur at the expense of vital government social priorities during the 1980s. The percentage of the gross national product spent on social welfare programs steadily rose during the 1960s and 1970s to 11.5 percent in 1980, the final year of President Jimmy Carter's administration. But over the next 8 years while President Reagan resided in the White House, Federal social spending remained between 10.9 and 12 percent. So I think we can safely say that President Reagan truly was, to borrow a phrase from our current President, a compassionate conservative. During the week of his 93rd birthday, I think it is important that we remember this reality.

President Reagan reinforced this point during his first inaugural address on January 20, 1981, when he said, "It is not my intention to do away with government. It is rather to make it work, work with us, not over us; stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it." I think all Members can agree with these sentiments, and I also believe that President Reagan accomplished these worthy goals during his two terms in the White House.

I thank the gentleman from Nevada for introducing this measure that allows this Chamber to recall President Reagan's extraordinary contributions to the United States of America. We wish President Reagan a very happy 93rd birthday and, to his family, our love and prayers.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a bigger-than-life screen actor and television personality, Ronald Reagan moved from being governor of California in the 1960s to President of the United States and dominating American politics in the 1980s. Media-made and media-presented, President Reagan got millions of Americans to feel proud of their Nation. America's 40-year Cold War with the Soviet Union cooled considerably and perhaps actually ended during Reagan's presidency. Many Americans credit him with having achieved that significant outcome.

Born the son of a shoe salesman in small-town Illinois, Reagan's impoverished but loving parents instilled in the lad a sense of optimism that carried him through college as an average student. After graduation, he worked for a few years as a sports broadcaster in midwestern radio before landing a film contract with Warner Brothers which took him to Hollywood in 1936. Over the next 30 years, he made scores of films, including Army films produced during World War II. He hosted two popular television series, and he actively engaged in politics as president of the Screen Actors Guild.

□ 1545

In the 1950s, Reagan changed from being a Roosevelt New Deal Democrat to a conservative Republican. In 1966, he became Governor of California. He was reelected in 1970.

Using his popularity in California, Reagan unsuccessfully challenged President Gerald Ford for the Republican nomination in 1976. He tried again and won the nomination in 1980, and thereafter defeated the incumbent Democrat, Jimmy Carter. With his 1984 reelection victory, President Reagan became the most politically successful Republican President since Eisenhower.

Today, we celebrate former President of the United States Ronald Reagan's 93rd birthday. We wish him the best, and recognize the contribution that he made to the development of these United States of America.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS), and thank him for introducing this resolution.

Mr. GIBBONS. Mr. Speaker, I would like to thank my friend and colleague from Connecticut for yielding me this time.

Mr. Speaker, I rise today to express my strong support for H. J. Res. 84, which I introduced to commemorate former President Ronald Reagan's 93rd birthday. It is a pleasure to join my colleagues here today, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Connecticut (Mr. SHAYS) in honoring the birthday and life of an extraordinary man, historic leader and an American icon.

As we look back on the life and Presidency of Ronald Reagan, it is always a challenge to pinpoint a single greatest achievement from his many great achievements. His life has been filled with extraordinary adventures and monumental accomplishments.

Ronald Wilson Reagan was born on February 6, 1911, in Tampico, Illinois, the "Land of Lincoln." President Reagan's lifelong career of service to fellow Americans began at a young age when he served as a lifeguard in Dixon, Illinois. Later, as a fledgling radio sports announcer, Reagan traveled from his home in the Midwest to Southern California, where he embarked upon an acting career in Hollywood. He would soon rise to serve his fellow actors as president of the Screen Actors Guild. Reagan's leadership style and keen knack for engaging the public through his dynamic speaking skills and endearing nature provided him the additional opportunity to enter public service.

He would serve as Governor of California for two terms before being elected President of the United States twice. During his 8 years in the White House, President Reagan worked to fulfill his pledge to restore "the great confident roar of American progress, growth and optimism."

President Reagan's commitment to inspiring the American people and strengthening our Nation's leadership role in the world are part of our Nation's proud heritage and history.

Of course, when it comes to recognizing a distinguished leader such as Ronald Reagan, it is difficult to find words to adequately express how deeply his legacy still affects each and every one of us still today. During his 8 years as President, Ronald Reagan successfully stimulated economic growth, curbed inflation, increased employment, and strengthened national defense.

President Reagan was instrumental in uniting a divided Berlin, as well as a divided world, by bringing about an end to the Cold War. Reagan's speech calling on Mr. Gorbachev to "Tear Down This Wall" is a piece of American, indeed, world history, that will forever elicit a special sense of pride among the American people and all freedom-loving people across this world.

Throughout his tenure in the office of President, Mr. Reagan maintained a unique grace and uncanny wit. These endearing qualities enabled him to easily communicate with American citizens, foreign dignitaries and public figures, meriting him the historic title as the "Great Communicator."

Railroad Ronald Reagan's renowned wit, firm dedication to American principles and tireless belief in our "shining city on the hill" secured Reagan's enduring legacy. President Reagan will forever be remembered for his eternal optimism and faith in the ability of the American people.

Finally, Mr. Speaker, I would like to express what an honor it has been for me to take the lead in sponsoring this resolution. I would like to extend my appreciation to my colleagues, over 100 of them, who have cosponsored this measure to recognize one of the greatest leaders this Nation has ever known.

Happy birthday, President Reagan. As always, the thoughts and heartfelt sentiments of this Congress are with you.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to honor President Ronald Reagan on the occasion of his 93rd birthday and to pass along the thoughts and prayers of the people of the Second District of Kentucky to the President and Mrs. Reagan on this special day.

President Reagan has dedicated much of his life to public service. From the summer shores of his Illinois hometown, to the silver screens of Hollywood, to Sacramento, Washington, D.C., and now to his historic and heroic battle with Alzheimer's disease. Ronald Reagan's vision and competent leadership continues to inspire national spirit, improve quality of life in the United States and extend freedom and democracy across the globe.

During his inaugural address in 1981, President Reagan remarked, "We are too great a Nation to limit ourselves to a small dream." His dream of family, work, neighborhood, peace and freedom embodied the hopes of millions of Americans, shepherding the Nation into economic recovery and renewed national pride, while demonstrating an uncompromising moral leadership abroad that brought communism to its knees.

His is an exemplary life, uniquely American and worthy of the love and admiration of so many men and women across the world.

Happy birthday, Mr. President.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today to join my colleagues in honoring a man who will forever remain a symbol of the American dream.

I had the great good fortune and high honor to serve as military aide to President Reagan during my time in the United States Marine Corps. As the officer assigned to carry the "nuclear football," I had the opportunity to observe the President in a wide variety of situations.

Ronald Reagan was already well known before he entered the Presidential field. Through a variety of careers, his thoughtful, caring nature and engaging personality were well established. Friends and colleagues alike recognized him as gifted, some would say the "great communicator," who was as accomplished a listener as he was a speaker. Strong in character and always quick with a joke, the best joke teller I ever knew, candidate Reagan, Governor Reagan, earned the allegiance, trust, and respect of a Nation and was elected as our 40th President.

What struck me almost immediately when I began my service to President Reagan was the strong sense of leadership he exuded. Perhaps more than any other leader in contemporary history, President Reagan knew when to trust his staff and when not to allow his beliefs to be swayed. On routine matters, President Reagan displayed enormous confidence in his staff, I am proud to say, including me. When told, for example, "Mr. President, please stand here," he agreed affably. On matters of substance, however, he was guided by unwavering principle and would not be moved.

President Ronald Reagan applied this principle to the many challenges he faced. The economic policy of Reaganomics was met with initial skepticism and scorn, but its success validated his vision of how to address the faltering economy he inherited.

In international matters, his unflinching opposition to communism led to its demise and earned the enduring allegiance of former adversaries. This principled vision inspired men and women of all political persuasions to put the best interest of our Nation ahead of their respective political parties. By holding to his vision of America as a beacon for the rest of the world, he brought freedom, hope and opportunity to millions here and abroad.

Today we honor President Reagan for his achievement, his leadership and his enduring example. Happy birthday, Mr. President, and thank you.

Mr. MILLER of Florida. Mr. Speaker, it is my honor today to pay tribute to a true American patriot on his 93rd Birthday, President Ronald Reagan. As we in Congress move forth with reviewing the president's FY 2005 budget, I recall the words of Ronald Reagan when he submitted his presidential budget. He said,

"Government has an important role in helping develop a country's economic foundation. But the critical test is whether government is genuinely working to liberate individuals by creating incentives to work, save, invest, and succeed. We don't have a trillion-dollar debt because we haven't taxed enough; we have a trillion-dollar debt because we spend too much."

Mr. Speaker, as we debate on the proper amount of funding for securing our nation, the greatest tribute we can pay to Ronald Reagan is to develop a budget that allows our children and grandchildren to live in a prosperous economy. For the American people, it was his leadership in economic policy that restored hope for the future.

Thank you Mr. President for your inspiration and leadership which continues to guide our nation and which will help us to protect our freedoms and liberties in the twenty-first century. May you have a wonderful birthday and God bless.

Ms. LEE. Mr. Speaker, I sincerely do wish former President Reagan and his wife well on his birthday, and my thoughts and prayers are with them as he deals with the terrible disease of Alzheimer's; however, the resolution went well beyond a simple birthday wish. I could not in good faith cast a vote for a bill that stated that the Reagan Administration ensured renewed economic prosperity when millions of Americans were hurt by its economic policies and the Federal government incurred massive deficit spending.

Mr. SHAYS. Mr. Speaker, I want to again thank the gentleman from Nevada (Mr. GIBBONS) for introducing this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the joint resolution, H.J. Res 84.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## HONORING JOHN STOCKTON

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 274) honoring John Stockton for an outstanding career, congratulating him on his retirement, and thanking him for his contributions to basketball, to the State of Utah, and to the Nation.

The Clerk read as follows:

### H. RES. 274

Whereas John Stockton is the all-time leader in assists in the history of the National Basketball Association;

Whereas Stockton ranks among the top point guards in basketball and was selected in 1996 as one of the "50 Greatest Players in National Basketball Association History";

Whereas Stockton is the league's all-time leader in steals, ending his career with an incredible 3,265 steals;

Whereas Stockton loyally played all 19 of his NBA seasons with the Utah Jazz in an era dominated by free agency and propelled his team to the NBA playoffs during each of those years;

Whereas Stockton won two gold medals as a member of the United States men's basketball "Dream Team" in the 1992 Olympics in Barcelona and the 1996 Olympics in Atlanta;

Whereas Stockton has been a perennial All-Star, All-NBA selection, and has made the NBA All-Defensive Team three times;

Whereas Stockton's commitment to being part of a team made him successful both on the court and off as a dedicated husband to his wife, Nada, and father to his six children;

Whereas Stockton's sportsmanship and commitment to basketball made him a hero to millions of Americans, especially those in his dual hometowns, Salt Lake City, Utah and Spokane, Washington;

Whereas Stockton had a reputation as a true team player who brought out the best in his teammates; and

Whereas, on June 7, 2003, tens of thousands of fans attended a retirement celebration in Salt Lake City, Utah: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) honors John Stockton for an outstanding career;

(2) congratulates John Stockton on his retirement; and

(3) thanks John Stockton for his contributions to basketball, to the State of Utah, and to the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

### GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 274.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 274 honors John Stockton for a truly outstanding career and congratulates him on his retirement.

This body generally spends very little time honoring basketball players, but today we honor a player who truly deserves extra commemoration.

When he retired last summer from the National Basketball Association's Utah Jazz, John Stockton finished his career as the league's all time leader in both assists and steals. Astonishingly, he totaled 15,806 assists and 3,265 steals during his Hall of Fame-caliber career. He was a 10-time NBA All Star and a member of the first and second "Dream Teams," the gold medal-winning 1992 and 1996 U.S. Olympic men's basketball teams.

Stockton played 19 years for the Utah Jazz, which is also an all-time NBA record for most years played for one franchise. Even more remarkable than his longevity and loyalty, he helped lead the Jazz into the playoffs following every one of his 19 NBA seasons.

Along with his record of most overall assists, 15,806, Stockton holds the record for most assists in a season, 1,164, and the highest assist average in a season, 14.5 per game. He is second all-time to Magic Johnson in assists per game during a career with 10.5. He once distributed 28 assists in one game. In a 48-minute ball game, that is nearly unthinkable. In comparison, the current NBA leader in assists averages under 10 per game.

As I mentioned, Stockton is also the NBA's all-time leader in steals with 3,265. He recorded over 700 more steals during his NBA tenure than the second place player had, a gentleman by the name of Michael Jordan.

Mr. Speaker, I urge this House to congratulate one of the NBA's most outstanding players ever, John Stockton, on the occasion of his retirement from the NBA, and I thank the gentleman from Utah (Mr. MATHESON) for his work to honor John Stockton.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when John Stockton broke the career record for assists, 9,922, the owner of his team, the Utah Jazz, suggested he should set his career goal at 15,000. Such an idea was laughable, even preposterous to some. John Stockton, though, retired at the end of the 2002 and 2003 season with 15,806 career assists.

Success in American professional sports is often defined by statistics. Mr. Stockton is a match for anyone. In addition to being the NBA's all-time leader in assists with more than 50 percent more than the next highest player, Stockton also holds the league record for steals in a career with more than 3,200.

☐ 1600

He is a 10-time all star and was selected as one of the 50 greatest players in NBA history.

What sets John Stockton apart from most athletes, however, is his sense of team. Mr. Stockton played for 19 seasons. And due in large part to his excellence, the Jazz made the playoffs in every one of those seasons. He is a two-time Olympic gold medalist. No player spent as many years in games with only one team. And, remember, those 15,000 assists means 15,000 easy baskets for his teammates. That is not bad, especially since Stockton was considered too small to succeed when he was drafted out of Gonzaga in 1984.

John Stockton is such a consummate team player that it is almost impossible to talk about him without also mentioning Karl Malone, Stockton's teammate and partner for 18 seasons. Malone's status as the NBA's second all-time leading scorer is directly attributable to the thousands of passes Stockton threw him over the years. In June, when Stockton retired, Malone gave this testimonial to his teammate, and I quote: "I hope and I pray people here realize a couple of things," said Malone. "There absolutely, positively will never, ever be another John Stockton. Ever. He gave me more than I gave him."

Stockton is also a family man, a father of six. He is the sort of man who once signed a contract for millions less than he would have received on the open market so that he could secure ice time at Salt Lake City's Delta Center for his 7-year-old son's hockey team. In an era when far too many athletes and other public figures put selfish motives and personal glory foremost in their actions, a consummate teammate, unselfish player, and quiet superstar like John Stockton is well deserving of this resolution in his honor. He is indeed a role model to be emulated by others along the way.

The gentleman from Utah (Mr. MATHESON), who is the sponsor of this resolution, had wanted to be here but, unfortunately, could not get back in time to speak, so, Mr. Speaker, he will submit his statement into the RECORD at the appropriate point.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Speaker, I thank my two colleagues, the gentleman from Utah (Mr. MATHESON), for introducing this resolution and the dean of our delegation (Mr. CANNON), for working with the majority leadership for the timing and the scheduling of this particular resolution.

I do not intend to pretend that I was a close personal friend of the Stocktons, but I did have several occasions to be with them, usually on public occasions. The one that I remember the clearest was sharing the owner's box at the opening game of the new triple A baseball stadium that we have in Salt Lake City. At that time, Mr. Stockton was there with his wife and his young family. One of the reporters from the Salt Lake paper came up and begged for a picture of the entire family to use on the society page for the beginning of this baseball season. John Stockton refused. He refused to have a picture of his family, his wife and his little kids there, because he did not want to expose his family to the kind of publicity that goes along with professional sports and professional athletes. I was impressed with that.

The second thing about that entire evening that I was impressed with, that even though I thought it was a wonderful baseball game, as all baseball games are, even though it was fascinating, when it hit a certain time, even though there were still three innings to go, he insisted on leaving because it was bedtime for his three kids, and the most important thing for him was not his public persona, but that his family had a commitment. I was impressed with that.

It is difficult or unusual at any time to have any kind of honor for John Stockton without mentioning Karl Malone along with it, but in this case I think we will have to wait until Mr. Malone retires until that honor continues on, and then we will probably have to share that with most of the California delegation at the same time.

But on the retirement of John Stockton, I am proud of him because he established those old-fashioned values of hard work and commitment to family ahead of himself, a commitment to others ahead of himself, which is why he is the all-time assist leader. And it shows the personality that this gentleman has, and what he has done as a symbol and also as somebody we can emulate in the State of Utah. We appreciate his efforts on behalf of the Utah Jazz, especially what he has done as a symbol of a sports figure who does everything right, and his commitment to bringing standards of personal integrity to the world of athletics. I appreciate this opportunity to just voice my support of this particular resolution for a fine gentleman.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. COBLE). I do not know why a gentleman from North Carolina wants to speak on this issue, so I am going to be waiting to hear his every word.

Mr. COBLE. Mr. Speaker, I thank the gentleman from the nutmeg land of Connecticut for yielding me this time.

I am not sure how I became a fan, but I will say this: the words "Stockton to Malone" are synonymous words with winning basketball. And to watch those two guys play was not unlike, I say to the gentleman from Connecticut, watching a ballet. I mean Malone would haul down the rebound, dish off to Stockton, Stockton would very methodically and effectively move the ball into the front court and then, before you know it, the ball from Stockton back to Malone, and then Malone buried the shot. It was winning basketball, and it was unselfish basketball.

My good friend, the chairman of the Senate Committee on the Judiciary, Mr. Speaker, Senator ORRIN HATCH, knows that I am a Jazz fan. He said one day, HOWARD, I am going to get you out there as my guest. Well, it was not the Senator's fault, nor was it my fault, but we never got to go. Now, as a result of that, Malone has gone to another team, and Stockton has retired. And when you procrastinate, I say to the gentleman from Connecticut, it comes back to bite you. It was no one's fault.

Finally, and I do not mean this to be a negative note, but many Jazz fans, including yours truly, believe that a no-call in a game that involved, I believe the Chicago Bulls and the Jazz, to what most Jazz fans conclude was an obvious foul, with which I am in agreement, but it was not called, the whistle did not sound. And I think the Bulls went on to win that game. Ugh, you are right; "ugh" is correct. And many Jazz fans to this day relive that no-call, as I do.

But what a great tribute to a great basketball player. My friend mentioned Stockton's many attributes. I think he is the all-time leader in steals and assists, destined for the Hall of Fame, I am sure. But I commend my colleagues for doing this resolution for John Stockton. I hope the gentleman from Connecticut now knows why I am a Jazz fan.

Mr. SHAYS. Mr. Speaker, I do know. I was touched by the gentleman's comments. But I feel that the gentleman from Illinois (Mr. DAVIS), who yielded back time, may want to be yielded some time to talk about that no-call and explain what the heck happened, so I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS) to explain how the Bulls won that game.

Mr. DAVIS of Illinois. Mr. Speaker, what was happening is that the Bulls were moving so fast until the referee just could not see what was happening.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for explaining why that call was never made.

Mr. MATHESON. Mr. Speaker, I rise today to honor the achievements of John Stockton, one of the greatest basketball players in the history of the sport. I would like to thank the leadership and the committee for their consideration of this bipartisan resolution, which I had the honor of introducing along with my colleague from Washington, Mr. NETHERCUTT.

John Stockton and his nineteen years with the Utah Jazz are forever linked in the memories of countless fans, both in my home state of Utah and throughout the nation. Stockton's outstanding career and the example he set for young people in this country did us all proud.

When Stockton announced his retirement at the end of the 2002-2003 season, tens of thousands of fans attended a celebration in his honor at the Delta Center in Salt Lake City last June. Not only were they celebrating his achievements as a player, these fans turned out to thank John Stockton for his loyalty to the Utah Jazz in an era dominated by free agency.

As the all-time leader in assists in the NBA's history, John Stockton always put his team first. He was also the league's all-time leader in steals, ending his career with an amazing 3,265 steals and he was selected in 1996 as one of the 50 Greatest Players in National Basketball Association History.'

John Stockton gave fans everywhere someone to emulate both on and off the basketball court, especially those in his dual hometowns, Salt Lake City, Utah and Spokane, Washington. Stockton's commitment to his family, to the community, and to the states of Utah and Washington are to be commended and honored.

Mr. SHAYS. Mr. Speaker, I have no other speakers, so I yield back the balance of my time and ask for a positive vote on this very important resolution.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 274.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## ENERGY EFFICIENT HOUSING TECHNICAL CORRECTION ACT

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3724) to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

The Clerk read as follows:

H.R. 3724

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Energy Efficient Housing Technical Correction Act".

**SEC. 2. TECHNICAL CORRECTION.**

Section 220(d)(3)(B)(iii)(V) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)(V)) is amended by striking "with respect to rehabilitation projects involving not more than five family units,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

### GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Ohio (Chairman OXLEY), the gentleman from Ohio (Chairman NEY), and the gentleman from Massachusetts (Mr. FRANK), and the gentlewoman from California (Ms. WATERS), the ranking members, for agreeing to bring our bill to the floor so expeditiously. I also would like to thank my friend the gentlewoman from New York (Mrs. MALONEY) and my friend, the gentleman from Connecticut (Mr. SIMMONS) for joining me in introducing this legislation.

Mr. Speaker, during the 107th Congress, we passed the FHA Downpayment Simplification Act, which streamlined the downpayment process and increased the base mortgage amount limits for FHA-insured loans. By increasing access to these loans, Congress helped make the dream of owning a home a reality for many first-time homebuyers.

In passing this legislation, however, we made a seemingly inadvertent change to the law regarding what kind of residential projects qualify for increased loan payments. We restricted the projects that are eligible for increased loan limits to those which contain less than five units and take steps to improve energy efficiency.

Before the FHA Downpayment Simplification Act, this provision read that increased loan limits could be granted to projects that contained less than 5 units or are taking steps to improve energy efficiency. The net effect is large projects that want to employ energy-efficient measures are not eliminated from receiving FHA mortgage insurance.

The need for additional high-quality, affordable housing cannot be overstated. Our bill will correct the mistake and restore FHA mortgage insurance for large residential projects that are also energy efficient.

This is win-win legislation that will help stimulate construction of more responsibly built, affordable housing units, create jobs, and encourage investment, and it obviously is also environmentally responsible.

Again, I would like to thank my colleagues for bringing this bill to the floor so quickly, and I encourage its swift passage.

Mr. Speaker, I reserve the balance of my time.

Mrs. MALONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I join my colleague and cosponsor of this bill, the gentleman from Connecticut (Mr. SHAYS), in support of the Energy Efficient Housing Technical Correction Act.

This legislation will provide incentives for builders to include environmentally friendly additions to multi-family housing developments, by making projects eligible for 20 percent more FHA mortgage insurance. This is a noncontroversial, technical fix that corrects an oversight in the legislation enacted in the 107th Congress. This legislation is also included in the comprehensive energy bill where it received bipartisan, bicameral support.

Enactment of H.R. 3724 will allow increases in the maximum mortgage limits for FHA insurance for multi-family housing projects that choose to install solar energy systems or residential energy conservation measures. Currently, housing projects with five or fewer units are permitted FHA insurance in amounts up to 20 percent higher than the standard limit for the purpose of making environmental improvements. This legislation on the floor today allows multi-family developments with more than five units to be eligible for this same higher FHA coverage for environmental improvements. Higher FHA coverage was allowed for environmental improvements for multi-family housing prior to the 107th Congress when it was inadvertently deleted.

☐ 1615

It only makes sense that projects with more than five units, where the environmental benefits are greater, should be eligible for the extra FHA insurance.

My colleagues who work on housing and environmental issues know that including solar energy systems and conservation measures can add significant building costs. This legislation will provide an important incentive for builders to make these additional investments that benefit their residents and communities as a whole.

It is my hope that this legislation will become law as soon as possible so that its benefits can begin to flow into the community. Whether Members represent urban, suburban or rural districts, I am certain that the benefits of this legislation will potentially be felt by many of our constituents.

Finally I want to thank the leadership of the committee, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) and also my colleague and friend, the gentleman from Connecticut (Mr. SHAYS) for his work on this issue. It is my pleasure to work on many important environmental causes with him. And I appreciate his dedication to clean air, clean water, and conservation.

Mr. Speaker, I rise in strong support of this legislation and urge a yes vote from my colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would again like to thank the gentlewoman from New York (Mrs. MALONEY). We have worked on a number of issues together and it is always done very professionally. I am always proud to be by her side on legislation, and this is one example. I again thank our leadership on both sides of the aisle. I urge passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 3724.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 17 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1833

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 6 o'clock and 33 minutes p.m.

### PRIVILEGED REPORT REQUESTING DOCUMENTS IN POSSESSION OF THE PRESIDENT AND CERTAIN OFFICIALS RELATING TO DISCLOSURE OF IDENTITY AND EMPLOYMENT OF MS. VALERIE PLAME

Mr. GOSS, from the Permanent Select Committee on Intelligence, submitted a privileged report (Rept. No. 108-413, Part 1) on the resolution (H. Res. 499) requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame, which was ordered to be printed.

The SPEAKER pro tempore. The report will be received as Part 1.

### MAKING IN ORDER AT ANY TIME ON WEDNESDAY, FEBRUARY 4, CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. GOSS. Mr. Speaker, I ask unanimous consent that it be in order at any time on Wednesday February 4, 2004, for the majority leader or his designee to call up the following resolutions: H. Res. 493, H. Res. 496, H. Res. 497, H. Res. 498, H. Res. 511, H. Res. 512, and H. Con. Res. 355; and each resolution be considered as read and the previous question be considered as ordered on each resolution to final adoption without intervening motion except (1) 1 hour of debate and (2) one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3030, IMPROVING THE COMMUNITY SERVICE BLOCK GRANT ACT OF 2003

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108-412) on the resolution (H. Res. 513) providing for consideration of the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements, which was referred to the House Calendar and ordered to be printed.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 507, by the yeas and nays;

House Resolution 157, by the yeas and nays;

House Joint Resolution 84, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

### EXPRESSING SORROW ON THE ANNIVERSARY OF THE SPACE SHUTTLE "COLUMBIA" ACCIDENT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 507.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and agree to the resolution, H. Res. 507, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 35, as follows:

[Roll No. 12]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Dreier

Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—35

Brown-Waite, Ginny
Clay
Clyburn
Conyers
Cox
Culberson
DeGette
Dicks
Dooley (CA)
English
Eshoo
Etheridge
Farr
Gephardt
Grijalva
Gutierrez
Hinojosa
Honda
Inslee
Kucinich
Langevin
Lucas (OK)
McCrery
Millender-McDonald
Myrick
Ortiz
Pombo
Rahall
Ryan (OH)
Ryun (KS)
Smith (WA)
Stark
Tauzin
Watson
Wynn

☐ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 12, H. Res. 507, had I been present, I would have voted "yea."

Mr. ETHERIDGE. Mr. Speaker, on the first vote this evening, on H.R. 507, I was unavoidably detained. I ask that the record reflect that had I been present I would have voted "yes."

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

## EXPRESSING SENSE OF HOUSE REGARDING PRISONERS OF CONSCIENCE BY CHINESE GOVERNMENT FOR THEIR INVOLVEMENT IN EFFORTS TO END CHINESE OCCUPATION OF TIBET

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 157.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the resolution, H. Res. 157, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 398, nays 0, not voting 34, as follows:

[Roll No. 13]

YEAS—398

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman

Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—34

Berman
Brown-Waite, Ginny
Clay
Clyburn
Cox
Culberson
DeGette
Dicks
Dooley (CA)
English
Eshoo
Farr
Gephardt
Grijalva
Gutierrez
Honda
Inslee
Istook
Kucinich
Langevin
Lucas (OK)
McCrery
Millender-McDonald
Myrick
Ortiz
Pombo
Rahall
Ryan (WI)
Ryun (KS)
Sessions
Smith (WA)
Stark
Watson
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1904

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RECOGNIZING THE 93D BIRTHDAY OF RONALD REAGAN

The SPEAKER pro tempore (Mr. SHIMKUS). The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 84.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the joint resolution, H.J. Res. 84, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 0, answered "present" 5, not voting 33, as follows:

[Roll No. 14]

YEAS—394

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Etheridge
Evans
Everett
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

ANSWERED PRESENT—5

Brown, Corrine
Johnson, E. B.
Lee
Waters
Watt

NOT VOTING—33

Bereuter
Brown-Waite, Ginny
Clay
Clyburn
Conyers
Cox
Culberson
DeGette
Dicks
Dooley (CA)
English
Eshoo
Farr
Fattah
Gephardt
Grijalva
Gutierrez
Honda
Inslee
Kucinich
Langevin
Lucas (OK)
McCrery
Millender-McDonald
Myrick
Ortiz
Pombo
Rahall
Ryun (KS)
Smith (WA)
Stark
Watson
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1911

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. ENGLISH. Mr. Speaker, I am unable to be present for recorded votes today due to health reasons. However, if I had been present, I would have voted in the affirmative on rollcall vote Nos. 12, 13 and 14.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2013

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CARTER) at 8 o'clock and 13 minutes p.m.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## THE DUTY OF LEADERS TO BE RESPONSIBLE IN THEIR RHETORIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, the most fundamental right that is guaranteed to us by the founders of our country is the right to speak freely. The Founding Fathers knew that public discourse is the backbone of a republic and must be inherent to a free society. As leaders, it is our job to raise the level of public debate in this country so that we can leave behind a legacy of sound decision enhanced by free-willed people. But we should never lower the bar of public debate to the point where baseless rhetoric is the standard.

It is our duty, Mr. Speaker, as leaders, to raise the level of public debate to a level where truth can be self-evident, where the lines of fact and fiction are clear and not blurred, and where it would be unimaginable for a public figure to blatantly deceive the American people.

We have a duty to all Americans, as leaders, to be responsible in our rhetoric, honest in our discourse, and truthful in our debate.

Mr. Speaker, I have been profoundly disappointed in some of the recent public discourse by some regarding President Bush's service to our country. On Sunday morning, Terry McAuliffe, the chairman of the Democratic National Committee, said that President Bush was AWOL from the Alabama National Guard. Furthermore, he said that President Bush, as a member of the National Guard, never served our country in the military. In my hands right here I hold President George Bush's DD–214, which is the official separation record of any service member. Let the record show that it says right here that President Bush, our Commander in Chief, served honorably in the National Guard and received an honorable discharge.

For those of the Vietnam era, like I was, who will remember the service of National Guard troops, they understand that a fighter pilot unit was not the best place to hide in the National Guard. My own personal recollection is that one morning as a copilot on a C–130, I had been held overnight at that base that was abandoned and was being reopened at Takhli Air Force Base in Thailand. When I got up and walked outside the tent that morning there was an F–105 pilot there. He was nervous and said, "Where am I? Twelve hours ago," he said, "I was teaching school in Kansas." He was in the Kansas National Guard. Twelve hours later, after teaching school, he is in the Southeast Asian conflict, flying wild weasel missions over the north.

Mr. Speaker, the National Guard flying fighters was not a place to hide during the Vietnam conflict. It is next to impossible for the President to have received an honorable discharge if he was found guilty or even accused of AWOL. McAuliffe's charges are to imply that the Guard would have given an honorable discharge to someone who did not show up for service.

As you can see, Mr. Speaker, this accusation is reckless, it is irresponsible, and it is false. These charges are slanderous and without merit. It is outrageous for a leader of a political party and a top surrogate of the Presidential forerunner to be making this charge in our public discourse.

Especially upsetting to me is that McAuliffe believes that serving in the National Guard does not constitute serving in the military. To imply that the National Guard is not military service is to dismiss the sacrifices of tens of thousands of National Guardsmen and women who have served before and are presently serving. And it is a slap in the face to their service and their families.

National Guardsmen in World War II landed at Omaha Beach. The New Mexico National Guard served in the Pacific, and still today we honor those members who survived the Bataan Death March, who were members of the National Guard in New Mexico.

Currently there are more than 193,000 National Guard members and Reservists currently serving our country in the war on terror. About 40 percent of the soldiers in Iraq are Guard and Reserve. In my district alone I have more than 1,500 National Guardsmen and women and Reservists currently serving on Active Duty.

And, Mr. Speaker, it would be a cold day in July in New Mexico before I would let anyone say that these men and women, the people that I represent in this fine institution, do not serve our country.

I went to Iraq, Mr. Speaker, and I met personally with young men and women who are serving there. Mr. Speaker, the National Guard and Reserves are steadfast servants to our country, serving to ensure that liberty for others is achieved. Some of these men and women are on the front lines. They serve as a wedge between terrorism and freedom.

Mr. Speaker, the National Guard and Reserve soldiers are serving our country as we speak. As a member of the Air Force, I find Mr. McAuliffe's characterizations insulting and demeaning. Terry McAuliffe cheapens the National Guard by saying it is not military service. His baseless insinuations diminish the National Guard as an institution. He owes an apology to the men and women in the National Guard and Reserve uniforms who are serving our country and protecting their fellow Americans.

Mr. McAuliffe's comments represent the worst of election year politics. It must be a sad day to be a member of the political party whose leader publicly denounces, degrades, and dishonors the fighting force that is at this moment fighting for freedom and liberty and who have risked their lives to fight terrorism around the world.

It is a sad day, Mr. Speaker, when we allow our public debate to be laced with deception in this body and the other body. We have a duty to the American people and to future generations to raise the level of our honest public debate in this country. Let that be our legacy.

## POTENTIAL CLIMATE CHANGE DUE TO EARTH WARMING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I would like to spend just a couple of minutes discussing facts about the potential for climate change. Is there such a thing as climate change? Is the earth warming?

On the perspective of climate change and whether or not there is global warming, tonight I would like to discuss the oceans, which make up about 70 percent of the earth's surface. The ocean has a huge moderating effect on the heat balance of the planet. As the oceans affect our climate, they move in currents around the globe and bring either cold water or warm water to different areas. And that effect has this immense balancing of the heat on the planet. And we have experienced fairly moderate temperatures for hundreds of years.

We all know that the climate does change periodically. We have had Ice Ages in the past. In the past there have been plants growing in the area we now call the Antarctic. So climate does change over a period of time. There is some indication, though, that when the climate has changed in the past, it has changed quickly, sometimes dramatically, without human intervention.

What I would like to speak to tonight is human activity causing the ocean surface temperature to rise. A number of scientists who have written a number of articles recently have shown clear evidence that in the last 40 years, ocean temperatures around the globe on their surface have increased rather dramatically.

As a matter of fact, the increase in the last 40 years can be compared to the increase in the last 1,000 years. Now, there are certain things that cause the ocean to move. We know wind causes it to move, the temperature of the water will cause it to move, the salinity of the ocean will cause certain movements, the rotation of the earth, evaporation and precipitation. These are all effects that cause the ocean to move. But since the ocean temperature is warming, there is more evaporation around the equatorial regions because the ocean is warming more there than has been in recent times. As a result of that, there is more precipitation in the northern part of our oceans.

Ocean currents, then, which are affected by these conditions, whether it is wind, temperature, salinity and so on, the ocean currents are having a tendency to move differently. Ocean currents have a dynamic impact on the climate balance of the planet because it moves warm water, thus the weather, or a change of weather, to different parts of the planet.

For example, England is on the same latitude as Labrador, but England has a much warmer climate than Labrador. Part of this is because of ocean currents moving in the Atlantic Ocean.

If we can take the Atlantic Ocean as an example, if you look at the Atlantic Ocean, the currents move in a clockwise fashion. We know that the gulf stream moving north along the coast of the United States moves north. When it gets up to the area of Greenland-Iceland-Norway, it then moves south. This current has been going for hundreds, if not thousands, of years.

The reason the current is so strong in this area is because when the water moves further north, it gets colder and more dense and begins to sink. As a result of a relationship of evaporation and precipitation, when it moves further north it gets saltier. When the water is cold and saltier it sinks fast, creating a pump that pushes the water south. Hence, we have a conveyer belt that keeps the north Atlantic moving in a clockwise motion.

What is beginning to happen now, though, is interesting. Glaciers are melting, the polar ice cap is diminishing. There is greater rainfall in the north Atlantic. And as a result of these conditions, caused in part by the warming on the ocean surface, we have fresh water being a major part of the north Atlantic.

Even though fresh water will sink because it is more dense, it sinks very slowly. The fact that you have saltwater with the cold fresh water, it sinks faster. Because the water is becoming fresher, less saltier in the north Atlantic, the pump is slowing down, which means the conveyer belt is slowing down, which means the warmer water that is moving to the northern areas from the equatorial regions of the planet is not moving as fast.

So the consequence of this, the potential consequence of this, is a much colder area in the north Atlantic, which would mean the United States and that area, Asia, Europe, and Scandinavia.

Mr. Speaker, just a couple of interesting facts about the potential climate change.

## ORDER OF BUSINESS

Ms. SOLIS. Mr. Speaker, I ask unanimous consent to take my special order out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## THE PRESIDENT'S 2005 BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight I rise in great disagreement with the funding priorities set forth by our President that was just unveiled a few days ago in his 2005 budget. Over and over again we hear that President Bush wants to create jobs, protect our environment, and help the uninsured and make our Nation a safer place for future generations.

However, the President has raised or released a budget with the record deficit of $521 billion that is, in my opinion, one of the most anti-worker, anti-health care, and anti-environmental proposals in modern times.

When the President took office it was the first time in 70 years that a President had a surplus, a surplus of $5.6 trillion. For the third year in a row, this administration has proposed more oversize tax cuts that just drive the budget further into the red and do nothing to bolster the priorities of the American public.

We need more jobs. We need better access to health care. We need more funding for education and more environmental protections. And most of all, we need a commitment by this administration to make these priorities.

Let us look at the reality facing our American families. Since President Bush took office, the economy is down 2.9 million private sector jobs; 2.9 million jobs lost. And I am referring to a chart here, unemployment rates in my own district. When I look at the cities that I represent, for example, the city of El Monte, we are still upwards of 7.9 percent in unemployment. In the area of east Los Angeles, where a large number of Hispanics live, we are almost up to 10 percent. It has been there stagnating for almost 3 years.

□ 2030

It has not changed the course that the President would like us all to believe that somehow the economy is recovering; 90,000 workers a week are running out of unemployment benefits with no jobs in sight because the Bush economy is creating only one job for every three people that are unemployed. Yet we continually hear promises that the tax cuts will create jobs. Workers need more economic security, not tax cuts. And workers in small businesses, particularly in districts like mine who thrive and are the ones that are actually making a better life for us in our country, are having to face a 10 percent budget cut in the Small Business Administration. And since the year 2001, 2.4 million more Americans have lost their health care.

Again, we have heard the President prioritize health care for all Americans. However, creating a refundable tax credit to purchase health insurance does not ensure affordable insurance for individuals who are older and who have poorer health care. We are in the midst of a health care crisis, and the proposed tax care credit would only help 5 percent of the 44 million that are currently uninsured in this country.

The low-income families in my district do not want to hear false promises. They need to know that the programs they depend on, like Medicaid, are being supported and protected. We cannot ignore once again budget cuts, for example, that are being thwarted right now or lashed against; the Environmental Protection Agency will cut about 7 percent of their budget. We hear this administration telling us, we protect the environment; we are really doing all of these things because we want to have a safer environment, safer drinking water and cleaner air. But the majority of the funding that is being taken away at this time will, in fact, not protect our environment or public health.

We cannot make these kinds of trade-offs that we are hearing about. We cannot increase Superfund funding at the mercy of clean-water funding. We cannot steal from Peter to pay Paul. And the budget that the Bush administration is proposing cuts funding for leaking underground storage tank clean-up which is very critical in my district because you see blighted areas right now, you see gas stations that are abandoned. There are about 150 of these tanks in my district. They release toxic chemicals in our soil and in our water supply.

Our communities deserve clean air, land and water, and our children's health depends upon it. We cannot afford to ignore this.

The Department of Homeland Security might have received an overall 5 percent increase, according to this administration, but the President proposed cuts in grants to local fire, police, and emergency medical agencies which will result in about 18 percent cuts overall, first responders, public safety grant cuts by 18 percent from $4.4 billion to $3.6 billion. So who is really taking care of the homeland?

In my district, police departments are already feeling a tremendous strain, and many police departments are already proposing massive layoffs. In fact, one of the best programs that I can tell you about in my district is known as a community-oriented police service program, the COPS program, which is one of the very basic programs that helps provide the local cop on the beat. That is now being penciled out.

Our first responders must provide critical lifesaving services. I can go on and on, but the fact of the matter is we are talking about cuts in jobs and in education.

## HAPPY BIRTHDAY TO RONALD REAGAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I come to the floor tonight in honor of the 93rd birthday of one of our greatest Presidents. Ronald Reagan was elected in 1980 on the promise of a new America. His fearless determination in the face of the Iron Curtain gave America the hope for a better tomorrow.

Reagan's vision inspired the promise of future leaders and guided our country away from big government, high taxes, and economic stagnation towards international strength and fiscal responsibility.

Born February 6, 1911, President Reagan studied economics at Eureka College, took a job as a sportscaster, and found his way to Hollywood where he appeared in 53 films. One of the most famous films was "Knute Rockne—All American," where Reagan played legendary Notre Dame star George Gipp. "Win one for the Gipper," Knute Rockne proclaimed as he inspired his players to defeat Army for their last and only one of the season. This line later became the campaign motto for our 40th President.

Reagan embarked on his journey into politics as president of the Screen Actors Guild, and he soon realized his talents were needed in the political arena. Reagan went on to become the Governor of California in 1966, campaigned for President in 1972 and 1976, and was elected President of the United States in 1980, winning 489 electoral votes.

Amidst high inflation at home and hostages abroad, Americans longed for renewal, sweeping Ronald Reagan into office. Sixty-nine days after his inauguration, Reagan was shot by a would-be assassin. As doctors rushed him to surgery, Reagan stated, "I hope you are all Republicans," only to hear his doctor reply, "Today, Mr. President, we are all Republicans."

Reagan returned balance and exuberance to our government. Suddenly, there were two political parties working together towards meaningful legislation to renew our economy with tax cuts. Reagan's America was a place where all Americans were self-reliant. Reagan showed that big government was not the answer, but the problem. Reagan's agenda was to reduce the size of our government, cut spending, and reinvigorate our economy.

The success of President Reagan's economic strategy has given us direction on how to restore an economy recovering from a recession. In 1986, Reagan overhauled the income tax code, which eliminated millions of people with low incomes from the tax rolls. He knew that the best way to encourage economic growth was to give money back to the people. Reagan's tax cut sparked one of the most ambitious and fastest-growing economies in our history. We are beginning to see similar results under President Bush's tax cuts. Reagan proved that tax cuts could spark the necessary investment for a new economy.

In foreign policy, Reagan's motto was "peace through strength," as he embarked on a quest to end the Cold War, reunite Germany, reduce nuclear arms, and fight terrorism. Reagan is credited for winning the Cold War and setting the stage for the fall of the Berlin Wall. Although the birth of America's new economy in the 1980s is his economic legacy, people that remember the Reagan era recall a spirit of patriotism like no other. People rallied behind the banner of American ideals in the face of Communism and international insecurity.

After the threat of terrorism in the late 1970s and early 1980s, our Nation needed a reason to feel unity and security. Reagan was there to lend his wit and his hope in our Nation to all Americans. He gave us hope and promise when we needed it most, and Reagan's true legacy is the restoration of the dream that is America.

Happy birthday, Mr. President.

## THE BUSH BUDGET IS WHOLLY DEFICIENT AND IMMORAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, tonight I rise to discuss the President's proposed budget for fiscal year 2005. The Bush Budget boasts $521 million in deficits and takes the audacious step of increasing the budget by 50 percent in 1 year while promising to cut that same 50 percent increase in half within 5 years. Is he joking? Does he think the American public has no discerning ability to think about the state of our affairs logically? To create such a huge deficit and place it on the backs of our children is morally indefensible. The interest expense of the deficit will mean higher taxes and will also mean that future taxpayers will be hamstringed to provide for national security, homeland security, and education for our kids or healthcare for our parents. Moreover, Bush's budget represents the largest deficits in this Nation's history. To make this statistic even worse, he took office with a $5.6 trillion surplus.

Cuts to Education: The Bush budget fails to provide $9.4 billion in promised funding for education, which means that 2.4 million children will not get the help in reading and math they were promised. Bush's budget freezes funding for rural education and provides only half the funding promised to after school programs. This shortfall in funding means that 1.3 million children who were promised after school programs will not get them. The Bush administration has frozen funding for Pell grants at the maximum level of $4,050 and results in a lower average award of $2,399. The administration's budget also cuts reading programs by $22 million, even though the President touts a new $100 million reading program for high school students and an increase of $129 million for Reading First, however, in order to pay for these increases, the President budget eliminates $247 million in the Even Start literacy program. Despite the administration's attempt to highlight its community college job training proposal, the Bush budget cuts job training programs by $286 million. These cuts total $36 million more than the $250 million proposed for the community college program. In addition, the budget would cut $316 million in vocational training funding in the Department of Education. All of these cuts are on top of $1.4 billion in spending reductions President Bush has proposed for job training and vocational education since he took office.

Cuts in Veterans Benefits: While almost all veteran programs provide medical care and hospital services, President Bush's budget for Veterans programs of $29.8 billion is $257 million below the amount the CBO estimated it needs to maintain current benefit levels. Over 5 years, the budget is $13.5 billion below the amount needed to maintain benefits at the current level. Bush's budget also fails to repeal the Disabled Veterans Tax, which forces disabled military retirees to give up $1 of their pension for every dollar of disability pay they receive. Also, the budget imposes a $250 annual enrollment fee on non-service-connected Priority 7 (higher income, non-service-connected) veterans and all Priority 8 veterans who wish to receive medical care from the Department of Veterans Affairs. The budget assumes 5-year savings of $1.5 billion from this proposal. The budget also assumes 5-year savings of $747 million from increasing pharmacy co-payments for Priority 7 and 8 veterans from $7 to $15. Both of these were proposed in last year's budget and rejected by the Congress. The President's budget raises health care costs for veterans, imposing new co-payments and enrollment fees that will cost veterans over $2 billion over 5 years.

Cuts in Healthcare: The Bush budget reflects a difference of $139 billion, a total of

$534 billion over 10 years to fund the Medicare Prescription Drug, Improvement and Modernation Act. The Bush budget cuts Medicaid spending by 23.6 billion over 10 years by curbing intergovernmental transfers and the use of the upper payment limit and by limiting Medicaid provider payments to the cost of providing services. When these cuts are combined, the total impact on Medicaid results in $15.7 billion over 10 years. This year's budget once again proposes block grant Medicaid. Under this proposal, States have the option to cut benefits to certain Medicaid populations and to roll back benefits.

Tax Cuts: The President makes his expiring tax cuts permanent at a cost of $131.6 billion over 5 years. Over 75 years, these tax cuts exceed the combined shortfalls in Social Security and Medicare. The budget squanders an additional $1 trillion over the next 10 years in additional tax cuts for the wealthy, but does not expand the tax credit to cover millions of military and working families. Instead of helping small business growth, the Bush budget cuts funding for Small Business Administration by 10 percent. President Bush continues to push for tax breaks for companies that move American jobs overseas instead of helping American small businesses.

Glaring Omissions: No funding in 2005 for the ongoing military operations in Iraq and Afghanistan. Supplemental funding which will further increase the deficit will be required to pay for the costs of these operations. The budget avoids long-term reform of the alternative minimum tax (AMT), even though the AMT will soon force millions of middle class families to pay more taxes, contrary to the original intent of the AMT.

Record Job Losses: President Bush enjoys the worst jobs record since Herbert Hoover. This is the third budget that Mr. Bush has produced which claimed that jobs would be created. Instead, the exact opposite has occurred, over the past 3 years, the United States has lost more than 2.3 million jobs. The Bush budget cuts $286 million from job training and employment services, these cuts come on top of the $1.5 billion in cuts to job training and related services that President Bush proposed when he took office. The Bush budget for the Labor Department does not keep pace with inflation and cuts desperately needed programs. Two million individuals over the coming months are expected to exhaust their Federal and State unemployment benefits, due to objections from Republican leaders to extend these benefits. The Bush budget block-grants adult and dislocated worker programs under the Workforce Investment Act (WIA), jeopardizing critical training resources just as workers look to gain new skills to compete in an increasingly tight job market. Dislocated workers will be hurt the most because there would no longer be dedicated funding guaranteed to help them find new jobs. The Bush budget also eliminates the Employment Service—the very program that connects unemployed workers with jobs. This termination comes at a time when millions of workers continue to struggle to find jobs.

Mr. Bush's tax cuts which promised to increase jobs has not come to fruition. Not only have the losses been massive but $1 trillion of new debt has been created. Last month, only 1,000 jobs were created by the economy. However, in his last State of the Union address, President Bush stated that "jobs are on rise." Based on this type of progress, it would take 192 years and 8 months for the economy to return to the number of jobs it had at the beginning of Bush's presidency.

Additional Domestic Cuts: Domestic appropriations are held to a 1 percent increase which reduces funding for transportation, environmental protection, and small businesses and other priority series that the American people want and respect.

The President's budget is a bad dream beyond belief. It is evasive, inefficient, poorly thought and most egregiously hurts the people who can least afford to be hurt. The Democrats have priorities and we are going to fight for them. We want to create good paying jobs and help small business to grow, to improve education, lower health care cost, support veterans and military retirees as well as to do more to protect our ports and borders from terrorism.

In another sly move, President Bush presented a 5-year budget instead of a 10-year budget to further conceal the true cost of his policies to the American public. This budget includes policies that have long-term costs that need to be looked at over longer periods of time. Examples of programs that meet this criteria include the President's Mission to Mars and the Lifetime Savings and Retirement accounts which will incur significant costs past the 5-year time frame. To further put the deficit in perspective, be aware that in 1998, we achieved the first balanced budget in 29 years. In 1999, we achieved the first balanced budget without reliance on the Social Security trust fund. In 2000, we achieved the first balanced budget without relying on either the Social Security or Medicare Trust Fund surpluses in the history of those programs.

### MEDICARE PRESCRIPTION DRUG BILL THAT WOULD BENEFIT ALL SENIORS

Mr. Speaker, I also rise tonight because I am concerned that while millions of senior citizens struggle to pay for their prescription drugs, Republicans once again have joined forces with HMOs and big drug companies to pass legislation that does nothing to bring down the skyrocketing costs of drug prices.

The real winners of the new GOP prescription drug law are not the seniors, but the drug companies, who will make billions in windfall profits; and the big insurance companies who will benefit immediately from the billions in HMO overpayments, and a special $12 billion Medicare HMO slush fund.

You do not have to be a rocket scientist to figure out that the GOP was more concerned about protecting the profits of big drug companies, rather than controlling the prices of prescription drugs so more seniors could afford them. Just look at the fine print of the law.

The bill explicitly prohibits the government form negotiating lower prescription drug prices from the big drug companies, and prohibits the legal importation of drugs from Canada. Mr. Speaker, prohibiting the government from lowering the costs of prescription drugs, when Nation is experiencing a growing budget deficit, and is experiencing a sluggish economy, makes no sense at all.

Furthermore, there is a doughnut hole in the GOP bill that is large enough to drive a Mack truck through. Under the Republican bill, in the first year, millions of middle class seniors with drug costs between $2,250 and $5,100 will receive no help at all, even though they must pay premiums. This is not fair. Experts have concluded that most seniors will end up paying more for their prescription drugs in the near future, even if they enroll in the new program.

Tonight, I ask a very straight forward question: how in the world can millions of seniors citizens afford to pay, out of pocket, anywhere up to $2,850 dollars in prescription drug costs, because of the doughnut hole in coverage in the GOP bill.

The answer is clear: seniors will continue to struggle, day after day, just as they have for decades, to figure out how they can afford to purchase desperately needed prescription drugs. Many will have to continue to endure their aches and pains because they will not be able to afford prescription drugs under this ill designed program.

Mr. Speaker, I do not think it is fair for senior citizens to have to go through this nightmare any more. Mr. Speaker, I think this is a moral outrage, and I urge the Congress to adopt a new Medicare Prescription drug bill that would benefit all seniors, not just the drug companies and the HMOs.

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## IRAQ INTELLIGENCE LAPSES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the blessings of this Nation are that we are a Republic, a constitutional Republic, that the Founding Fathers were wise enough to establish three distinct branches of government. I take that distinction and that constitutional mandate very seriously and believe that the congressional legislative branch has a responsibility of oversight over the executive as the judiciary remains as an independent component.

The administration of this government, the executive, engaged in a debate in the fall of 2002 that suggested to the American people that we were about to be attacked by Iraq. It was a vigorous debate. There was great, if you will, challenge to the administration's facts: and they waged a very public, if you will, campaign to convince the American people and to convince the United States Congress that we were about to be imminently attacked. It was a serious campaign, Mr. Speaker; it was a serious moment in our history. Members of this Congress took that debate very seriously.

I recall very vividly great emotion on the floor of the House, great indecision, indecisiveness, great concern and conflictedness about whether we should go to war, whether or not the words of the President mentioned and the Axis of Evil that was then ultimately mentioned in the winter of 2003 was actually factual; but the administration was convinced. They have pushed the intelligence community to the point of representing to all of us that this information was factual.

Let me share with my colleagues words from the administration: "Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction," Vice President DICK CHENEY, August 26, 2002.

"Right now, Iraq is expanding and improving facilities that were used for production of biological weapons," President Bush, September 12, 2002.

"The Iraqi regime possesses and produces chemical and biological weapons. It is seeking nuclear weapons," Bush, October 7, 2002.

"We have also discovered through intelligence that Iraq has a growing fleet of manned and unmanned aerial vehicles that will be used to disburse chemical and biological weapons across broad areas. We are concerned that Iraq is exploring ways of using the UAVs for missions targeting the United States," Bush, October 7, 2002.

"We know for a fact that there are weapons there," White House Spokesman, Ari Fleisher, January 9, 2003.

"The evidence indicates that Iraq is reconsidering its nuclear weapons program. Saddam Hussein has held numerous meetings with the Iraqi nuclear scientists, a group he calls his nuclear mujahadeen, his nuclear holy warriors. Satellite photographs reveal that Iraq is rebuilding facilities at sites that have been part of its nuclear program in the past," Bush, October 7, 2002.

Mr. Speaker, I will be offering in the next couple of days the Protect America's National Security Act of 2004, the PANS Act of 2004. That is to demand congressional hearings by the Select Committee on Homeland Security, Committee on the Judiciary, the Committee on Armed Services, and Permanent Select Committee on Intelligence, absolutely demanding that an inquiry be made on the question of the level of intelligence that was utilized to convince this Congress, both the House and the Senate, of the decision to go to war.

I am against the bipartisan commission that has been offered by the President. Why? Because the President will be making the appointments regardless of the fact of whether they will be Democrats and Republicans. The President, the administration, the executive will be setting the time of the start and the completion of its work. I am concerned that any report and any investigation on the question of the type of intelligence that was given at the time of the decision made to go to war be challenged and it be an oversight by the Congress of the United States.

I refuse to allow this Congress to abdicate its responsibility under the Constitution to give oversight of the question of whether or not the intelligence given was both legitimate and substantial and the basis on which it was made.

To the American public, you deserve an answer. To the American public, you deserve that your congressional representatives engage in a process to investigate where there is no time set, where there is no end set, by the very executive that presented the intelligence.

In addition, we should hurry this report. This report should be done within a 6-month period because it is time sensitive. Why is it time sensitive, Mr. Speaker? Because intelligence is a basic infrastructure of security of America. It determines how we secure our borders, it determines aviation security, it determines the difference or the different levels of alert that we propose day after day after day.

It is crucial that the Congress rises to the level of oversight. It is interesting that we wish to push this very important work off to a civilian, if you will, commission which the very entity that we are investigating will be the one that will select both the participants and the procedures. Congress needs to use its subpoena powers and its investigatory powers in order to ensure that the American people have the truth.

I ask my colleagues, Mr. Speaker, to join me in co-sponsoring the Protect America's National Security Act of 2004, which will ask for the general numbers of the CIA budget so that we will know, as was suggested by a former Reagan administration official.

I would like to thank my colleagues for taking the time to speak out tonight about this issue that is critical to the long-term survival of our Nation. I do not mean to use hyperbole. However, I truly believe that so much rides on our foreign intelligence gathering system. Our foreign policy, our trade policies, how we run our borders, what level of alert we are at, how we should live our day-to-day lives—it all is based on our understanding of what is happening in the world around us. If we are continually making decisions based on false assumptions and wrong interpretations, we could face a future full of 9/11s and unnecessary wars like the one still raging in Iraq today.

In the run-up to war, top Administration officials, and the President himself, were making statements daily about the deadly weapons that Saddam Hussein was pointing at the American people. We heard that they had stockpiles of biological and chemical weapons. We heard they were trying to buy materials for nuclear weapons; they had mobile weapons labs, and programs to develop more. One by one, these claims have been refuted. Last week, we heard Dr. David Kay, our own chief weapons inspector for the past year, testify that those claims were false.

However, we went to war based mostly on those claims. The war that has taken the lives of more than 500 brave U.S. soldiers, killed tens of thousands of Iraqis, cost us hundreds of billions of dollars, and diminished our standing in the world community. We have to find out how this tragedy occurred, and make sure it doesn't happen again. The American people are calling for answers, and we need them urgently. On Friday, the President declared that he wants answers too. I commend him for that, but I am concerned that no matter how well-intentioned he is—the truth will not come out of his Administration.

I am worried that a commission hand-picked by the executive branch, with an agenda and schedule crafted by the executive branch, will be incapable of producing an objective and useful assessment of executive branch failures. It is a fundamental human trait that groups tend to close ranks to shield themselves from scrutiny when they know they have made mistakes. That is why the framers of the Constitution built a system of checks and balances into our great government. The President has the power to veto any law Congress passes, and in return, Congress has a strict duty of oversight over the executive branch and the Agencies.

It would be a gross dereliction of our duties, if Congress sits idly by and assumes that the Administration will take care of this problem. In fact, we have already seen that the President's Commission is getting off on the wrong foot. We are getting reports that it is too broad in scope, and may not yield any answers until next year. That is unacceptable. Our national security depends on reliable intelligence information. Furthermore, the President has stated that we are in a global "War on Terror," we have soldiers on the ground around the world fighting that war. They, their families, and the American people, deserve to know what they are fighting for, and what dangers they may face. We simply don't have months or years to waste before we get around to fixing our intelligence-gathering system. We may be vulnerable now, so we cannot rest until we address this problem.

Congressional leadership should immediately launch a series of full and comprehensive hearings, including Homeland Security, Judiciary, Armed Services, and Intel Committees from both the House and Senate. Within six months, we need to report back to the American people how the Administration could have been so far off the mark on Iraqi weapons. We must learn from that mistake first. After that, we can move on to broader issues.

None of us knows what a real investigation will yield. It will take hard work to fully understand the function of our intelligence gathering agencies, since they are largely secret from the American people, and most Members of Congress. Even simple questions like, "Are we putting enough money into Intel?" is tough to answer since the CIA budget is top secret. I think we need to take a look at that policy. Funding of special programs should obviously be guarded. However, I think maybe the American people should have a general idea of how much we are spending on intelligence gathering, in total. Only then can they decide if they are getting their money's worth.

But more important then the financing is the functionality. Do we have adequate manpower? Do we have reliable data? Are we interpreting that data properly? Have we compromised our analysis by poisoning it with politics and partisanship?

The American people deserve answers. This isn't about politics; it is about prudence.

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## THE REAL COST OF THE PRESCRIPTION DRUG BILL

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida.) Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, last week we learned that after extensive debate we were told that the Medicare bill would cost $400 billion to the taxpayers. We learned that the real number, and known all along, was $540 billion. Not a single benefit has been accrued to a senior citizen. Not a single prescription drug or reduction in cost has been accrued to a senior citizen, and yet the taxpayers are being asked to foot the bill not for $400 billion but for $540 billion.

In the last 2 months since this Congress passed the prescription drug bill, three things have happened. First, the taxpayers have been asked to pay an additional $140 billion. Second, Mr. Scully, who is over at Health and Human Services and negotiated this bill, got a huge lobbying contract and became a lobbyist. And in today's Wall Street Journal, there was an article about Delphi gets boost in new drug law where they are able to write off $500 million in costs for health care for their seniors and retirees, and yet not a single new benefit from the Medicare bill. So we have one individual becoming a lobbyist, the taxpayers getting an additional bill of $140 billion, and corporate America gets to write off more of their health care costs. Not necessarily a bad thing, but seniors have to wait until 2006 to see any benefit at all, if there is one, from this legislation.

That to me is exactly what was wrong with this bill is that we have HMOs and pharmaceutical companies getting huge dollars and huge investments of taxpayer-paid benefits, and no money, no resources towards our senior citizens.

This article talks about Delphi's benefit but Caterpillar, GM, Lucent Technologies, all with a number of their retirees who have health care plans as retirees, will now be able to accelerate the write-off on their bottom line. The Delphi article talks about them being able to accelerate a $500 million write-off, and yet no new benefit in prescription drug benefit has been delivered to a single senior citizen.

I will say one thing. The pharmaceutical industry, the insurance industry, and other special interests have surely gotten their money's worth out of this Congress, and so I applaud them for their hard work.

A number of my colleagues on the other side always talk about how they would like government to start emulating and working like a business. There was a bipartisan group that talked about how to make the government, and specifically prescription drugs, operate like a business, creating in Medicare a Sam's Club entity. 41 million seniors would be pulled together, the purchasing power of the seniors. We could save hundreds of billions of dollars by negotiating bulk prices, just like Sam's Club does, just like private insurers do. But the legislation that was passed in this Congress at the behest of the pharmaceutical industry prohibits Medicare from doing what private industry does, what Sam's Club does or private insurance companies do, what even the Veterans Administration does, negotiate on behalf of who they represent, using the leverage power of a quantity of people. In this case it would be 41 million seniors.

Another way of reducing the price and delivering the prescription drugs would be allowing people to buy their drugs in Canada and Europe, again proving we pay 40 percent more here in the United States than anywhere else in the world. People are allowed to use competition in choice to buy their medications. We would have lower prices here in the United States, save our senior citizens dollars and our taxpayers dollars, but both attempts to get the government to operate like a business, to save money, to be more efficient, wring out synergies, has been prevented.

I have found in the last 2 weeks one of the most incredible news on this legislation.

First of all, I believe if we had known the true number and not been lied to or not told the truth or denied the access to the truth, and we had been told that the number was $540 billion, the legislation never would have passed. But that information was consciously, specifically denied access in the public debate, as has been in the past for cases where the administration has refused to share information. Now we know the true number, and the taxpayers are going to be asked to pay an additional $140 billion on top of the $400 billion, and we do not have the money to do it. Yet we are asking them to do it, and not a single benefit.

Mr. Scully, nothing against that, has negotiated himself a wonderful contract to be a lobbyist on the prescription drug benefit, and companies like Delphi will now be eligible to accelerate and write down $500 million on their taxes, and yet not a single benefit has been given for seniors. Everybody sat here and talked about what we were doing for seniors, and this year the prices of prescription drugs will go up 15 percent. They are projected to go up another 15 to 18 percent the following year, and we have done nothing to affect the price.

After this type of behavior in this Congress and the actions taken by this Congress, I am surprised that anybody wonders why people are cynical about politics. We have done a great job out of this institution, taking care of the special interests. Hopefully we will return and look at this legislation and once again think about how we can save our seniors money and our taxpayers.

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## CORPORATE CORRUPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I rise to express my grave concerns about corporate corruption of the highest order, corruption towards which President Bush and his administration have been utterly indifferent.

Halliburton, the Houston-based energy company formerly led by Vice President DICK CHENEY for 5 years before the 2000 Presidential election, has been giving the shaft to the American people and our brave military personnel stationed in Iraq, and the American people know it. They also know that despite the President's attempt to talk a good game on this issue, the Bush administration will do absolutely nothing about it.

Vice President CHENEY is still on Halliburton's payroll. He received $205,298 in 2001, $162,392 in 2002 in deferred salary, and is expected to receive similar amounts in 2003, 2004 and 2005. He also holds 433,000 unexercised Halliburton stock options.

It is deplorable to see corporations gouge the American taxpayers under any circumstances. To watch Halliburton overcharge our government and render inadequate services to our troops in a time of war is totally unconscionable.

The issue of corporate corruption and the Bush administration's willingness to look the other way at conflicts of interest when it would benefit their friends is not a new issue for me. On March 19 of last year, the year that the war in Iraq actually commenced, I circulated a Dear Colleague letter in support of my amendment to the Defense Production Act.

My amendment was designed to ensure that senior-level executives in the Bush administration could not use a conflict with Iraq to obtain financial benefits for companies with which they had been affiliated. Specifically, the amendment would have prohibited contracts under the bill with companies in which high-ranking administration executives were senior managers or members of the board of directors within the last 4 years.

At the time, I noted that there was a considerable amount of suspicion of the motives of this administration in pursuing a war against Iraq, and I expressed my concern about the importance of avoiding both actual and perceived conflicts of interest at a time when the administration's decisions about war and peace would be affecting so many.

My amendment failed. I offered similar amendments on several other occasions which were also unsuccessful.

Unfortunately, my concerns about Halliburton have proven to be all too accurate. Look at what has happened in Iraq.

Halliburton was the beneficiary of no-bid contracts, which have served as the vehicle for war profiteering, such as the contracts that Kellogg Brown & Root, the Halliburton subsidiary, received to control Iraq oil well fires resulting from military action.

In the limited time available to me this evening, I want to look briefly at three issues: Halliburton's inflated oil supply contracts, the kickback scheme to which the company recently admitted, and the outrageous overcharges on its food supply contracts for our troops in Iraq.

Halliburton's inflated oil supply contracts. As my colleagues the gentleman from California (Mr. WAXMAN) and the gentleman from Michigan (Mr. DINGELL) have so ably demonstrated, the United States government paid the Halliburton company an average of $2.64 a gallon to import gasoline and other fuel to Iraq from Kuwait, more than twice what others were paying to truck in Kuwait fuel. Halliburton, which has the exclusive United States contract to import fuel to Iraq, subcontracted the work to a Kuwaiti firm, government officials said, but Halliburton gets 26 cents a gallon for its overhead and fee, according to the documents from the Army Corps of Engineers.

Simply put, Halliburton was inflating gasoline prices at a great cost to American taxpayers. In October 2003, when Democrats first raised questions, it was estimated that Halliburton was charging the United States Government and Iraq's Oil for Food Program an average of about $1.60 a gallon for fuel available for 71 cents wholesale.

A breakdown of fuel costs, contained in Army Corps documents, recently provided the Democratic congressional investigators, and shared with the New York Times late last year, showed that Halliburton is charging $2.64 for a gallon of fuel it imports from Kuwait and $1.24 per gallon for fuel from Turkey.

The oil price gouging is just the first of many Halliburton misdeeds that give rise to grave concern. Consider the recent allegations concerning Halliburton's food supply contracts.

Corruption. Halliburton charges for food it did not serve. The February 2, 2004, Wall Street Journal reported that, according to Pentagon investigators, "Halliburton company allegedly overcharged more than $16 million for meals at a single U.S. military base in Kuwait during the first 7 months of last year." The revelations have "spurred an expansion of an already widening inquiry into Halliburton's government work in Iraq."

Apparently, a Saudi subcontractor, hired by the Halliburton subsidiary KBR, billed for 42,042 meals a day on average. But guess what? They only served 14,053 meals a day. The Pentagon will now review 50 other dining facilities in Kuwait and Iraq for meal-billing discrepancies.

This announcement comes just weeks after Halliburton reimbursed the Pentagon $6.3 million after disclosing that two employees had taken substantial kickbacks from a Kuwaiti subcontractor.

I do not have time to finish all of this tonight, but there is more to come, more to come. We are going to learn more about DICK CHENEY, the Vice President of the United States, and his company ripping off the American taxpayers.

## QUESTIONABLE ACTIVITIES DURING AND AFTER MEDICARE PRESCRIPTION DRUG LEGISLATION PASSED THE HOUSE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, tonight I would like to highlight several questionable activities during and after the Medicare prescription drug legislation passed the House of Representatives last year, and there is no doubt that this legislation, which passed here in the House after the Republican majority kept the vote open more than 3 hours in order to get the results they want, and it would be one thing, Mr. Speaker, if the result were beneficial to seniors who desperately need prescription drug coverage within the Medicare system; however, that is simply not the case.

The prescription drug legislation is a perfect example of how the Republican majority has turned the people's House of Representatives over to the special interests and the wealthy elite. Seniors should not be forced or, I should say, be fooled into believing that this Medicare legislation was written for their benefit. How could it have been considering Republicans forcing seniors to actually get the prescription drug benefits out of Medicare?

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The bill also provides a minuscule benefit, considering that seniors with $1,000 in annual prescription drug costs would pay $857 out of their own pockets and those seniors with prescription drug costs of $5,000 per year would be forced to pay $3,920. What kind of a benefit is that if seniors are not getting the money? Where is the more than $500 billion that now the President and the White House says that this Medicare prescription drug so-called benefit is going to cost the Federal Government? Where is the money going?

The answer, Mr. Speaker, is to the special interests. Republicans did not write this bill to help the seniors; instead, they wrote it to benefit insurance companies and the pharmaceutical companies.

Now, I could talk all night about why this bill is bad and how it is not helpful to seniors, and I think that I and my Democratic colleagues have talked many times, including last week, about the problems with this bill and why it should just be repealed. But the amazing thing about it is that now we are hearing that many of those legislators and members of the administration who benefited or who were involved in creating this bill, negotiating this bill, bringing the bill out of committee, working to put together the language of the bill, are now benefiting from leaving their jobs within the administration, or possibly within Congress, in order to join the private sector and working for those same pharmaceutical companies that they worked with when they were up on the Hill or they were in Washington working for the government to put this bill together.

In fact, many of my colleagues have been saying for months that this legislation was being written not here on Capitol Hill but instead downtown in the offices of PhRMA, which is the pharmaceutical trade association, and also written by the insurance companies. Here in the Republican-controlled House of Representatives the only true voices that matter, in my opinion, on this bill, are the special interests and the wealthy elite.

There is no better example of how the lines have been blurred between Congress writing legislation and legislation being dictated to by special interests than the latest news that the House Committee on Energy and Commerce chairman, and this is my committee, the Committee on Energy and Commerce, the Republican chairman, the gentleman from Louisiana (Mr. TAUZIN), is now flirting with the possibility of leaving the House in order to lead PhRMA, that very pharmaceutical trade organization that represents those companies here in Washington. And he is one of the few House Republicans who negotiated the final prescription drug bill legislation last year.

We just heard, actually within the last few hours, that the gentleman from Louisiana (Mr. TAUZIN) announced that in fact he is going to be stepping down as chairman of the House Committee on Energy and Commerce on February 16, within the next week or so, and that he is seriously mulling going to work as the head of PhRMA.

Now, I understand, Mr. Speaker, that there is nothing wrong with Chairman TAUZIN deciding to retire and inquiring about future job opportunities. But one has to seriously question whether discussions between him and representatives of PhRMA just months after PhRMA received a cash windfall with the prescription drug legislation are appropriate. It certainly serves as a perfect example of what I was saying before of what interests Republicans represent: the special interests.

There has been no indication from Chairman TAUZIN's office that he was negotiating a job with PhRMA last summer when he was also negotiating the prescription drug bill, and I hope that is not the case. However, the bottom line is that he was the main person in the House of Representatives responsible for this bill. And for him to now leave Congress and go seek a job with that very trade association that was benefiting from the bill, I think, is a serious ethical question and something that has to be looked into.

I see that some of my colleagues are here joining me. We are going to talk not only about this case but others, and I would yield now to the gentleman from Massachusetts.

Mr. TIERNEY. I thank the gentleman from New Jersey, Mr. Speaker.

I think people are just outraged by what is going on in this administration and with the Republican majority in the House and Senate here. This is a bad bill to begin with, the prescription Medicare bill, the so-called Medicare reform bill, but when we add to that what can only be described as an affront or a blow to Congress' credibility, the aspect of finding the chairman, the man in charge of writing this legislation, actually closing the doors and excluding Democrats in the process, kept them out of any way of improving what turned out to be a terrible bill, ending up being offered over $2 million, if the stories are correct, $2 million a year from PhRMA, the organization that was out there lobbying for this bill, the organization that has over 600 lobbyists crawling around the Halls of Congress.

If the rumors are true, then it is $2 million to the person who excluded Democrats from the process, that closed the doors, that negotiated the end of the bill, that formulated the bill that ended up giving, by some estimates, a $139 billion boondoggle to the prescription drug companies and manufacturers by putting in a provision that says the government cannot negotiate a better price. And all of this to the detriment of our seniors.

I think people ought to be outraged. I know they are in my district. I can tell the gentleman from New Jersey that a couple from Beverly, Massachusetts, told me that they are seniors and they depend on Medicare; that the bill has to be killed, they said. Means testing, forcing them into HMOs, destroying Medicare forever was not worth the meager drug benefit they are going to get at the end of the day. Nothing was more important for them than to get rid of that bill and write another bill.

Another couple from Hamilton, Massachusetts, wrote to me. The woman said, "My husband and I are retired and our savings are rapidly declining because of prescription drug costs. To deny Americans the right to purchase legally prescribed drugs from Canada is counterproductive. We realize this bill is being driven by special interests exerting a stranglehold over this Nation's senior citizens, and that is particularly galling."

They recognize that this bill should have done something, at least about reimportations of FDA-approved safely packaged and transported drugs; and it did nothing. Even though this House passed an independent bill instructing the FDA to do that in conference, again behind closed doors, with Democrats excluded, and with the chairman who is now said to be offered a $2 million-a-year job by the very people who get the most benefit out of this bill, the special interests, even with that, it just gets worse and worse.

I had a pharmacist write me: "Why aren't the pharmaceutical manufacturers asked to lower their costs to participate in the program?" Pharmacies were asked. "This is one of the reasons medications are cheaper in neighboring countries." Because in neighboring countries pharmaceutical companies are required to lower their prices. "Drug companies must reduce their prices to consumers if they are going to participate in government programs."

Unfortunately for him and other constituents in my district and my colleagues' districts, this is not happening under this bill. The Medicare reform legislation is nothing more than a cruel hoax on Americans.

Let us remember back in the State of the Union address when the President brought with him a woman by the name of Elsie Blanton. He had Ms. Blanton up there in the gallery; and he said his spokespeople said, at that time of the State of the Union address, that Ms. Blanton is on Medicare, a supplemental policy that does not include prescription drug coverage. Ms. Blanton spends approximately $900 per month on prescription drugs when unable to obtain free samples from her doctors or the pharmaceutical companies. Ms. Blanton's prescription drug costs account for three quarters of her monthly income. Her monthly income is only $1.190 in Social Security benefits. Ms. Blanton's income is just above the 150 percent of the Federal poverty level for 2003.

Now, supposedly, Ms. Blanton was there because she was an example of someone who was to benefit from this terrible bill. But according to the Center for American Progress. Elsie Blanton will not see any assistance for years under this bill. The new prescription drug benefit does not even begin until 2006. Ms. Blanton does not qualify for the $600 of interim assistance.

So Ms. Blanton will continue to have to spend at least three quarters of her monthly income on prescription drugs for the next 2 years. In fact, because prescription drug costs rise faster than Social Security benefits, she will probably have to spend even more of her income on her medicines. She is going to have higher costs next year. She will have to pay more for her Medicare benefits next year, because higher payments to private plans and other changes are going to cause everyone's Medicare premium to go up. And the new law also raises the Medicare deductible.

She will potentially have higher costs when the benefit does begin. She could save much less than promised once the new prescription drug benefit begins because premiums and the benefit design are largely left to private health insurers and pharmaceutical companies. It is at their discretion, the insurance companies and the pharmaceutical companies, that they will decide what benefits and what prescription drugs are in there. So higher premiums.

The President had assumed Ms. Blanton would be able to get a drug benefit for a premium of $35 a month, but we know by reading the bill that, in fact, private insurers will set their own premiums, and they can be much higher than $35 a month. The President assumed that all of Ms. Blanton's medicines would be covered under the new benefit, but in fact there is no way to know that because we know that insurance companies and the pharmaceutical manufacturers will decide what drugs are covered.

Even if the medicines Ms. Blanton needs are covered when she signs up for the plan, we know from reading the bill that that list can change at any time after she originally signs on. And if the medicines she needs are not covered, any money she spends out of her own pocket on those medicines will not count toward the benefits' out-of-pocket limit.

She will go months without assistance, even after it kicks in. With monthly drug spending of $190 a year, assuming that all of her drugs are covered, Ms. Blanton will receive no assistance from March and through June of every year until she hits another higher limit. It is during that period of time, after March and before June, that she will be in that so-called donut hole or gap of benefits where she gets nothing at all, despite the fact that she continues to pay her premiums during that period.

What will happen to Elsie Blanton should not happen to anybody in this country, particularly on a bill of this nature. And if that is the best the people that proposed this bill have to show Ms. Blanton, who has this terrible result, then this country is in a sorry way and seniors are being deprived.

Never again should an industry be allowed to come in here and write a bill; should people that are now being offered $2 million a year by that industry be able to shut Democrats out of the process so they cannot improve the bill and write a bill that changes what the Senate had, changes what the House had; and after a so-called conference comes out with a bill that actually does worse for seniors, has them paying more for their prescription drugs and getting less benefits. Nevermore should that happen.

If this continues to happen, and if what I heard earlier tonight, and what I think our colleague from Illinois is going to talk about, if this administration now has the audacity to take millions of dollars in taxpayer money and go out on the stump and on the TV and try to convince seniors who got a bad deal that they actually got a good deal, then we should have an investigation done and talk about the propriety of that, possibly violations of campaign laws, certainly violations of taxpayer rights, and get to the bottom of this.

This is a bad bill, done in a bad way, by people benefiting from it getting too involved and people on the floor of this House potentially having an interest now in working for those same countries that made billions of dollars of benefits. It does not sound good, it does not look good, the American people do not feel it is right, and they have every right to be concerned.

Mr. Speaker, I thank the gentleman for his time.

Mr. PALLONE. Before I yield to the gentlewoman from Illinois, I just wanted to highlight two things the gentleman said that I think are so important.

One is that whole thing about how there really is no set premium, set deductible, set anything really in this bill. The Republicans go out there and they say, oh, your premium is going to be $35 a month, your deductible, I think they say, is going to be $250 a year, the government is going to pay 75 percent of the cost, you are going to pay 25 percent. There is nothing in the bill about any of that.

I have to stop using the term Medicare prescription drug benefit when I talk about this because this is not even under Medicare. The people that are in Medicare are eligible for it, but there is no guarantee that they are going to get it. And none of these things are guaranteed. They can charge $85 a month, they could have a $1,000 deductible, they could, as the gentleman says, not cover certain drugs. We do not even know if it is going to be available in most areas.

So this is why they are out there talking about advertising and trying to promote this thing, because there is nothing to it. It is like an empty suit.

The other thing the gentleman pointed out, which is very special interest-oriented, is the fact there is this specific prohibition in the bill on any kind of negotiation on the price. The Medicare administrator, the Secretary of Health and Human Services, cannot negotiate lower prices.

This is an excerpt from last Sunday's New York Times where they talk about how bad the bill is and they specifically say that "the ban on government intervention with regard to negotiated price reflects the Republicans' aversion to government price controls, but it is also a testament to the lobbying clout of the drug industry, a major patron of the Republican Party." Then of course they talk about how the Democrats have tried to introduce legislation that would allow for negotiated prices.

This is the very kind of special interest we are talking about. This is what was put in by PhRMA, and now we have the chairman of our committee that was negotiating this bill and bringing this bill on the floor and through the committee with this prohibition on any kind of price controls or negotiated prices going to work to be the chief lobbyist for PhRMA.

Mr. TIERNEY. Mr. Speaker, if the gentleman will yield for just a minute, and then I will give the floor back.

While PhRMA was busy trying to contact the chairman's office to make an offer of some millions of dollars a year to work for them, the American people were having the deal cut out from underneath them. When we talk to seniors and say, look, if this is a good bill, when do you think it would start? Their answer is, immediately. This bill does not start until 2006, well after the next election. We know what that is all about.

Negotiations for lower prices? Common sense. Why do people think the pharmaceutical companies have resisted prescription drugs in Medicare all this time? Because they thought for sure the next common-sense thing would be for that large group of 37 million people to be used as bargaining leverage to get a fairer price, as the free market would dictate and is done elsewhere.

But with this majority in the House, the Republican majority in the House, the Republican majority in the Senate, and a Republican in the White House they can have it all. They can have all these new customers and clients and not have to worry about it because they got them to put in the bill that there would be no negotiation for a lower price. People can see right through that.

□ 2115

They see through the gap, the fact that there is going to be a period of time when they are paying premiums and getting nothing in return, the so-called gap or doughnut hole. To figure out whether or not this bill is good for them, they need a calculator. And when they apply this bill to their circumstances, they find out it is not a good bill for them unless they are desperately poor or have such catastrophic costs it is unbelievable.

To top it all off, about a third of today's retirees who get their health insurance and prescription coverage through their employer, the CBO assumes they are going to be dropped back to this plan and get less coverage for more cost than they did when they had their employers covering it.

Mr. Speaker, that is why we are hearing that the administration is going to try to spend millions of dollars of taxpayer money to try to make a silk purse out of this cow. Again, they should not be allowed to use taxpayer money to sell them a bad deal which they know is bad and try to change their mind.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank both gentlemen for their vivid description on what is wrong with the so-called Medicare bill that passed, the nonprescription drug benefit bill that passed the House, but I want to tell Members my reaction to the chairman talking about now and very seriously looking at going to work for the pharmaceutical companies and how the Medicare administrator is going to benefit. I feel that very personally and very deeply, for this reason. This kind of breach of trust is something that really affects me because it confirms the worst nightmares of the public about what we as Members of Congress do here.

I think all too many people have this view that Members of Congress come here and they try and line their own pockets for their own benefit, working with special interests. And then what they find is the smoking gun, a guy like the chairman of the Committee on Energy and Commerce, on which the gentleman and I both sit, taking a job and saying he is going to negotiate a job with the pharmaceutical industry, PhRMA, the lobbying organization. He has announced he is going to give up his chairmanship on February 16 and not run again, and that he is looking at this offer. We know he has turned down a million dollar offer already from another organization. We have heard it is between $2 million and $3 million, and go to work for PhRMA, the very industry that stands now to benefit the most from this so-called senior citizen prescription drug benefit.

The good news is that the seniors get how bad this bill is. But what I fear that they do not get is that there are Members of Congress who are sincere about trying to provide a real benefit to them and think that all that we are doing here is trying to line our own pockets, trying to rig the system so it helps the pharmaceutical companies, so it helps the HMOs, and that is pretty much what they have seen.

This bill is about an estimated $140 billion windfall for the drug companies. $140 billion windfall for the drug companies, because it is prohibited now from trying to negotiate. Like the Veterans Administration, we do not have to look far to see where an agency negotiates for lower prices. The Veterans Administration gets for veterans sometimes half the cost that other Americans pay when they go to the pharmacy, and about half the cost we are going to have to pay for under this bill because there will be no negotiation.

The Washington Post had an editorial on January 29 that said for the gentleman from Louisiana (Mr. TAUZIN) to leave so soon afterward to work for the pharmaceutical association whose companies reaped substantial benefits from that bill provides a particularly pungent example of how quickly the "revolving door" between Congress and K Street is now revolving, and how lucrative this game has become for its participants.

The only thing I would disagree with, this is not about a revolving door, this is about a locked door. This was happening while the gentleman from Louisiana (Mr. TAUZIN) is still in the Congress and still chairman of the Committee on Energy and Commerce. This is about a locked door where he kept out the gentleman from Michigan (Mr. DINGELL), the ranking member on his committee, who was here when Medicare was passed in 1965, an expert on the subject, locked out of the conference committee.

I hope the public understands how extraordinary that is for the appointed members of a conference committee to be locked out of the process.

Also locked out, the gentleman from New York (Mr. RANGEL), the ranking member on the Committee on Ways and Means. And let us be clear, when the gentleman from New York (Mr. RANGEL) got locked out, it meant that the only possible representative of people of color in this country who have a lot at stake in this issue, were also locked out of that conference committee, which is now an all-white committee, I guess. We do not know. Who knows who they invited in from the pharmaceutical industry or the HMOs because the leading Democrats in the House of Representatives were locked out of that process.

And coming out of that locked door is, number one, a bill that is just a payoff to the HMOs and the pharmaceutical companies; and what comes out of that committee are job offers, big job offers. So what we have is now the gentleman from Louisiana (Mr. TAUZIN) we think getting between $2–3 million, which is actually a pretty good deal for the pharmaceutical industry which stands to gain $140 billion. That is not too bad a deal to get a clever man like the gentleman from Louisiana (Mr. TAUZIN).

They also got a guy named Tom Scully who was the Medicare administrator, the guy behind the scenes, who as a staffer helped write the bill and negotiate the whole bill. Where has Mr. Scully gone? Mr. Scully has gone to be a top health care lobbyist for the Washington firm of Alston & Bird. While serving as President Bush's director of Medicare and helping to craft the Medicare deal, Scully was actively negotiating with the lobbying firm. Recognizing the conflict of interest, the Bush administration granted Scully a special waiver to negotiate with the lobbying firm while serving in the Bush administration.

Here he is, he is with Medicare, he is the head man, he wants to look for another job, and Health and Human Services grants him a waiver while he is working on the Medicare bill to start negotiating for his next job. A waiver. Well, there was such an uproar over that, now they have said agencies cannot do that, only the White House can grant those sorts of waivers. So Scully is out the door.

Then there is the top aide on the Committee on Ways and Means, John McManus, who was negotiating this bill as well. He left and he is going to have a job outside helping him make some money from the pharmaceutical industry. Here is what he said. "We accomplished what we set out to do. Helping people figure out how this gets implemented, that is what is interesting to me." Who are the people is he talking about that he wants to help figure it out? Is he going to help the seniors? I have not heard that he is going to go work for a senior citizen organization.

Mr. PALLONE. Mr. Speaker, the amazing thing to me, the fact that the White House, I guess because of the public pressure, because of people speaking out about what Scully did, are now saying that the department cannot grant the waiver, but the White House can. It seems to me the goal should be that there not be any waivers at all. Under what the Bush administration is now saying, they can still grant another waiver to somebody else to negotiate a bill, and then go work for the very company that they were negotiating with. I cannot believe that they said no more waivers by the department, but we can still grant the waiver.

Ms. SCHAKOWSKY. Mr. Speaker, the words that we want to come out of their mouths is that there will not be any more waivers, and that seeking a job in the private sector, particularly with an industry that you are now regulating in a sense or making decisions about, is not right. It is not right. It smells. People know that. They do not like it. This is why the public loses faith in government, and that is why I feel so strongly about it.

Mr. PALLONE. Mr. Speaker, that is exactly why the ethics law says you cannot do it, it is wrong. So why should any waivers be granted? And there is no basis for the waiver. I asked in the case of Scully why and if there were any special circumstances, and the answer was there was nothing of that nature, they just granted the waiver.

Ms. SCHAKOWSKY. Mr. Speaker, there are some aspects of revolving door that apply here, although I still believe that was about a locked door. These individuals were servants of the public while they are negotiating or figuring out their next move with the pharmaceutical industry. But we have got the door going the other way, too. We have a situation where an HMO lobbyist turns up as a Bush Medicare official. A woman named Julie Goon was just hired by the Bush administration. She is the former vice president of legislative affairs for an HMO trade association in Washington, and she is now the new Director of Medicare Outreach. Congress Daily reported that Goon will be in charge of "getting the word out to seniors, health care professionals, consumer groups and others about how the program works, HHS' progress in implementing it and what its impact on them will be, and for apprising the department of their reaction."

Before she got this job, Goon was named one of Washington's top lobbyists in Washington in 2002. Now she is head of explaining this Medicare bill and why it is such a great deal as Director of Medicare Outreach.

Mr. PALLONE. Mr. Speaker, the gentlewoman probably remembers within the last week or two that the President announced that he was significantly increasing the reimbursement for HMOs. The reason that was given was because so many of the HMOs dropped out of Medicare, did not want to cover seniors within the Medicare program, that they needed to provide significantly more resources to the HMOs if they wanted to get them back into the Medicare program.

It is obvious that under this bill that the HMOs are going to get significantly more money in terms of reimbursement rate than traditional Medicare. Again, that is just a function of the fact that the HMO industry was basically calling the shots at the White House, and here we go again with an example of someone within the industry now working at the White House on the very program that is increasing the amount of money that the HMOs will get.

Ms. SCHAKOWSKY. This is not only disgusting, but it is also very costly.

We know now that this bill which helps seniors little and pharmaceutical companies and HMOs a lot, is going to cost not $400 billion but about $540 billion. Now is that additional cost meaning that we are going to help seniors more, that we are going to provide a more generous benefit, that they are going to be able to buy their prescription drugs any cheaper? No. The reason that the cost of the Medicare bill has been reassessed is because the cost of prescription drugs are going to go up, so taxpayers are going to have to take more money out of their pocket.

☐ 2130

The cost to get the HMOs to keep providing the care, because HMO costs go up every year, is going to raise the price of this bill.

The other thing that was not talked about that I think a lot of seniors do not get is that the premium can go up every year, the copayment can go up every year. So what may start out as $35 could end up being $85 or even more in a few years.

Mr. PALLONE. If I could just throw this in a second, in that New York Times editorial that I mentioned, they specifically say, "Less well known is the likelihood that the drug coverage will actually become worse with each passing year. The premiums, deductibles and out-of-pocket expenditures will all increase rapidly, tied to increases in per capita drug expenditures under Medicare. By 2013, for example, the out-of-pocket spending required before a person qualifies for catastrophic coverage will probably be $6,400, well above the $3,000 required in the first year. That could be devastating for those struggling to survive on these benefits." It is built into the bill, but it keeps going up.

Ms. SCHAKOWSKY. It is built into the bill, but it is quite remarkable that before the ink is even dry on this bill, the price has gone up more than 25 percent, from $400 billion to $540 billion, and it has not even started yet. Not one dollar in benefits, so-called, has even gone out.

The seniors know that this is a bad deal. The seniors who pay more attention than anybody else already know. In polls that have asked them, they do not think that they are going to benefit sufficiently. But it is important that it be explained. This comes from today, from the Associated Press:

"The Bush administration launched a $9.5 million television advertising campaign Tuesday to rebut criticism of the new Medicare law. Understand, this is not a political commercial paid for by a campaign. You and I and all of our constituents are paying for a $9.5 million television advertising campaign to rebut criticism of the new Medicare law. The ad is to run on network and cable television through March, clustered around soap operas, game shows and news programs. Its theme is, 'Same Medicare, More Benefits.' "

Mr. PALLONE. Can I ask you again, you said that this is paid for by taxpayers?

Ms. SCHAKOWSKY. That is correct.

Mr. PALLONE. Explain that to me again?

Ms. SCHAKOWSKY. I am reading to you this. This is not a campaign expenditure:

"The administration is spending another $3.1 million for a newspaper, radio, and Internet effort in both English and Spanish. The 30-second ad addresses some of the major criticism of the law, including assertions that it will force seniors out of traditional Medicare and into managed care plans and that savings will be paltry from drug discount cards and prescription drug insurance starting in 2006."

Mr. PALLONE. I find that incredible. I have never heard of a situation where the government pays to rebut criticism of the program.

Ms. SCHAKOWSKY. This is correct. Quoting from the article:

"Health and Human Services Secretary Tommy Thompson played the commercial Tuesday for reporters. Four actors who portray Medicare beneficiaries ask how the law is changing Medicare. 'Can I keep my Medicare just how it is?' one asks. The announcer replies. 'Yes, you can always keep your same Medicare coverage.' At the end of the ad, another senior says, 'So my Medicare isn't different, it's just more?' The announcer, 'Right.'

"Several Democratic Senators already have criticized as propaganda a two-page flyer that HHS plans to make the basis of a letter to be sent later this month to the 40 million older and disabled Americans who are enrolled in Medicare. Asked whether he had consulted those Democrats about the accuracy of the ad, Thompson said, 'It's accurate.' "

Mr. PALLONE. So we now are standing here and basically pointing out why this bill does not benefit seniors, and the administration is going to spend taxpayers' money to say the opposite.

Ms. SCHAKOWSXY. Exactly.

Mr. PALLONE. That is unheard of. I have never heard of that happening.

Ms. SCHAKOWSKY. This is taxpayer advertising: $9.5 million on television; $3.1 million for newspaper, radio and Internet; and a mailing to 40 million seniors and persons with disabilities, all at taxpayers' expense to explain why this lousy bill is, in fact, good for them.

Mr. PALLONE. There has to be some way to stop that. It sounds to me like it is blatantly illegal. But we will have to look into it. I thank the gentlewoman.

Ms. SCHAKOWSKY. If I can go on for just a minute, when President Bush ran for office, he said our first priority will be to restore honor and dignity to the White House. But when you look at President Bush's top official in charge of Medicare getting issued a waiver to pursue employment in the health care industry while he continues to serve as administrator of Medicare, how can we call that honor and dignity? This confirms the worst of what people think about the way government is run.

When this first happened, I along with our colleague, the gentleman from California (Mr. STARK), wrote a letter to the Secretary of Health and Human Services, Tommy Thompson. A part of the letter says, "For 7 months Members of Congress who relied on Mr. Scully for information were kept in the dark about the fact that he was actively engaged in looking for employment with firms that have significant interests in the issues at stake. Financial conflicts of interest are designed to assure Members of Congress, entities with interests pending before CMS, and the public that Federal executive branch employees are independent and unbiased in their behavior. While we strongly believe that this waiver should never have been granted, at a bare minimum knowledge of it would have been valuable to us in weighing the advice provided by Mr. Scully."

This is just shameful. I think in order to restore the confidence that the American public should have in Members of Congress that we are operating in the public interest, in their interest, that when we come up with a bill, it is because it is going to help them get their prescription drugs, then we cannot allow this kind of behavior to continue. No waiver should be granted. An advertising campaign, paid for by the taxpayers, should not be allowed. If the gentleman from Louisiana (Mr. TAUZIN) takes this job with PhRMA, for 1 year he will not be able to lobby Members of Congress and staffers, but he can still lobby the executive branch, the people that are writing all the regulations that have to do with implementing this particular piece of legislation that he crafted behind a locked door. I think that this notion of restoring honor and dignity to the White House, that is an important goal; but that goal has been undercut and betrayed by this administration and the conduct by the chairman of the Committee on Energy and Commerce.

Mr. PALLONE. I want to thank the gentlewoman for what she has presented tonight. It is incredible to me that this advertising campaign, I just assumed that it was being paid for by the Republican National Committee, that it is actually being paid for by the taxpayers. That is unheard of. What she brought out about Scully, who was the Medicare administrator, now we have an example with TAUZIN of a Member of Congress who was the chairman of the committee that dealt with the Medicare issue and then we have the head of the Medicare administration within the White House, both of them getting jobs now, purporting, in TAUZIN's case, it seems likely, to get a job working for the very pharmaceutical industry or the law firm representing the pharmaceutical industry. It is just such a blatant example of special interests.

I know that my colleague from Ohio wants to talk about another example. We mentioned before you were on the floor on the night when this vote was taken, that actually the board was left open for almost 3 hours because there was actually a majority of both Democrats and Republicans that were against the bill. Then the President started making calls and Secretary Thompson of Health and Human Services was in a back room there. I saw him, twisting arms. We got to the point where activities were taking place which, in my opinion, were bribery that I know the gentleman wants to talk about. I appreciate his being here.

I yield to the gentleman from Ohio.

Mr. STRICKLAND. I thank my friend from New Jersey. I think the American people need to know that under this President and under the leadership of this Congress that this government is for sale. It is for sale. It is for sale to the highest bidder. The fact is that Halliburton was fined, I think, over 60-some-million dollars for overcharging for fuel that they were supplying in Iraq, and now in the New York Times today there is a story about Halliburton having overcharged for the meals they are providing to our soldiers some $24 million. Halliburton has overcharged for the meals they are providing or should be providing or said they are providing to our troops in Iraq.

In most other circumstances, this kind of behavior would be called criminal behavior. Why would this government continue to do business with Halliburton that has been fined 60-some-million dollars and overcharges $24 million for meals? It is almost beyond belief that we would continue to let this rogue corporation that Vice President DICK CHENEY, I understand, is still getting compensation from, from getting these contracts. What is going on with this government? When are we going to stop and say, wait a minute, this is just unacceptable for a corporation to act like this?

Mr. PALLONE. If the gentleman would yield, I was thinking about what you said today with the meals and Halliburton. I would venture to say if this were another time, say it was World War II and something like that happened, Halliburton would be out of business the next day.

Mr. STRICKLAND. They are profiteering on this war. That is what they are doing. They are profiteering on the war, and it is time the people in this country and those of us who serve in this Chamber say enough is enough. We are not going to continue to allow this rogue corporation to act in this behavior and to continue to get government contracts.

I talk to my folks back home in Ohio, especially my seniors, very frequently about this so-called Medicare bill. When I describe to them what happened in this Chamber, the people's House, they are appalled. We got that Medicare bill, as you will recall, I think it was over 800 pages long, and we received it on a Friday morning. That debate started Friday evening. We debated in this House back and forth until 3 o'clock in the morning, at a time when most Americans are asleep. At 3 o'clock in the morning, they finally called the vote, and the vote which normally lasts 15 minutes, at the end of that voting period, the bill had lost.

Most Members of this Chamber recognized that it was a bad bill, that it would not provide adequate benefits for our seniors, that there were no cost controls, that we were prohibiting cheaper drugs from being imported from Canada, that the Secretary of Health and Human Services could not negotiate discounts, and the bill had failed. And so they just kept the vote open, not for 10 minutes, not for 30 minutes, not for an hour, but for 3 hours they kept the vote open, until 6 o'clock in the morning. And the news reports indicate that they got President Bush out of bed, or woke him up about 4 o'clock in the morning, so that he could start making calls and try to twist arms and get people to change their votes. The gentleman from Michigan (Mr. SMITH), a Republican, a man who is retiring from this Chamber and whose son is running in a contested Republican primary to replace him, shared with a columnist, Robert Novak, that he was approached on the floor of this, the people's House, and that he was told if he would change his vote that his son would be provided about $100,000 from certain business interests if he would change his vote.

I am not an attorney. I am a psychologist by training, but that description sounds a lot like bribery to me; and if it is and if it happened on the floor of this House, it ought to be investigated and those responsible ought to be held accountable. But to his credit, the gentleman from Michigan (Mr. SMITH), as I said, who is a Republican, refused to change his vote. And then it is reported that another Republican Member approached him and said to him, "Your son is dead meat. He will never be able to serve in the House of Representatives."

□ 2145

That behavior is beneath the dignity and the honor of this, the people's House, and the Speaker of the House of Representatives ought to call for an investigation. We ought to determine if something illegal was done on this House floor, or at least something unethical or something that violated the rules of this House. And that is how that bill actually became law, because at 6 o'clock in the morning, as the sun was coming up, a couple of Members were finally persuaded to change their votes.

That is not the way to create public policy in a democracy; certainly not in the American democracy. It is shameful behavior.

Mr. DELAHUNT. If the gentleman will yield, I think it is important to note that in the aftermath of that vote, some of our colleagues on the other side of the aisle in private conversations absolutely deplored what occurred.

I think that as colleagues of the gentleman from Michigan (Mr. SMITH), it is important that we commend him for his courage, and acknowledge the fact that as he leaves this Chamber, his legacy and his contribution to this institution and to the people in his district has no stain, no blemish. He can leave as a man with his dignity, pride and, I think, good wishes from all of us.

What occurred to the gentleman from Michigan (Mr. SMITH) I think underscores the fact that within this House there is a perversion of the democratic process that has made this particular institution so strong and such a viable component in our democracy, and it is incumbent on all of us, Republican and Democrat, to insist on transparency, to insist on fighting for the process, so that the American people understand what is going on here in Washington, so that the truth be revealed.

The gentleman was talking earlier about profiteering, and maybe the gentleman from New Jersey (Mr. PALLONE) can inform the audience here tonight, maybe he knows, but I have a clear and vivid memory of during the debate on the $87 billion supplemental, which was for the occupation, the additional occupation in Iraq and Afghanistan, that there was a clause in the bill which specifically addressed the issue of profiteering. It was in conference, and somehow it became deleted.

It is my memory, and you can amplify on this, that that particular provision would have increased substantially the criminal penalties for profiteering on the blood of American soldiers. I do not know if the gentleman has a comment or a memory, but I found that so shocking.

Mr. STRICKLAND. I had several members of school boards in my office today from Ohio. They were here because they are concerned about the fact that we are underfunding the No Child Left Behind legislation and passing unfunded mandates over to our States, and they told me there is an effort underway to require an audit of 12 or 13 percent of all of the school lunches that are fed to needy children in this country. Currently I think the audit requires a sample of 2 or 3 percent to be audited, but there is concern apparently that maybe we are feeding children who somehow do not deserve to be fed, so they want to increase the audit size to 12 or 13 percent.

Then I pick up the New York Times, and I read about Halliburton and the fact that they overcharged our government $24 million, saying they had provided food to our troops that they had not in fact provided. I mean, when are we going to get real around here and go after the real culprits?

Now, I am not in favor of fraud in the school lunch program certainly, and we ought to do whatever we can to stop fraud wherever it exists, but I am a lot more concerned about Halliburton ripping off the American taxpayer than I am the fact that some needy child may be getting food that does not meet the specific criteria.

That is just an example of how our priorities are really out of kilter up here. We ought to be going after the big guys, the big offenders, those who are really ripping off the American taxpayer, whether it is Enron and the Ken Lays of this world, or it is Halliburton that has been fined, I think, $64 million or $65 million for overcharging for fuel that they provided in Iraq. And now we find out that Halliburton, this corporation that used to be headed by Vice President DICK CHENEY, has overcharged $24 million for food that they should have provided to our troops.

When is this madness going to stop? When are we going to get serious about stopping this war profiteering? I am just sick. I think the American people are getting fed up with their tax dollars being used in these kinds of ways.

Mr. PALLONE. Reclaiming my time, I just want to add that I think my colleague from Massachusetts brought up the main point, which is that the problem is that Halliburton is doing all these things, now admitting, I guess, in two or maybe three cases they have done the wrong thing, but the penalty is not sufficient for them to stop doing it.

Mr. STRICKLAND. And they continue to get the contracts.

Mr. PALLONE. The oil contracts, they were charged a $64 million penalty, but they are making billions, almost a trillion dollars I think in terms of the amount of money they are taking in.

As our colleague from Massachusetts said, they are not going to stop doing it, because what do they care if they pay a few million dollar penalty when they are making billions of dollars? That is the problem. As I said before, if this had been a different time, like World War II, they would have been out of business; that would have been it. Now, twice, and it is probably going to be more. It is just unbelievable.

Mr. STRICKLAND. Why do we continue to do business with a company like this that has shown such bad faith? Sixty-four million dollars or $65 million is a lot of money; $24 million is a lot of money. Yet we continue to allow this company to suck up tax dollars in contracts, and it is a shameful set of circumstances.

I think the President and the Vice President ought to disassociate themselves from this company and say they are out of here. There are honest companies, there are honest corporate leaders that we can do business with. Why are we continuing to do business with Halliburton? I just cannot understand it.

Mr. PALLONE. We were talking before about the gentleman from Michigan (Mr. SMITH) and the allegations that there were efforts to bribe him. We talked about it, but I do not know if we mentioned that he talked about this in his own words. I just want to read a couple of sentences.

This was from the column the gentleman mentioned in the newspaper, where he said after the vote, and this is his quote, "The House passed a deeply flawed Medicare prescription drug bill by a vote of 220 to 215 at 6 a.m. Votes in the House usually last 15 minutes plus a traditional 2-minute cushion. But because the leadership did not have the votes to prevail, this vote was held open for a record 2 hours and 51 minutes as bribes and special deals were offered to convince Members to vote yes."

This is Congressman SMITH's quote. He continued: "I was targeted by lobbyists and the congressional leadership to change my vote. Other Members and groups made offers of extensive financial campaign support and endorsements for my son Brad who is running for my seat. They also made threats about working against Brad if I voted no."

These are his own words. Just so there is no doubt here about what the gentleman said or our colleague from Massachusetts said, he is saying this himself.

Mr. DELAHUNT. I would just like to interject for a moment. I do not know if either of you had the opportunity to see a recent broadcast of 60 Minutes, but you are surely aware that U.S. law does ban virtually all commerce with rogue nations. But there is a loophole, and Halliburton has exploited that particular loophole.

The law does not apply to any foreign or offshore subsidiary, so long as it is run by nonAmericans. So what has happened? In the case of Halliburton, they have an offshore subsidiary. Guess where? In the Cayman Islands. That subsidiary is doing business with Iran.

The name of that particular subsidiary is Halliburton Products and Services. It is wholly owned by the U.S.-based Halliburton and is registered in a building in the capital of the Cayman Islands. In a building owned by the local Caledonian Bank, Halliburton and other companies set up in this Caribbean island because of tax and secrecy laws that are corporate-friendly.

Mr. STRICKLAND. Can I comment on that? If I understand what the gentleman is saying, Halliburton, a company that is getting billions of dollars in contracts, is doing business through an offshore subsidiary with a nation that the President has labeled one of the "axis of evil" nations.

Mr. DELAHUNT. That is correct.

Mr. STRICKLAND. So this company is benefiting from the American taxpayer through the contracts, doing business with a country that the President stood at that platform and labeled a part of the "axis of evil." Why is this happening?

Mr. DELAHUNT. Today, again, if the 60 Minutes piece is accurate, and I presume it is, it certainly has not been challenged, and Halliburton has declined to be interviewed by them; today, today, to this member of the "axis of evil" club, it sells about $40 million a year worth of field services to the Iranian Government so that it can obviously support its oil infrastructure to gather the needed revenue to support whatever programs, whether they be weapons of mass destruction programs, whether they be supporting terrorist organizations anywhere in the Middle East or all over the world, whatever programs the Iranian Government funds through its oil revenue.

But that, as that famous radio commentator is wont to say, is only half the story. The subsidiary, Halliburton Products and Services, and I am reading again from the transcript of this CBS piece, was registered at this address. It was in name only. There is no actual office here or anywhere else in the Cayman Islands, and there are no employees on the site.

Mr. STRICKLAND. So it is a sham.

Mr. DELAHUNT. It is a sham. And I intend this week, maybe early next week, to consult with my colleagues on the Committee on the Judiciary and send a letter to the Attorney General, and I think it would be appropriate to request a special prosecutor to conduct an investigation into these allegations by 60 Minutes. I would hope that the gentleman from Ohio (Mr. STRICKLAND), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from Pennsylvania (Mr. HOEFFEL) would support that particular letter.

I think that this is something that has to be examined by an independent prosecutor, not an independent counsel, to again reveal the truth to the American people. Were there violations of the intent of the existing legislation that would prohibit these companies from dealing with so-called rogue nations? I think that this is absolutely essential to do, just simply out of respect for the rule of law. But also, if it is true, to demonstrate the moral deficit on the part of some and the hypocrisy on the part of some when it comes to this particular issue.

I yield back to the gentleman from New Jersey.

Mr. PALLONE. I want to thank my colleagues for not only raising these issues with regard to Medicare, but also with regard to Halliburton. I would certainly say to the gentleman from Massachusetts, I would be glad to join in that effort that the gentleman described tonight.

I want to thank the gentleman from Ohio and the gentleman from Massachusetts for participating in this special order tonight.

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## IRAQ WATCH

The SPEAKER pro tempore (Mr. BARRETT of South Carolina). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 60 minutes.

Mr. HOEFFEL. Mr. Speaker, good evening. I am happy to be back here with my colleagues to conduct another hour of Iraq Watch. We have been meeting one day a week, one evening a week for 1 hour for about 8 months now, since the invasion of Iraq was conducted and problems became apparent; and we have been trying to raise those questions here on the floor, asking for answers, and trying to educate the American public about the problems and challenges in Iraq. Since our last time on the floor, there have been amazing developments that I would like to talk about for a few minutes before turning to my colleagues and engaging in a discussion with them.

The big news is that President Bush, at long last, has agreed to appoint an independent commission to investigate the question of weapons of mass destruction and their presence in Iraq and to try to answer the unanswered questions about the weapons of mass destruction.

Now, on behalf of Iraq Watch, all I can say is, it is about time. We have been individually and as a group calling for an independent commission to investigate the controversy surrounding weapons of mass destruction since the very beginning of the Iraq Watch 8 months ago. I know, in particular, the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Massachusetts (Mr. DELAHUNT) never miss an opportunity to call for such a commission to be appointed; and I have lent my voice to that as well. Finally, the President has agreed that such a commission is needed.

Well, let us take a quick review of the situation and find out why President Bush now believes it is important for an independent commission to investigate the weapons of mass destruction and the performance of his administration, because I can tell my colleagues, President Bush does not like independent commissions. I do not think he did this lightly. I think he realizes that there is a huge question here, and it is not a political question; it is a question of national security. The issues that we are raising are not designed to raise political controversy, but to deal with our national safety. These are matters of national security.

Well, we all remember that President Bush and his administration stated in the summer and fall of 2002 with complete certainty that Saddam Hussein possessed weapons of mass destruction and those weapons of mass destruction posed an imminent threat to America, to world peace, and to our national safety. There was not any hedging; there was not any doubt in the President's comments. There were not any hesitations or uncertainties expressed by any of the policy-makers in the Bush administration. They stated as fact that these weapons of mass destruction existed. They identified on maps where the weapons of mass destruction were located in Iraq. They even indicated how much those weapons weighed. They told us, we have 500 pounds over here; we have 300 pounds over there.

Now comes a year and a half later, Dr. David Kay, the CIA's chief weapons inspector in Iraq. And after working there for 7 or 8 months, he has announced, upon his retirement from that job, that the weapons of mass destruction do not exist and, in his opinion, did not exist during 2002 or at the time we went to war in 2003.

Now, it is, by the way, undeniable, Mr. Speaker, that Saddam Hussein had weapons of mass destruction in the 1980s. We know that. He used them in murderous ways against his own civilians, innocent civilians, the Kurds in Iraq. He also used them in murderous ways against the citizens in Iran, during the Iraq-Iran War. But the question is not whether he had them in the 1980s. The question is during the 1990s and the period of international sanctions and international inspections, did Hussein give up those weapons and did he have them at the time we went to war in 2003. David Kay says no. He has concluded they did not exist.

In addition to our general memory of how positive the President was, I can share with the House, as I have before, that I attended a briefing at the White House on October 2, 2002, 1 week before this House voted on the war resolution. That briefing was for a bipartisan group of Members, about 20 of us attended. It was one of several briefings the White House conducted during that time. The briefing was conducted in the Roosevelt Room of the White House by CIA Director George Tenet and National Security Adviser Condoleezza Rice. Ms. Rice and Mr. Tenet told us with complete certainty that weapons of mass destruction existed, that they believed Hussein was giving them to terrorists, that there was a link between Hussein and al Qaeda and, again, they knew where the weapons were. It was just a matter of invading and uncovering them and seizing them. One of my colleagues specifically asked George Tenet, Mr. Tenet, on a scale of 1 to 10, how certain are you that Saddam Hussein has reconstituted his nuclear weapons program? And Mr. Tenet answered, without hesitation, 10. He was completely certain.

Well, we now know that information was simply incorrect. In fact, we had a glimmer of the amount of exaggerations and deception when in the spring of 2003 rank-and-file Members of the House were finally allowed to see the classified intelligence reports from the fall of 2002, the Defense Intelligence Agency report of September of 2002, that said, in part, there was no credible evidence of a chemical stockpile of weapons of mass destruction in Iraq, and the national intelligence estimate of October of 2002 that was filled with uncertainties. That report said that we think, according to the CIA, that Hussein has weapons of mass destruction. We believe he may have this. We believe it is possible he has that. Then we discovered in the spring of 2003, when we saw these reports 6 months after they were made available to the White House that the President, when he talked to the public, forgot about all that uncertainty and told us, without a hesitation, that these weapons existed.

Well, it seems clear to me, and it has for some time, that we were led to war on half truths and deception and that America was misled and the Congress was misled by these statements regarding weapons of mass destruction.

Now, Saddam Hussein is in custody. Iraq and this country are better off with him in custody. But the fact of the matter is, our challenges in Iraq have been made much harder and much riskier because of the arrogance, the unilateralism, and the cowboy diplomacy of this administration.

Now, a few final comments about the commission, and I know my colleagues are anxious to join in this discussion. The President has finally called for an independent commission, something that all of us have called for; and we have been joined by the gentleman from Hawaii (Mr. ABERCROMBIE), who has called for an independent commission as well. There are questions remaining about how to set this up. One, of course, is who will be the members, and this will be critically important for the President to pick a bipartisan and independent group of commission members.

The timetable for reporting is important. Obviously, this commission should be given sufficient time to do its job. I certainly hope, though, that there will not be any artificial attempt made to delay the report until after the election to protect anybody who may be embarrassed by its findings.

But most importantly of all is the scope of the commission's work. In my view, it must do two fundamental things. Certainly, it must review the accuracy of the intelligence-gathering and why our intelligence agencies were wrong about the possession and existence of weapons of mass destruction in Iraq. But secondly, and just as importantly, this commission must review the use of that intelligence by the Bush administration to delve into why this material was so badly stated: why, when the Bush administration was told there were uncertainties about the weapons, why did they tell Congress and the American people that there was no uncertainty about the existence of those weapons. This commission must delve into both the intelligence-gathering and the use of that intelligence by the Bush administration.

Let me at this point turn now to the gentleman from Massachusetts (Mr. DELAHUNT), who has been waiting patiently and who is a senior member of the Committee on International Relations and a leader on this issue.

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for the leadership he has brought to this issue.

I think it is important to remind our audience, and we are again joined by the gentleman from Ohio (Mr. STRICKLAND), who is an original member of this ad hoc group that describe ourselves as the Iraq Watch, that it was 8 months ago that we began this effort. I think we are entitled to congratulate ourselves tonight. Because back then, we asked the congressional leadership and the President to depoliticize the issue of intelligence surrounding weapons of mass destruction and the allegations about links between al Qaeda and 9-11 on one side, and Saddam Hussein on the next. Obviously, our words fell on deaf ears.

But now we are in an election year, and the President thinks it is a good idea that he picks the members of this independent commission and that its proceedings be held in secrecy, so that the American people will not reach any conclusions prior to November's election.

Well, if he had heeded our advice and proceeded with an independent commission back 8 months ago, I dare say, given the work of David Kay and many others, that we would be well along the way; the American people would be informed, the administration would be informed, the House leadership would be informed, and we could be discussing these issues in a way that had no political overtones to it. But, again, it is this constant refusal to heed advice, to come in and have, if you will, a discussion on how we move forward together.

Many of us on this side of the aisle voted against the resolution because there did not appear to be a credible case, and we were right. But now that we are there, let us go back and reexamine history. To have a historical record that is accurate is important for generations of Americans to come when this administration has enunciated a doctrine of preemption, a doctrine of preemption, and has created, in terms of the international order, a new norm that if you believe, you do not have to prove; but if you suspect, if you think, if you guess, you can launch a military strike against someone that you think may be a threat to you. I fear not just for America in terms of where we go from this point on; but situations that exist currently in the world, whether it be in the Middle East, whether it be in south Asia, between Pakistan and India, and all over the world, there are potentially volatile situations where a country can point to this Bush doctrine of preemption and launch a nuclear strike. That will have consequences for all humankind and particularly for America, and we will have set the norm. That is what disturbs me.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will yield, I do think it deserves a bit of reiteration that the Iraq Watch has been meeting some months now, and that the record is fully available, not only through the normal aspect of the CONGRESSIONAL RECORD, which is available to the population of the United States nationwide, but it is also available, I know, on the Web site that I have set up, and I believe other Members can do the same should they wish. What I am doing now for those who are listening and have an interest, it now is on my Web site. The Iraq Watch in its entirety appears.

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So we have a kind of cyber-archive now of what we are doing with Iraq Watch. And it will be interesting, I think, in time to come to go back over it and see where we were, where we were going. Not because we are standing here on the sidelines, merely commenting as we go along, but rather we are trying to stimulate debate, trying to stimulate discussion, trying to stimulate the body politic through the means available to us here in the House.

We are the people's house. For those who just may be tuning in now, going down the cable channels and seeing C-SPAN, what are they talking about tonight, we are talking about our sons and daughters. We are talking about the blood and treasure of the United States. We are talking about the basic values of this country. We are talking about whether we are falling into the trap of a neo-imperialism, a 21st-century version of imperialism that would be anathema to values of the United States, the United States as we have known it and as we have wanted it to be.

And in that context, I would like to read an excerpt from David Fromkin's new book called: A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East." Again, for those who, and I will repeat it at the end of my excerpt as well, David Fromkin's "A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of a Modern Middle East."

And I am quoting:

"Churchill, when he took office as Colonial Secretary [1921], brought with him a broad strategic concept of how to hold down the Middle East inexpensively. While he was still Secretary of Air and War [1919-20], Churchill had proposed to cut Middle East costs by governing Mesopotamia," which essentially is modern-day Iraq, "by means of airplanes and armored cars. A few well-protected air bases," he wrote at the time, "would enable the Royal Air Force to operate in every part of the protectorate and to enforce control now here, now there, without the need of maintaining long lines of communication, eating up troops and money.

"Viewing imperialism as a costly drain on a society that needed to invest all of its remaining resources in rebuilding itself, the bulk of the British press, public, and Parliament agreed to let the government commit itself to a presence in the Arab Middle East only because Winston Churchill's ingenious strategy made it seem possible to control the region inexpensively.

"Thus the belief, widely shared by British officials during and after the First World War, that Britain had come to the Middle East to stay at least long enough to reshape the region in line with European political interests, ideas, and ideals, was based on the fragile assumption that Churchill's aircraft-and-armored-car strategy could hold local opposition at bay indefinitely. In turn, that assumption was another expression of the underestimation of the Middle East that had typified British policy all along. It had shown itself when [Foreign Secretary Edward] Grey disdained the offer of an Ottoman alliance in 1911; when [Prime Minister Herbert] Asquith in 1914 regarded Ottoman entry in the war as being of no great concern; and when [War Minister Horatio] Kitchener, in 1915, sent his armies to their doom against an entrenched and forewarned foe at Gallipoli in an attack the British Government knew would be suicidal if the defending troops were of European quality, Kitchener's fatal assumption being that they were not.

"In 1922 the British Government had arrived at a political compromise with British society, by the terms of which Britain could assert her mastery in the

Middle East, so long as she could do so at little cost. To British officials who underestimated the difficulties Britain would encounter in governing the region, who indeed had no conception of the magnitude of what they had undertaken, that meant Britain was in the Middle East to stay. In retrospect, however, it was an early indication that Britain was likely to leave." unquote, from David Fromkin's "A Peace to End All Peace: The Fall of the Ottomon Empire and the Creation of the Modern Middle East."

Mr. HOEFFEL. Mr. Speaker, if the gentleman would yield, is the gentleman from Hawaii (Mr. ABERCROMBIE) suggesting that there is some similarity between the behavior of the British 90 years ago and their colonial ways and the behavior of America in Iraq?

Mr. ABERCROMBIE. Mr. Speaker, I am suggesting there is a direct parallel. I am suggesting that the history of the Middle East is not something that just suddenly occurred in 1990, or 1989 and 1990, with Saddam Hussein moving into what is now Kuwait.

I suggest that there is a history here, a long history here, a detailed history here. I suggest that mistakes were made in the past as to what could and could not be done in the Middle East, particularly in the area known as Mesopotamia; in other words, modern-day Iraq. And they are well on the way to making the same mistakes over again for the same reasons that they were made before, because we think that we can impose a United States' version of a 21st-century imperialism, and that all of the cards will fall on the table in place, that everything will operate as we wish it to operate and that we can in fact control events.

Mr. DELAHUNT. Mr. Speaker, what I find particularly ironic is the debate now, whether the original preference of the United States in terms of electing the interim council would be done by caucuses or whether there would be a direct election. And it would appear that this administration is somewhat confused, but it would appear that there they are sticking to this caucus concept and rejecting the direct election proposal put forth by a leading Shia cleric by the name of Seestani for direct elections. The Iraqis, it would appear, believe that they are capable of conducting an election. And we are saying no.

Well, I believe if there is one American principle, one American value that we cherish here in this particular institution and all across this land, it is one American, one vote. How about one Iraqi, one vote, with appropriate qualifications?

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, is he aware that when Ayatollah Seestani sent people into the street or encouraged people to go into the street in these demonstrations, that the cry was one man one vote?

Mr. DELAHUNT. Mr. Speaker, I was unaware of that. But maybe he had done his reading in terms of American history and our fight and our struggle to secure one vote for every person regardless of color, religion, ethnicity, whatever; something that we as Americans are to be proud of in exporting.

Mr. ABERCROMBIE. Mr. Speaker, it is of course one man, one vote, because our governing council recently ruled that women would no longer have the political rights that they had under Saddam Hussein. We are going to take a step backward from Saddam Hussein's government who, at least on paper, had women as the equal of men when it came to their political rights.

So if the governing council that we appointed has its way, it will retreat from that which we have struggled to achieve in the United States. You may have ethnic equality, you may have racial equality, but you are not going to have gender equality. That is for sure. They really mean it when they say one man, one vote.

Mr. DELAHUNT. Mr. Speaker, is my colleague absolutely certain of that? Because I was unaware of that. I find that incredulous.

Mr. ABERCROMBIE. Mr. Speaker, oh, yes. I can tell the gentleman right now, there are women's groups organizing all over Iraq at the present time, demanding that they get their rights back from the group that we are supporting which is supposedly bringing them democratic freedom.

So the plain fact of the matter is that not only is this call out in the street for direct elections, but they are, in fact, utilizing the concept of a single person and a single vote, hopefully.

Mr. STRICKLAND. Mr. Speaker, If the gentleman would yield. I have enjoyed this conversation, but I would like to take just a moment and call our colleagues' attention to something that is perhaps a little more homebound and immediate in terms of my concerns.

I think we went into Iraq based on false information that was coming from the administration. But we are there now. But I think the American people need to know that when we went to war after the Afghanistan conflict, we sent our sons and daughters into harm's way without providing them with the most basic protection. And I am talking about this interceptor body armor which is comprised of a kevlar vest with inserts where they can put ceramic plates in both the front and the back.

And these ceramic inserts are capable, we are told, of stopping an AK–47 bullet. And we sent our soldiers into Iraq into a battle, life-and-death situation, without adequate protection. Now, this is after we were told that this vest was credited with saving some 19 lives during the Afghanistan conflict. So we knew this protection was effective.

And General Abizaid, when he was testifying before a Senate committee, was asked, why did we do this? And he said, and I am quoting, "I cannot say for the record why we chose to go to war with an insufficient supply of these vests."

Well, in May I got a letter from a young soldier in Iraq, one of my constituents, a West Point graduate, an Eagle Scout, the best kind of kid that this country can produce. And he was in Iraq and he wrote me a letter. He said, "Congressman, my men are wondering why they are not given this protection. They have been given old Vietnam-era flak jackets that are capable of stopping fragments but are incapable of stopping these bullets."

So I wrote Secretary Rumsfeld a letter. And I asked the Secretary to please tell me how many soldiers had lost their lives without this protection. I asked him to please tell me when he could assure us that all of America's soldiers were protected with these vests. And I asked him to promise me that we would not provide these vests, these life-saving vests to foreign troops until all of our soldiers had been equipped.

The Secretary wrote me back and he said that they cannot answer my first question because they do not collect that information from the battlefield. So we do not know how many soldiers have been needlessly killed simply because they were not adequately protected.

In answer to my second question, he said that it was their expectation that all soldiers would be equipped with this vest by mid-November.

A couple of weeks later I get a follow-up letter from General Myers, the chairman of the Joint Chiefs of Staff. And General Myers says, in answer to my third question, "Whether or not our troops are going to be protected before foreign troops," I am paraphrasing, "our State Department has entered into certain agreements with some of our coalition partners, and we are providing certain equipment to them: but we have been assured that the companies that are producing the equipment for the foreign troops do not have a contract with our government to provide these materials for our troops, but if they were to get such a contract from our government they would honor it first."

Well, the question that I have is, if we are trying to get these soldiers protected as rapidly as possible, and there is a company that is capable of producing these vests, why do they not have a contract with our government?

Well, so General Myers then said it will be mid-November before all of our troops are protected. So Secretary Rumsfeld says November and then General Myers in his letter says December.

And then, lo and behold, right before we left here for Christmas, the Pentagon had a briefing and some of my staff were there and they said, Well, it is going to be January. Think of that. Months after this war started, we had many months leading up to the war, adequate time to prepare, to develop the equipment our troops needed, and it was not done.

□ 2230

So 10, 12, 13 months after the war started they are finally telling us, and I do not know if I can brief them, quite frankly, they are finally telling us that they have, in fact, gotten a sufficient supply of these vests to our troops.

Then the vehicles that are being driven, the Humvees and other military vehicles that are being driven in Iraq, we are here in the safety of this Chamber, and we are protected by the Capitol Police; and as we stand here, there are American soldiers in Iraq in hellish circumstances, and they are driving vehicles that are not armor plated.

I received an e-mail from a soldier in Iraq this week, and he told me of being out on patrol and of one of his colleagues being shot by a sniper. The bullet went through both sides of his face and lodged in his shoulder.

We have got soldiers over there, the least we can do, the least we can do is to give them the best protection possible. And I am outraged. I am stunned that after all the billions of dollars we have allocated for this war that the leadership of this administration, our Secretary of Defense, our Pentagon officials, have failed to adequately protect our soldiers.

I have gone to funerals of soldiers who have come back from Iraq, a 20-year-old, I remember going to his funeral, a young man who was abandoned by his parents as a child, reared by his grandmother, a 20-year-old who had purchased the engagement ring for his fiance before he left for Iraq. He simply wanted to be able to afford an education. So he joins our military hoping that that will be a route to get an education; and he comes back as a 20-year-old, and we bury him on a hill overlooking the Ohio River. Ironically, he had drowned in the Tigress River as he had jumped into that water to try to save his sergeant who had fallen in and he sunk, and it was 12 or 14 days before they found his body.

It disturbs me, it disturbs me that decisions were made to send our troops into war, and we did not provide them with the protection they need and deserve. Somebody needs to answer how that happened, why it happened; and more importantly, they need to ensure us that it will never, never, never happen again.

Mr. DELAHUNT. Mr. Speaker, to corroborate the gentleman's point, and I think it is important for my colleagues and for the people that may be watching this conversation among us tonight, that the gentleman is not speaking alone. That much of what he said was corroborated by the United States Army in a 504-page internal Army history of this war written by the Army's Combined Armed Senate at Fort Leavenworth in Kansas. Much of what you said is part of that particular study. That study was reported on today in the New York Times.

Let me just quote from part of that report in the New York Times: "The first official Army history of the Iraq war reveals that American forces were plagued by a morass of supply shortages, logistical problems which senior Army officials played down at the time were much worse than have been previously reported. Tank engines on warehouse shelves in Kuwait with no truck drivers to take them north; broken down trucks were scavenged for usable parts; artillery units cannibalized parts from captured Iraqi guns to keep their Howitzers operating; Army medics foraged medical supplies from combat hospitals."

This comes from an Army report, not from a politician, whether that politician be a Republican or a Democrat, speaking at a press conference. This is the United States Army. The study goes on to note that the strategy employed by the political leadership, Secretary Rumsfeld is answerable for this, in his Deputy Under Secretary Wolfowitz, and Assistant Secretary Fife and the entire crowd. The study notes that "the strategy of starting the war before all support troops were in place taxed the post-war resources of local commanders who in many cases were shifting back and forth between combat operations and the task of civil services. Local commanders were torn between their fights and providing resources, soldiers' time and logistics, to meet civilian needs," the report concluded, "partially due to the scarce resources. As a result of the running start, there was not simply enough to do both missions."

Talk about a disaster that has resulted in untold sacrifice of American soldiers, has set us back in terms of the reconstruction of Iraq. All for what? Because we do know now, we do know now that despite, despite what the White House did say, the threat from Iraq was not imminent. Remember those words?

The White House spokesman Scott McClellan in July of this year, "Iraq was the most dangerous threat of our time." His predecessor in May of 2003 in response to a question whether the threat from Iraq was imminent, his answer, "Absolutely." Again, McClellan, the spokesperson for President Bush in February of last year said, "This is about imminent threat." The Vice President himself on January of last year, "Iraq poses terrible threats to the civilized world."

President Bush, himself, in November of 2002, "The world is also uniting to answer the unique and urgent threat posed by Iraq whose dictator has already used weapons of mass destruction to kill thousands."

But now, what does the White House spokesperson say? "Some in the media have chosen to use the word 'imminent.' Those were not words we used."

Give me a break, Mr. McClellan. You lose credibility by saying that. Be honest, be honest. You were wrong. Admit it and restore confidence in America and in the White House, not just for the benefit of the American people, but for the benefit of American prestige in our role in this world to enhance democracy in every corner of the planet.

Mr. ABERCROMBIE. Mr. Speaker, it is very difficult for Mr. McClellan or anyone else to do that when the President himself in the space of the last week or so has indicated at least twice that he did not know the facts, that he was anxious to find out what the facts were, that he too, presumably meaning "in addition" would like to find out what was going on or what had happened.

Now, this is the President of the United States. Hundreds of people are dead, thousands of people have been grievously wounded.

Speaking of the prestige that the gentleman referred to, that has been literally destroyed the world over. We now have the Secretary, the spectacle, the spectacle of the Secretary of the State now wondering whether or not he would have made the same recommendations had he had other information, at the same time when many of us here were saying, let us take a deep breath, let us be sure we know what we are doing. The inspections are working; the inspections were underway.

We were not getting the information back that the administration wanted to hear. That is the difficulty. My memory is not in such difficult straits that I cannot recall what happened during those times. I realize we are now at a point that would understand only too well where inconvenient thought is shoved down the memory hole. We simply put it out of sight and pretend it did not happen. The plain fact of the matter is that there were cries all across this country, an outcry all across the country saying that the inspection process has not yet completed its task. We need to do that at a minimum before we go to war.

It is one thing for people to talk about supporting the troops. It is one thing to talk about whether the definition of imminent is the same for everybody across the spectrum, but you cannot say that a political policy which has failed to do the minimum necessary before there is a commitment to war is something that needs to be defended in the name of defending the troops.

Mr. McClellan or the President, neither Mr. McClellan speaking for the President nor Mr. Bush can get off that easy, nor can they claim that this is a situation that needs now to be explored in the aftermath of this tragedy.

I submit that we are now in a situation that needs further explanation. My understanding now is that we have announced that we are going to be leaving on the 30th of June of this year. We are now in February. March, April, June. We are talking about in 100 days we are ostensibly going to turn over authority to somebody or something in Iraq. Is there anybody here who can tell me who is going to have authority, what institutional framework or structure is going to exercise that authority? I cannot find out who it is.

Is it going to be United Nations inspectors? No, they have been told they were inadequate. Is it going to be United Nations observers or administrators in some form? They left. I understand that the United States now in some fashion is in discussions with them as to whether they will come back in. To do what? With whom?

It is very interesting, one need only go to this issue of the New York Times Magazine for February 1, this past Sunday, and this article on what the Shiites really want. A quote from a U.S. official, "We can fight the Suunis, but we cannot fight the Shiites, not if they organize against us. There are too many of them."

Is that what we have been reduced to? Is that what the policies are involved here? If you want to talk about imminent danger, how about the imminent danger of people demanding direct elections so that they can conduct their own affairs.

This is the situation that we find ourselves in today. This is the situation that we have to confront. This is a situation that will not allow us to continue to merely stand on the side and observe the President trying to get the facts. He should have had the facts before he committed us into war. And he should get the facts now on what it takes in order for us to be able to exert such influence as we can in a positive way now that we have entered into this imperialist dream of imposing our authority on Iraq in the wake of Saddam Hussein's capture.

Mr. HOEFFEL. Mr. Speaker, I welcome the questions of the gentleman, but I hope he is not turning to me to give him some answers because I cannot begin to answer these very legitimate questions he has raised about what comes next, what does the Bush administration think will happen at the end of June when we turn over civil authority at this point to a completely unknown local or international or some form of alternative government or group. These questions are important, and we are nowhere close to having an answer.

Mr. DELAHUNT. Does the gentleman know what the CIA says?

Mr. HOEFFEL. I am afraid to ask.

Mr. DELAHUNT. Back about a week ago in the Miami Herald this is what the CIA said in response to a question posed by the gentleman from Hawaii (Mr. ABERCROMBIE).

☐ 2245

They said in the Miami Herald, in a commentary on the President's State of the Union address, which would lead one to believe that things were fine and that peace and order and democracy were just around the corner, well, the CIA offices in Iraq, in the field, are warning that the country may be on a path to civil war. And they are very, very concerned and very, very disturbed.

Again, it is all about just be honest. The American people can deal with the truth. We can have a debate that is respectful. We can address problems and we can move forward together, but if you do not tell us the truth, that is when we are in trouble.

Mr. HOEFFEL. Mr. Speaker, I agree with the gentleman from Massachusetts (Mr. DELAHUNT) on that point. That is an excellent point, and part of the problem we are having is that the President and the Vice President continue to spin the issue of weapons of mass destruction. The Vice President in the last couple of weeks still talks about those trailers being the place where weapons of mass destruction were being manufactured. David Kay laughs about that and says, no, they were not.

Mr. DELAHUNT. Everybody laughs about it.

Mr. HOEFFEL. They were perhaps making rocket fuel. More likely, making helium for weather balloons, but they were not making weapons of mass destruction. But the Vice President continues to suggest that that was happening.

The President himself in the State of the Union address that the gentleman from Massachusetts (Mr. DELAHUNT) just referenced, in the face of the absence of weapons of mass destruction in Iraq, in my view, continued to try to confuse the situation and fool the American people by talking about the fact that Mr. Kay himself, who was in the process of saying there were no weapons of mass destruction in Iraq, the President quoted Mr. Kay as talking about weapons of mass destruction-related program activities. And I do not have a clue what is a weapons of mass destruction-related program activity.

Mr. DELAHUNT. Neither does any other American have a clue. You talk about gibberish.

Mr. ABERCROMBIE. If the gentleman would yield, I think I can provide you with an answer of what a weapons of mass destruction-related program activity was.

Mr. HOEFFEL. At last, an answer.

Mr. ABERCROMBIE. I will be happy to do so. What we have discovered, we said if we can only get to those Iraqi scientists, they have the answer, which was just what was going to happen with the U.N. inspectors. What did we find out when we got to those scientists? The scientists told us that they were destroying the weapons of mass destruction and that the program activity was destroying the weapons of mass destruction. That is what the activity was, and these scientists were doing it, and they had papers to show it. If we could just get to the papers of those Iraqi scientists, that would tell us what happened. Yes, they destroyed the weapons of mass destruction.

What Saddam Hussein was doing, a ruthless lying dictator, was ruthlessly lying about what he was doing. He wanted to give the illusion that there were these weapons, because he wanted to give the illusion that he was some great and powerful dictator, and we were buying it. That is the problem here is that we are actually relying on the veracity of a lying, ruthless dictator.

Maybe part of the reason for that is we have been relying on his goodwill all along anyway. If I have to hear one more time about weapons that were used on his own people, I would like to ask the President, was that before or after the Secretary of Defense in another capacity was congratulating him for it and getting his picture taken with him and shaking his hands? Was that before or after this country was giving approval to Saddam Hussein to use those weapons and making certain that he knew that that was not going to interfere with our support, tacit or otherwise, for his war against Iran?

So, yes, there were program activities all right, program activities that we needed to know about in detail so that we could present an accurate and truthful picture to the American people.

Mr. DELAHUNT. If I can, we certainly know the gentleman is absolutely correct. If we want to talk about weapons of mass destruction program-related activities, let us go back to that point in time when the current Secretary of State, Colin Powell, was the National Security Adviser and when the current Vice President, Mr. CHENEY, was the Secretary of Defense.

What I find particularly fascinating is, as Dr. Condoleezza Rice just said, if I can find the quote, she said just recently, he used weapons of mass destruction, just as the gentleman indicates. The truth was that we were transferring to him the computers and the ingredients necessary to advance his nuclear weapons program. That happened.

We, the United States Government, during the 1980s under Reagan and President George Herbert Walker Bush.

were removing him from the terrorist list, installing an embassy in Baghdad, providing intelligence to Saddam Hussein in the war against Iran. And when it came to that horrific incident in Chalabi where he used chemical weapons against the Kurds who had aligned themselves with the Iranians, there was a condemnation, let us call it lip service. And yet, when this institution, this House and the United States Senate in 1989 and 1990 attempted to impose sanctions on the Saddam Hussein regime, you know what the position of the administration was then, led by the Secretary of Defense and the National Security Adviser? They killed the bill. They killed the bill.

Now, if hypocrisy was a virtue—

Mr. ABERCROMBIE. We would be up to our eyeballs in it.

Mr. DELAHUNT. Thank you.

Mr. HOEFFEL. Let me respond or add on to the comments of the gentleman from Hawaii (Mr. ABERCROMBIE) about the Iraqi scientist, because Dr. Kay has also reported on what he believes may explain part of the incredible inaccuracy of our intelligence work regarding the weapons of mass destruction. He believes that some of those Iraqi scientists that you referred to were actually conning Hussein; that they were telling Hussein that they had had these programs; they needed more money; they were on the verge of developing the weapons that this murderous dictator was interested in developing. Hussein apparently believed that con, and kept giving them money for their research and for their development, and some of that money was skimmed off the top through base corruption by these scientists and all the rest.

What is amazing is the suggestion from Dr. Kay that our intelligence agencies fell for the con, too. We were conned by the con. We picked up the communications of the Iraqi scientists to Hussein, and we believed those communications, and so that is why we felt that the weapons of mass destruction were well developed and in existence when, in fact, they were not.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, having been a probation officer at one time in my checkered career, I can tell my colleagues a little bit about con men and how they operate. I will tell you how a con succeeds. A con succeeds not because of the special insight of the one perpetrating the con. The person who does that, the con man, is not depending even on his own skill. He is depending on the desire of the other person to have the conclusion that they want to have come out. It is preordained they want the con. You cannot succeed with a con unless the other person is playing into it with you. They think they are getting something for nothing, or they think that something they want very much to be real is actually going to happen. You are going to win; you are going to succeed; you are going to be able to work the angle; you are going to be able to get something that somebody else does not have.

All you have to do is look at the record of the desire of the advisers to Mr. Bush and their determination to reenter the Middle East along the same lines as I read from the Churchill imperial era, and to come back into with their version in the 21st century, they want those weapons to be there. They wanted to take any scrap of information that came in and turn it into proof positive that what they wanted to do and the policies they wanted to follow of going in there and having a war with Iraq was something that was substantiated by the information that they were getting. It did not matter that it may have gone the other way. It did not matter it was ambiguous, tenuous, or that it was fragments.

What mattered was, is something was being said about it, and they were bound and determined to turn that into information which could be construed as being supportive of having to go to war. No matter what happened, they were going go to war.

I find it very, very instructive that the Secretary of the Treasury's book that has just come out has been denounced along with him. He apparently has turned into an apostate, too, in the process simply by saying that these impressions and his honest impression as related in his book was that from the moment he entered service to the Bush administration, that they were determined to go to war; that no matter what happened they were going to go to war.

So as we take a look at this and see what happened in the past, that, it seems to me, is prelude to the future. And so I suggest for our upcoming Iraq Watches that we take up the question, then, of what is going to happen on June 30; who are we going to be dealing with; what are the circumstances under which authority is to be turned over in Iraq by the United States; is this going to be yet another election ploy? Because the Bush administration is trying to use support for troops being synonymous with support for the war for election year purposes now, and I am very anxious to find out whether this transfer of authority is also going to be used for election purposes or are we going to actually be able to do something that will advance democracy in Iraq. I think we need to concentrate on that.

Mr. DELAHUNT. Mr. Speaker, I think it is interesting the gentleman talked about the former Secretary of the Treasury, and I think we all respect his candor and honesty, and I think for many of us it certainly is not surprising. I think probably, and I do not know whether our audience is aware of this, but one starts to see a subtle change in the position of some members of the administration.

For example, Secretary Powell was reported yesterday in the Washington Post, he said he does not know now whether he would have recommended an invasion of Iraq if he had been told it had no stockpiles of banned weapons, even as he offered a broad defense of the Bush administration's decision to go to war.

What we are going to start to see now is a shift in the language. We are going to go from clearly there were weapons of mass destruction, this is where they are, these are the quantities, and that is going to go to the weapons of mass destruction program-related activities. Now we are going to see attempts by senior administration officials to rewrite history. But I think what is most important from this point on is for those that are in denial, because they have I think almost a psychological hold in terms of their belief, we should ask them to accept reality. Let us move on, let us work together in a bipartisan, bicameral basis and to go forward, understand where we failed in terms of this policy, and see that at least the Iraqi people have an opportunity for a democratic future, and as quickly as possible reduce the exposure of American military personnel and the absolutely heavy burden that the American taxpayers are bearing, with no help from anybody else in the world.

□ 2300

Mr. ABERCROMBIE. And none likely to come.

Mr. DELAHUNT. And none to come. Remember that conference in Madrid? That was all about loans. Our allies are loaning, expecting the money back; but American taxpayers, we give it away. We give it away in this body. That is what we do. We just shove it out the door. Well, that is indeed unfortunate.

Mr. HOEFFEL. Mr. Speaker, I thank my colleagues for joining in Iraq Watch this week. We will be back next week. We are going to look at the commission and what happens June 30th, and we look forward to talking next week.

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## STATE OF THE ECONOMY

The SPEAKER pro tempore (Mr. BARRETT of South Carolina). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, as the prior speakers were dealing with the foreign wars in which the United States is engaged, here at home the Bush administration has built an economy teetering on a house of cards, or should I say an exploding house of debt.

There is more economic anxiety in our country than at any time that I can remember since the Reagan recession of 1982. President Bush is trying to act as if nothing is wrong, but people know better. They know something is wrong, something deeply wrong with America's economy here at home. They know that jobs are going overseas by the thousands, and they do not know how much worse things are going to get before they get better, or if they are ever going to get better.

More and more people are wondering whether our jobs are ever going to come back. In my district, almost every week brings the news of another plant closing. This week it is Georgia Pacific, maker of Dixie Cups, leaving Sandusky, Ohio, and 206 long-time workers terminated. Hundreds and hundreds of family-owned tool and die and machine tool businesses in Ohio and the Midwest have fallen victims of unregulated competition from China.

The manufacturing sector in the Nation's heartland is in the intensive care unit, and President Bush is offering Band-aids. He was in Ohio last week, he came to us empty-handed, but then he went around the country and raised millions more for his campaign coffers. In his State of the Union address delivered here, he did not even propose extending unemployment benefits for those workers who have lost their jobs.

There is great economic anxiety in our land because workers do not know how much longer they can hold on to their health benefits. There is great economic anxiety in our land because people see Congress and the President giving $87 billion to Iraq and the President's corporate cronies, but leaving 43 million Americans without health care coverage.

There is great economic anxiety because the average American family lives by a rule that Washington breaks every day. It is called the rule of balancing your checkbook. If a family bounces a check, their bank hits them with a fee for insufficient funds. But apparently that does not apply to President George Bush and his Republican Party. They have proposed the biggest budget deficits in history and call it economic progress.

President Bush has proposed a backbreaking $521 billion budget deficit for this year. And when we add in the Social Security funds that they are borrowing, it is actually $709 billion. Next year, his deficit is proposed at $364 billion, but it is actually $607 billion if he does not raid the Social Security fund. And if he is as wrong this time as he has been in his fiscal projections in the first 3 years, the budget deficit for fiscal year 2005 will hit over $734 billion.

That is the highest deficit in history, and that does not even count the additional funds that they are going to add for the war in Afghanistan. We seem to have a President who talks a lot about national security, but has forgotten about economic security.

I can remember, coming from our family, what happened back in the 1920s and 1930s when Washington spent with abandon. We know that Wall Street likes debt, but they like it too much, and they deal in paper wealth, not real wealth. And when our predecessors during the 1920s and 1930s forgot the difference between real wealth and paper, and spent with abandon, they literally brought down America's families and financial system right around them. The dollar lost its value, and we face that precipice again.

The Great Depression of the 1930s was the largest economic disaster our Nation ever experienced. Our family, like everyone else in the Nation, felt the impact of wild behavior on Wall Street and reckless government in Washington. Our family lost all their meager savings, and I am sure that the irresponsible people who have raided our people's 401(k) plans have done the same thing in this modern day. Just ask the former employees of Enron. And I do not mean George Bush's close personal friend, Kenneth Lay. I mean the people who lost everything when the Lay scam was exposed.

A look at the Pension Benefit Guaranty Corporation, the largest hole in history. It is supposed to ensure our workers' pension benefits in private companies. It is over $11 billion in deficit. The President says it is not a crisis. It surely is a crisis when the largest instrumentality that we have to back up our workers' retiree benefits does not have the insurance to do it. He best pay attention.

Mr. Speaker, the economic anxiety that is gripping America tonight is real. We are losing jobs to unfair trade agreements. The President wants to expand NAFTA. Workers are running out of unemployment benefits. The President says there is no crisis and, therefore, no need for extended unemployment benefits. Retirees are losing their pensions, and the Pension Benefit Guaranty Corporation is losing money hand over fist. The President says there is no crisis, but indeed the system is at risk.

Mr. Speaker, in closing, let me say to the American people the way to change our Nation for the better is for people to register to vote from coast to coast. If we can change the captain of our floundering Ship of State, we can put firm new leadership at the helm and begin moving again toward a better tomorrow for all.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BORDALLO (at the request of Ms. PELOSI) for today and the balance of the week on account of official business in the district.

Mr. LANGEVIN (at the request of Ms. PELOSI) for today and February 4 on account of attending a memorial service.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and February 4 on account of personal reasons.

Ms. ESHOO (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today and February 4 on account of attending a funeral.

Mr. RAHALL (at the request of Ms. PELOSI) for the week of February 2 and the week of February 9 on account of surgery.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SOLIS) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

(The following Members (at the request of Mr. GILCHREST) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, February 4 and 5.

Mr. PEARCE, for 5 minutes, today.

Mr. GILCHREST, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, February 4 and 10.

Mr. FLAKE, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. PAUL, for 5 minutes, February 4.

Mr. FEENEY, for 5 minutes, February 4.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. EMANUEL, for 5 minutes, today.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1879. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards; to the Committee on Energy and Commerce.

## ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 7 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 4, 2004, at 10 a.m.

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## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2003, pursuant to Public Law 95-384 are as follows:

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JOEL MONTALVO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 25 AND NOV. 28, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Joel Montalvo | 11/25 | 11/28 | Jordan | 674.00 | 952.00 | | | | | 674.00 | 952.00 |
| Committee total | | | | 674.00 | 952.00 | | | | | 674.00 | 952.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currently is used, enter amounted expended.

JOEL MONTALVO, Dec. 4, 2003.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KUWAIT, IRAQ AND SPAIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 21 AND OCT. 26, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Deborah Pryce | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Darlene Hooley | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Ileana Ros-Lehtinen | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Jennifer Dunn | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Sue Kelly | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Carolyn McCarthy (NY) | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Marsha Blackburn | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Katherine Harris | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Juan Carlos Scott | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Margaret Peterlin | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Anne Buresh | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Adrienne Ross | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Alison Craig | 10/22 | 10/25 | Kuwait[3] | | 1,167.00 | | (4) | | | | 1,167.00 |
| Hon. Deborah Pryce | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Darlene Hooley | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Ileana Ros-Lehtinen | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Jennifer Dunn | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Sue Kelly | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Carolyn McCarthy (NY) | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Marsha Blackburn | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Hon. Katherine Harris | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Juan Carlos Scott | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Margaret Peterlin | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Anne Buresh | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Adrienne Ross | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Alison Craig | 10/25 | 10/26 | Spain | | 343.00 | | (4) | | | | 343.00 |
| Committee total | | | | | 1,510.00 | | | | | | 1,510.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] Traveled from Kuwait into and out of Iraq each day.
[4] Military air transportation.

DEBORAH PRYCE, Nov. 24, 2003.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 22 AND OCT. 24, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Bryan Harbin[3] | 10/22 | 10/24 | Italy | 530.02 | | 90 | | 48,35 | 668.35 | 832.00 | |
| Committee Total | | | 530.02 | | 90 | | 48.35 | | | 668,35 | 832.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Bryan received 715.52 Euro and had 50 Euro leftover and returned.

BRYAN HARBIN, Nov. 18, 2003.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 22 AND OCT. 24, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Nancy Pelosi | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Hon. David Hobson | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Hon. Sam Farr | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Hon. Hilda Solis | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Hon. Linda Sánchez | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 22 AND OCT. 24, 2003—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Michael Sheehy | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Kenny Kraft | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Cindy Jimenez | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Dean Aguillen | 10/22 | 10/24 | Mexico | 9213 | 830.00 | | (3) | | | 9213 | 830.00 |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

NANCY PELOSI, Nov. 24, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE HOUSE NATO PARLIAMENTARY ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 26 AND OCT. 28, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Doug Bereuter | 10/26 | 10/28 | Canada | | 526.00 | | (3) | | | | 526.00 |
| Hon. John Tanner | 10/26 | 10/28 | Canada | | 526.00 | | (3) | | | | 526.00 |
| Hon. Paul Gillmor | 10/26 | 10/28 | Canada | | 526.00 | | (3) | | | | 526.00 |
| Hon. Joel Hefley | 10/26 | 10/28 | Canada | | 576.00 | | (3) | | | | 576.00 |
| John Lis | 10/26 | 10/28 | Canada | | 526.00 | | (3) | | | | 526.00 |
| Committee total | | | | | 2,630.00 | | | | | | 2,630.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DOUG BEREUTER, Dec. 8, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CUBA, HOUSE OF REPRESENTATIVES, EXPENDED ON DEC. 9, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Mark Foley | 12/9 | 12/9 | Cuba | | | | (3) | | | | |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

MARK FOLEY, Jan. 13, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 24 AND AUG. 31, 2003

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Bernard Jay Apperson | 8/25 | 8/26 | Turkey | | 462.00 | | 6,269.40 | | | | 6,731.40 |
| | 8/27 | 8/28 | Uzbekistan | | 566.00 | | | | | | 566.00 |
| | 8/29 | 8/31 | Turkey | | 452.00 | | | | | | 452.00 |
| Bobby Vassar | 8/25 | 8/26 | Turkey | | 462.00 | | 6,269.40 | | | | 6,731.40 |
| | 8/27 | 8/28 | Uzbekistan | | 566.00 | | | | | | 566.00 |
| | 8/29 | 8/31 | Turkey | | 452.00 | | | | | | 452.00 |
| Committee total | | | | | 2,960.00 | | 12,538.80 | | | | 15,498.80 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES F. SENSENBRENNER, JR., Chairman, Nov. 13, 2003.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6524. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-187] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6525. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bayou Boeuf, Miles 90-93 of the Gulf Intracoastal Waterway, West of the Harvey Locks, Amelia, LA [COTP Morgan City-03-012] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6526. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-189] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6527. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-191] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6528. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone;

Chesapeake Bay, Hampton Roads, Elizabeth River, Virginia. [CGD05-03-192] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6529. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atchafalaya River, Morgan City, LA [COTP Morgan City-03-013] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6530. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-193] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6531. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Atchafalaya River, Eugene Island Sea Buoy to MM 119.8, Berwick, LA [COTP Morgan City-03-014] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6532. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River Mile Marker 11.8 to Mile Marker 12.2, Pittsburgh, PA [COTP Pittsburgh-03-023] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6533. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Delaware Bay and River [CGD05-03-194] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6534. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monongahela River Mile Marker 0.0 to Mile Marker 0.3, Pittsburgh, PA [COTP Pittsburgh-03-024] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6535. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Wilmington zone. [CGD05-03-170] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6536. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River Mile Marker 2.0 to Mile Marker 4.0, Pittsburgh, PA [COTP Pittsburgh-03-025] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6537. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-03-171] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6538. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monongahela River Mile Marker 97.9 to Mile Marker 98.2, Star City, WV [COTP Pittsburgh-03-026] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6539. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-03-172] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6540. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monongahela River Mile Marker 97.9 to Mile Marker 98.2, Star City, WV [COTP Pittsburgh-03-027] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6541. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monongahela River Mile Marker 97.9 to Mile Marker 98.2, Star City, WV [COTP Pittsburgh-03-028] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6542. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-03-173] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6543. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Monongahela River Mile Marker 0.0 to Mile Marker 1.0, Pittsburgh, PA [COTP Pittsburgh-03-031] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6544. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Neches River, Beaumont, TX [COTP Port Arthur-03-020] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6545. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-174] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6546. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine and Neches Rivers, Beaumont, TX [COTP Port Arthur-03-023] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6547. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-176] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6548. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Colorado River, Parker, AZ [COTP San Diego 03-031] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6549. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-178] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6550. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Pacific Ocean, San Diego Bay, San Diego, CA [COTP San Diego 03-034] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6551. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety zone; Patapsco River, Northwest Harbor, Baltimore, Maryland [CGD05-03-179] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6552. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-197] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6553. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Patapsco River, Baltimore, Maryland [CGD05-03-198] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6554. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-182] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6555. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; North Landing River, Intracoastal Waterway, Virginia Beach, Virginia [CGD05-03-201] (RIN:

1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6556. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-182] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6557. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-202] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6558. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-203] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6559. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway, MM 134 WHL, Louisa, LA [COTP Morgan City-03-006] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6560. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Delaware Bay and River [CGD05-03-208] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6561. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bayou Penchant, Amelia, LA [COTP Morgan City-03-008] (RIN: 1625 — AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6562. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-209] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

6563. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-210] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

6564. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-159] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6565. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-212] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6566. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Wilmington zone. [CGD05-03-161] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6567. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; One Billion Dollar Party, Chicago, IL [CGD09-03-250] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6568. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-03-162] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6569. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Captain of the Port Detroit Zone, Renaissance Center [CGD09-03-279] (RIN: 2115-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6570. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Magnificent Mile Festival of Lights, Chicago, IL [CGD09-03-281] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6571. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-03-163] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6572. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zone, Motor Vessel BOTHNIABORG, Lake Ontario and the Saint Lawrence Seaway, New York [CGD09-03-283] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6573. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, ELizabeth River, VA. [CGD05-03-164] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6574. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; 2003 Odyssey Holiday Cruise, Chicago, IL [CGD09-03-286] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6575. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Connection Slough, Stockton CA [CGD11-03-007] (RIN: 1625-AA09) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6576. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations, Motor Vessels USNS SISLER (T-AKR 311) and USNS SHUGHART (T-AKR 295), Blair Waterway, Commencement Bay, Puget Sound, Washington [CGD13-03-037] (RIN: 1625-AA00) received Janaury 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6577. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Columbia River Yacht Club Salvage Operation [CGD13-03-038] (RIN: 2115-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6578. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations, Motor Vessel, WESTWARD VENTURE, Sitcum Waterway, Commencement Bay, Puget Sound, Washington [CGD13-03-039] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6579. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Francisco Bay, San Francisco, California [COTP San Francisco Bay 03-025] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6580. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Francisco Bay, San Pablo Bay, and Carquinez Strait, California [COTP San Francisco Bay 03-028] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6581. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chespeake Bay, Hampton Roads, Virginia. [CGD05-03-165] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6582. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Francisco Bay, California [COTP San Francisco Bay 03-031] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6583. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-157] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6584. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bogue Sound, NC [CGD05-03-166] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6585. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-174] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6586. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia. [CGD05-03-169] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6587. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Charleston Harbor Christmas Parade of Boats, Charleston, SC. [COTP Charleston 03-169] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6588. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-175] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6589. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway Mile Marker 539, Ingleside, TX [COTP Corpus Christi-03-007] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6590. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bogue Sound, NC [COTP Wilmington 03-151] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6591. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Corpus Christi Ship Channel, Port Aransas, TX [COTP Corpus Christi-03-008] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6592. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bar Harbor, ME, M/V ACADIA CLIPPER Salvage [CGD01-03-109] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6593. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Centerport Yacht Club Fireworks, Huntington, NY [CGD01-03-112] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6594. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Spa Creek, Annapolis, MD [CGD05-03-132] (RIN: 1625-AA08) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6595. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, MM 161.1, Volusia County, FL [COTP Jacksonville 03-146] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6596. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-154] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6597. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Jacksonville, FL [COTP Jacksonville 03-149] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6598. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Eastern Branch of the Elizabeth River, Norfolk, VA [CGD05-03-155] (RIN: 1625-AA09) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6599. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: York River, West Point, Virginia [CGD05-03-157] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6600. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Daytona Beach, FL [COTP Jacksonville 03-156] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6601. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: York River, West Point, Virginia [CGD05-03-157] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6602. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, MM 161.1, Volusia County, FL [COTP Jacksonville 03-161] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6603. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-158] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6604. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Eustis, Eustis, FL [COTP Jacksonville 03-162] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6605. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, Jacksonville, Florida [COTP Jacksonville 03-163] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6606. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; West Lake Tohopekaliga, Kissimmee, FL [COTP Jacksonville 03-164] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6607. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Eustis, Eustis, FL [COTP Jacksonville 03-170] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6608. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Water ski races Long Beach, CA [COTP Los Angeles-Long Beach 03-010] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6609. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Miles 602.0 to 606.0, Louisville, KY [COTP Louisville-03-012] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6610. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Miles 602.5 to 606.0, Louisville, KY [COTP Louisville-03-013] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6611. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River Mile 600.0 to 604.0, Rosedale, MS [COTP Memphis-03-003] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6612. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River Mile 790.0 to 794.0, Osceola, AR [COTP Memphis-03-004] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6613. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River Mile 772.0 to 775.0, Osceola, AR [COTP Memphis-03-005] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6614. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations: Columbus Day Regatta, Biscayne Bay, Miami, Florida [COTP Miami 03-150] (RIN: 1625-AA08) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6615. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones: Moving Security Zone, M/V FIRST LADY, Port of Miami, Miami, FL [COTP Miami 03-158] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6616. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Boca Raton, Florida [COTP Miami 03-160] (RIN: 1625-AA00) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6617. A letter from the Administrator, FAA, Department of Transportation, transmitting a copy of the "Federal Aviation Administration and National Air Traffic Controllers Association Collective Bargaining Impasse Submission to Congress," pursuant to 49 U.S.C. 40122(a); jointly to the Committees on Transportation and Infrastructure and Government Reform.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 412. Resolution honoring the men and women of the Drug Enforcement Administration on the occasion of its 30th Anniversary (Rept. 108–409). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 56. Resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II (Rept. 108–410). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3095. A bill to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials; with an amendment (Rept. 108–411). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 513. Resolution providing for consideration of the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements (Rept. 108–412). Referred to the House Calendar.

Mr. GOSS: Permanent Select Committee on Intelligence. House Resolution 499. Resolution requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame, adversely; (Rept. 108–413 Pt. 1). Ordered to be printed.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. Everything Secret Degenerates: The FBI's Use of Murderers as Informants (Rept. 108–414). Referred to the Whole House on the State of the Union.

### DISCHARGE OF COMMITTEE

*[The following action occurred on January 31, 2004]*

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. S. 523 was referred to the Committee of the Whole House on the State of the Union.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

*[The following actions occurred on January 31, 2004]*

H.R. 180. Referral to the Committee on Rules extended for a period ending not later than June 1, 2004.

H.R. 1081. Referral to the Committees on Transportation and Infrastructure, Resources, and House Administration extended for a period ending not later than April 2, 2004.

H.R. 1856. Referral to the Committees on Resources and Transportation and Infrastructure extended for a period ending not later than April 2, 2004.

H.R. 2120. Referral to the Committee on the Judiciary extended for a period ending not later than March 2, 2004.

H.R. 2802. Referral to the Committee on Government Reform extended for a period ending not later than March 2, 2004.

H.R. 3358. Referral to the Committee on the Budget extended for a period ending not later than June 1, 2004.

S. 1233. Referral to the Committee on the Judiciary extended for a period ending not later than March 2, 2004.

*[Submitted February 3, 2004]*

House Resolution 499. Referral to the Committees on Armed Services, International Relations, and the Judiciary extended for a period ending not later than February 27, 2004.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROHRABACHER (for himself, Mr. BOEHLERT, Mr. HALL, Mr. GORDON, and Mr. LAMPSON):

H.R. 3752. A bill to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes; to the Committee on Science.

By Mr. HOEFFEL (for himself, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. GREENWOOD, and Mr. HOLDEN):

H.R. 3753. A bill to provide for the restoration of the Benjamin Franklin National Memorial, and for other purposes; to the Committee on Resources.

By Mr. SMITH of Texas (for himself and Mr. BERMAN):

H.R. 3754. A bill to provide additional civil and criminal remedies for domain name fraud; to the Committee on the Judiciary.

By Mr. TIBERI (for himself, Mr. SCOTT of Georgia, Mr. OXLEY, Mr. NEY, Mr. TURNER of Ohio, Mr. GREEN of Wisconsin, Mr. KING of New York, Mr. RENZI, Mr. LUCAS of Kentucky, and Mr. CLAY):

H.R. 3755. A bill to authorize the Secretary of Housing and Urban Development to insure zero-downpayment mortgages for one-unit residences; to the Committee on Financial Services.

By Mr. BLUNT (for himself and Mr. RUSH):

H.R. 3756. A bill to establish a National Commission on Digestive Diseases; to the Committee on Energy and Commerce.

By Mr. DEMINT (for himself, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, and Mr. BARRETT of South Carolina):

H.R. 3757. A bill to amend title 23, United States Code, to permit States to carry out surface transportation program projects on local roads to address safety concerns; to the Committee on Transportation and Infrastructure.

By Mr. EMANUEL (for himself, Mr. SHIMKUS, Ms. DEGETTE, and Mr. ENGEL):

H.R. 3758. A bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH:

H.R. 3759. A bill to require a study on transforming America by reforming the Federal tax code through elimination of all Federal taxes on individuals and corporations and replacing the Federal tax code with a transaction fee-based system; to the Committee on Ways and Means.

By Mr. OTTER (for himself and Mr. SIMPSON):

H.R. 3760. A bill to extinguish the reversionary interests and use restrictions relating to industrial use purposes for certain deeds in Nez Perce County, Idaho; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. CASE, Mr. TIERNEY, Mr. CARTER, Mr. DUNCAN, Mr. EMANUEL, Mr. BEAUPREZ, Mr. HEFLEY, and Mr. KIND):

H.R. 3761. A bill to establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to state the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations; to the Committee on Government Reform.

By Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. CASE, Mr. TIERNEY, Mr. CARTER, Mr. DUNCAN, Mr. EMANUEL, Mr. BEAUPREZ, Mr. HEFLEY, and Mr. KIND):

H.R. 3762. A bill to establish the Corporate Subsidy Reform Commission to review inequitable Federal subsidies and make recommendations for termination, modification, or retention of such subsidies, and to state the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE:

H. Con. Res. 355. Concurrent resolution congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I-AA national championship; to the Committee on Education and the Workforce.

By Mr. HOYER (for himself, Mr. TOM DAVIS of Virginia, Mr. MORAN of Virginia, Mr. VAN HOLLEN, Mr. CUMMINGS, Mr. RUPPERSBERGER, Ms. NORTON, Mr. WYNN, Mr. WOLF, and Mr. CARDIN):

H. Con. Res. 356. Concurrent resolution expressing the sense of the Congress that rates of compensation for civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services; to the Committee on Government Reform.

By Mr. KILDEE:

H. Res. 510. A resolution expressing the sense of the House of Representatives with respect to free trade negotiations that could adversely impact the sugar industry of the United States; to the Committee on Ways and Means.

By Ms. WATSON (for herself, Mr. COX, Ms. HARMAN, Mr. SHERMAN, Ms. ROYBAL-ALLARD, and Ms. WATERS):

H. Res. 511. A resolution recognizing the accomplishments of the University of Southern California's football, women's volleyball, and men's water polo teams; to the Committee on Education and the Workforce.

By Mr. FRANK of Massachusetts (for himself, Mr. ALLEN, Mr. BASS, Mr. BRADLEY of New Hampshire, Mr. CAPUANO, Mr. DELAHUNT, Ms. DeLAURO, Mrs. JOHNSON of Connecticut, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. LYNCH, Mr. MARKEY, Mr. McGOVERN, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. SIMMONS, Mr. TIERNEY, and Mr. LARSON of Connecticut):

H. Res. 512. A resolution congratulating the New England Patriots for winning Super Bowl XXXVIII; to the Committee on Government Reform.

By Mr. McINTYRE (for himself and Mr. DUNCAN):

H. Res. 514. A resolution expressing the sense of the House of Representatives that a day should be established as "National Tartan Day" to recognize the outstanding achievements and contributions made by Scottish Americans to the United States; to the Committee on Government Reform.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. RUPPERSBERGER.

H.R. 36: Mr. BRADLEY of New Hampshire.

H.R. 111: Mr. BURNS.

H.R. 331: Mr. GREEN of Texas and Mr. McDERMOTT.

H.R. 391: Mr. LUCAS of Oklahoma.

H.R. 432: Mr. RODRIGUEZ.

H.R. 466: Mr. RODRIGUEZ.

H.R. 527: Mr. GILLMOR.

H.R. 584: Mr. GREEN of Texas and Mr. BURR.

H.R. 717: Ms. SCHAKOWSKY.

H.R. 847: Mr. McDERMOTT.

H.R. 857: Mr. WICKER.

H.R. 891: Mr. FRANK of Massachusetts, Mr. GUTIERREZ, and Mr. BAIRD.

H.R. 976: Mr. VITTER.

H.R. 1102: Ms. ROS-LEHTINEN.

H.R. 1117: Mr. PENCE, Mrs. BLACKBURN, and Mr. HAYES.

H.R. 1118: Mr. LUCAS of Kentucky.

H.R. 1125: Mr. BAIRD.

H.R. 1155: Mr. DAVIS of Illinois and Mr. KENNEDY of Rhode Island.

H.R. 1160: Mr. NETHERCUTT.

H.R. 1179: Mrs. BIGGERT and Mr. GREEN of Texas.

H.R. 1227: Mr. COX, Mr. FEENEY, Mr. COLE, and Mr. WILSON of South Carolina.

H.R. 1231: Mr. BRADY of Pennsylvania.

H.R. 1267: Mr. PASCRELL.

H.R. 1285: Mr. MATHESON.

H.R. 1294: Mr. FARR.

H.R. 1321: Mr. RODRIGUEZ.

H.R. 1323: Mr. BRADLEY of New Hampshire.

H.R. 1336: Mrs. BIGGERT, Mr. EMANUEL, and Mr. BLUNT.

H.R. 1400: Mr. LARSON of Connecticut.

H.R. 1478: Mr. MANZULLO and Mr. ACEVEDO-VILÁ.

H.R. 1513: Mr. BISHOP of New York, Mr. GOODE, Mr. ROGERS of Michigan, and Mr. BURR.

H.R. 1534: Mr. ANDREWS.

H.R. 1563: Mr. ENGEL, Ms. HARMAN, Mr. ACEVEDO-VILÁ, and Mr. McDERMOTT.

H.R. 1615: Mr. GREENWOOD.

H.R. 1653: Mr. BRADLEY of New Hamsphire.

H.R. 1657: Mr. HASTINGS of Florida.

H.R. 1684: Mr. WYNN, Mr. ROTHMAN, Mr. CAPUANO, Ms. DeLAURO, and Mr. BALLANCE.

H.R. 1726: Mr. TOM DAVIS of Virginia.

H.R. 1749: Mr. MORAN of Kansas and Mr. SIMPSON.

H.R. 1818: Mr. BOEHLERT and Mr. CUMMINGS.

H.R. 1849: Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. NAPOLITANO.

H.R. 1930: Mr. MEEHAN and Mr. OLVER.

H.R. 2011: Mr. ENGEL and Mr. UDALL of Colorado.

H.R. 2037: Ms. McCARTHY of Missouri and Mr. RANGEL.

H.R. 2071: Mr. BAIRD, Mr. SANDERS, and Mr. GRIJALVA.

H.R. 2131: Mr. BACHUS, Mr. BARTON of Texas, Mr. BEAUPREZ, Mr BILIRAKIS, Mr. BURNS, Mr. CARTER, Mr. CASTLE, Mr. CRENSHAW, Mr. FLAKE, Mr. GILCHREST, Mr. GOODLATTE, Mr. GRAVES, Mr. GREENWOOD, Ms. HART, Mr. HERGER, Mr. HAYWORTH, Mr. HOBSON, Mr. HOUGHTON, Mr. HULSHOF, Mrs. KELLY, Mr. KING of New York, Mr. KIRK, Mr. KNOLLENBERG, Mr. LATHAM, Mr. LaTOURETTE, Mr. LoBIONDO, Mr. McHUGH, Mr. MICA, Mr. PITTS, Mr. NEUGEBAUER, Mr. NEY, Mr. NORWOOD, Mr. NUSSLE, Mr. OWENS, Mr. PENCE, Mr. PETRI, Mr. PUTNAM, Mr. QUINN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. REGULA, Mr. REYNOLDS, Mr. SCHROCK, Mr. SHERWOOD, Mr. SHUSTER, Mr. SMITH of Michigan, Mr. STEARNS, Mr. SWEENEY, Mr. TANCREDO, Mr. THORNBERRY, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. BARRETT of South Carolina, Mr. COLE, Mr. BOEHLERT, Mr. BAIRD, Ms. BERKLEY, Mr. ROSS, Mr. SHERMAN, Mr. THOMPSON of Mississippi, Mr. WEXLER, Mrs. McCARTHY of New York, Mr. BISHOP of New York, Mr. HOYER, Mr. JOHN, Mr. LUCAS of Kentucky, Mr. RUPPERSBERGER, Mr. HILL, Mr. WATT, Mr. MARKEY, Mrs. MALONEY, Mr. STENHOLM, Mr. RYAN of Ohio, Mr. DICKS, Mr. MOORE, Ms. WATERS, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, Mr. DOOLEY of California, Mr. TAYLOR of Mississippi, Mr. EMANUEL, Mr. BERMAN, Mr. CASE, Mr. FORD, Mr. TURNER of Texas, Mr. ALEXANDER, Mr. CARDOZA, Mr. MICHAUD, Mrs. NAPOLITANO, Mr. SCOTT of Georgia, Mr. ISRAEL, Mr. PASCRELL, Mr. EDWARDS, Ms. BORDALLO, Mr. SCHIFF, Mr. GEPHARDT, Mr. ISSA, Mr. EVERETT, Mr. CRANE, Mr. GILLMOR, Mr. BOEHNER, Mr. GOODE, Ms. KILPATRICK, Mrs. LOWEY, Ms. CARSON of Indiana, Mr. PALLONE, Mr. UDALL of Colorado, Ms. NORTON, Mr. SPRATT, Mr. CHOCOLA, Mr. SULLIVAN, Mr. KELLER, Mr. SHAW, Mr. MANZULLO, Mr. YOUNG of Florida, Mr. HOEKSTRA, Mr. HALL, Ms. PELOSI, Mr. MEEK of Florida, Mr. WU, and Mr. LYNCH.

H.R. 2262: Mr. SCHIFF and Mr. ANDREWS.

H.R. 2394: Mr. CONYERS.

H.R. 2582: Mr. HASTINGS of Florida.

H.R. 2665: Ms. CARSON of Indiana.

H.R. 2671: Mrs. EMERSON, Mr. PETERSON of Pennsylvania, and Ms. HARRIS.

H.R. 2768: Mr. KUCINICH, Mr. BELL, Mr. FOLEY, Mr. BISHOP of Utah, Mr. STENHOLM, Mr. KIRK, Ms. LORETTA SANCHEZ of California, Mr. CANNON, Mrs. TAUSCHER, Mr. FILNER, Mr. FORD, Mr. OTTER, Mr. SCHIFF, Mr. WEXLER, Ms. BERKLEY, Mr. GUTKNECHT, and Mr. OLVER.

H.R. 2797: Mr. ISAKSON.

H.R. 2823: Mr. CALVERT and Mr. SPRATT.

H.R. 2853: Mr. McDERMOTT.

H.R. 2863: Mr. BLUMENAUER, Mr. DeFAZIO, and Mr. ENGLISH.

H.R. 2885: Mr. WAMP.

H.R. 2959: Mr. KILDEE.

H.R. 2969: Ms. CARSON of Indiana.

H.R. 2983: Mr. WEXLER, Mr. KENNEDY of Rhode Island, and Mr. OWENS.

H.R. 2997: Mr. MORAN of Virginia, Ms. NORTON, and Mr. KUCINICH.

H.R. 3042: Mr. CULBERSON.

H.R. 3069: Mr. MANZULLO.

H.R. 3075: Mr. FRANKS of Arizona.

H.R. 3090: Ms. BALDWIN.

H.R. 3178: Mr. RANGEL, Mr. MEEHAN, Mr. BAIRD, Ms. BORDALLO, and Mr. ROSS.

H.R. 3180: Mr. DOGGETT.

H.R. 3192: Mr. JACKSON of Illinois and Ms. BORDALLO.

H.R. 3238: Ms. KILPATRICK, Mrs. CHRISTENSEN, and Ms. CORRINE BROWN of Florida.

H.R. 3242: Mr. BACA and Mr. GRIJALVA.

H.R. 3244: Mr. WATT and Mr. RUPPERSBERGER.

H.R. 3246: Mr. COLLINS.

H.R. 3281: Mr. UDALL of New Mexico.

H.R. 3310: Mr. WILSON of South Carolina and Mr. DEMINT.

H.R. 3350: Mr. EMANUEL.

H.R. 3352: Mr. RANGEL, Mr. LANTOS, and Mr. GEORGE MILLER of California.

H.R. 3377: Mr. TOWNS and Mr. STARK.

H.R. 3386: Mr. ENGEL, Mr. MEEKS of New York, Mr. BISHOP of Georgia, and Ms. KILPATRICK.

H.R. 3424: Mr. GONZALEZ and Mr. UDALL of Colorado.

H.R. 3425: Mr. PASTOR.

H.R. 3444: Mr. FILNER and Ms. MCCOLLUM.

H.R. 3453: Mr. GINGREY.

H.R. 3460: Mr. SOUDER, Mr. RAMSTAD, and Mr. WEINER.

H.R. 3473: Mr. WALDEN of Oregon, Mr. RENZI, and Mr. CUMMINGS.

H.R. 3474: Mr. ALLEN, Mr. PLATTS, Ms. PELOSI, Mr. UDALL of New Mexico, Mr. MILLER of North Carolina, and Mr. LARSON of Connecticut.

H.R. 3480: Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. RODRIGUEZ, and Mr. SCOTT of Georgia.

H.R. 3484: Mr. KUCINICH.

H.R. 3507: Mr. FILNER and Mr. PALLONE.

H.R. 3509: Mr. HONDA.

H.R. 3528: Mr. WEINER, Mr. SIMMONS, and Mr. STARK.

H.R. 3550: Mr. CARDOZA, Mr. BACA, Mr. DOYLE, Mr. MORAN of Virginia, Mr. ENGLISH, and Mr. RUPPERSBERGER.

H.R. 3582: Mr. CONYERS.

H.R. 3619: Mr. CAPUANO.

H.R. 3658: Mr. WALDEN of Oregon, Ms. WOOLSEY, Mr. EMANUEL, Mr. BOSWELL, Mr. ISSA, Mr. KING of New York, Mr. HOEFFEL, Mr. MCDERMOTT, Mr. BISHOP of Georgia, and Mr. BURNS.

H.R. 3662: Ms. NORTON.

H.R. 3667: Mr. GIBBONS.

H.R. 3687: Mr. GARY G. MILLER of California, Mr. ALEXANDER, Mr. FORBES, and Mr. CALVERT.

H.R. 3704: Mr. DEMINT.

H.R. 3707: Mr. FILNER, Mr. HOEFFEL, Mr. BOSWELL, Mr. CLAY, Mr. BROWN of Ohio, Mr. SABO, Mr. DEUTSCH, Ms. BALDWIN, Mr. TAYLOR of Mississippi, Mr. ENGEL, Mr. CROWLEY, Mrs. TAUSCHER, Mr. OWENS, Mr. MEEHAN, Mr. MILLER of North Carolina, Mr. STARK, Ms. MCCARTHY of Missouri, Mr. STENHOLM, Mr. COOPER, Mr. DAVIS of Tennessee, Mr. ISRAEL, Mr. THOMPSON of California, Mr. ROSS, Mr. CARDOZA, and Mr. TURNER of Texas.

H.R. 3708: Mr. TOWNS and Mr. FALEOMAVAEGA.

H.R. 3713: Mr. HYDE, Mrs. BIGGERT, Mr. WELLER, Mr. EVANS, Mr. LIPINSKI, and Mr. RUSH.

H.R. 3717: Mr. FORBES, Mr. OXLEY, Mr. NETHERCUTT, Ms. KAPTUR, Mrs. MYRICK, Mr. DEAL of Georgia, Mr. SKELTON, Mr. SPRATT, Mr. COSTELLO, Mr. SMITH of Michigan, Mr. TIBERI, Mr. FERGUSON, Mr. GREEN of Wisconsin, Mr. HAYES, Ms. CARSON of Indiana, Ms. DELAURO, Mr. TIAHRT, Mrs. MILLER of Michigan, Mrs. JOHNSON of Connecticut, Mr. SCOTT of Georgia, Mr. SHADEGG, Mr. TURNER of Texas, Mr. LINDER, Mr. ROGERS of Alabama, Mr. BERRY, Mr. SIMMONS, Mr. KENNEDY of Minnesota, and Mr. CALVERT.

H.R. 3719: Mrs. JOHNSON of Connecticut, Mr. CONYERS, Ms. PELOSI, Mr. VAN HOLLEN, Mr. GEORGE MILLER of California, Mr. SABO, Mr. DEUTSCH, Ms. HARMAN, Ms. LEE, Mr. BROWN of Ohio, Mr. WEXLER, Mr. JACKSON of Illinois, Mr. ALLEN, Mr. WAXMAN, Mr. ABERCROMBIE, Mr. BELL, Mr. FILNER, Mr. BAIRD, Ms. WOOLSEY, Mr. KUCINICH, Mrs. MALONEY, Mr. DOGGETT, and Mr. DEFAZIO.

H.R. 3728: Mr. MCGOVERN and Mr. DELAHUNT.

H.R. 3731: Ms. HART, Mrs. JOHNSON of Connecticut, Mr. OBERSTAR, Mr. RUPPERSBERGER, Mr. BACHUS, Mr. CARDOZA, Ms. CARSON of Indiana, Mr. DAVIS of Florida, Mr. DEFAZIO, Mr. FARR, Mr. FROST, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN of Texas, Mr. HILL, Mr. KENNEDY of Rhode Island, Mr. KIND, Mr. LARSON of Connecticut, Mr. LUCAS of Kentucky, Mrs. MALONEY, MR. MICHAUD, Mr. ROSS, Mr. SCOTT of Georgia, Mr. SHAYS, Ms. SOLIS, Mr. STENHOLM, MR. THOMPSON California, and Mr. VAN HOLLEN.

H.R. 3745: Mr. EHLERS.

H.J. Res. 84: Mr. OSBORNE, Mr. HALL, Mr. REGULA, Mr. GOODLATTE, Mr. BARTON of Texas, and Mr. YOUNG of Alaska.

H.J. Res. 87: Mr. OBEY, Mr. WATSON, Mr. HASTINGS of Florida, Mr. OBERSTAR, Mr. CROWLEY, Mr. REYES, Ms. KILPATRICK, Mr. ISRAEL, Mr. ABERCROMBIE, Mrs. MALONEY, Mr. LANTOS, Mr. FILNER, Mr. HINCHEY, Mr. SERRANO, Ms. LOFGREN, Mr. WAXMAN, Mr. PALLONE, Mr. WEXLER, Mr. DINGELL, Mr. ETHERIDGE, Mr. FORD, Ms. MCCARTHY of Missouri, Mr. SHERMAN, Mr. GRIJALVA, Mr. DICKS, Mr. LEVIN, Ms. LEE, and Mr. BROWN of Ohio

H. Con. Res. 111: Mr. PAYNE.

H. Con. Res. 218: Mr. DEUTSCH, Mr. PAYNE, Mr. BARTLETT of Maryland, and Mr. STEARNS.

H. Con. Res. 247: Mr. SCOTT of Georgia.

H. Con. Res. 254: Mr. HOLT.

H. Con. Res. 310: Mr. SHIMKUS and Mr. HOSTETTLER.

H. Con. Res. 324: Mr. BILIRAKIS.

H. Con. Res. 327: Mr. KUCINICH, Mrs. MALONEY, Mr. PAYNE, and Mr. SANDERS.

H. Con. Res. 332: Mr. ALEXANDER, Mr. MATHESON, Mr. EMANUEL, Mr. RODRIGUEZ, Mr. COOPER, Ms. MAJETTE, Mr. MCCOTTER, Mr. BASS, Mr. SCOTT of Georgia, and Mr. SAXTON.

H. Con. Res. 343: Mr. WU, Ms. WOOLSEY, Mr. MCINTYRE, Mr. LYNCH, and Ms. PELOSI.

H. Res. 157: Mr. WEINER and Mr. LEACH.

H. Res. 241: Mr. ENGEL.

H. Res. 291: Ms. BALDWIN and Mr. SABO.

H. Res. 402: Mr. WHITFIELD.

H. Res. 480: Mr. UDALL of Colorado, Mr. HOLT, and Ms. MCCARTHY of Missouri.

H. Res. 481: Mr. NEY.

H. Res. 482: Mrs. NORTHUP.

H. Res. 500: Mr. PUTNAM, Mr. BEREUTER, Mr. MCINNIS, Mr. SHADEGG, and Mr. OSBORNE.

H. Res. 507: Mr. CRAMER, Mr. ETHERIDGE, Mr. SIMPSON, Mr. BARTLETT of Maryland, Mr. EDWARDS, Mr. BISHOP of Utah, Mr. BONNER, Mr. FROST, Mr. SESSIONS, Mr. TURNER of Texas, Mr. SCHIFF, Ms. BORDALLO, and Mr. PORTER.

## AMENDMENTS

Under clause 8 of rule XVIII proposed amendments were submitted as follows:

### H.R. 3030

OFFERED BY: MR. SCOTT OF VIRGINIA

AMENDMENT NO. 1: Page 12, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(j) NONDISCRIMINATION.—Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "color,".

(k) EMPLOYMENT PRACTICES.—Section 679(b) of the Community Services Block Grant Act (42 U.S.C. 9920(b)) is amended by striking paragraph (3).

### H.R. 3030

OFFERED BY: MR. SCOTT OF VIRGINIA

AMENDMENT NO. 2: Page 12, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

"(j) LIMITATION ON USE OF FUNDS: VOLUNTARINESS.—Section 679(c) of the Community Services Block Grant Act (42 U.S.C. 9920(c)) is amended by adding at the end the following:

"If the religious organization offers such an activity, it shall be voluntary for the individuals receiving services and offered separate from the program funded under subsection (a). A certificate shall be separately signed by religious organizations, and filed with the government agency that disburses the funds, certifying that the organization is aware of and will comply with this subsection.".

### H.R. 3030

OFFERED BY: MR. GEORGE MILLER OF CALIFORNIA

AMENDMENT NO. 3: Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Improving the Community Services Block Grant Act of 2003".

**SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT AMENDMENTS.**

(a) PURPOSES AND GOALS.—Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901 note) is amended to read as follows:

**"SEC. 672 PURPOSES AND GOALS.**

"The purpose of this subtitle is to reduce poverty—

"(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize low-income communities in urban and rural areas, by providing resources to States for support of local eligible entities, including community action agencies and other community-based organizations—

"(A) to plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;

"(B) to coordinate a range of services that meet the needs of low-income families and individuals, that support strong and healthy families, and that assist them in developing the skills needed to become self sustaining while ensuring that these services are provided effectively and efficiently; and

"(C) to design and implement comprehensive approaches to assist eligible individuals in gaining employment and achieving economic self-sufficiency;

"(2) by improving and revitalizing the low-income communities in urban and rural areas by providing resources to States for support of local eligible entities and their partners—

"(A) to broaden the resource base of initiatives and projects directed to the elimination of poverty and the redevelopment of the low-income community, including partnerships with nongovernmental and governmental institutions to develop the community assets and services that reduce poverty, such as—

"(i) other private, religious, charitable, and community-based organizations;

"(ii) individual citizens, and business, labor, and professional groups, that are able to influence the quantity and quality of opportunities and services for the poor; and

"(iii) local government leadership; and

"(B) to coordinate community-wide resources and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency and to test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

"(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

"(ii) innovative partnerships to leverage the assets and services that reduce poverty, as provided in subparagraph (A); and

"(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by grants made under this subtitle in guiding the eligible entities and in their programs funded under this subtitle, to ameliorate the particular problems and needs of low-income residents and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

(b) DEFINITIONS.—Section 673(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9902(1)(A)) is amended—

(1) in clause (i) by striking "and" at the end;

(2) in clause (ii) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that successfully develops and meets the locally determined goals described in section 678E(b)(1), as determined by the State, and meets State goals, standards, and performance requirements as provided for in section 678B(a).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(2) in subsection (b)(2)—

(A) by striking "678F" and inserting "678E to assist States, eligible entities, and their partners in projects supported by this subtitle"; and

(B) in subparagraph (B) by striking "monitoring (to correct programmatic deficiencies of eligible entities)" and inserting "monitoring (including technical assistance and training to correct programmatic deficiencies of eligible entities)".

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)(1)(F) by striking "neighborhood-based" and inserting "community-based".

(e) APPLICATION AND PLAN.—Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

(1) in subsection (b)—

(A) by striking "Beginning with fiscal year 2000, to" and inserting "To";

(B) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "youth development programs that support" and inserting "youth development programs, which may include mentoring programs, that support"; and

(II) by striking "and" at the end;

(ii) in subparagraph (C) by adding "and" at the end; and

(iii) by adding at the end the following:

"(D) initiatives to improve economic conditions and mobilize new resources in rural areas to eliminate obstacles to the self-sufficiency of families and individuals in rural communities;";

(C) in paragraph (2) by striking "community and neighborhood-based" and inserting "community-based";

(D) in paragraph (3)—

(i) in the matter preceding subparagraph (A) by striking "information provided by eligible entities in the State, containing" and inserting "an assurance that the State will provide information, including"; and

(ii) in subparagraph (D) by striking "community and neighborhood-based" and inserting "community-based";

(E) in paragraph (9) by striking "and community organizations" and inserting "and community-based organizations";

(F) in paragraph (10) by striking "community organization" and inserting "community-based organization";

(G) in paragraph (12) by striking "and" at the end;

(H) by redesignating paragraph (13) as paragraph (15); and

(I) by inserting after paragraph (12) the following:

"(13) an assurance that the State will take swift action to improve performance or, when appropriate, to terminate the funding under this subtitle of low-performing eligible entities that do not meet the applicable locally determined goals described in section 678E(b)(1) or do not meet the State goals, standards, and requirements as provided for in section 678B(a);

"(14) an assurance that the State will provide a justification to the Secretary if it continues to fund persistently low-performing eligible entities; and";

(2) in subsection (c)(2) by striking "plan, or" and all that follows through the period at the end, and inserting "plan, to meet a State requirement, as described in section 678C(a), or to meet the locally determined goals as described in section 678E(b)(1)."; and

(3) by striking subsection (f).

(f) TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.—Section 678A(a)(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9913(a)(1)(A)) is amended—

(1) by inserting "dissemination regarding best practices," after "technical assistance,"; and

(2) by inserting "(including to assist in the development of reporting systems and electronic data systems)" after "collection activities".

(g) MONITORING OF ELIGIBLE ENTITIES.—Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by inserting "and the locally determined performance goals described in section 678E(b)(1)" after "a State"; and

(B) in paragraph (3)—

(i) by inserting "appropriate" before "goals"; and

(ii) by striking "established by the State"; and

(2) in the last sentence of subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(h) CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.—Section 678C(a) of the Community Services Block Grant Act (42 U.S.C. 9915(a)) is amended in the matter preceding paragraph (1) by striking "established by the State".

(i) ACCOUNTABILITY AND REPORTING REQUIREMENTS.—Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A) by striking "By October 1, 2001, each" and inserting "Each"; and

(B) in paragraph (2)—

(i) in the 1st sentence by inserting "including any activities under section 678C" before the period at the end;

(ii) by striking the 2d sentence;

(iii) in the 3d sentence by striking "also"; and

(iv) in the 3d sentence by inserting "information on the timeliness of the distribution of block grant funds to eligible entities as provided in section 675C(a)," after "including";

(2) in subsection (b)—

(A) in paragraph (2) in the matter preceding subparagraph (A) by striking "beginning after September 30, 1999";

(B) in paragraph (3) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees";

(C) by adding at the end the following:

"(5) COORDINATION OF REPORTING REQUIREMENTS.—To the maximum extent possible, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services managed by eligible entities so as to consolidate and reduce the number of reports required about individuals, families, and uses of grant funds."; and

(D) by redesignating such subsection as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) LOCAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) LOCALLY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, an eligible entity shall establish locally determined goals for reducing poverty in the community, including goals for—

"(A) leveraging and mobilizing community resources;

"(B) fostering coordination of Federal, State, local, private, and other assistance; and

"(C) promoting community involvement.

"(2) DEMONSTRATION THAT GOALS WERE MET.—In order for an eligible entity to receive a second or subsequent grant made under this subtitle after the effective date of this paragraph, such entity shall demonstrate to the State that it has met the goals described in paragraph (1).".

(j) NONDISCRIMINATION.—Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "color,".

(k) TREATMENT OF BENEFICIARIES.—Section 679 of the Community Services Block Grant

Act (42 U.S.C. 9920) is amended to read as follows:

### "SEC. 679. OPERATIONAL RULE.

"(a) Religious Organizations Included as Nongovernmental Providers.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

"(b) Religious Character and Independence.—

"(1) In general.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

"(2) Additional safeguards.—Neither the Federal Government nor a State or local government shall require a religious organization—

"(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

"(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

"(c) Limitations on Use of Funds for Certain Purposes.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

"(d) Fiscal Accountability.—

"(1) In general.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

"(2) Limited audit.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

"(e) Treatment of Eligible Entities and Other Intermediate Organizations.—If an eligible entity or other organization (referred to in this subsection as an "intermediate organization"), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

"(f) Treatment of Beneficiaries.—In providing assistance under a program described in subsection (a), a religious organization shall not discriminate against a beneficiary, or a potential beneficiary, of such assistance on the basis of religion or of a religious belief.

"(g) Operational Requirement.—Notwithstanding any other provision of this section, each entity that carries out a program, or provides assistance, under this subtitle shall carry out such program, or shall provide such assistance, in a lawful and secular manner.".

(l) Discretionary Authority of Secretary.—Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A) by inserting "(including financial assistance for construction or substantial rehabilitation of buildings and facilities, and for loans or investments in private business enterprises owned by community development corporations)" after "assistance";

(ii) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (D), (E), (F), and (G), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) Federal interest.—The Secretary shall establish procedures that permit funds provided under a grant made under this paragraph, or intangible assets acquired with such funds, to become the sole property of the grantee before the expiration of the 12-year period beginning after the fiscal year for which such grant is made if such grantee agrees to use such funds or such property for purposes and uses consistent with the purposes and uses for which such grant is made.

"(C) Replacement activities.—The Secretary shall establish procedures to allow a grant made under this paragraph to be used by a grantee to carry out activities substantially similar to the activities for which such grant is made if, due to no fault of such grantee, such grantee cannot carry out the activities for which such grant is made. Such procedures shall require that the substantially similar activities serve the same impact area and have the same goals, objectives, and outcomes as the activities for which such grant is made.";

(B) in paragraph (3)(B) by inserting "water and wastewater" after "community"; and

(C) in paragraph (4) by striking "neighborhood-based" and inserting "community-based"; and

(2) in subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(m) Community Food and Nutrition Programs.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—

(1) in subsection (c) in the matter preceding paragraph (1) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees"; and

(2) in subsection (d) by striking "1999 through 2003" and inserting "2004 through 2009".

(n) National or Regional Programs Designed To Provide Instructional Activities for Low-Income Youth.—Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—

(1) in subsection (b)(5)—

(A) by inserting "(which may be accomplished through mentoring)" after "youth"; and

(B) by inserting "to improve academic achievement" after "study practices"; and

(2) in subsection (g) by striking "1999 through 2003" and inserting "2004 through 2009".

### SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning after the date of the enactment of this Act.

H.R. 3030

Offered By: Ms. Woolsey

Amendment No. 4: Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving the Community Services Block Grant Act of 2003".

### SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT AMENDMENTS.

(a) Purposes and Goals.—Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901 note) is amended to read as follows:

### "SEC. 672 PURPOSES AND GOALS.

"The purpose of this subtitle is to reduce poverty—

"(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize low-income communities in urban and rural areas, by providing resources to States for support of local eligible entities, including community action agencies and other community-based organizations—

"(A) to plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;

"(B) to coordinate a range of services that meet the needs of low-income families and individuals, that support strong and healthy families, and that assist them in developing the skills needed to become self sustaining while ensuring that these services are provided effectively and efficiently; and

"(C) to design and implement comprehensive approaches to assist eligible individuals in gaining employment and achieving economic self-sufficiency;

"(2) by improving and revitalizing the low-income communities in urban and rural areas by providing resources to States for support of local eligible entities and their partners—

"(A) to broaden the resource base of initiatives and projects directed to the elimination of poverty and the redevelopment of the low-income community, including partnerships with nongovernmental and governmental institutions to develop the community assets and services that reduce poverty, such as—

"(i) other private, religious, charitable, and community-based organizations;

"(ii) individual citizens, and business, labor, and professional groups, that are able to influence the quantity and quality of opportunities and services for the poor; and

"(iii) local government leadership; and

"(B) to coordinate community-wide resources and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency and to test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

"(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

"(ii) innovative partnerships to leverage the assets and services that reduce poverty, as provided in subparagraph (A); and

"(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by grants made under this subtitle in guiding the eligible entities and in their programs funded under this subtitle, to ameliorate the particular problems and needs of low-income residents and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

(b) DEFINITIONS.—Section 673(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9902(1)(A)) is amended—

(1) in clause (i) by striking "and" at the end;

(2) in clause (ii) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that successfully develops and meets the locally determined goals described in section 678E(b)(1), as determined by the State, and meets State goals, standards, and performance requirements as provided for in section 678B(a).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(2) in subsection (b)(2)—

(A) by striking "678F" and inserting "678E to assist States, eligible entities, and their partners in projects supported by this subtitle"; and

(B) in subparagraph (B) by striking "monitoring (to correct programmatic deficiencies of eligible entities)" and inserting "monitoring (including technical assistance and training to correct programmatic deficiencies of eligible entities)".

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)(1)(F) by striking "neighborhood-based" and inserting "community-based".

(e) APPLICATION AND PLAN.—Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

(1) in subsection (b)—

(A) by striking "Beginning with fiscal year 2000, to" and inserting "To";

(B) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "youth development programs that support" and inserting "youth development programs, which may include mentoring programs, that support"; and

(II) by striking "and" at the end;

(ii) in subparagraph (C) by adding "and" at the end; and

(iii) by adding at the end the following:

"(D) initiatives to improve economic conditions and mobilize new resources in rural areas to eliminate obstacles to the self-sufficiency of families and individuals in rural communities;";

(C) in paragraph (2) by striking "community and neighborhood-based" and inserting "community-based";

(D) in paragraph (3)—

(i) in the matter preceding subparagraph (A) by striking "information provided by eligible entities in the State, containing" and inserting "an assurance that the State will provide information, including"; and

(ii) in subparagraph (D) by striking "community and neighborhood-based" and inserting "community-based";

(E) in paragraph (9) by striking "and community organizations" and inserting "and community-based organizations";

(F) in paragraph (10) by striking "community organization" and inserting "community-based organization";

(G) in paragraph (12) by striking "and" at the end;

(H) by redesignating paragraph (13) as paragraph (15); and

(I) by inserting after paragraph (12) the following:

"(13) an assurance that the State will take swift action to improve performance or, when appropriate, to terminate the funding under this subtitle of low-performing eligible entities that do not meet the applicable locally determined goals described in section 678E(b)(1) or do not meet the State goals, standards, and requirements as provided for in section 678B(a);

"(14) an assurance that the State will provide a justification to the Secretary if it continues to fund persistently low-performing eligible entities; and";

(2) in subsection (c)(2) by striking "plan, or" and all that follows through the period at the end, and inserting "plan, to meet a State requirement, as described in section 678C(a), or to meet the locally determined goals as described in section 678E(b)(1)."; and

(3) by striking subsection (f).

(f) TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.—Section 678A(a)(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9913(a)(1)(A)) is amended—

(1) by inserting "dissemination regarding best practices," after "technical assistance,"; and

(2) by inserting "(including to assist in the development of reporting systems and electronic data systems)" after "collection activities".

(g) MONITORING OF ELIGIBLE ENTITIES.—Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by inserting "and the locally determined performance goals described in section 678E(b)(1)" after "a State"; and

(B) in paragraph (3)—

(i) by inserting "appropriate" before "goals"; and

(ii) by striking "established by the State"; and

(2) in the last sentence of subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(h) CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.—Section 678C(a) of the Community Services Block Grant Act (42 U.S.C. 9915(a)) is amended in the matter preceding paragraph (1) by striking "established by the State".

(i) ACCOUNTABILITY AND REPORTING REQUIREMENTS.—Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A) by striking "By October 1, 2001, each" and inserting "Each"; and

(B) in paragraph (2)—

(i) in the 1st sentence by inserting "including any activities under section 678C" before the period at the end;

(ii) by striking the 2d sentence;

(iii) in the 3d sentence by striking "also"; and

(iv) in the 3d sentence by inserting "information on the timeliness of the distribution of block grant funds to eligible entities as provided in section 675C(a)," after "including";

(2) in subsection (b)—

(A) in paragraph (2) in the matter preceding subparagraph (A) by striking "beginning after September 30, 1999";

(B) in paragraph (3) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees";

(C) by adding at the end the following:

"(5) COORDINATION OF REPORTING REQUIREMENTS.—To the maximum extent possible, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services managed by eligible entities so as to consolidate and reduce the number of reports required about individuals, families, and uses of grant funds."; and

(D) by redesignating such subsection as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) LOCAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) LOCALLY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, an eligible entity shall establish locally determined goals for reducing poverty in the community, including goals for—

"(A) leveraging and mobilizing community resources;

"(B) fostering coordination of Federal, State, local, private, and other assistance; and

"(C) promoting community involvement.

"(2) DEMONSTRATION THAT GOALS WERE MET.—In order for an eligible entity to receive a second or subsequent grant made under this subtitle after the effective date of this paragraph, such entity shall demonstrate to the State that it has met the goals described in paragraph (1).".

(j) NONDISCRIMINATION.—Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "color,".

(k) TREATMENT OF BENEFICIARIES.—Section 679 of the Community Services Block Grant Act (42 U.S.C. 9920) is amended to read as follows:

**"SEC. 679. OPERATIONAL RULE.**

"(a) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

"(b) RELIGIOUS CHARACTER AND INDEPENDENCE.—

"(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

"(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

"(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

"(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

"(d) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

"(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

"(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an "intermediate organization"), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

"(f) TREATMENT OF BENEFICIARIES.—In providing assistance under a program described in subsection (a), a religious organization shall not discriminate against a beneficiary, or a potential beneficiary, of such assistance on the basis of religion or of a religious belief.

"(g) OPERATIONAL REQUIREMENT.—Notwithstanding any other provision of this section, each entity that carries out a program, or provides assistance, under this subtitle shall carry out such program, or shall provide such assistance, in a lawful and secular manner.".

(l) DISCRETIONARY AUTHORITY OF SECRETARY.—Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A) by inserting "(including financial assistance for construction or substantial rehabilitation of buildings and facilities, and for loans or investments in private business enterprises owned by community development corporations)" after "assistance";

(ii) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (D), (E), (F), and (G), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) FEDERAL INTEREST.—The Secretary shall establish procedures that permit funds provided under a grant made under this paragraph, or intangible assets acquired with such funds, to become the sole property of the grantee before the expiration of the 12-year period beginning after the fiscal year for which such grant is made if such grantee agrees to use such funds or such property for purposes and uses consistent with the purposes and uses for which such grant is made.

"(C) REPLACEMENT ACTIVITIES.—The Secretary shall establish procedures to allow a grant made under this paragraph to be used by a grantee to carry out activities substantially similar to the activities for which such grant is made if, due to no fault of such grantee, such grantee cannot carry out the activities for which such grant is made. Such procedures shall require that the substantially similar activities serve the same impact area and have the same goals, objectives, and outcomes as the activities for which such grant is made.";

(B) in paragraph (3)(B) by inserting "water and wastewater" after "community"; and

(C) in paragraph (4) by striking "neighborhood-based" and inserting "community-based"; and

(2) in subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(m) COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—

(1) in subsection (c) in the matter preceding paragraph (1) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees"; and

(2) in subsection (d) by striking "1999 through 2003" and inserting "2004 through 2009".

(n) NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—

(1) in subsection (b)(5)—

(A) by inserting "(which may be accomplished through mentoring)" after "youth"; and

(B) by inserting "to improve academic achievement" after "study practices"; and

(2) in subsection (g) by striking "1999 through 2003" and inserting "2004 through 2009".

**SEC. 3. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning after the date of the enactment of this Act.

### H.R. 3030

OFFERED BY: MR. GEORGE MILLER OF CALIFORNIA

AMENDMENT NO. 5: Page 5, strike lines 20 and 21, and insert the following:

(1) in subsection (a)—

(A) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(B) by striking "681" and inserting "675C(b)(3), 681,";

Page 6, line 2, strike "and" at the end.

Page 6, line 8, strike the period at the end and insert "; and".

Page 6, after line 8, insert the following:

(C) by adding at the end the following:

"(c) ASSISTANCE RELATING TO UNEMPLOYMENT.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2004 to carry out section 675C(b)(3).".

Page 6, strike lines 9 through 14, and insert the following:

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)—

(A) in paragraph (1)(F) by striking "neighborhood-based" and inserting "community-based"; and

(B) by adding at the end the following:

"(3) ASSISTANCE RELATING TO UNEMPLOYMENT.—With the amount appropriated under section 674(c), the Secretary shall make grants to States to provide financial and employment support to individuals who cannot find employment, who have exhausted their State unemployment benefits, and who, after the week of December 20, 2003, can no longer receive Federal extended temporary unemployment compensation. The eligibility criteria and benefit amounts under this paragraph for such individuals shall be the same as for such individuals prior to December 20, 2003, under the Federal extended temporary unemployment compensation program."; and

(3) in subsection (c)(1) by inserting "paragraphs (1) and (2) of" after "under".

# EXTENSIONS OF REMARKS

## CONGRATULATING DEPUTY SHERIFF'S ASSOCIATION OF SAN DIEGO COUNTY

### HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize the 50th anniversary of the San Diego County Deputy Sheriff's Association (DSA). I am proud to recognize the contributions they have made to the community, the Sheriff's Department, and San Diego County.

As many of us know, it is difficult to succeed at anything without support. DSA has been providing that necessary and crucial support to San Diego County law enforcement for 50 years. The Deputy Sheriff's Association has a noble mission to promote professionalism in law enforcement. In addition, the DSA holds honesty, integrity, dedication, accountability, respect, compassion, courage, and trust as core values.

Specifically, I want to recognize the 2004 Board Members: President, Jim Duffy; Vice President, Ernie Carillo, Secretary/Treasurer, Jim Birdsong; and Directors James Armand, Gary Chambers, John Mercer, Ron Morse, Dave Myers, and Donna Perone.

Mr. Speaker, it is my pleasure to recognize the San Diego Deputy Sheriff's Association as they celebrate their 50th anniversary. I thank the DSA for their continued service and wish them another 50 productive years.

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## RECOGNIZING JAMES SPRINGFIELD

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. ORTIZ. Mr. Speaker, I am honored to rise before you to recognize a tremendous public servant from my district. Mr. James Springfield, President and Chief Executive Officer for Valley Baptist Health System in Harlingen, Texas, was recently named "Young Healthcare Executor of the Year" by the American College of Healthcare Executives (ACHE), a national organization based in Chicago.

Mr. Springfield will receive the 2004 Robert S. Hudgens Memorial Award on March 1 at the Parker B. Francis Distinguished Lecture Hall during ACHE's 47th Congress on Healthcare Management in Chicago.

The Hudgens Award is presented annually to an exceptional healthcare executive who is less than 40 years old and who is the chief executive officer or chief operating officer of a health services organization.

A native of Georgia, Mr. Springfield attended Baylor University in Waco where he received a Bachelor of Business Administration degree. He earned a Master's in Healthcare Administration degree from the University of Houston—Clear Lake. His awards include the "Emerging Leader" and the "Regents Award" from the American College of Healthcare Executives as well as serving as a Diplomate for the College.

He received the "Distinguished Alumnus" award from the University of Houston—Clear Lake. The Rotary International Foundation also awarded Mr. Springfield the Paul Harris Fellow Award.

Mr. Speaker, I ask my colleagues to join me in honoring this unique patriot. James Springfield has dedicated his life to the field of healthcare and he represents a level of professionalism and achievement.

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## HONORING HELEN G. JACOB NATIONAL "FOUR CHAPLAINS" AWARD RECIPIENT

### HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. QUINN. Mr. Speaker, I am honored to rise today to officially recognize and pay tribute to Violet Brosart.

Violet Brosart is a resident of Lackawanna, New York and is currently serving as the President of the American Legion Auxiliary, Department of New York. The American Legion Auxiliary is the largest women's patriotic service organization in the world. Its primary goals are to serve veterans and their families, to promote patriotism and Americanism, and to serve our children and communities. President Brosart is a 36-year member of Hamburg Unit #527 in Erie County. She has served as its president and remains an active member. She has also been active in her community, becoming involved in Boy Scouts, Campfire Girls, Youth Baseball, the Empire State Ballet Company, and the Hamburg Little Theater. She also worked for 10 years as a child day care provider. Mrs. Brosart is the mother of 4 and grandmother of 10. She also has one great grandchild.

Each year the Department president chooses a project of particular interest to her and raises money for that cause. This year President Brosart has chosen the Alzheimer's Association as her special project. More than 14 million Americans will be diagnosed with Alzheimer's Disease within the next 50 years unless a cure or prevention is found. Alzheimer's disease affects not just the patient, but the family as well. Often children and grandchildren find themselves becoming the caregivers to those who once gave care to them. Money raised for this special project will be distributed to all seven areas of the Alzheimer's Coalition in New York State, based on need. The money will be used to support programs in the following areas: early diagnosis, effective treatment, essential support networks, and caregiver training. In addition to these areas of concern, the Alzheimer's Coalition is working in conjunction with the VA facilities to aid veterans that have Alzheimer's. By embracing this project, President Brosart and the American Legion Auxiliary can "Help for Today" and "Hope for Tomorrow." To date, over $15,500 has been raised, with a goal of $40,000 by August 1, 2004.

Traveling throughout the 62 counties in New York State, President Brosart emphasizes the American Legion Auxiliary's strong commitment to our country and to our veterans. Her patriotic spirit is evident in all of her speeches and presentations. The members of the American Legion Auxiliary, Department of New York, are very proud of President Brosart and her deep commitment to the veterans of our Nation.

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## HONORING LONGS PEAK COUNCIL BOY SCOUTS OF AMERICA

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor the Boy Scouts of America and specifically the Longs Peak Council Boy Scouts of America for their outstanding service and commitment of duty to our local communities and to the nation.

The Longs Peak Council covers a large area spanning from northeastern Colorado and up into the Wyoming and Nebraska area.

As of December 31, 2002, the Boy Scouts of America had nearly 3,325,504 active Boy Scouts nationwide. On the local level this equaled out to 30,230 hours of community service in hundreds of different community service events.

Nearly 1,420,000 hours from 5,917 volunteer leaders have been spent teaching by example the values of citizenship and the rewards of participating in their local communities.

The fulfillment of being active in the community has not only been a valuable lesson for the Boy Scouts, but the citizens of Colorado have been sincerely grateful for all of this hard work.

In the Greeley flood of 1996 Scouts and leaders filled thousands of sandbags and helped protect the property and lives of the residents of Greeley. One year later hundreds of Larimer County Scouts and leaders assisted elderly residents in recovering their belongings from the destroyed homes in the devastating Spring Creek flood of Fort Collins.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Each year in the Scouting for Food program the local Boy Scouts gather 50 to 80 tons of much needed canned food for local food banks.

The Boy Scouts of America is truly the largest and most successful youth protection program among the youth-serving agencies nationwide. From CPR training, first aid and life guard training to computer science and rock climbing courses, the opportunities for enrichment abound for the boys and young adults of Colorado's 4th Congressional District, and indeed, nationwide.

I am so very proud of all the Longs Peak Council Boy Scouts of America has done for our communities. I ask my fellow congressmen to join me in publicly honoring the Boy Scouts of America and their tireless dedication to serving others. May God bless the Boy Scouts of America for decades to come.

## HONORING HELEN G. JACOB NATIONAL "FOUR CHAPLAIN" AWARD RECIPIENT

### HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. QUINN. Mr. Speaker, I am honored to rise today to officially recognize and pay tribute to my dear friend and close advisor, Helen G. Jacob.

A buck sergeant during World War II in both the U.S. and European theater, Helen has been a shining example of advocacy and commitment to America's veterans, both in western New York and throughout the Nation. When I was elected to Congress and received my assignment on the House Committee on Veterans' Affairs, I turned to local veterans leaders and organizations for advice and counsel. One of my first calls was to Helen Jacob. She has served as an integral part of my Veterans' Advisory Committee since its inception and is a wealth of knowledge on a host of veterans issues.

Her many awards, honors and citations are too numerable to mention, but if you will permit me, I would like to highlight just a few. In 1996, the Buffalo VA medical center opened its Women's Ambulatory Care unit, a new unit in the hospital to address the growing needs of our female veterans. Helen was instrumental in this project. When we dedicated that wing, we recognized those tremendous efforts and named it accordingly. I would invite every Member to visit the Helen G. Jacob Women's Wellness Center in Buffalo, New York. She has won the Legionnaire of New York State Award, the Found Woman Award, the Golden Rule Award, the Prime Time Award and the Susan B. Anthony Award. Simply put, Helen Jacob could not be more deserving of the high distinction of this national award.

Helen's community service is not limited to veterans. She serves on countless boards and organizations that help people in my district every day. Her lifetime efforts to strengthen her country and community have set an example we all should follow.

Mr. Speaker, I am proud to count Helen Jacob among my friends, and am pleased and honored to bring to the attention of this honorable body her outstanding service and this well-deserved award.

## HONORING LOVELAND'S VALENTINE REMAILING PROGRAM

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor the Loveland, Colorado Valentine Card Remailing Program for their outstanding and creative service to Loveland and to the rest of the Nation.

The Loveland Valentine Card Remailing Program began in 1946. Postmaster Elmer Ivers, Chamber of Commerce president Ted W. Thompson and his wife Mabel were the original founders of this unique tradition. What began as a stamp club project has since grown into the largest remailing program in the United States of America.

In 1947, 40 cards were sent through the Loveland, Colorado Post Office and postmarked with a unique Valentine inked stamp. Now every year nearly 300,000 valentines are sent through the Loveland, Colorado Post Office. Behind the scenes there are about 50 senior citizen volunteers that hand stamp a message of love on the envelopes that are received.

This year's message of love, called a "cachet," was submitted by Diana Reed and reads "Sweet Promises on Arrows Ride from Loveland's Heart to the Whole World Wide." Stephanie Moss submitted the Cachet design. The Cachet design is Dan Cupid holding a heart shaped world in one hand, with doves and mountains framing the verse.

Loveland's official Valentine Card design was submitted by Brenda Crow and pictures two white doves sitting in a bed of lavender flowers below three red hearts framed in flowers. On the inside of the card a Valentine verse reads "Loveland, Colorado, the Sweetheart City has a Valentine Poem for the Witty. Candy is Sweet, Lemons are Sour, I'll be loving you through the Midnight Hour." And was submitted by third grader Shelsey Sybrandts who is the youngest author of the Valentine Verse in the 57-year history of the Loveland, Colorado Valentine Remailing Program.

The modest city of Loveland has created quite a name for itself and is globally known as the "Sweetheart City." Valentines are sent through Loveland from all fifty States as well as 120 countries. The Loveland, Colorado Valentine Remailing Program has been featured globally on PBS, the London Broadcasting Company, radio casts in Australia, and is mentioned in many more newspapers and magazines.

A special Valentine representative is also chosen by a committee to win a $1,000 scholarship and to represent Loveland in various meetings with the Governor of Colorado and will often make speeches in front of the State House of Representatives and the State Senate. In the past, Miss Loveland Valentine has been the only person to be allowed to make a presentation in front of Colorado's State Legislature.

I am so very proud of the humble town of Loveland, where my office headquarters are, and the Loveland Valentines Remailing Program. I ask my colleagues to join me in a unanimous tribute to all of the senior citizen volunteers, the authors of this year's Valentine card: Shelsey Sybrandts, Brenda Crow, Stephanie Moss, and Diana Reed, and to congratulate Sara Craig for being this year's Miss Loveland Valentine. May this noble tradition lift up our hearts and spread love and compassion around the world for years to come.

## HONORING THE "GO RED FOR WOMEN" CAMPAIGN

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the "Go Red for Women" national campaign sponsored by the American Heart Association. This initiative is brought forth to raise awareness in women about heart disease.

Friday, February 6th is National "Wear Red Day," a day when people nationwide are encouraged to take women's health to heart by wearing red to show their support and raise awareness with the public that heart disease is the #1 killer of women in the United States. By showing off a favorite red dress, shirt, or tie, Americans will unite in the national movement to give women a personal and urgent wake-up call about their risk of heart disease.

In Fresno County, more than 763 women die each year of cardiovascular disease. Fresno's luncheon event on Thursday will serve as a kick-off for the national event. Dr. Catherine Winchester is the only woman cardiologist in central California, and she will serve as the keynote speaker and several women heart survivors will also share their personal stories. The "Go Red for Women" luncheon is a wonderful way of reminding the public that February 6th is national "Wear Red Day."

The American Heart Association is committed to the support of ongoing medical research to advance knowledge in the areas of prevention and treatment of heart disease and stroke. It launched its new initiative, "Go Red for Women," to empower women to live longer and stronger lives and to help reduce their risk factors for heart disease. This has served as a call-to-action endeavor to educate women on how to recognize the symptoms of a heart attack and how to better their health.

Mr. Speaker, I commend the Fresno County American Heart Association for hosting a "Go Red for Women" event that will help to educate and empower the women in its community. I urge my colleagues to join me in praising the American Heart Association for its service to our Nation.

## TRIBUTE TO LAURA PEARSON, RIVERSIDE CITY COUNCIL

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Laura Pearson is one of these individuals.

Laura has represented Ward 7 of the City of Riverside for 14 years and has faithfully represented her constituents who live in both rural residential and contemporary neighborhoods. Her ability to see all sides of an issue have enabled her to be an effective councilmember.

Laura served as the Chair of the Governmental Affairs Committee, Vice Chair for the Development Committee and as a member of the Utility Services/Land Use/Energy Development Committee. At the regional level, Laura served on the Riverside County Habitat Conservation Agency Board, City/County Animal Control Advisory Committee, Regional Water Quality Board and the Model Deaf Community Task Force.

In 1998, a former Riverside City employee broke into the Riverside City Council Chamber during a meeting and seriously injured several people including Laura. Despite this incident, Laura persevered and continued public service. Her courage and devotion demand our deepest respect and gratitude.

Laura is newly and happily married to Bill Densmore, a County Veterans' Service Officer and a City of Riverside Planning Commissioner. She is also a proud mother and grandmother.

Laura's tireless passion for community service has contributed immensely to the betterment of the community of Riverside, California. She has been the heart and soul of many community initiatives and I am proud to call her a fellow community member, American and friend. I know that many community members are grateful for her service and salute her as she retires.

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## HONORING 2003 EAGLE SCOUTS FROM THE 5TH DISTRICT OF TEXAS

### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. HENSARLING. Mr. Speaker, I recently had the privilege of honoring the 2003 Eagle Scout recipients from the Fifth Congressional District of Texas. As a Congressman and an Eagle Scout myself, I would like to recognize the tremendous achievement of these young men and commend them for their hard work and dedication.

Of the millions of young men who join the Boy Scouts, only four percent achieve the highest rank of Eagle Scout. This rigorous program demands excellence in many areas and tests the Scout's commitment and strength of character.

Eagles Scouts personify the qualities of trustworthiness, loyalty, helpfulness, friendliness, courtesy, kindness, obedience, cheerfulness, thrift, bravery, cleanliness and reverence. By earning the rank of Eagle Scout, these young men join a distinguished group of outstanding Americans including former U.S. Presidents, astronauts, and Pulitzer Prize winners.

America's youth are the leaders of tomorrow. I commend these Boy Scouts for providing excellent examples of leadership, citizenship, and service to their communities and their peers.

I would like to extend my most sincere congratulations to the following recipients of the Eagle Scout Award. Their valuable contributions to society will no doubt continue as they continue their journey through life.

Andrew Ryan Holman–Troop 103
Cory Lynn Smith–Troop 391
Christopher William Jennings Bryan–Troop 890
Spencer Douglas Adams–Troop 890
Jonathan Dylan Shields–Troop 138
William Lawrence Love–Troop 64
Joshua Douglas Hughes–Troop 125
Cameron Blevins O'Bannon–Troop 861
Zachary Stephen Taylor–Troop 856
Michael Edward Flusche, Jr.–Troop 865
Randall Charles Roysdon, Jr.–Troop 339
Jonathan Kerry Van Zant–Troop 535
Wesley James Mullins–Troop 435
Graham Andrew Orr–Troop 435
Jordan Whitney Ashford–Troop 852
Jonathan Daniel Martin–Troop 856
Marshall Glyn Holland, Jr.–Troop 792
Sunray Roper Spinks–Troop 107
Eric P. Mendershausen–Troop 636
Caleb Peter Holzapfel–Troop 437
Joel Andrew Fletcher–Troop 890
Christopher Robert Darling–Troop 138
Brandon Kent Parsons–Troop 856
Curtis J. Aanerud–Troop 792
Jared Asher Forbus–Troop 730
Daniel Joseph Hale–Troop 865
Reagan Lewis Loggins–Troop 744
Matthew Glenn Higgins–Troop 744
Christopher G. Plummer–Troop 744
Alexander P. Jarrard–Troop 890
Mitchell Jacob George–Troop 890
Andrew M. Diaz–Troop 709
Jared Nathaniel Wilson–Troop 852
Eric Randall Johnson–Troop 890
Phillip Rowe Vorkoper–Troop 709
Troy Aleo Thompson–Troop 333
Chad Jacob Krischke–Troop 707
Brandon Casey Hall–Troop 707
Andrew Jedidiah Floyd–Troop 138
Eric Bruce Swanfeldt–Troop 647
Ryan Lemuel Johnson–Troop 890
Kyle Pierpont Johnson–Troop 890
Michael Collin Zreet–Troop 890
Travis Eugene Hughes–Troop 647
Jonathan Collins Lloyd–Troop 343
Darren Leland Butler–Troop 798
Robert Alexander Harrell–Troop 890
Thomas Nicodemus Wilder–Troop 719
Wilson Rowden Steely–Troop 473
Jason Howard Hensley–Troop 543
Michael Curtis O'Rear–Troop 856
Rory August Gerken–Troop 70
Jeffred David Nicholson–Troop 779
Michael Jones–Troop 33
Justin Minor Bosque–Troop 744
Ryan Keith Barley–Troop 707
Grant Richard Reddy–Troop 707
Scott Evans Holtzman, Jr.–Troop 890
Ryan James Koch–Troop 890
Lane Christopher Avery–Troop 852
Richard Baker Batten–Troop 707

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## HONORING CHIEF WARRANT OFFICER AARON WEAVER

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GARRETT. Mr. Speaker, I rise today in honor of a recently fallen soldier, Chief Warrant Officer Aaron Weaver. Aaron was a member of the Army's 82nd Airborne Division and was stationed in Iraq.

A little over two weeks ago, Aaron got on board a Black Hawk medevac helicopter to go to Baghdad for a routine medical check up. Aaron had recently undergone a serious bout with cancer and critical surgery. In fact, he could have remained in the states while the doctors continued to monitor his progress.

Instead, Aaron volunteered for Iraq and requested and received the medical waiver necessary to deploy. He wanted to join his younger brother, Ryan and his comrades. He heard the call of duty and he answered it.

His brother, Ryan, was also stationed in Iraq. Ryan and Aaron had plans to meet when Aaron was to arrive in Baghdad, but that moment never happened. The medevac that Aaron was traveling in was shot down by enemy fire and all nine soldiers, including Aaron, were killed.

He is survived by his wife, Nancy, and his one year old daughter, Savannah.

Aaron, already a decorated war hero who fought in the streets of Mogadishu in 1993 to rescue his friends after their Black Hawk had been shot down, set the highest example of someone who is willing to risk their own life to save others.

His dedication to his country and fellow soldiers represents his tremendous sense of loyalty and selflessness. Aaron Weaver is a true American hero. Aaron will never be forgotten by his family, friends or the country he fought for.

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## RECOGNIZING MAYOR JOHN L. WINTERSTELLA IN APPRECIATION OF A LIFETIME OF SERVICE TO THE PEOPLE OF MONMOUTH AND MANASQUAN

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. PALLONE. Mr. Speaker, it is with great honor that I have the opportunity to recognize an outstanding individual, John L. Winterstella, for a remarkable career of public service. Throughout his life, Mayor Winterstella has devoted himself to working for the people of his community, through serving not only as an elected official, but participating on a wide variety of boards and charities.

Mr. Winterstella began his career in the early 1970's working with the Environmental Commission and the Planning Board in the borough of Manasquan, the latter of which he continues to tirelessly serve. He was elected as a Manasquan councilman from 1977 through 1981, and was subsequently elected Mayor of the borough in 1984.

During his tenure as Mayor, John Winterstella has served on the Monmouth Community Development Block Grant Committee from 1984 until the present, served as the Commissioner on the Sewage Authority from 1990 to 1999, and also served on the Executive Board of the New Jersey League of Municipalities from 1990 to 1998. The Mayor served as President of that League from 1997–1998, and was enshrined in the League's Hall of Fame in the year 2000. In addition to keeping his busy schedule, Mayor Winterstella has testified before the Senate and Congress on the topic of clean air and water reform, subjects close to his heart.

A career such as this merits strong praise, so Mr. Speaker, I would like to extend my dearest gratitude to Mayor Winterstella for his indelible service to the people of Monmouth County and the borough of Manasquan. In addition, I would like to ask my colleagues to join me in honoring a personal friend for a storied career that has positively shaped the lives of all people whom he has served.

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## HONORING SY AND ESTELLE OPPER

## HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MATSUI. Mr. Speaker, today I rise to honor a couple with a truly outstanding history of community service and philanthropy. From their modest upbringing to the present day, Sy and Estelle Opper have always been generous with their time and resources and giving with their heart. Sy and Estelle have come to embody the best qualities of community service and citizenship. As their friends, family and many admirers gather for the Shalom School Lighting the Way Gala in honor of their wonderful contributions to the Jewish community, I ask all my colleagues to join me in saluting one of Sacramento's most respected couples, Sy and Estelle Opper.

Sy and Estelle Opper are lifelong Sacramento residents who were raised with great family support and strong family values. Sy and Estelle were both encouraged by their loved ones to lend a helping hand to those who are in need. In the years after, Sy and Estelle have worked hard to transform this valuable lesson from childhood into a lifelong commitment to improve the lives of those who are less fortunate. Perhaps, more importantly, Sy and Estelle have passed the important values that they learned from their respective families to their four children and seven grandchildren. The people of the Capital Region should take great comfort in knowing that the Oppers' trademark spirit of philanthropy and sense of humanity will continue to bless us for generations to come.

In 1946, Sy Opper opened five plumbing stores, Harold's Plumbing Supply. The last of this successful chain of plumbing stores would remain open until 2000. In spite of the considerable time commitment that is required to run a successful business, the Oppers never allowed their busy schedules to interfere with their resolute dedication to community service.

Throughout the years, Estelle Opper has been active in a number of Jewish organizations including: Hadassah, TDX, Sisterhood, Jewish Family Service and the Grandparents Club at Shalom School. In addition, Estelle has also lent her name and efforts to help fundraise for Cancer research, the Breast Cancer fund of San Francisco and the River Oaks Center for Children, a multi-service behavioral healthcare agency for abused children and their families.

As for Sy Opper, he has served as president of the board for many Jewish organizations such as the Jewish Federation and B'nei Israel Congregation. Much like Estelle, Sy has also been active in a number of fundraising efforts. Sy played an instrumental role in the construction of the Washington Neighborhood Center of Sacramento, a place that provides after school programs such as free tutoring, computer workshops, dance classes and fine arts programs for at risk children and teens. Currently, Sy serves as on the board of The Trust Fund for Jewish Elderly and on the Jewish Family Service Board.

Together, Sy and Estelle Opper have supported a number of important causes. Locally, Sy and Estelle have long been strong supporters of the regional theaters. Sy and Estelle were major donors and participants in the purchase of the property and building for the Jewish Foundation, where the area's only Jewish Day School, Shalom School, is located. On a national level, in addition to being long time members of AIPAC, the Oppers have been closely involved with the fundraising efforts for City of Hope National Medical Center, a place that provides essential help to millions of people facing life-threatening diseases. The goodwill of the Oppers extends well beyond the boundaries of the United States. Over the years, Sy and Estelle Opper have participated in a number of missions to Israel.

Mr. Speaker, as Sy and Estelle Opper's friends and family gather to celebrate and pay tribute to their wonderful legacy of community service I am honored to pay tribute to two of Sacramento's most honorable citizens. The Oppers continuous philanthropy is a true testament to the spirit of giving and helping those who are in need. I ask all of my colleagues to join with me in wishing Sy and Estelle Opper continued happiness and success in all their future endeavors.

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## TRIBUTE TO CHUCK BEATY, RIVERSIDE CITY COUNCIL

## HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Chuck Beaty is one of these individuals.

Chuck Beaty's career has been dedicated to education and community service. In 1961, Chuck received his B.S. in Education from the University of Kansas. While he was working towards his Master's in History and Political Science, at the University of Missouri, he taught American History and Literature at a local junior high school. After receiving his M.A. in 1965, Chuck became a high school social studies department chairman and teacher for 3 years.

In 1984, Chuck became Riverside's Assistant Superintendent of Educational Services and was responsible for several department managers. He was promoted to Deputy Superintendent 2 years later and was the District representative to Riverside's Task Force 2000. During this time he also served as the Acting Superintendent and was responsible for the administration of a 31,000 person ADA school district.

After serving in the educational field for 32 years, Chuck was elected to represent Ward I of the City of Riverside. He retires after a decade of leadership and service to the community of Riverside. He is also a member of the American Historical Society, the Association of California School Administrators, the Riverside Association of School Managers, and the Social Studies Supervisors Association. One of his true passions in Riverside has been for the Evergreen Cemetery.

In 1998, a former Riverside City employee broke into the Riverside City Council Chamber during a meeting and seriously injured several people including Chuck. Despite this incident, Chuck persevered and continued public service. His courage and devotion demand our deepest respect and gratitude.

Chuck's tireless passion for education and community service has contributed immensely to the betterment of the community of Riverside, California. Chuck has been the heart and soul of many educational institutions and I am proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

## RECOGNIZING THE ENVIRONMENTAL AND ECONOMIC CONTRIBUTIONS OF THE NUCOR STEEL BAR MILL

### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. HENSARLING. Mr. Speaker, as a former businessman, I can attest that one of the most important issues facing business today is how to remain profitable, productive, and efficient—while at the same time protecting the environment.

Many people would have us believe this is an "either-or" proposition. But I disagree. I believe strongly that many companies, large and small, are committed to preserving our natural resources. And recently, I had the opportunity to visit one, and see first-hand how it is successfully pursuing a strategy of operational and environmental excellence.

The Nucor Steel Bar Mill plant, located within my District in Jewett, Texas, is undertaking a modernization program that, when completed next year, will make it perhaps the most sophisticated facility in the industry. This three-phase, $250 million initiative began in 1999, and includes new equipment, new technologies, and a new melt shop. It will improve the facility's operations at every level, and solidify Nucor's status as a world-class company. In the end, it will have a total annual economic impact on Texas of more than $460 million.

But what is especially interesting about this modernization is that it will enable the plant to produce more steel and be more profitable, yet still provide even greater environmental protection. Specifically, Nucor-Jewett will increase its capacity from the current 750,000 tons of recycled steel per year to 1 million, and it will achieve that growth through the installation of pollution control equipment that actually supports rather than hinders the mill's prosperity.

This new equipment is more than simply state-of-the-art. It is state-of-the-future. The new melt shop will be tightly closed, and enable the plant to capture 100 percent of all air emissions. Advanced technologies will minimize the release of carbon monoxide and eliminate dust. All water-cooled furnace parts will have temperature sensors and flow meters to detect leaks.

In other words, Mr. Speaker, this is not an expansion for its own sake. It is an expansion for the sake of safety, the environment and the team of dedicated employees who work at Nucor-Jewett. I also want to point out that a centerpiece of this modernization is a new 90-ton electric arc furnace, or EAF. This too, stands as testimony of Nucor's commitment to performing in the most responsible possible manner.

The EAF process is one of the most efficient, effective technologies in manufacturing today. It is less expensive and capital intensive than traditional steel making, which has helped Nucor become one of the lowest-cost producers in the world. But just as important, it requires fewer raw materials and less energy.

The facts are staggering. For every ton of steel produced, the EAF process saves 2,500 pounds of iron ore, 1,400 pounds of coal, and 120 pounds of limestone. Annually, it saves enough energy to electrically power the city of Los Angeles for eight years. On top of that, it also reduces air and water emissions, and greenhouse gases that are associated with conventional steelmaking.

This kind of environmental responsibility is nothing new to Nucor. The company, which operates 30 facilities in 14 states—including four in Texas—is the largest producer of recycled steel in the world. It takes scrap metal that would otherwise be clogging landfills or tossed in fields or along roadsides and turns it into something of value that can be used in automobiles, farm machinery, metal buildings, furniture and recreational equipment.

But this modernization takes that commitment to a whole new level. As I said at the outset of my remarks, it demonstrates that economic growth and environmental protection are not mutually exclusive. On the contrary, profit and prosperity can and should co-exist with efforts to preserve our natural resources.

In Texas, we have the good sense to understand this. Nucor's ability to undertake such a significant modernization program was in part due to voter approval of a constitutional amendment in 1993 that provides tax exemptions on property used for pollution control. The amendment enabled companies to invest in environmental technologies without fear of seeing their property taxes increase. So we were able to protect the environment, strengthen our business climate and hold the line on taxes.

The success of Nucor-Jewett shows quite clearly that the wisdom Texans exhibited in 1993 continues to pay off today. I would like to take this opportunity to commend the Nucor Steel Bar Mill Group, its employees and management for helping to make Texas a land of greater environmental and economic opportunity.

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## TAIWANESE REFERENDUM

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GARRETT of New Jersey. Mr. Speaker, Taiwan and the United States have a long and fruitful relationship. Taiwan's democracy is modeled after ours and its economic prosperity depends much on the mutual trade between Taiwan and the United States. Taiwan's leaders were mostly educated in the United States and Taiwan has nearly 30,000 students studying in America colleges and their tourists' number one overseas destination is the United States.

So despite the lack of formal diplomatic relations, Taiwan is a close ally of our government. It has supported our global war against terrorism and has pledged humanitarian-assistance to postwar Iraq.

On the other hand, we have the Taiwan Relations Act, a law of the land which is designed to provide Taiwan with adequate weapons to protect itself against invasion from China. The U.S. policy on Taiwan-China relations is to maintain the status quo in the Taiwan Strait.

Taiwan's planned March 20 referendum, contrary to what Chinese leaders have said about it, is designed to maintain the status quo in the Taiwan Strait. It is not to provoke Chinese leaders. It merely asks Taiwan voters whether their government should buy more anti-missile weapons if China refuses to withdraw its 496 missiles targeted at Taiwan and whether their government should open up talks with China about other issues.

I feel the 23 million people of Taiwan have a right to hold such a referendum. We mustn't allow China to intimidate Taiwan with talks of overtaking Taiwan by force and other verbal threats.

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## RECOGNIZING MR. ROBERT E. WEST UPON RETIREMENT FROM YEARS OF DISTINGUISHED SERVICE TO THE NEPTUNE TOWNSHIP HOUSING AUTHORITY

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Robert E. West, who has recently retired from the position of Executive Director to the Neptune Township Authority.

Robert E. West was born in New York, and moved to Neptune, NJ at an early age. After graduating as valedictorian of his high school class, and finishing his education at Monmouth Junior College, he began work as an insurance agent in New York, eventually moving to the prestigious North Carolina Mutual Insurance Company. In addition to selling insurance, Mr. West worked with Haso Maintenance Inc., working to dispatch taxis to the city's Bronx borough.

After 15 years working in the private sector, Mr. West's heart wished to stay in the place that he had resided since childhood, and began what would be a storied career in the Neptune Township Housing Authority. From humble beginnings as a rent collector, Robert West rose through the ranks of the Authority to the prestigious position of Executive Director.

Mr. West's distinguished period of public service included affiliations to the Neptune Lions Club, Jersey Shore Medical Center and stints as the President of the Neptune Board of Education, who's most notable contribution was to save the school marching band through personal endeavors and vigorous fundraising efforts.

Under Mr. West's tenure as Executive Director, the Neptune Housing Authority has experienced growth unlike anything that it has ever seen. Director West implemented programs to improve the quality of life for tenants, improve the quality of the residences in which they resided, and helped to make the administrative offices of the NTHA handicap accessible. For his work, the United States Housing and Urban Development Association awarded Mr. West several outstanding achievement awards.

In conclusion, Mr. Speaker, I would like to extend my dearest gratitude to Mr. West for his indelible service to the community in which he lived. A career such as his truly merits praise, and I too ask, that my colleagues join me in honoring Mr. Robert E. West for a storied career that has touched the lives of all those whom he had served.

## HONORING MURIEL JOHNSON

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MATSUI. Mr. Speaker, today I rise to honor a woman with a long and impressive list of contributions to the County of Sacramento. To say that Muriel Johnson is an important and treasured member of our community would only begin to skim the surface of the extraordinary service that she has given our communities over her 41 years as a Sacramento resident. Muriel, who is currently in the last year of a successful 12-year stint as a Sacramento County Supervisor, has deservedly been acknowledged by the Sacramento Metropolitan Chamber of Commerce as the recipient of the 2003 Sacramentan of the Year Award. As her friends, family, and colleagues gather to celebrate Muriel's illustrious career, I ask all my colleagues to join me in saluting one of the Capital Region's most accomplished and widely respected leaders.

Muriel Johnson grew up in Nebraska and earned a bachelor of music degree from the University of Nebraska. Before beginning her formal career in public service, Muriel contributed to the betterment of her community by serving as a high school English and music teacher. In addition, Muriel also taught "Management by Objectives" during her teaching career.

Even before she was elected to the Sacramento Board of Supervisors, Muriel was an active and instrumental member of the local volunteer community. Muriel played a vital role in raising more than $10 million dollars for a number of community service projects, the arts, and local charity. Muriel served as President of the Crocker Art Museum Board, the Sacramento Junior League, the Sacramento/El Dorado Medical Association Alliance, the History Museum, and the Sacramento Symphony League. She also chaired the Advisory Board for California State Historic Park, and was a Mayor's appointee on the Downtown District Study. Muriel's close involvement with the diversity of community organizations is a testament to her unyielding commitment to bring about positive changes to her community and improve the quality of life of her fellow citizens.

In 1992, Muriel Johnson was first elected to the Sacramento County Board of Supervisors. Muriel represents approximately 250,000 people living in the County's Third District. The Third District includes the communities of Arden/Arcade, Carmichael, Campus Commons, East Sacramento, College Glen, College Greens, East foothills Farms and a portion of North Highlands. During her tenure, Muriel has served as the Chair of the Board of Supervisors in 1995 and 1999.

In addition to her duties as County Supervisor, Muriel has also served admirably as the Chair, President and Board Member of the following organizations since first being elected as supervisor: Sacramento Area Council of Governments, Sacramento Public Library Authority, California State Association of Counties, Sacramento Area Flood Control Agency, Cable Commission, Sacramento Regional Sanitation District, Sacramento Regional Transit, Sacramento Air Quality Management District, and California's Elected Women's Association of Education and Research.

In recognition of her dedication to public service, Muriel is the rightful recipient of a number of community service awards including: the California Medical Association Alliance 1999 Member of the Year, the National Philanthropy Day Award for Outstanding Volunteer Fundraiser, the first E.A. Combatalade Community Service Award, Soroptimist Woman of the Year, the 1993 Business Volunteers for the Arts Award for Individual Service, the Women's Transportation Seminar 2002 Woman of the Year Award, the 2003 Shots for Tots Immunization Registry, and the 2003 American Society for Public Administration's Excellence in Public Arts Award.

Throughout her term as County Supervisor, Muriel Johnson has remained a steadfast supporter of neighborhood preservation, more efficient transportation, better air quality, health and welfare issues, sound economic development, better schools for our children and flood control. There is no doubt that every one of Muriel's constituents has benefited in one way or another as a result of her hard work, dedication, and vision.

Mr. Speaker, as Muriel's friends, family, and colleagues gather to celebrate her great career and acknowledgement as Sacramentan of the Year, I am honored to pay tribute to one of Sacramento's most respected leaders. Muriel's continuous leadership is a true testament to public service. Although her career in public service may soon be over, her involvement in community service is, fortunate for us, far from over. I ask all of my colleagues to join with me in wishing Muriel Johnson continued success in all her future endeavors.

## TRIBUTE TO JOY DEFENBAUGH, RIVERSIDE CITY COUNCIL

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, CA are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Joy Defenbaugh is one of these individuals.

Joy has represented Ward 3 of the city of Riverside for 12 years and has continually worked for the interests of her constituency. Her area of representation includes the Magnolia Center and the Riverside Municipal Airport.

Joy served as chair of the Development Committee and served on the Finance and Government Affairs Committees. She is a member and past chair of the March Joint Powers Commission for the reuse of March Air Reserve Base. Her commitment to the improvement of the city of Riverside has been steadfast.

Early in her political career, Joy recognized the diversity and cultural differences within the community. At the direction of Colin Powell, Joy spearheaded the Common Ground Task Force which brought different groups of people in the community together regardless of ethnic background and cultural differences in order to relieve tension within the community.

In 1998, a former Riverside City employee broke into the Riverside City Council Chamber during a meeting and seriously injured several people. Despite this incident, Joy persevered and continued public service.

Joy's tireless passion for community service has contributed immensely to the betterment of the community of Riverside, CA. She has had a commitment to the economic growth and has demonstrated leadership by recognizing an immediate need for community initiatives such as railroad crossings and the Vision for Today and Tomorrow. Her patriotic spirit for military and country is admirable. She has been the heart and soul of many community initiatives and I am proud to call her a fellow community member, American and friend. I know that many community members are grateful for her service and salute her as she retires.

## CELEBRATING SCHOOL BOARD APPRECIATION MONTH

### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. HENSARLING. Mr. Speaker, in the month of January, across the country, the State of Texas and in the Fifth Congressional District, we celebrate School Board Recognition Month, to acknowledge the hard work of school board members and thank them for their valuable service in the education of our children.

During School Board Recognition Month we honor the administrators, staff, and volunteers who work to promote academic excellence and provide a safe learning environment for our students.

School board members are responsible for fulfilling one of the most important roles in our society—helping develop young men and women into the future leaders of our nation's economy, government, community, and houses of worship.

I would like to extend my most sincere thanks to all school board members in the Fifth Congressional District of Texas for their continued dedication and hard work. Their contribution to the education of our children is truly helping to shape the future or our communities and our Nation.

## HONORING ALICE A. HUFFMAN

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor a great leader, a woman of distinction, and a good friend, Alice Huffman. This month marks Alice's 30th year of leadership in her efforts for equality and justice. The ninth Congressional District salutes and thanks Alice for her tireless and spirited service.

Alice Huffman was elected president of the California State Conference of the NAACP in October 1999, where she is the first woman to hold this post. In this role, Alice leads 67 local branches, and more than 30 college chapters and youth units. With her leadership, they are continuing to fight for civil rights and equality for people of color all over California. In 2002, she was elected to the NAACP National Board of Directors, representing Region I.

Her past experience includes serving as an appointee in Governor Jerry Brown's administration where she was Chief Deputy Director of the State Parks and Recreation Department and, later his Director of the Office of Economic Opportunity, a cabinet level position. Ms. Huffman has also served as the Associate Executive Director for politics for the California Teachers Association and State President of the Black American Political Association of California.

Alice is founder and president/CEO of A.C. Public Affairs, Inc., a public affairs firm that specializes in public and grass roots advocacy. She served on the Democratic National Committee as the cochair for the Site-Selection Committee for the 2004 Democratic Convention. She is also a member of the Rules Committee for the California Democratic Party. Currently, Ms. Huffman serves on the board for Capitol Focus, as well as serving on T-CAP, which is a consumer advisory panel to SBC/Pacific Bell. In addition, she serves on the "Commission for One California," a forum for diversity and understanding headed by Lieutenant Governor Bustamante. She has recently been appointed to Assembly Speaker Herb Wesson's Commission on Police Conduct.

Ms. Huffman graduated from the University of California, Berkeley with honors in Social/Cultural Anthropology. She then advanced her studies at the University of Pennsylvania, University of California, Davis, and University of Southern California. Her long-standing tenet is that learning is a life-long process.

Alice was inducted into the Los Angeles African American Women Political Action Committee's Political Hall of Fame in April 2002 for her outstanding achievements as a social activist in the minority community. Ms. Huffman is a member of Phi Beta Kappa, Alpha Kappa Alpha, and also the Sacramento Branch NAACP. The Los Angeles Times called her one of the most powerful people in California. The California Journal listed her as one of the top 50 individuals who had the greatest impact on California over the past 25 years and her local African American newspaper, The Sacramento Observer, annually includes her in its 100 most influential citizens.

Finally, as we honor Ms. Huffman today, I want to thank her for being an exemplary role model, hero, and friend. I take great pride in joining Alice's family, friends, and colleagues to recognize and celebrate the accomplishments and contributions of the marvelous Alice Huffman.

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## HONORING THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION'S 50TH ANNIVERSARY

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GORDON. Mr. Speaker, I rise today to honor the National Telecommunications Cooperative Association as the organization celebrates its 50th anniversary. I take great pride in the fact that two companies from my home district, Twin Lakes Telephone Cooperative in Gainesboro, Tennessee, and North Central Telephone Cooperative in Lafayette, Tennessee, are among the founding members of NTCA.

Forming soon after the Rural Electrification Administration (REA)—now known as the Rural Utilities Service—was granted authority to make loans to telephone companies, the National Telecommunications Cooperative Association (NTCA), along with Twin Lakes and North Central, has evolved from providing basic multi-party telephone service to offering a full array of advanced telecommunications services.

The idea of expanding the scope and authority of the REA began in the late 1930s when REA Administrator John Carmody wrote: "Personally, I have long felt there was a real opportunity for constructive assistance to rural people in the idea of Federal financing of farm telephone lines. It seems to me that the rural people have just as much right to up-to-date communication as they have to modern power. There's no question in my mind but that Government assistance will be required if the job is ever to be completed."

This idea remained just an idea until 1944 when Senator Lister Hill (D–AL) introduced legislation calling for the formation of the Rural Telephone Administration, modeled after the REA. Senator Hill was soon joined in his effort to bring telephone service to rural America by Representative W.R. "Bob" Poage (D–TX), who introduced similar legislation granting the REA the authority to make loans for the extension and improvement of rural telephone service. President Harry Truman signed the telephone amendments to the Rural Electrification Act into law on October 28, 1949.

Soon after, the National Rural Electric Cooperative Association (NRECA) created a telephone committee, composed of representatives of newly-formed joint electric-telephone cooperative organizations. By 1954, representatives from these co-ops, with the encouragement of NRECA, decided that the time had come to form a separate national organization to represent telephone cooperatives. On June 1, 1954, eight companies—BEK Mutual Aid Corporation (Steele, North Dakota); Buggs Island Telephone Cooperative (Chase City, Virginia); Mark Twain Rural Telephone Company (Bethel, Missouri); Mid-Rivers Telephone Cooperative Inc. (Circle, Montana); Pineland Telephone Cooperative Inc. (Metter, GA); Winnebago Cooperative Telephone Association (Lake Mills, Iowa); and my constituents at Twin Lakes Telephone Cooperative and North Central Telephone Cooperative—formed the National Telephone Cooperative Association, which was later renamed the National Telecommunications Cooperative Association.

One of the first recipients of telephone loans from the REA was Twin Lakes Telephone Cooperative, which was founded on March 13, 1951. With its $25 membership fee and a REA loan approved in November of that same year, Twin Lakes was able to purchase an existing telephone company and expanded telephone service to Clay, Overton, Pickett and Fentress counties in northern Middle Tennessee. Soon, Twin Lakes was serving twelve exchanges and had customers stretched over 1,150 miles of line. By 1959, Twin Lakes was able to lower its membership fee to $10, which finally put the luxury of a telephone within reach of many who considered the initial membership fee of $25 out of reach. Inundated with new customers, Twin Lakes soon had a backlog of close to 700 requests for service. People in rural Tennessee soon found that telephone service was not a luxury, but rather a necessity. Today, Twin Lakes has more than 40,000 access lines serving fifteen exchanges spread over Jackson, Clay, Overton, Pickett, Fentress, Smith, and Putnam counties in Tennessee.

Like Twin Lakes, North Central Telephone Cooperative formed in the shadow of the expansion of the REA. Like REA Administrator Carmody, then Lafayette Mayor Hugh Butler understood the importance of telecommunications in rural America. As he stated in the Macon County Times on Nov. 29, 1951: "The installation of modern dial telephone service with adequate long-distance facilities will put Layfette on par with any rural county seat in Tennessee and will do much to insure continued progress and prosperity."

Prior to 1951, telephone service, if available, could only be described as sporadic. On March 8, 1951, Will Hall Sullivan, who served as North Central Telephone Cooperative's first general manager, was successful in joining 17 home-owned mutuals to form North Central Telephone Cooperative. By 1954, North Central had connected its first exchanges in Green Grove in Hillsdale. In just two years, North Central had expanded to serving 2,600 customers spread over ten exchanges: Lafayette, Hillsdale, Oak Grove, Green Grove, Bethpage, Scotsville, Pleasant Shade, Red Boiling Springs, Defeated and Westmoreland. Like Twin Lakes, North Central also faced rapid expansion as folks in rural America understood the necessity of a telephone and the importance of telecommunications. Today North Central serves in excess of 21,000 customers. As part of its commitment to providing advanced telecommunications services to its customers, North Central, in 1989, went beyond the then-standard copper cable and analog switches that were still heavily used. The innovative cooperative instead opted to install digital switches and fiber-optic cable, and soon the rest of the industry was following. Some 15 years later, these technologies are still widely considered the top of the line. This record of providing state-of-the-art technology continues today with its provision of high-speed Internet access, long distance and digital satellite services. As North Central's general manager, F. Thomas Rowland, said: "Providing state-of-the-art technology has always been one of our main priorities. It's our way of giving the community what it needs to be a great place to live, work and raise a family."

Twin Lakes and North Central are indicative of the membership of the National Telecommunications Cooperative Association. NCTA's membership has expanded from eight members in seven states to 558 members across 45 states. These small rural telecommunications systems provide voice services to approximately 3,270,000 subscribers over a combined territory comprising about 40 percent of the geographic United States. On average, NTCA member-companies serve rural areas with a population density averaging between one to five customers per square mile, a sharp contrast from the average of 130 customers per square mile for larger companies. Today, NTCA member-companies on average serve 5,100 subscribers. In addition to their traditional voice offerings, they provide rural customers with Internet, wireless, long distance, paging, and cable or satellite television services. Through it all, NTCA members have maintained that local touch which can only be found by folks serving their friends and neighbors. With the financial assistance of the Rural Utilities Service, the Rural Telephone Finance Cooperative and CoBank, NTCA members remain on the cutting edge of technology by expanding broadband opportunities through fiber-to-the-home projects in communities across this country. As committees examine the issue of broadband availability across the nation, NTCA rural telephone companies continue to connect the heartland of America to the world. NTCA and its 558 member-companies should be commended for their ever-present commitment to rural America. Happy 50th Anniversary, NTCA.

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## COMMUNITY COLLEGES SUPPORT THE PRESIDENT'S PLAN

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. BEREUTER. Mr. Speaker, in his State of the Union address on Tuesday night, President George W. Bush proposed new job-training grants for community colleges. This Member is extremely pleased with this proposal, as the initiative would allow America's community colleges to train workers for the industries that are creating the most new jobs.

Nebraska community colleges are certainly encouraged by the President's proposal, as evidenced by the November 22, 2004, Omaha World-Herald article entitled, "Nebraska Educators Like Sound of Bush Proposals." Mr. Jerry Moskus, President of Metropolitan Community College in Omaha was quoted in the article saying, "The great part about this was seeing the Members of Congress stand up and applaud for community colleges. I think that was the high point of my month."

Job training programs are essential, according to Mr. Barry Kennedy, President of the Nebraska Chamber of Commerce and Industry. "Those of us involved with economic growth have been talking about this for the last year or so," Kennedy told the World Herald. "We still have people who say they would hire more people if they could just find people with the skills they needed."

The President's proposal would also encourage students to take more rigorous courses in high school. As an incentive for students to take more demanding high school courses, the President's proposal would provide larger grants for college under the Pell Grant program. This program is said to be consistent with Nebraska's P–16 Initiative, an initiative that integrates a student's education beginning in preschool and ending with a 4-year college degree.

Mr. Speaker, in closing, this Member is intrigued and enthusiastically supportive of the President's proposal. Also, this Member would like to express his support for community colleges and the quality education they provide.

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## HONORING JENNIFER HUNTER

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Jennifer Hunter, one of my remarkable young constituents who had an outstanding accomplishment.

Jennifer is a 12 year-old little leaguer in my hometown of Tarpon Springs, Florida. In April of last year, she used her 60 mile per-hour fastball to throw a no-hitter against one of her team's opponents. She had a 6 and 3 record and a 2.10 Earned Run Average in 54 innings last season. Baseball fans know that these are tremendous accomplishments. They are especially impressive considering Jennifer is playing against boys.

Jennifer, you see, loves baseball and wanted to test her skills against her peers, both male and female. Her teammates were unsure about having a girl on their team at first, until they saw her play. Jennifer recently told Sports Illustrated that "they thought I wasn't going to be any good." However, she says, they became closer once they saw her play, particularly after her no-hitter. Jennifer wants to play in the Women's Professional Baseball League next year, and though the league has no players younger than 18, I am confident that she will give the older women all they can handle.

Mr. Speaker, Jennifer Hunter has shown me, my friends, and neighbors that hard work, determination, and perseverance can help us achieve what many, if not most, thought impossible. I congratulate her and her family and urge our colleagues to wish her luck in her future endeavors.

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## TRIBUTE TO DR. CECILIA COTA-ROBLES SUAREZ

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. BACA. Mr. Speaker, it is with great honor that I pay tribute today to the life of Dr. Cecilia Cota-Robles Suarez, a longtime political and educational leader. She passed away last week after a courageous battle against breast cancer. This is why I have fought and continue to fight tirelessly on behalf of breast cancer research, through such legislation as H.R. 1385 which recently passed the House. Without proper funding, it will become increasingly difficult to save the lives of people like Dr. Suarez, whose remarkable and inspirational life touched the lives of countless people. So I join today with family and friends in honoring her memory.

To all those who knew Dr. Suarez, she exhibited love of life, generosity of spirit, and compassion for her fellow man. She was a dedicated teacher who challenged those around her to strive for a better life through educational opportunities, never being satisfied with the way the world is but instead questioning what it could be.

After receiving her Doctorate in education from U.C.L.A., Dr. Suarez went on to fight for early childhood and bilingual schooling. As President of the Association of Mexican American Educators (AMAE) and member of the National Chicana Foundation, as well as the Tri-Counties Mexican American Political Association, she was a passionate advocate and leading activist for Hispanic education. Her tremendous selflessness led her to her role as community leader and respected member of her community.

I join today with family and friends in paying tribute to Dr. Cecilia Suarez, beloved wife, mother, and friend. She is survived by her three children Francisco, Mike, and Laura, and her four grandchildren Amado, Michelle, Christine, and Victoria. Her generous and gregarious spirit will be deeply missed by all.

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## CELEBRATING THE RIBBON CUTTING CEREMONY FOR THE 3D MEDICAL COMMAND AT THE UNITED STATES ARMY RESERVE CENTER AT FORT GILLEM

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. SCOTT. Mr. Speaker, I rise in honor of a very special occasion. The United States Army Reserve 3d Medical Command will conduct a ribbon cutting ceremony for the Fort Gillem United States Army Reserve Center on Friday, the sixth of February, 2004 at Fort Gillem Georgia located in the 13th district of Georgia.

During my tenure as the Representative of the 13th District of Georgia, the support of Fort Gillem continues to be my top priority. Not only is the installation a vital element to our country's defense, but is the third largest employer in the largest county in my district. The United States Army Reserve Center provides a 1,600 person, two story training and storage facility, medical warehouse, and vehicle maintenance to the multi-mission, multi-service component functions of Fort Gillem. As the logistical base for the United States Army, Fort Gillem consists of 142 buildings and 77 tenants spread over 1,427 acres, with the First U.S. Army as the senior occupant.

The First U.S. Army trains, mobilizes and deploys Army Reserve and National Guard units in the eastern United States, Puerto Rico, and the United States Virgin Islands, and as directed, conducts Homeland Defense, in support of national objectives. The installation is also the home of an Explosive Ordnance Disposal Group Headquarters, responsible for two medium company operational facilities and a Battalion Headquarters. The 2d United States Army Recruiting Brigade Administrative facility and Army Medical Department detachment also provide operational readiness as major tenants of Fort Gillem.

Soon, an 88,000 square foot special design forensic Criminal Investigation laboratory that includes labs, administration, evidence storage and training and conference rooms will join Fort Gillem. With the opening of this new facility on Fort Gillem, the United States Army Reserve 3d Medical Command is now better equipped to continue its critical missions in support of our great Nation, and on behalf of the constituents of the 13th district of Georgia, welcome.

## RECOGNIZING BERNHARD "BARNEY" MAYRSOHN ON HIS SERVICE TO OUR COUNTRY

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. LOWEY. Mr. Speaker, I rise today to recognize Purchase, NY, resident Barney Mayrsohn for his life of service to our country, from the snowy forests of the Battle of the Bulge in WWII to the snowy streets of Moscow today.

In 1943, Barney Mayrsohn was hard at work in college, but with the world at war, he would enter the U.S. Army, joining his father and two brothers, who were also serving. In September of 1944, he was shipped aboard the Queen Mary, with 1,500 of his fellow soldiers, to the European Theater. A member of the 106th Infantry Division, Mr. Mayrsohn would find himself thrust into the largest land battle of WWII in which the United States participated: the German offensive in the Ardennes in the winter of 1944–1945 that would come to be known as the Battle of the Bulge.

During the fighting, Mr. Mayrsohn would prove a brave and resilient soldier, getting wounded twice and earning two Purple Hearts, a Bronze Star, and a Combat Infantry Badge. As the battle continued unremittingly, the 106th would lose half of the division, and Barney would be taken captive in December 1944.

He was taken by train, along with other Allied prisoners-of-war, to the Stalag 4B prison camp. Along the way, he narrowly escaped death yet again, as Allied aircraft, while bombing the German railroad tracks, mistakenly dropped a bomb on the train car in front of his.

Mr. Mayrsohn's transition into life as a prisoner was eased thanks to the generosity of British prisoners, who provided him with some Red Cross food packages and extra clothing that they had stored away. Over time, as the Red Army continued its inexorable advance westward, the Red Cross packages ran out and no more were on the way. Prisoners began to starve. Mr. Mayrsohn lost more than forty pounds.

As the sounds of artillery became louder over the spring, it was clear that the Red Army was near. In April of 1945, the Russians arrived at the gates of Stalag 4B. After more than five months in enemy captivity, Mr. Mayrsohn was free.

The captain of the liberating Russian unit gathered together Mr. Mayrsohn and four of his fellow American soldiers with three Russian female military personnel for a picture. This photo would return with Mr. Mayrsohn to America. And there it lay, untouched for 57 years, in a bottom drawer.

After the war, Mr. Mayrsohn would return to college, have a family, and start a successful international trading business. In 2003, he decided to use a previously planned trip to Scandinavia as the perfect opportunity to visit Russia and attempt to reunite with the three women in the photo and the Russian officer who snapped it. Mr. Mayrsohn worked with the Russian Cultural Center in Washington, DC, and the Office of Veterans Affairs in Moscow to discover the identity of the soldiers. While it proved impossible to find those particular people, the Office of Veterans Affairs was able to find two female and two male veterans of the battles that liberated the camp.

In August of 2003, accompanied by two soldiers from the American Embassy in Moscow, Mr. Mayrsohn took the four liberators out to a banquet dinner at a prestigious restaurant in Red Square. At the event, gifts were exchanged, as were stories recalling an age of unprecedented cooperation between the two world powers.

He then met with the officer in charge of Russian Veteran Affairs, who not only agreed to help find the soldiers in the picture; he also presented Mr. Mayrsohn with the Russian Blue Star—similar to our Combat Infantry Badge.

These meetings were covered in the Russian media. The "Red Star," the Russian Defense Ministry's official newspaper, even printed an article on Mr. Mayrsohn's story. While the search goes on for more of his liberators, Mr. Mayrsohn, through his efforts, has helped to create goodwill between our two countries. With the Cold War over, and each country attempting to put aside past differences to look ahead towards a common future, efforts by people such as Mr. Mayrsohn are extremely important. Therefore, even if it is ultimately not possible to find the women in his photo, I would say that his mission was a great success.

## PERSONAL EXPLANATION

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. ISRAEL. Mr. Speaker, I was regrettably unable to cast votes on Tuesday, January 28 and Wednesday, January 29, 2004 as I was part of a Congressional Delegation visiting our troops in Iraq. Had I been present, I would have cast the following votes:

"Yes" on rollcall No. 6, passage of H.R. 1385, authorizing the U.S. Postal Service to issue stamps supporting breast cancer research.

"Yes" on rollcall No. 7, passage of H.R. 3493, the Medical Devices Technical Corrections Act.

"Yes" on rollcall No. 8, the Baldwin substitute to S. 1920, regarding the Extension of chapter 12 of the Federal Bankruptcy Code.

"Yes" on rollcall No. 9, the motion to recommit S. 1920 with instructions.

"Yes" on rollcall No. 10, final passage of S. 1920, regarding the Extension of chapter 12 of the Federal Bankruptcy Code.

"No" on rollcall No. 11, motion to instruct conferees on S. 1920, regarding the Extension of chapter 12 of the Federal Bankruptcy Code.

## TRIBUTE TO JAY W. WEISS: A GREAT PERSON AND A GREAT PUBLIC PERSON

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MEEK of Florida. Mr. Speaker, with great pride—but with deep sorrow—I rise to pay my homage to one of Miami-Dade County's giant leaders, the late Mr. Jay W. Weiss. His untimely demise late Saturday night, January 31, 2004, has cast a veil of sadness over our community.

Indeed, as the business entrepreneur par excellence that he evoked, this extraordinary man easily communed with the pains and anguishes of ordinary people and transformed them into his very own by uplifting them into a timely rationale for creating appropriate solutions to them.

As Chairman of the Miami-Dade County Public Health Trust, he spearheaded the passage of the half-penny tax that now provides continuous support to Jackson Memorial Hospital, along with the funding of the Ryder Trauma Center and the University of Miami/Sylvester Comprehensive Cancer Center. These are but a few of the great initiatives his humanitarian spirit willed to come to fruition, and these programs now serve to lessen the burdens of various illnesses and enhance the quality of life for countless people in Miami-Dade County.

Though a highly private individual, he virtually consecrated his life to public service. In so doing he symbolized everything that is good and noble about the American spirit of idealism and optimism in serving our fellowmen.

Our community genuinely feels the loss of a truly decent and caring man who made it his personal business to reach out to the less fortunate among us. Dr. Bernard Fogel, former dean of the University of Miami Medical School, succinctly described Mr. Weiss as someone who believed and lived by the tenets of tzedekah, ". . . the Jewish tradition of charity . . . that's what he was motivated by—doing the right thing because it's the right thing to do. "

The numerous accolades with which government officials and various organizations have honored him buttress the unequivocal testimony of the utmost gratitude and respect he enjoyed from a grateful community. He truly epitomized the vision, resilience and compassion of a servant of God whose life served as an example of the great difference each one of us can make on behalf of our community's well-being once we hearken to the calling of our common stewardship over one another.

This is the legacy Mr. Jay W. Weiss bequeathed to us. Indeed, I am privileged to have seen and marveled at the magnificent works that emanated from his boundless heart and great faith. I now join our community in thanking God for letting him grace us with his noble presence during his earthly sojourn.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

SPEECH OF

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted:

Mr. KIND. Mr. Speaker, our current bankruptcy system is in need of reform. Bankruptcy filings have risen steadily in recent years—growing by nearly 140% during the past four years alone. In Wisconsin, bankruptcy filings are up two-and-a-half times what they were just 10 years ago.

The costs associated with discharging bankruptcy related debt, calculated at over $40 billion in 2001, hurt all consumers through increased prices on goods and services. In fact, losses associated with bankruptcies alone cost the average American family around $400 per year.

We need to reform our bankruptcy laws to protect those people truly in need of debt relief while holding accountable those who can repay their debt. The reforms contained in this amended legislation before us today accomplish this, and provide new disclosure requirements for lending institutions to offer better information to consumers about credit cards and debt. This is particularly important for young adults who are bombarded by credit applications and have limited knowledge about the risks that accompany credit card ownership.

Further, the legislation will move child support and alimony payments up to the top of debt repayment priority lists. This will help prevent children from being unnecessarily hurt by the debt of their parents. The National Child Support Enforcement Association, the National District Attorneys Association and the Child Support Council all support this provision and this legislation.

In addition, this legislation will make permanent Chapter 12 bankruptcy provisions that provide relief to our family farmers. I have consistently supported temporary extensions of Chapter 12 bankruptcy protection because our nation's family farmers face unique circumstances that often pose unique financial risks outside their control. In Wisconsin, this situation has had the unfortunate affect of driving family farmers out of business at a rate of nearly five per day.

The crisis in our agricultural economy is not contained to Wisconsin alone. In fact, the Bureau of Labor Statistics projects a 13% decline in farmers between 1998 and 2008. This is the largest projected decline of any occupational category in the U.S. economy.

The permanent extension of Chapter 12 protections contained in this bill will allow family farmers facing bankruptcy to reorganize their debt so they do not lose their farms to creditors. Chapter 12 gives hope to financially-strapped farmers who feel that they have no where else to turn. It gives them room to recover from an economic crunch and still hold on to their livelihood—and it has proven to work.

According to one study, 74 percent of family farmers who filed Chapter 12 bankruptcy are still farming, and 61 percent of farmers who went through Chapter 12 believe it was helpful in getting them back on their feet. This protection is critical right now, during this depressed economy, because many cash-strapped producers are under pressure to meet operating expenses and pay off bank notes. I am pleased the House is taking bipartisan action today to make permanent Chapter 12 protection for farmers, giving them the opportunity to reorganize their debts and preserve their farms for future generations.

While I have objections to the majority using legislation that would simply extend the farm bankruptcy provisions of Chapter 12 for six months, as a vehicle for any other legislation, I support final passage of this legislation. The overall benefits of the comprehensive bankruptcy reform and the permanent extension of Chapter 12 now included will provide needed protection to consumers and relief to those in need. I urge my colleagues' support.

## PERSONAL EXPLANATION

### HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. EVERETT. Mr. Speaker, due to the flu, I was unable to vote during the following roll call votes on January 28th. However, if I had been present, I would have voted as indicated below.

Roll Call No. 8 (On Agreeing to the Baldwin Amendment)—no; Roll Call No. 9 (On Motion To Recommit with Instructions)—no; Roll Call No. 10 (On Passage of S 1920)—yes; Roll Call No. 11 (On Motion to Instruct Conferees)—no.

## HONORING LINDA LEY

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend and fellow Nevadan Linda Ley on her retirement from CASA, the Court Appointed Special Advocate for Children's office. Linda has dedicated her life to ensuring that the youngest and most powerless members of our society have someone looking out for their best interests and who cares that they are able to find a better life.

During my years in the Nevada legislature I worked closely with Linda to develop legislation that helped foster children transition into adulthood, and to protect victims of abuse and neglect. I urge the members of this House to join with me in wishing her well in her retirement, and to join her in her call for more volunteers to advocate on behalf of children.

## CONGRATULATING ROMALO M. "CAP" CAPOVILLA

### HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. DOOLITTLE. Mr. Speaker, today I wish to congratulate my friend, Romalo M. "Cap" Capovilla, as he celebrates his 80th birthday. His has been a lifetime of hard work and service.

Cap was born in Dunsmuir, California, on January 4, 1924, to immigrant parents. After graduating from Dunsmuir High School in 1942, he joined the U.S. Army Air Force. He served honorably for three years, through the end of World War II.

After his military service, Cap returned to Dunsmuir and worked as a railroad conductor for 27 years. He also owned and operated a cattle ranch for 20 years.

Mr. Speaker, Cap has long been very involved in issues related to natural resources management and agriculture. He became a member of the Shasta River Water Association in 1981. He also belonged to the Siskiyou County Cattlemen's Association, the California Cattlemen's Association, and the California Farm Bureau. He used his expertise in these areas to benefit youth. In fact, he received recognition for meritorious service to 4–H and worked many years at the junior auction.

In 1986, Cap was honored to be part of a 35-person delegation that delivered a 50-foot tall tree to Washington, DC, which became the first national Christmas tree from West of the Mississippi River.

Cap has contributed greatly to life in rural Northern California both civically and politically. In 1978, he was first elected as a member of the Siskiyou County Republican Central Committee. Two years later, he was elected to the Loan Committee of the Farmers Home Administration. For 30 years, he has been a member of the fraternal service organization, Knights of Columbus, and has served as Post Grand Knight. Additionally, he was named Knight of the Year in 1978 and 1998.

Cap is now enjoying retirement in Medford, Oregon, with his wife, Ruby.

Mr. Speaker, I take great pleasure in commending Cap Capovilla for his outstanding service to our country as a member of the Armed Forces, a community leader, and a good family man. I am personally thankful for his support and friendship.

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## HONORING MENTORS AND SUPPORTING EFFORTS TO RECRUIT MENTORS

SPEECH OF

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 21, 2004*

Ms. McCOLLUM. Mr. Speaker, as co-chair of the mentoring caucus, I rise in support of H. Res. 491. This bill expresses the sense of the House of Representatives regarding the benefits of mentoring.

Mentoring programs that link children and young adults with the greatest needs to responsible adults are a proven method to help our struggling children. One valuable mentoring program is Big Brothers Big Sisters. In the St. Paul/Minneapolis region alone, more than 3000 children benefit from this mentoring program.

According to Kari Davis, the executive director of the Mentoring Partnership of Minnesota:

> Mentoring is about guiding and supporting young people so they can realize their highest dreams and potential. Minnesota maintains hundreds of quality youth mentoring programs that are community, school or workplace-based. With increased and sustained federal funding, mentoring programs can build their capacity to reach the 75,000 Minnesota young people who could benefit from a mentor.

I was so proud last night to have 2 outstanding people from Minnesota in the audience at the State of the Union last night. Little Brother David Moreno and Big Brother Jim Diesing were guests at last night's address. Paired together since 1998, their initial friendship has turned into more of a family bond. David is excelling in school, even taking an advanced math class. Jim has learned what is really important in life. They are a shining example of the good that comes from mentoring.

I encourage all of my colleagues to support this legislation and to look for opportunities to mentor themselves. I would like to thank the sponsor of this bill, Mr. OSBORNE from Nebraska, whose cousin the Honorable Kathleen Vellenga was a mentor of mine when I served in the Minnesota House of Representatives.

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## WESTBURY LANGUAGE CENTER: SMALL BUSINESS OF THE MONTH FOR FEBRUARY 2004

### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. McCARTHY of New York. Mr. Speaker, I rise to name Westbury Language Center in Westbury, New York, as February Small Business of the Month in the Fourth Congressional District of New York.

Many in our community know that small businesses are the backbone of Long Island's economic well-being. As the national economy continues to struggle, the energy, flexibility and innovation of our local small businesses have become essential. It is time to spotlight some of these businesses extraordinary achievements and contributions.

Westbury Language Center is a successful small business and an exceptional jewel to the Latino community in Long Island. Described as a cultural center for the community to study and appreciate the Spanish language, the Westbury Language Center has a reputation for providing all kinds of services related to the Spanish language and the Latino culture for children and adults. Latinos are the largest minority group in the United States and I am excited to celebrate and embrace the contributions that they have brought to our community and Long Island.

Maria Isabel Martinez, founder of Westbury Language Center, sold her home and used her retirement funds to realize her dreams of constructing a business that would serve the public and its needs. Three years later, Westbury Language Center not only offers courses in English as a Second Language (ESL) and teaches the Latino culture, including folkloric dances to children and adults, but it also provides instructional computer classes to Latino workers that are interested in learning a science that will ensure them a better job and a better quality of life.

Furthermore, pleasing the demands of the community, Maria plans to hold the Westbury Language Center's first workshop, "Now to Start, Develop and Administer Your Own Business" sometime this year.

Mr. Speaker, I thank Maria Isabel Martinez and everyone at the Westbury Language Center for their hard work at providing our Latino community with services detrimental to their success and for allowing our community as a whole, to learn and appreciate the Spanish language and the Latino culture.

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## HONORING ROSE MARY AND EARNEST BROUSSARD

### HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. BELL. Mr. Speaker, I rise to honor Rose Mary Enable Broussard and Earnest J. Broussard on the occasion of their 50th wedding anniversary.

In the spring of 1953, Rose Mary Enable of Parks, LA, and her cousins attended the spring festival at Our Mother of Mercy Catholic Church in the Fifth Ward of Houston, TX. Earnest J. Broussard of Delcambre, LA, and his brother attended the same spring festival. It began to rain so Rose and her cousins and Earnest and his brother went to Club Matinee.

Upon setting eyes on him across the room and then meeting and talking to him, Rose Mary remarked that she was going to marry him. They became engaged in October of 1953 and were married January 30, 1954 at Our Mother of Mercy Catholic Church.

Rose Mary and Earnest Broussard began their life together in the Independence Heights area where Rose was a housewife and Earnest a plumber with Balloon Plumbing Company where he worked until 1991.

The Broussards have two daughters, Gilda and Robin, and one son, Earnest, Jr. They are now blessed with three granddaughters, Stephanie (12), Stacie (11), and Jaydin (2).

While their children were growing up, the Broussards were very active in the community and with their children and participated in PTA, Scouts, band, sports, and church activities. The Broussards are still very active in the church they have attended since they were first married. Earnest is active in the Knights of St. Peter Clavier and became a Fourth Degree Knight of St. Peter Clavier in 1972. Rose Mary and Earnest Broussard have both been honored for their outstanding dedication and commitment to their church.

I know my colleagues join me in congratulating Rose Mary and Earnest Broussard on 50 wonderful years of marriage. I wish them continued happiness and a life filled with strong love, abiding faith and loving family and friends.

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## RECOGNIZING BRIAN McCALMON FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brian McCalmon, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 370, and in earning the most prestigious award of Eagle Scout.

Brian has been very active with his troop, participating in many Scout activities. Over the 12 years Brian has been involved with Scouting, he has earned 34 merit badges and has held numerous leadership positions, serving as patrol leader, troop guide, den chief, and troop bugler. Brian earned the honor of Brave, Warrior, and Firebuilder in the Tribe of Mic-O-Say and served on staff at H. Roe Bartle Scout Reservation.

For his Eagle Scout project, Brian planted new pine trees at Pine Ridge Presbyterian Church and removed four diseased trees.

Mr. Speaker, I proudly ask you to join me in commending Brian C. McCalmon for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## HONORING WILLIAM B. GOULD AND THE BRAVE MEN AND WOMEN WHO ESCAPED THE HORRORS OF SLAVERY ON SEPTEMBER 21, 1862

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Ms. ESHOO. Mr. Speaker, I rise today to place in our Nation's RECORD the remarks made by William B. Gould IV, Charles A. Beardsley Professor of Law, Emeritus, Stanford Law School, and Chairman of the National Labor Relations Board from 1994 to 1998, at the Wilmington Riverwalk Watermen Sign Dedication.

Thank you for your invitation to speak at this Riverwalk Waterman Sign Dedication here in Wilmington, North Carolina, the City of William Benjamin Gould's birth in 1837 and his escape from slavery 25 years later. Let me also give special thanks to Beverly Tetterton of the New Hanover Public Library for providing research and resource in my writing of Diary of a Contraband, and who has been a key organizer of this event. Also, I wish to acknowledge the members of my family present here today: my wife, Hilda Elizabeth Gould, and my sister, Dorothy Gerber and her husband, Hermann. They and my three sons, William Benjamin V, Timothy Samuel, and Edward Blair join in the honor and tribute to the brave men of September 21, 1862, particularly my great-grandfather, William Benjamin Gould.

Throughout the South, there is scarcely a word noted about the great struggle for freedom and liberation undertaken nearly a century and a half ago in the War of the Rebellion. And there is little or no mention or acknowledgment of the black military involvement in this effort, the "holiest of all causes" as William B. Gould called it, to obtain the New World's central political and legal achievement.

As I have traveled through the states of the former "would be Confederacy", as William B. Gould called it, I have been struck by the abiding omnipresence of Confederate statues and commemorative markers. Just this past weekend, we passed through Richmond's Monument Avenue to see again the memorials to Jefferson Davis, "would be King Jeff' as William B. Gould called him, Stonewall Jackson and Jeb Stuart and the laud and honor given to their pursuit of "constitutional principles" and the Confederate Navy against which William B. Gould and his comrades fought and defeated.

Thus it is meet and right that Wilmington, North Carolina, this day takes note of the perilous journey that William B. Gould and 7 other comrades began here at the foot of Orange Street on the night of September 21, 1862, and the wider complement of 14 others who left Wilmington in concert with those 8 who boarded the U.S.S. *Cambridge*. It is meet and right that we note their names, William B. Gould's comrades being Joseph Hall, Andrew Hall, George Price, John Mackey, Charles Giles, John Mitchell and William Chanse. These men were to use their knowledge of North Carolina and its waterways on behalf of our country to interdict supplies destined for Lee's army in Virginia.

But as your sign properly notes, the September 21st escape involves others as well, many of them William B. Gould's associates and correspondents: Virgil Richardson (for whom one of William B. Gould's sons may be named) and Ben Greer who boarded the *Penobscot*, and Thomas Cowan, Charles Mallett and Frank Clinton of the *Monticello*. All of them boarded these North Atlantic Blockading vessels near the mouth of the Cape Fear River for the same purpose . . . freedom and participation in the war effort against slavery. Many of these men, both literate and skilled, became key players in Reconstruction, the South's first brief Nineteenth Century interlude with democracy. Many, though not William B. Gould, returned to Wilmington after its liberation in 1865.

These men, part of the 8,000 who fled the Confederacy to fight for freedom in the U.S. Navy were part of a silent black exodus which transformed the war's nature. They made my life possible. And more than any other event since September 21, 1862, and its aftermath, here and now, 141 years and 1 month later, they provide hope for my grandchildren, Timothy Samuel Jr. and Joseph Jeremy and the generations of all mankind yet to come.

Mr. Speaker. I ask my colleagues to join me in honoring the words of William G. Gould IV and all they represent as he remembers his great-grandfather, William B. Gould.

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## TRIBUTE TO DOLORES DICKMAN

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Ms. DEGETTE. Mr. Speaker, I would like to recognize the wonderful life and exceptional accomplishments of a remarkable woman in the 1st Congressional District of Colorado. It is both fitting and proper that we recognize this distinguished citizen for her impressive record of civic leadership and invaluable service. It is to commend this eminent citizen that I rise to honor Dolores Dickman.

Dolores Dickman has been on the front lines of progress for decades and has proven to be a potent force in transforming the landscape of our city and State. Her indomitable spirit has sustained her through many challenges and molded a life of notable accomplishment. Dolores came to our community from her native Kansas and graduated from the University of Denver. She has used her talents and skills to advance the public good and the well being of working men and women. She has been a political activist, labor leader and has remained in the vanguard of those dedicated to economic and social justice. Dolores was the first woman State director of the Committee on Political Action for the AFL–CIO and was a powerful advocate for the rights of working people and the well being of our families. Some of us do not comprehend how far we've come. There was a time when fundamental decency and equity for working people were not part of our shared values. Dolores worked along side Ceasar Chavez, brought food to striking workers and has engaged in the struggles that have improved the human condition. At the international level, Histadrut has honored her for her immeasurable contributions to the labor movement in Israel. For all of her efforts in this regard, we owe Dolores a great debt of gratitude.

Those who know Dolores know that politics matter. She is well known for her outspoken commentary and years of service to the Democratic Party. She marched in Selma for the civil liberties of all people. She took a seat on a plane next to Martin Luther King, Jr. to share her thoughts and visited then President John F. Kennedy at the White House. She has recruited notable civic leaders for public office and has been instrumental in winning many local, State and national elections. Dolores has been the recipient of numerous public honors and has been characterized as the "grand dame of North Denver politics" and a political "powerhouse." While all of these truly reflect the standing and regard in which we hold Dolores, I would simply add that she has the rare ability to balance pragmatism and high purpose, which is uncommon among those engaged in public life. She knows that politics is not easy nor has it ever been. Dolores has perspective—she knows that the contest is never over and the field is never quite taken. I remember Dolores referencing in a Denver Post column that all the political posturing in the world doesn't mean squat if people don't vote. As usual, Dolores cuts to the heart of the matter. She understands what is vital to our democracy as well as what is important in the calculus of public affairs.

The contributions of Dolores Dickman are rich in consequence and on behalf of the citizens of the 1st Congressional District of Colorado, I wish to express our gratitude. Her service, accomplishments and civic virtue command our respect and admiration. Please join me in paying tribute to Dolores Dickman, a distinguished citizen. It is the values, leadership and commitment she exhibits on a daily basis that serve to build a better future for all Americans.

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## HONORING THE ACHIEVEMENTS OF IGNACY JAN PADEREWSKI

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Ms. KAPTUR. I am pleased to be the sponsor of H. Res. 58, a resolution recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 11th Anniversary of the return of his remains to Poland.

I have been joined by thirty-six of my colleagues, including: Representatives ACKERMAN, BALDWIN, BELL, BERKLEY, BERMAN, BERRY, BLUMENAUER, BRADY, BROWN, BURTON, CARDIN, CROWLEY, DINGELL, EMANUEL, ENGEL, FATTAH, FRANK, GOODE, GUTIERREZ, HOEFFEL, HOLT, KANJORSKI, KILDEE, KLECZKA, KUCINICH, LANTOS, LEE, LIPINSKI, LOFGREN, MCDERMOTT, MENENDEZ, PRICE, QUINN, C. SMITH, THOMPSON, and WATSON.

On June 12, 2003, the House Committee on International Relations unanimously voted in favor of H. Res. 58. I urge the House of Representatives to consider this important piece of legislation honoring Mr. Paderewski, Polish-Americans and the Polish people.

H. RES. 58

Whereas Ignacy Jan Paderewski, born in Poland in 1860, was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries;

Whereas Paderewski often donated the proceeds of his concerts to charitable causes;

Whereas, during World War I, Paderewski worked for the independence of Poland and served as the first Premier of Poland;

Whereas in December 1919, Paderewski resigned as Premier of Poland, and in 1921 he left politics to return to his music;

Whereas the German invasion of Poland in 1939 spurred Paderewski to return to political life;

Whereas Paderewski fought against the Nazi dictatorship in World War II by joining the exiled Polish Government to mobilize the Polish forces and to urge the United States to join the Allied Forces;

Whereas Paderewski died in exile in America on June 29, 1941, while war and occupation imperiled all of Europe;

Whereas by the direction of United States President Franklin D. Roosevelt, Paderewski's remains were placed along side America's honored dead in Arlington National Cemetery, where President Roosevelt said, "He may lie there until Poland is free.";

Whereas in 1963, United States President John F. Kennedy honored Paderewski by placing a plaque marking Paderewski's remains at the Mast of the Maine at Arlington National Cemetery;

Whereas in 1992, United States President George H.W. Bush, at the request of Lech Walesa, the first democratically elected President of Poland following World War II, ordered Paderewski's remains returned to his native Poland;

Whereas on June 26, 1992, the remains of Paderewski were removed from the Mast of the Maine at Arlington National Cemetery, and were returned to Poland on June 29, 1992;

"Whereas on July 5, 1992, Paderewski's remains were interred in a crypt at the St. John Cathedral in Warsaw, Poland; and

Whereas Paderewski wished his heart to be forever enshrined in America, where his lifelong struggle for democracy and freedom had its roots and was cultivated, and now his heart remains at the Shrine of the Czestochowa in Doylestown, Pennsylvania: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist; and

(2) acknowledges the invaluable efforts of Ignacy Jan Paderewski in forging close Polish-American ties, on the 11th Anniversary of the return of Paderewski's remains to Poland.

## PAYING TRIBUTE TO HENRY McINTOSH

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a talented teacher from Walsenburg, Colorado. Henry McIntosh inspires and challenges his students to become better people. His teaching enthusiasm spirals through the community as he equips students with the knowledge to chase after their dreams. I would like to join my colleagues here today in recognizing Henry's tremendous service to the Walsenburg community.

This year the Colorado Department of Education recognized Henry as the top teacher in the state. He received the 2003 Outstanding Colorado Teacher Award for his extraordinary commitment to involving students in their communities and increasing student achievement by promoting school accountability. Henry helped to institute the first advanced placement programs at John Mall High School in order to give students in rural communities the same opportunities that urban schools offer. He encourages students to be involved with their school by sponsoring the student-run organization that addresses concerns and suggestions for improving the school called the student senate. Henry pushes his students to work hard by organizing a literacy tour in Great Britain for his advanced placement students over Spring Break as a reward.

Mr. Speaker, Henry McIntosh is a wonderful ambassador for education who dedicates his life to teaching the next generation of leaders in his Walsenburg, Colorado community. Henry has taken the noble and challenging occupation of teaching to a new level of excellence. His compassionate and selfless service to Walsenburg and the Colorado community certainly deserve the recognition of this body of Congress. Congratulations on your award Henry, and I wish you all the best in your future endeavors.

## HONORING GWEN ESTES, EDUCATOR EXTRAORDINAIRE

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. STARK. Mr. Speaker, I rise today to honor Gwen Estes, a recent recipient of the prestigious Gandhi, King, Ikeda Award. The international award, sponsored by a number of peace groups and Morehouse College in Atlanta, was presented to Ms. Estes for her commitment to promoting peace, unity and non-violence.

Gwen Estes is a former parole officer. The job never seemed quite right to Ms. Estes as she has always been about building for the future. Years of watching guards lead shackled inmates into the great abyss of the prison system ran counter to values passed along by Ms. Estes' mother, who spent years teaching school.

Seeking a career change, Gwen Estes followed in the family footsteps and choose teaching. However, she didn't pursue a mainstream teaching job. She opted for Hayward Community School, a last chance outpost for at-risk students who have been expelled for offenses ranging from fighting to selling drugs.

Working tirelessly with students who needed more help than their regular teachers could give, Ms. Estes is saving the lives of troubled teens starving for positive attention, respect and caring.

One need only look into the faces transfixed before her in her portable classroom to better understand why she received the prestigious peace award. Her classroom radiates with trust and compassion and Estes shares a connection with students who have felt alienated and alone in other settings.

Now unlike her years as a parole officer, when her reports could lead to long sentences foreshadowing destroyed lives, Gwen Estes is giving out hope in exceptionally large doses at Hayward Community School.

Ms. Estes is also President of the New Haven Board of Education, another factor that has contributed to success with her students. The confluence of her experiences as a school board member and parole officer gives her the kind of credibility many of her peers lack when working with at-risk students.

She always says, "I have voted to expel students but I much prefer giving out diplomas." Gwen Estes is giving students a foundation to break free of their problems, a reason to care. In many cases, it is something they would not have gotten if it weren't for her.

A description from one of her students aptly describes Ms. Estes' exemplary contributions to her students. "Even though she is a teacher, she is your friend. We can have good days or bad days, but she always tells us we can be what we want to be. Miss E is one of a kind."

Gwen Estes epitomizes the essence of the Ghandi, King, Ikeda award. She is bringing peace, unity, and hope to the classroom each day.

## HONORING JOHN COLEMAN

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. DEUTSCH. Mr. Speaker, today I rise to commemorate the contributions of Commissioner John Coleman of Hollywood, Florida. Mr. Coleman, a native of Rhode Island, retired to South Florida in 1992 and spent the rest of his life as a passionate advocate for the city of Hollywood and its beaches.

In 1998, Mr. Coleman was elected to the Hollywood City Commission. During his term, he championed environmental issues and fought to protect Hollywood Beach from overdevelopment. Area residents fondly recall his ebullient spirit and passionate, fiery rhetoric. After serving his term, Mr. Coleman continued as an activist and civic leader. He campaigned at the local, state and national levels for candidates he supported. As President of the Broward Council of Democratic Club Presidents, President of the Hollywood Democratic Club, and member of the Broward Democratic Executive Committee, Mr. Coleman lent his voice to a multitude of issues for the betterment of life for all in South Florida.

Mr. Coleman is survived by six sons, a daughter, his long-time companion, and nine grandchildren. He will be sorely missed for his exuberance and his dedication to civic activism.

## AMBER ALERT HAS HAPPY ENDING—WOMAN NOTICES STOLEN CAR AND CALLS 911

### HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. WILSON of New Mexico. Mr. Speaker, today I bring to your attention the story of an AMBER Alert in action and working to save the lives of New Mexico's children.

The AMBER Alerts are currently carried by New Mexico's broadcast media via the same Emergency Alert System used in severe weather and national emergencies. The tones so familiar to citizens during storms are now helping to save children's lives. On Wednesday, November 19, Juan David Olive, 4, lay sleeping in the back of his father's Geo Metro in the parking lot of a restaurant on Isleta Boulevard in Albuquerque. When the boy's father returned to the parking lot, his car was missing, and he knew his son was still inside. Authorities issued an AMBER Alert for the boy with a description of the car. Nadine Marquis was in the parking lot of a local electronics store when she saw what appeared to be the stolen car. Upon closer investigation, she heard crying inside and called the police. When authorities arrived, they found the boy and returned him safely to his parents.

Mr. Speaker, Albuquerque began implementing the AMBER Alert system in 2001 when the New Mexico Broadcasters Association signed an agreement with the police department. I encourage their effort. Now, AMBER Alert is statewide in New Mexico.

Mr. Speaker, I ask you to join me and all the residents of New Mexico in honoring and thanking Nadine Marquis. AMBER Alerts have proven effective in finding missing children, but could not succeed without the help of sharp-eyed people like Nadine. I commend her for her efforts, and I am sure there will be many others like her who will help save the lives of children in New Mexico and nationwide.

## PAYING TRIBUTE TO BEN RIZZI

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MCINNIS. Mr. Speaker, I am honored to rise before you to recognize a remarkable citizen from my district. Ben Rizzi recently retired after 30 years of service to the Natural Resources Conservation Service in Colorado. Ben dedicated his professional life to the conservation of Colorado's natural resources and I am proud to call his contributions to the attention of this body of Congress and this nation.

Ben was born in Walsenburg, Colorado. Following high school, he attended Colorado State University in Fort Collins. Throughout college, Ben worked for the Forest Service over each summer vacation. It was during this time that Ben's love for the outdoors began to influence his career path. After receiving his degree, Ben took a job on a cattle ranch near La Veta. After working on the ranch for a year, Ben took a position with the Soil Conservation Service, which was eventually renamed the Natural Resources Conservation Service.

Throughout his tenure with the Natural Resources Conservation Service, Ben achieved great success as a District Conservationist. Ben worked tirelessly for the betterment of every landowner and parcel of land he encountered. Ben is truly an outstanding steward of the land and the benefits of his tireless devotion and hard work will be felt for generations to come. Although Ben is retiring, his legacy will live on through his two sons, both of whom have followed in their father's footsteps and chosen careers in the field of natural resources.

Mr. Speaker, it is my honor to rise and pay tribute to Ben Rizzi. Ben spent nearly three decades working for the betterment of Colorado's farming and ranching communities. Ben will be missed by the Natural Resources Conservation Service. However, he will now have more time to spend with his family and his many friends throughout Colorado. Thank you Ben for your service.

## NASA FLEXIBILITY ACT OF 2003

SPEECH OF

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 28, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (S. 610) to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes:

Mr. WAXMAN. Mr. Chairman, the National Aeronautics and Space Administration (NASA) Workforce Flexibility Act is intended to help NASA recruit and retain the skilled workforce needed to perform its mission.

I applaud my colleagues, their staffs, and employee groups for working to improve this legislation from the version that was introduced. Initially, the bill contained language that would have removed the cap on the number of NASA employees permitted to participate in workforce demonstration projects. Eliminating the cap would have allowed NASA to include its entire workforce in a demonstration project before these flexibilities had been tested with smaller groups of employees.

In addition, a provision establishing an exchange program between NASA employees and private sector employees was removed from the bill. Such public-private exchange programs have the potential to create conflicts of interest and lead to the disclosure of corporate trade secrets. I am pleased that both of these problematic provisions have been removed from the bill.

Although I support this legislation, I am concerned about the process by which the Bush Administration has approached civil service reform in recent years. In granting personnel flexibilities to numerous agencies, the Administration has failed to ensure that these agencies have the infrastructure and safeguards in place to successfully implement these new authorities. The Administration also has failed to evaluate the effectiveness of these flexibilities before allowing other agencies to utilize them.

Moreover, civil service reform is best undertaken on a governmentwide basis, not on the agency-by-agency basis that the Administration seems to favor. A piecemeal approach fragments the civil service, making it difficult to ensure that Federal employees are treated fairly.

Indeed, the preference for governmentwide reforms is shared by many experts who have studied the workforce challenges facing the civil service. In 2001, the Office of Personnel Management stated that "it is important to retain governmentwide approaches, authorities, entitlements, and requirements." During the consideration of the Department of Defense (DoD) authorization bill last year, the Comptroller General testified that it would be prudent and appropriate for Congress to address the personnel authorities DoD was seeking on a "governmentwide basis and in a manner that assures that appropriate performance management systems and safeguards are in place before new authorities are implemented in any specific agency.

Even the Senate sponsor of this NASA personnel bill has advocated a governmentwide approach. In 2000, Senator VOINOVICH released a report, concluding that "the Federal government is in dire need of a unified strategy to rebuild the civil service" (emphasis added).

A significant achievement of the last century was the enactment of laws designed to create a professional, competent Federal civil service. Recent actions by the Administration to grant broad exemptions to these laws, with little forethought and little oversight, have the potential to do far more harm than good.

## PAYING TRIBUTE TO HELEN BURKETT

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MCINNIS. Mr. Speaker, I rise before you with a heavy heart to pay tribute to the life of a remarkable woman from my district. Helen Burkett from Durango, Colorado passed away recently at the age of ninety-eight. Helen was a beloved figure in the Durango community and as her family mourns their loss, I think it is appropriate that we take the time to recognize her many contributions here today.

Helen was born on her family's Durango farm in 1906. She remained on the property for 94 years. Helen attended grade school in a one-room building located near Lemon Reservoir. When construction began on the Vallicito Reservoir in 1936, Helen opened a store on the farm in order to help her family through the "Great Depression." Helen was a dedicated businesswoman, and after 67 years in business, "Helen's Store" achieved the status of "local landmark" in recognition of her tremendous service to her patrons.

Helen also delighted in the ranching life. She was an accomplished cattlewoman and was always willing to share her skill and knowledge with younger generations. In 1994, the Durango Professional Rodeo Company recognized Helen's contributions to the ranching community when they awarded her the Western Heritage Award, given to those dedicated to the promotion of Western culture. Those who knew her well remember Helen's zest for life, as well as her caring and nurturing disposition. There is no question that Durango is a better place as the result of Helen's many contributions.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life of Helen Burkett. Helen was a true frontierswoman who had a tremendous impact on her community. Above all, Helen was a loving mother, a wonderful grandmother, a caring great-grandmother and a loyal friend to many. The Durango community and the State of Colorado will truly miss her. My heart goes out to Helen's loved ones during this difficult time of bereavement.

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## HONORING RETIRED SGT. BOB LEWIS

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. STARK. Mr. Speaker, I rise today to honor World War II veteran, retired Sgt. Bob Lewis. Lewis was an 18-year-old Army recruit in Camp Fannin, Texas, when his captain dropped a grenade during a demonstration. Lewis rolled onto it with his helmet, and then tossed it into a nearby ditch where it exploded into bits of shrapnel. Had the grenade gone off where it was dropped, he says, it likely would have injured or killed many of the 29 infantrymen watching the demonstration.

It was 1945, shortly after U.S. troops defeated Germany in World War II, but after Japan surrendered and, at the time, Lewis thought nothing of his heroic act.

The long-since-retired technical sergeant, who went on to become a well-known Fremont educator, has not received any recognition or medals for his heroic efforts to save the members of his infantry, while still a young recruit.

Because Lewis' act took place nearly 60 years ago, securing the necessary documentation would require months of research. An eyewitness would be almost impossible to locate as most of Lewis' fellow soldiers and superior officers have died.

Lewis may be eligible for the Soldier's Medal, which is awarded for an act of heroism not involving actual conflict with an enemy. For the time being, Lewis who once guarded 1,400 German prisoners in Bazencourt, France, says he is content with the small green patch, emblazoned with a gold wreath, on his Army jacket. It's a meritorious service unit citation, awarded to his outfit for postwar service.

Lewis not only distinguished himself during his military career but also in his profession as an educator. He worked as principal of Chadbourne, Patterson and Niles elementary schools and assistant superintendent of the Fremont school district.

I join retired Sgt. Bob Lewis' family, friends and admirers in applauding him for his meritorious military service and contributions to our country and to his community.

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## COUNSELOR AWARDED FOR SPIRIT

### HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mrs. WILSON of New Mexico. Mr. Speaker, today I would like to bring to your attention the national recognition received by Louise Adelstone, a counselor at Comanche Elementary School in Albuquerque, New Mexico. Ms. Adelstone received the local Spirit of Women Award and then went on to receive the national award. This award is given annually to women throughout the United States who dedicate themselves to making their communities a better place for all. The award recognizes "ordinary women who do extraordinary things."

Louise began her career as a counselor after completing her master's degree in counseling from the University of New Mexico. During her first year at Comanche Elementary School, she began a group called Student Action Kids. The group makes about 60 charity field trips every year, as well as holding penny drives to support the Make-A-Wish Foundation. Ms. Adelstone was nominated for this award by one of her former students who sent in the nomination along with an essay explaining why she should be given this award. True to her character, Ms. Adelstone said after receiving the national award, "It was very flattering, but being nominated by one of my students was the most flattering."

Mr. Speaker, please join me in honoring Counselor Louise Adelstone for her contributions to her students and tireless work for the community.

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## HONORING DR. MORTON TERRY

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. DEUTSCH. Mr. Speaker, today I rise to commemorate the contributions of Dr. Morton Terry of Broward County, Florida. Dr. Terry was a dedicated teacher, mentor, and physician, and he leaves us with a wonderful legacy of service to the South Florida community.

Dr. Terry, a native of Utica, New York, moved to Florida after earning his medical degree from the Philadelphia College of Osteopathic Medicine in 1945. Dr. Terry practiced medicine for 32 years in Miami before he founded the Southeastern College of Osteopathic Medicine. He served as Chancellor of the University through its merger with Nova University, and remained active on the campus until the day he died. Dr. Terry will be fondly remembered by all at Nova Southeastern University. Despite his many obligations at Nova Southeastern University, Dr. Terry found time to be active in a number of different professional and civic organizations. He was a lifetime member of the American Osteopathic Association, served as President of the Florida Osteopathic Medical Association, and he was also an honorary lifetime member of the Miami-Dade County Osteopathic Medical Association. Dr. Terry was committed to enriching and improving South Florida. To further this end, he held leadership positions with almost 20 different organizations including the United Way, American Cancer Society, and Boys Town of South Florida.

Dr. Terry is survived by his wife, one son, and one daughter. He will missed by both the medical community and the South Florida community.

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## A LIFE OF SERVICE AND COURAGE: A TRIBUTE TO ARMY MASTER SGT. KELLY L. HORNBECK

### HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Ms. GRANGER. Mr. Speaker, I rise today to pay tribute to a brave young man from my district who was fatally wounded two weeks ago while serving his country in Iraq.

Only 36 years of age, Army Master Sgt. Kelly L. Hornbeck displayed unbending love for his family and an insatiable appetite for living. As an avid outdoorsman, he always looked for adventures and conquered any obstacles that lay before him. It did not take his family and friends by surprise when he joined the United States Army in 1987 and quickly rose through the ranks to be selected for the Army's prestigious "Old Guard," which stands watch at the Tomb of the Unknowns here in Washington. Hornbeck was quickly promoted to drill sergeant and joined the Army's elite Special Forces in 1990 where he served as a combat diver, free-fall parachutist, and jump master.

In recent years, Master Sgt. Hornbeck had served tours of duty in both Afghanistan and Iraq as a member of the 3rd Battalion, 10th Special Forces Group stationed at Fort Carson, CO. He received many awards and decorations while serving the Army which include: two Bronze Star Medals, two Purple Hearts, a Silver Star Medal, the Meritorious Service Medal, and the Army Commendation Medal.

Hornbeck is remembered by one of his former commanders as a true patriot to the United States and to his native State of Texas, and his friends describe him as someone who had a strong moral compass.

Hornbeck's two daughters, Jacqueline (11) and Tyler (7), shared such precious memories of their father at his memorial service as a "great friend" who was "brave." When asked what her favorite memory of her dad was, the youngest daughter Tyler said, "I don't know because I have so many." His parents, Camille and Jeffrey Hornbeck of Fort Worth, praised their son's accomplishments and the cause for which he fought.

Master Sgt. Hornbeck lived an extraordinary life, rich with love, laughter, and pride. As a Member of Congress, I rise today to acknowledge Master Sgt. Hornbeck and his family for their sacrifice and service to the cause of freedom and the war against terror.

I wish to conclude by reading a letter from Master Sgt. Hornbeck to his parents.

> DEAR MOM AND DAD: If ya'll are reading this, then I am on my way to help do my part to ensure the future security of our great nation. I don't take this charge lightly or with a cavalier attitude, rather with a resolute heart and a clear conscience. I am strongly convinced that what we are doing is just and worthy of all that could be spent in the effort. I am not afraid and neither should either of you be, for I trust in my God (Psalm 23) and my training, two powerful forces that cannot be fully measured.
>
> My training is not only limited to that which has been bestowed on me by the mightiest military in the world but also by the greatest set of parents in the world. I am who I am because ya'll made me that way, and for that I thank you.
>
> If anything untoward should befall me please insure that the qualities you raised me with get passed onto my children. I love you both very much and intend to see you soon!
>
> Isaiah 6:8
>
> KELLY.

Our thoughts and prayers go out to the Hornbeck family. May God bless and comfort you during this tragic time.

## PERSONAL EXPLANATION

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following roll call votes. Had I been present, I would have voted as indicated below.—

Roll Call No. 6, Yes.
Roll Call No. 7, Yes.
Roll Call No. 8, Yes.
Roll Call No. 9, Yes.
Roll Call No. 10, Yes.
Roll Call No. 11, Yes.

## PAYING TRIBUTE TO LEE JOHNSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. MCINNIS. Mr. Speaker, it is my honor to rise before you today to pay tribute to a remarkable teacher and artist from my district. Lee Johnson has enjoyed an extraordinary career as both a full-time professor and professional artist, and I would like to join my colleagues here today in recognizing Lee's tremendous service and contribution to the Gunnison community.

As a professor at Western State College, Lee has inspired countless students in using their full artistic potential in creating a variety of artworks. When not guiding students in their artistic education, Lee could be found in his studio working in a variety of artistic mediums. To devote more time to his passion of creating, Lee recently retired from Western State College. Moving forward, Lee will continue to draw upon the many beautiful sights of Colorado as inspiration in producing artwork to be appreciated by all.

Mr. Speaker, Lee Johnson is a wonderful ambassador for education and artistic contributions who has dedicated over three decades of his life to teaching the future leaders of tomorrow in his Gunnison, Colorado community. While his classroom will fall silent, he will continue to communicate to us through his daily devotion to creating beautiful artwork. I would like to congratulate Lee on an extraordinary career of public service and wish him the very best in his retirement.

## HONORING GIRLS INC. OF ALAMEDA COUNTY'S GIRLS RESEARCH PROJECT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. STARK. Mr. Speaker, I rise today to recognize Girls Inc. of Alameda County's Girls Research Project. The research project is one of the most comprehensive and innovative health and wellness studies by and about teenage girls in Alameda County. Girls, Inc. launched this project as an outgrowth of its strategic plan which revealed that it was extremely difficult to find or gain access to disaggregated data about teenage girls on a range of critical factors relating to their physical and mental health, access to medical care, educational experiences, perceptions of school and community, and support networks, among others.

The core intent of the Project has been to gather robust qualitative and quantitative data about the health and wellness of teenage girls to enhance youth programs and inform policy agendas while at the same time teaching girls themselves about the power of data and guiding them to become leaders and advocates for positive health outcomes in girls' lives.

The project is unprecedented in Alameda County and has surpassed all original expectations. Successful written surveys were conducted in 11 public and alternative high schools in Berkeley, Oakland and San Leandro yielding responses from more than 1,900 girls in the 9th through the 12th grade, representing more than 21 % of the entire female high school population in the target school district. A dedicated group of 20 young women were trained to conduct almost 100 one-on-one interviews of their peers. They also helped analyze and interpret both the qualitative and quantitative data collected through the research efforts.

The resulting analysis presents a mixed portrait of girls in Northern Alameda County. A portrait, which on the one hand, demonstrates the resilience and enthusiasm of teen girls, while on the other hand, reveals continued areas of concern relating to girls' physical and mental health; their engagement in risk behaviors; their negative attitudes towards some academic areas, as well as their perceptions and experiences of safety and violence in their schools and communities.

I applaud Girls Inc. of Alameda County for initiating and completing the Girls Research Project. I am confident the research findings will provide valuable guidance for families, educators, health care professionals, policymakers, and the myriad organizations focused on the health and well-being of teenage girls.

## TRIBUTE TO GARY VIKAN

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Gary Vikan as he celebrates 10 years as Director of the Walters Art Museum in Baltimore. The Walters Art Museum is one of the most important cultural institutions in Baltimore. It is loved and cherished by the thousands and thousands of people who visit it every year.

During the 19th and early 20th centuries, William Thompson Walters and his son, Henry, collected nearly 22,000 works of art, building the foundation for what would later become the Walters Art Museum. The museum was first opened to the public in 1934. In 1974, a new, larger wing opened on the corner of Centre and Cathedral streets. In 1991, the museum opened another building, the Hackerman House, to hold much of its Asian art collection.

Since taking the helm of the Walters in 1994, Mr. Vikan has presided over a major renovation of the museum and expansion of its collection. As Director, he helped raise $3 million to renovate the Centre Street building, and another $8 million to reinstall the Renaissance and Baroque collections. During his tenure, the museum's endowment has grown from $38 million to $60 million, and its membership has increased by more than 60 percent.

He has been responsible for securing three major collections: the John and Berthe Ford Collection of Arts of India, Nepal and Tibet; the Austen-Stokes Foundation Collection of the Arts of the Ancient Americans (10 year loan); and the Doris Duke Charitable Foundation Collection of South-East Asian Art. Between 1995 and 2003, Mr. Vikan assembled the finest collection of Ethiopian art outside Ethiopia.

The Walters is internationally renowned for its vast collection that ranges from predynastic Egypt to 20th century Europe. The many treasures in the collection include Greek sculptures and Roman sarcophagi; medieval ivories and Old Master paintings; Art Deco jewelry and 19th century masterpieces.

I hope my colleagues in the U.S. House of Representatives will join me in saluting Gary Vikan, Director of the Walters Art Museum, as we all celebrate and applaud 10 years of outstanding leadership and vision.

## HUMAN RIGHTS CRISIS IN AZERBAIJAN

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. LANTOS. Mr. Speaker, on January 23, 2004, Human Rights Watch (HRW) released a dramatic report on the human rights situation in Azerbaijan, our ally in the war on terrorism. HRW contends that Azerbaijan is experiencing its gravest human rights crisis since it gained its independence from the Soviet Union. The report depicts rape, electric shock, severe beatings and forced confessions as routine weapons of the government against the supporters of the political opposition.

Mr. Speaker, according to the HRW report, "In the aftermath of the election, nearly 1,000 people were arrested, among them opposition leaders, local opposition party members, activists of nongovernmental organizations (NGOs) who supported the opposition, journalists, and election officials and observers who challenged the fraud." To date, many opposition leaders and their supporters remain in detention with no legal representation. Reports of firings from jobs and police harassment are widespread throughout the country, and the government of Azerbaijan is making few attempts to hide its efforts to crush the opposition permanently.

Heidar Aliev ruled Azerbaijan with an iron fist for years, even before the country achieved independence. Last summer it began to become apparent that, due to ill health, he would be unable to run for re-election. With this development, many in Azerbaijan had high hopes that they would finally be able to participate in free and fair elections. The democratic forces were also buoyed by the fact that Azerbaijan became a member of the Council of Europe and that the intense scrutiny of the international community would usher in a new era of democracy and respect for human rights in the country. These hopes were crushed by the government's well-organized campaign to ensure the succession of President Aliev's son, Ilham Aliev, to the presidency despite the efforts of a sizeable international election monitoring team. After Aliev's "landslide victory," the government unleashed a brutal campaign against the opposition without any high-level protest from the international community, including the United States.

Last October, I wrote a letter to the Under Secretary for European and Eurasian Affairs, Ambassador A. Elizabeth Jones, and later published an op-ed in the Christian Science Monitor, asking the Bush administration to hold Aliev's feet to the fire on democracy issues. I believe that Azerbaijan, a secular majority-Muslim country, could have been an example of pro-American democracy in the Caucasus and Central Asia. Instead, the people of Azerbaijan are governed by the first post-Soviet dynastic transfer of power, setting a negative example throughout the region and adversely affecting U.S. national security. If the Bush administration takes a strong stance on the post-election crackdown in Azerbaijan, it will reinforce its commitment to spreading democracy and respect for human rights worldwide.

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## PAYING TRIBUTE TO MRS. ANNE B. RAWLINGS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, I rise before you today with a heavy heart to pay tribute to the life of a remarkable woman from North Egremont, Massachusetts. Mrs. Anne Rawlings recently passed away at the age of eighty-one. She was a beloved figure and as her family and friends mourn her loss, I think it is appropriate that we take the time to recognize her many contributions here today.

Throughout her accomplished life, Anne was a patriot, mother, and wife. She joined the Army, where she served with the Women's Air Force Service Pilots, and helped to train fellow aviators in aerial gunnery. She was also a mother and was able to remain at home to help raise two children and take care of various family pets. Anne also enjoyed other activities such as reading, sewing, and picture puzzles and was an active member of St. James Episcopal Church in Great Barrington, Massachusetts.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life of Anne Rawlings. Anne was a true patriot, loving mother and wife who certainly had an impact on all who were fortunate to know her. I am honored to pay tribute for such a wonderful life and my heart goes out to her loved ones during this difficult time of bereavement.

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## PERSONAL EXPLANATION

### HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. ALEXANDER. Mr. Speaker, I was regrettably unable to cast votes on Tuesday, January 28 and Wednesday, January 29, 2004, as I was part of a congressional delegation visiting our troops in Iraq. Had I been present, I would have cast the following votes:

"Yes" on Roll Call No. 6, passage of H.R. 1385, authorizing the U.S. Postal Service to issue stamps supporting breast cancer research;

"Yes" on Roll Call No. 7, passage of H.R. 3493, the Medical Devices Technical Corrections Act;

"Yes" on Roll Call No. 8, the Baldwin substitute to S. 1920, regarding the extension of chapter 12 of the Federal Bankruptcy Code;

"Yes" on Roll Call No. 9, the motion to recommit S. 1920 with instructions;

"Yes" on Roll Call No. 10, final passage of S. 1920, regarding the extension of chapter 12 of the Federal Bankruptcy Code;

"No" on Roll Call No. 11, motion to instruct conferees on S. 1920, regarding the extension of chapter 12 of the Federal Bankruptcy Code.

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## H.R. 3108—THE PENSION FUNDING EQUITY ACT

### HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GREEN of Texas. Mr. Speaker, I rise today to urge Congress to quit playing politics with the pensions of American workers. This country faces a pension funding crisis in desperate need of the temporary fix provided in the Pension Funding Equity Act. Both chambers of Congress passed H.R. 3108 overwhelmingly, and both the House and the Senate should work in the same bi-partisan fashion in conference to produce a bill that can quickly be sent to the President.

By no means should we simply ignore the partisanship and lack of good will that has permeated Congress in recent years and thwarted legislative progress. But we also shouldn't address that larger issue by holding hostage the pensions of hard working Americans.

All of us agree that the new rate for calculating pensions must ensure that they are adequately funded. But the fact of the matter is, we need a temporary fix now, both to protect our pensions and ensure that we don't act hastily in determining the final rate.

Mr. Speaker, our workers are relying on us to pass H.R. 3108 quickly. The temporary funding formula expired at the beginning of this year. And if we don't act now, by April 1, companies will be forced to add inflated amounts to their pension plans, a risky requirement that could force many companies into bankruptcy.

I would also encourage my colleagues on the conference committee to include Senate-passed language that addresses multi-employer plans. These plans are entered into through collective bargaining agreements between unrelated employers. Multi-employer plans are crucial to employees of small businesses because the collaborative agreements allow small employers to provide defined benefit plans. These plans also provide employees with portable pensions as they move from job to job within the same industry.

The Senate language would provide the temporary relief that multi-employer plans need to address any funding problems and ensure that these important, flexible pension plans remain available to America's workers.

Now is the time to pass this pension legislation. We literally can't afford not to. The Pension Benefit Guaranty Corp. can't afford to take on additional pensions. American corporations can't afford to make inflated payments. And, most importantly, our American workers can't afford to lose their pensions.

Mr. Speaker, let's end the political games and pass this temporary fix to give us the time and flexibility we need to set a permanent replacement for the 30 year Treasury bond rate.

## PAYING TRIBUTE TO GREGORIO LAMBERT

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, it is with great sadness that I rise today to pay respect to the passing of Gregorio Lambert, who died just four days after his 83rd birthday. Gregorio was a valued member of the Pueblo, Colorado community for close to 20 years. As his family mourns his loss, I think it is appropriate to pay tribute to the contributions Gregorio made to the veteran community of Colorado and his great service to this nation.

Gregorio Lambert grew up in Texas and served in the Army during World War II. Gregorio participated in the Normandy invasion and was held captive as a Prisoner of War in Germany for a year. After receiving an honorary discharge, he returned to Texas and married his wife of 57 years, Flora, later moving to Pueblo in 1985 to raise his family of three sons. Gregorio will be remembered as a valued member of the Pueblo Veterans Ritual Team, which provided assurance that our great veterans receive proper funeral arrangements. He helped put many hearts and minds at ease in the mourning of their loved ones. In addition to this gracious duty, Gregorio was a lifetime member of the San Isabel Chapter of the Disabled American Veterans and the Veterans of Foreign Wars.

Mr. Speaker, Gregorio Lambert was a well-respected member of his community, who unselfishly spent his time honoring his fellow veterans and their families. I am honored to take this time to pay tribute to this great patriot today and I would like to extend my thoughts and deepest sympathies to Gregorio's family and friends during this difficult time of bereavement.

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## CONGRATULATING THE HONORABLE OTHA LEE BIGGS ON RECEIPT OF THE DR. R.F. HENRY OUTSTANDING SERVICE AWARD

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor the Honorable Otha Lee Biggs, Judge of Probate for Monroe County, Alabama, on the occasion of his being honored by the Coosa-Alabama River Improvement Association. For the past thirty years, he has served this organization with a high level of commitment and dedication to the success of waterways systems in the State of Alabama, traits that also extend to the service he has provided for the families which he has been elected to serve and represent.

Judge Biggs first joined CARIA in 1970, following his first election to the position of Judge of Probate and chairman of the Monroe County Commission. In the three decades since that time, he has made thirty-three consecutive annual trips to Washington, D.C., to meet with members of Alabama's congressional delegation to advocate for the interests of critical river projects and solicit funding for their completion. His tireless work on behalf of this organization has resulted in his being awarded CARIA's prestigious Dr. R.F. Henry Outstanding Service Award.

His tremendous work ethic and dedication have also been strongly evident in his commitment to economic development in his home county. Following his election in 1970, Judge Biggs immediately set about working to make Monroe County a shining example of growth in South Alabama. Through his efforts and work as both an elected official and unofficial ambassador for the residents of his area, Judge Biggs and the members of the county commission secured commitments from several large-scale corporations and businesses to build, relocate, or expand already existing facilities in Monroe County. Numbered among these are Alabama River Pulp, FDR Plastics, Stayfast, Inc., Vanity Fair Intimates, and B&B Cabinet Doors, LLC. As a result of his work and the work of everyone involved in the county's economic development program, Monroe County at one time led the entire State of Alabama in new job creation.

In addition to Monroe County's economic life, Judge Biggs has also been instrumental in helping that area preserve and promote its strong literary and historic heritage. As the birthplace and home of such internationally known writers as Nelle Harper Lee, Truman Capote, and Mark Childress, Monroe County has been firmly established as the "Literary Capital of Alabama," and Otha Lee Biggs has done tremendous work to ensure this reputation extends beyond county and state lines and reaches an international audience. In recent years, the number of tourists visiting the area has increased exponentially as a result of the significant amount of publicity, both nationally and globally, that the county has received. Additionally, he was instrumental in the creation of annual performances of the stage adaptation of Miss Lee's To Kill a Mockingbird, and his work on behalf of the county museum and theater troupe has resulted in the production securing permission to perform on stage at the Kennedy Center in Washington, D.C., and at festivals in Great Britain and Israel.

Finally, he served for many years on the board of trustees for the University of South Alabama and fought tirelessly for the interests of the thousands of students, faculty members, and staff who have been involved in the life of that institution since its founding in the early 1960s.

Mr. Speaker, during my twenty years of work in the House of Representative, both as a staffer and now as the representative for Alabama's First Congressional District, I have met few public servants as committed and dedicated to the well-being of their community as Judge Otha Lee Biggs. With a tenacity and work ethic matched only by his kindness and generosity, he truly represents the finest example of both a southern gentleman and fine public servant. I have certainly learned a great deal from him during our many years of association, and have during that time been proud and deeply honored to develop a strong friendship with him. Monroe County and, indeed, all of South Alabama have benefited greatly from his experience and wisdom, and he has been a great friend to many people.

Along with his many friends and colleagues, not only in the Coosa-Alabama River Improvement Association but throughout the State of Alabama, I wish to extend to Judge Otha Lee Biggs my warmest congratulations on the receipt of the Dr. R.F. Henry Outstanding Service Award.

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## PAYING TRIBUTE TO THE RIFLE AREA CHAMBER OF COMMERCE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to the Rifle Area Chamber of Commerce in Rifle, Colorado. The Chamber recently celebrated 50 years of service to the City of Rifle, and it is my honor to call the attention of my colleagues and this nation to all that the Chamber does for the citizens of Rifle.

The Chamber has a strong tradition of excellent leadership and a dedicated staff. Since its inception, the Chamber has focused on the organization and health of Rifle's economy and its able and dedicated staff members always greet each citizen with a smile. In addition to its traditional activities, the Rifle Chamber of Commerce has always gone beyond the call of duty to be involved in the community. This anniversary celebration also marks a milestone for the only remaining charter member since 1954, John Scalzo. John's service to the chamber and to the city of Rifle has been much appreciated and invaluable, and I know the community is thankful for his service.

Mr. Speaker, it is my privilege to rise and pay tribute to the Rifle Area Chamber of Commerce. The Chamber works tirelessly for the betterment of the city of Rifle and I am honored to pay tribute to its contributions today. Congratulations on your anniversary and keep up the hard work.

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## TRIBUTE TO PRIVATE FIRST CLASS LUIS A. MORENO

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. SERRANO. Mr. Speaker, I rise today to honor the memory of Private First Class Luis Moreno, a Dominican American who gave his life while serving our country in Iraq.

Pfc. Moreno, who was only 19 years old, was born in the Dominican Republic but immigrated to this country with his family in 1991 in search of a better life. Hoping one day to serve as a police officer, Pfc. Moreno made the courageous decision to dedicate his life to protecting the lives of others.

Pfc. Moreno enlisted in the Army shortly after graduating from Taft High School in the Bronx. He had been deployed in Baghdad for only three months with the Army's 1st Armored Division before his untimely death.

Mr. Speaker, I was inspired by this young man's courage and conviction and sadly reminded of the high cost of war. Pfc. Moreno, like so many other young soldiers made the ultimate sacrifice for his country. As we mourn the life of this brave soldier, let us remember the sacrifices of all our service members and work to ensure that their heroic deeds are never forgotten.

For his heroism and service to his country, I ask my colleagues to join me in mourning the loss of Pfc. Luis Moreno.

## PERSONAL EXPLANATION

### HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber on January 21, 2004. I would like the record to show that, had I been present, I would have voted "yea" on roll call vote number 4.

I was also unavoidably absent from this Chamber on January 28, 2004. I would like the record to show that, had I been present, I would have voted "yea" on roll call numbers 8, 9 and 11. I would also like the record to show that I would have voted "no" on roll call number 10.

## PAYING TRIBUTE TO HELEN HAVERSTRAW

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a truly remarkable woman who resides from my district, Helen Haverstraw. Helen resides in Bayfield, Colorado and has been an active member of her community and her church for many years. Helen is a gracious individual and inspires those around her and I am honored to praise her accomplishments today.

Helen celebrated her 100th birthday on December 12th. She was born in 1903 in West Virginia on a farm during the Teddy Roosevelt era. The farm produced tomatoes, corn and other crops and her father would travel six miles to get into town to sell the fruits of his labor. Helen went on to become valedictorian of her high school. She married Ted Haverstraw in 1928 and they raised their daughters in West Virginia. Following a series of moves in the 1980's and early 90's, she returned to Colorado, where she continues to reside.

Mr. Speaker, Helen Haverstraw has lived a long and active life. She attributes her longevity to her abstaining from harmful products and a positive attitude. Helen's personality and willingness to help others have led her to the exceptional milestone she celebrates this year. Congratulations on your 100th birthday Helen, and I wish you all the best in your future endeavors.

## PERSONAL EXPLANATION

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINTYRE. Mr. Speaker, on Wednesday, January 27, 2004, I was unavoidably absent due to inclement weather for roll call vote 6 on passage of H.R 1385, and roll call vote 7 on passage of H.R. 3493. Had I been present, I would have voted "yes" on roll call votes 6 and 7.

Mr. Speaker, on Thursday, January 28, 2004, I was unavoidably absent due to inclement weather for roll call vote 8 on passage of the Baldwin amendment; roll call vote 9 on the Schakowsky motion to recommit; roll call vote 10 on final passage of S. 1920; and roll call vote 11 on the motion to instruct conferees. Had I been present, I would have voted "yes" on roll call votes 8, 9, 10, and 11.

## PAYING TRIBUTE TO PEGGIE FORD

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable woman from my district. Peggie Ford from Grand Junction, Colorado recently returned from a trip to Venezuela where she and a team of volunteers performed volunteer medical work for underprivileged children. Peggie's altruistic dedication to those less fortunate than herself is certainly deserving of recognition and it is my honor to call her acts to the attention of this body of Congress and our Nation here today.

Peggie is a surgery nurse with Saint Mary's Hospital in Grand Junction. She traveled to Venezuela as a member of a team of volunteers organized by Rotaplast International, a non-profit organization dedicated to providing medical help to underprivileged people throughout the world. This was Peggie's second trip to provide medical services to the needy. On the first, she traveled to Chile, where she assisted in numerous beneficial surgeries for those in need.

During her recent trip to Venezuela, Peggie and her team worked tirelessly to provide reconstructive surgery to children with cleft palates. Fueled by their intense desire to help, the team performed surgeries for 11 straight days. Each morning, they began work at dawn and continued late into the night. Those who received the surgery were eternally grateful and truly had their lives enhanced by the selfless dedication of the volunteer medical professionals.

Mr. Speaker, it is my honor to rise and pay tribute to Peggie Ford. It is truly a remarkable person that is willing to spend their vacation time to travel across the world to employ their talents for the betterment of others. Peggie is the embodiment of all that makes this country great and it is my honor to rise and pay tribute to her selfless contributions.

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. GALLEGLY. Mr. Speaker, on Tuesday, January 27, I was unable to vote on the motion to suspend the rules and pass, as amended, H.R. 1385, to extend the provision of Title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research (roll call vote 6); and on the motion to suspend the rules and pass, as amended, H.R. 3493, the Medical Devices Technical Corrections Act (roll call vote 7). Had I been present, I would have voted "yea" on both measures.

Similarly, Mr. Speaker, on Wednesday, January 28, I was unable to vote on the Baldwin substitute amendment to S. 1920 (roll call vote 8); and on the motion to recommit with instructions the bill S. 1920 (roll call vote 9). Had I been present, I would have voted "no" on both measures. Further, Mr. Speaker, I was unable to vote on final passage of S. 1920, to extend for 6 months the period for which chapter 12 of Title 11 of the United States Code is reenacted (roll call vote 10). Had I been present, I would have voted "yea." And, finally, Mr. Speaker, I was unable to vote on the motion to instruct conferees on S. 1920 (roll call vote 11). Had I been present, I would have voted "nay."

## PAYING TRIBUTE TO DON JOHNSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life of a remarkable life of a man from my district. Don Johnson from Aspen, Colorado passed away recently at the age of 68. Don was devoted to his wife and children, and will also be remembered for his commitment to the Aspen community.

Don will be remembered as a pioneer in the ski industry of Colorado. Throughout his 37 year career, it is estimated that he created and blazed more than 70 of the trails that skiers run every season. Don will also be remembered as a devoted husband who, with his wife Janet, raised four sons. Along with helping to raise his family, he also ran his mountain with skill and fortitude.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the life of Don Johnson. Don was a husband, father, and friend to many who made a tremendous impact that will be felt for generations to come. The Aspen community, and State of Colorado, will truly miss Don. My heart goes out to his loved ones during this difficult time of bereavement.

## INTRODUCING THE FLU PREVENTION ACT OF 2004

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## HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. EMANUEL. Mr. Speaker, I am proud to introduce the Flu Prevention Act of 2004 with my colleagues Mr. SHIMKUS, Ms. DEGETTE and Mr. ENGEL. This bill takes important steps to ensure that the widespread vaccine shortages of this flu season, which resulted in the deaths of 110 children will not occur in the future. The bill is an identical companion to bipartisan Senate legislation, introduced by Senators BAYH, CRAIG, LANDRIEU, and DURBIN.

This bill uses a multifaceted approach to ensure adequate flu vaccine supply and educate American families about the importance of the vaccine. It provides tax incentives for vaccine manufacturers to expand their production capacities. It also allows the Centers for Disease Control to share the financial risk of vaccine overproduction with vaccine manufacturers, so as to eliminate the current financial incentive to under-produce vaccine.

Additionally, the Flu Prevention Act provides funding for and requires CDC to implement a protocol if the flu reaches epidemic or pandemic levels. It establishes a public awareness campaign to provide education and outreach efforts on the importance of receiving the vaccine, which populations should receive the vaccine, and vaccine safety.

Mr. Speaker, I encourage my colleagues to support this legislation as a strong preventative measure to protect our nation's children from future flu outbreaks.

# SENATE—*Wednesday, February 4, 2004*

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, clothed in dazzling splendor, we bow our hearts in Your presence. You have decreed the seas' boundaries and provided limits for the oceans' shores. We glorify Your Name because of Your wonderful works. Your greatness is beyond comprehension.

Lord, in this dangerous world, we sometimes forget that You control all things. After seeing the schemes of evil and the criminal conduct of hatred, we sometimes look away from You. Remind us that You are our Helper, our Defender, and our refuge. You are our hope for years to come.

Lord, thank You for the miracle of one more day, for friends who grow dearer through the passing years, and for all who lift their voices in prayer for this great land. Strengthen our Senators for today's challenges. Direct their thoughts and enable them to hear Your voice. We pray this in Your Holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### THANKING PRESIDENT AZNAR OF SPAIN

Mr. FRIST. Mr. President, this morning the Senate and House were privileged to conduct a joint meeting—a wonderful meeting—to hear a powerful address by President Aznar of Spain. I again thank President Aznar, who left here just moments ago, for his visit and for his remarks today.

Spain, through this President, has been a true ally in every sense of the word. He did a wonderful job in articulating the great friendship that our two countries have demonstrated, as he said, over the last two administrations of this country.

### SCHEDULE

Mr. President, this afternoon we have resumed consideration of S. 1072, the highway bill. We notified Senators last night that it is our intention to work to complete action on this bill before the February recess. We have made some progress on the bill thus far this week. The chairman modified the committee substitute yesterday and is ready to work with Senators on their amendments today. Rollcall votes should be anticipated during today's session as we begin the amendment process. I, once again, encourage Senators to come to the floor and to work with the bill managers to schedule floor time.

In addition to the highway bill amendments, the Senate may act on available judicial nominations today. We will alert all Members of these votes as they are scheduled.

### UNANIMOUS CONSENT AGREEMENT—COMMITTEE MEETINGS

Mr. President, I have three unanimous consent requests for committees to meet during today's session of the Senate. They all have been approved by the majority and minority leadership. I ask unanimous consent that these requests be agreed to, en bloc, and that these requests be printed in the RECORD.

The PRESIDENT pro tempore. Is there objection? The Senator from Florida.

Mr. GRAHAM of Florida. Reserving the right to object. I would like to ask a question. I was under the impression that I had an opportunity today to complete a series of statements I was making on intelligence reform, and that was to begin at 1 o'clock.

Mr. FRIST. Mr. President, the managers are here. I know we had not locked in any time. I would like to defer to the managers for that because, as we had said before, we would like to proceed with the consideration of the bill itself.

Mr. GRAHAM of Florida. If I could add to your unanimous consent request a time certain that I could present my third statement on intelligence reform; and Senator FEINSTEIN also wishes to make a statement on the same subject.

Mr. INHOFE. Yesterday, we had several occasions where we were trying to stay on the bill, and we kept saying: All right, one more person, one more person, one more person.

As manager of the bill, I am going to do everything I can parliamentarily to stay on the bill and not get into other subjects.

Mr. GRAHAM of Florida. Well then, I would have to object to the unanimous consent request.

The PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, we will proceed with the regular order here then.

### RICIN UPDATE

Mr. President, let me just say, in reference to the incident, the criminal investigation that is underway because of the attack here with ricin now 2 days ago, I will, sometime in the next hour, be coming back to the floor for a very brief announcement so our colleagues will know of a proposed schedule for the reopening of the Senate office buildings. I will be working on that over the course of the next 40 minutes or so. I mentioned to the Democratic leader that I will plan to come back.

I know there is a lot of concern and anticipation, and some frustration, not knowing exactly when Senators will have access to their offices and to their records. We are working on that. We have been working on it over the course of the morning. We made real progress yesterday. It was a very successful day in terms of laboratory testing.

But again, let me come back and say that it is the safety and welfare of our employees and our staff that is fundamental. The science of this particular agent is uncertain and new, but we have a lot of certainty that we are gaining with each minute. So I plan on coming back to the floor in about 30 minutes.

### ORDER OF PROCEDURE

Mr. REID. Mr. President, if the Senator will yield, I think we could probably work this out. Why don't we go ahead and get rid of the Bond amendment—all they want is a time certain—and have them come and talk after that?

I say to Senator INHOFE, through the majority leader—we are anxious to have an amendment on this bill—maybe Senator BOND could lay down his amendment. We could finish the debate on that, and I assume the leader wants a vote on it today. When that vote is completed, they could be recognized.

Mr. REID. It is my understanding Senator WARNER is not going to be here today.

Mr. INHOFE. At 2:30.

Mr. REID. Maybe we could lay the amendment down and vote on it at some subsequent time.

Mr. INHOFE. To do everything to accommodate the Senator from Florida, what I would like to do is stay on the bill until later on this afternoon, and at that time I am sure we are going to come to a point where, because of other things that are happening, there are not going to be Senators who want to speak on the bill, and then we could go to this so the Senator would have the time he requested.

Mr. REID. How much time would the Senator from Florida need?

Mr. GRAHAM of Florida. Thirty minutes. I would like to have it commence no later than 3:30 because I have previous commitments.

Mrs. FEINSTEIN. I would like a half hour.

Mr. REID. So there is an hour here being requested. I have an idea what they are going to talk about, and that means there will be time requested on the other side to respond to it.

Mr. INHOFE. I have no objection if he changes his 3:30 to 5 o'clock. There are some things happening that affect every Senator in here tonight having to do with the National Prayer Breakfast, and I would like to accommodate them as well.

Mr. GRAHAM of Florida. I wish I could do that, but I have a request that it be no later than 3:30. Frankly, if I had started when we began this debate over parliamentary procedure, I would have been a third of the way through the speech.

Mr. DASCHLE. Mr. President, if we have an impasse about scheduling this afternoon, I wonder if it would be appropriate to ask consent that we have morning business tomorrow immediately after we commence Senate business to accommodate the request made by the distinguished Senator from Florida and the Senator from California. Could we do that?

Mr. GRAHAM of Florida. If I may ask, when will we commence the session tomorrow?

Mr. DASCHLE. That is a matter to be determined by the majority leader, but I would suggest that normally we have Senate business in the morning. We could either come in a little bit earlier or figure out our schedule. But it would not then interfere with the understandable desire on the part of the manager to stay on the bill once we are on the bill. Technically we are on the highway bill right now. Tomorrow morning we could certainly accommodate the Senator's request with the time allotted for his comments and those of the Senator from California.

Mr. GRAHAM of Florida. Mr. Leader, may I make one request, that morning business begin no later than 9:30 in the morning?

Mr. DASCHLE. That would be up to the majority leader.

Mr. INHOFE. The majority leader will have to get in on this, but I would say even earlier than that. We are going to have amendments. In fact, we have some amendments that will be ready today. We need to get to those and get this bill moving.

Mr. DASCHLE. Mr. President, I would say to the Senator from Florida that I will talk to the majority leader. I would be surprised if he would have any difficulty coming in prior to 9:30.

The PRESIDENT pro tempore. Does the Senator withdraw his request?

Mr. GRAHAM of Florida. I withdraw my request.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. I will use my leader time prior to the time we move to the bill itself. I wish to comment on a couple of things this afternoon.

Mr. REID. Mr. Leader, if I could interrupt, I wonder if the majority leader's request could now be granted, the committees meeting and all that.

The PRESIDENT pro tempore. Does the Senator withdraw his objection to the request for committees to meet?

Mr. DASCHLE. The majority leader had made a unanimous consent request. On his behalf, I make it again. I don't think there will be an objection.

The PRESIDENT pro tempore. Is there objection to the request?

Without objection, the request of the majority leader is granted. The Democratic leader is recognized.

### CONFERENCE ON H.R. 3108

Mr. DASCHLE. Mr. President, I was criticized by some Members of the House yesterday or today with regard to the pension bill. Their criticism was that I was holding the bill. Let me make sure people understand: I have not held the bill. I have no desire to hold the pension bill. I would like to get on with it. I would like to complete our work on the pension bill.

It is, of course, the prerogative of the majority leader and the majority to send the bill to the House once we have completed our work. That has not been done. They are certainly within their rights to make decisions with regard to the disposition of the bill, but it would be in error to say that in any way I am holding the bill.

I am withholding our consent to go to conference on the bill, which is a different matter. I will talk about that in a moment. Obviously, Senator FRIST and I have had some conversations about how we proceed with regard to conferences this year.

We are unwilling to commit to a process that brought about the unacceptable circumstances in conference last year, especially on the energy bill as well as the Medicare bill. But there are three approaches.

First, of course, on any bill, we are certainly within our rights to ask for a conference with the House. What we have simply asked is that if there is a conference, all the conferees be present when deliberations take place. That isn't too much to ask. That is all we are asking—our presence at conference meetings once those conference meetings have been called. We don't think a conference can truly be a conference if only one party is represented. That is my simple request. Until I have the assurance that that request is be granted, we are unable to provide consent to go to conference.

We are not asking for any predetermined outcome. We are not asking for a certain set of expectations with regard to the legislation itself. We are simply saying: If you are going to have a conference, don't call it a conference unless you have the conferees present.

There are two other approaches. I have just alluded to the second approach, which is to send the bill to the House. We have done that on a number of occasions. There is nothing that precludes us from sending the pension bill to the House, allowing them to work their will. Perhaps they will accept the changes made by the Senate. That certainly is within their right.

There is a third option. This is a tested, tried and true option that I can say with some authority has happened on countless occasions in past years and conferences. Last year we preconferenced the forest health bill. And once successfully preconferenced, we agreed in conference to the provisions and the bill passed almost unanimously. In the 108th Congress, we passed 19 bills by preconferencing them first, including the AIDS Assistance Act, the Military Family Relief Act, the Veterans Benefits Act. And in the 107th Congress, we passed 51 bills by preconferencing the agreements: Railroad Retirement Survivors Improvement Act, the Veterans Benefit Act, Nurses Reinvestment Act, the Homeland Security Act, the Native American Settlements and Indian Financing Act Amendments. Those and 40-plus more bills were preconferenced.

I ask unanimous consent that the list of bills preconferenced and agreed to successfully in the 108th Congress to date and the 107th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BILLS ENACTED INTO LAW WITHOUT USING A CONFERENCE TO NEGOTIATE DIFFERENCES IN LANGUAGE BETWEEN THE HOUSE AND SENATE

108th Congress (as of February 2. 2004 19 bills)

H.R. 1584, Clean Diamond Trade Act
H.R. 1298, AIDS Assistance
H.R. 733, McLoughlin House National Historic Site Act
H.R. 13, Museum and Library Services Act
H.R. 3146, TANF Extension
H.R. 659, Hospital Mortgage Insurance Act

H.R. 1516, National Cemetery Expansion Act
H.R. 3365, Military Family Tax Relief Act
S. 313, Animal Drug User Fee Act
S. 1768, National Flood Insurance Program Reauthorization Act
H.R. 1828, Syria Accountability and Lebanese Sovereignty Restoration Act
S. 459, Hometown Heroes Survivors Benefits Act
H.R. 2297, Veterans Benefits Act
S. 877, CAN-SPAM Act
H.R. 100, Servicemembers Civil Relief Act
H.R. 1006, Captive Wildlife Safety Act
H.R. 1012, Carter G. Woodson Home National Historic Site Act
S. 686, Poison Control Center Enhancement and Awareness Act Amendments
S. 1680, Defense Production Act Reauthorization

107th Congress (51 bills)

H.R. 428, Taiwan—World Health Organization
H.R. 1696, World War II Memorial
H.R. 801, Veterans' Opportunities Act (insurance coverage)
H.R. 2133, 50th Anniversary Commemoration—Brown v. Board of Education
H.R. 2510, Defense Production Act Extension
H.R. 768, Need-Based Educational Aid Act
H.R. 10, Railroad Retirement and Survivor's Improvement Act
H.R. 2540, Veterans Benefits Act
H.R. 2716, Homeless Veterans Assistance Act
S. 494, Zimbabwe Democracy and Economic Recovery Act
S. 1196, Small Business Investment Company Amendments Act
H.R. 1291, Veterans Education and Benefits Expansion Act
H.R. 2199, D.C. Police Coordination Amendment Act
H.R. 2657, D.C. Family Court Act
H.R. 2336, Redact Financial Disclosure—Judicial Employees and Officers
H.R. 2884, Victims of Terrorism Relief Act
H.R. 700, Asian Elephant Conservation Reauthorization Act
H.R. 3090, Temporary Extended Unemployment Compensation Act
H.R. 2998, Radio Free Afghanistan Act
H.R. 1892, Family Sponsor Immigration Act
H.R. 1499, D.C. College Access Improvement Act
H.R. 3525, Enhanced Border Security and Visa Entry Reform Act
H.R. 169, Notification and Federal Employee Antidiscrimination and Retaliation Act
H.R. 4560, Auction Reform Act
H.R. 3275, Suppression of the Financing of Terrorism Convention Implementation
H.R. 327, Small Business Paperwork Relief Act
H.R. 3487, Nurse Reinvestment Act
H.R. 1209, Child Status Protection Act (immigration)
H.R. 4687, National Construction Safety Team Act
H.R. 2121, Russian Democracy Act
H.R. 4085, Veterans' Compensation Cost-of-Living Adjustment Act
S. 1533, Health Care Safety Net Amendments
H.R. 3801, Education Sciences Reform Act
H.R. 3253, Department of Veterans Affairs Emergency Preparedness Act
H.R. 4015, Jobs for Veterans Act
S. 1210, Native American Housing Assistance and Self-Determination Reauthorization Act
S. 2690, Pledge of Allegiance
H.R. 5005, Homeland Security Act
H.R. 2546, Real Interstate Driver Equity Act
H.R. 3389, National Sea Grant College Program Act Amendments
H.R. 4878, Improper Payments Reduction Act
H.R. 1070, Great Lakes and Lake Champlain Act
H.R. 3394, Cyber Security Research and Development Act
H.R. 2621, Product Packaging Protection Act
H.R. 3908, North American Wetlands Conservation Reauthorization Act
H.R. 3833, Dot Kids Implementation and Efficiency Act
H.R. 5469, Small Webcaster Settlement Act
S. 2237, Veterans Benefits
S. 2017, Native American Settlements and Indian Financing Act Amendments
H.R. 3609, Pipeline Safety Improvement Act
H.R. 4664, National Science Foundation Authorization Act

Mr. DASCHLE. Mr. President, we have three options. First, whether it is the pension bill or any bill, we can go to conference and do what the institution requires, and that is have Members of the Senate and House, Republicans and Democrats, present at conferences and resolve our differences in the traditional manner.

Second, we can certainly pass the bill over to the House, send it over to the House at any time. We can do that on the pension bill this afternoon.

The third thing we can do is what I have just suggested has been done successfully on 19 occasions so far in the 108th Congress and 51 occasions in the 107th Congress; that is, to preconference and ultimately then to confirm our agreements in a formal conference once the negotiations have been completed.

We stand ready, once again, to do whatever it takes to pass the pension bill and ultimately put it on the President's desk. There is an urgency to this legislation. We will not, on any legislation this year, tolerate the unacceptable experience we had on several occasions in the first session of this Congress.

Mr. President, I wish to take a moment to talk further about the transportation bill. As I said yesterday, getting this bill to the floor has been too long a process. I won't dwell on that other than to say the Congress and the administration have not been successful in bringing this bill to conclusion, and because of that we have already lost 90,000 jobs.

For too long our economy has been slowed by outdated and inadequate transportation infrastructure. Nothing expresses the urgency of this bill better than the fact that we have lost 3 million private sector jobs over the last 3 years. It is time to get this bill done.

Make no mistake, not only will this bill create jobs all across the country but it will address our Nation's infrastructure deficit as well.

If passed, this bill will improve the more than 30 percent of our roads and highways that are in poor and substandard condition today. It will help improve the more than 30 percent of our Nation's bridges that are functionally obsolete or structurally deficient.

As I said yesterday, the managers of the bill, Chairman INHOFE and Senators JEFFORDS, BOND, and REID, have done a remarkable job in bringing us a fine product to the Senate floor. This is a difficult, complicated issue, with an extraordinary number of different interests to balance.

The Finance Committee, led by Chairman GRASSLEY and Senator BAUCUS, has also done a fine job of ensuring that there is symmetry in how we deal with highways and transit.

Senator FRIST and I met on Monday to discuss the bill and we had a very productive conversation. In essence, we both agreed that now the Senate has begun debate on the transportation bill, we need to ensure it goes forward in a cooperative, bipartisan fashion. That is how the Environment and Public Works Committee has approached this bill, and we have a fine work product because of that bipartisan, cooperative approach. That is how the Finance Committee has approached this bill, and we have a fine work product because of the bipartisan, cooperative approach there as well.

That is how the Banking Committee has approached the bill as it relates to transit issues, and this morning the Banking Committee reported, by a voice vote, a fine work product because of the work Chairman SHELBY and Senator SARBANES have demonstrated in their cooperative approach.

That is why I find it so troubling that the administration appears to be lagging behind—why they seem to be putting up roadblocks to the highway bill instead of paving the way for improved infrastructure and more jobs.

As I said, the Finance Committee reported a bill on Monday. Then Tuesday, yesterday, Transportation Secretary Mineta and Treasury Secretary Snow sent a letter about those very same financing provisions.

First of all, it would have been helpful to have had such a letter before the Finance Committee met, not a day after. Second, based on the letter, many have claimed the Finance Committee does not meet the administration's test with regard to the financing provision and have suggested the President may even veto the bill.

Now some of my colleagues disagree. They say the Finance Committee bill does meet the administration's test, and I hope they are correct. But at this point, we simply don't know the administration's position on the bill we are now considering on the floor.

It is important that the administration make its position clear. This bill deserves their unequivocal support. Chairman GRASSLEY and Senator BAUCUS and the other committee members put together an excellent and balanced package and showed courage in taking on corporate tax loopholes. Most importantly, this bill makes real investments in our future in a fiscally responsible way. Every dollar in this bill is paid for with a crackdown on corporate tax shelters, which has been a bipartisan priority in the Senate for years.

The package is a rare accomplishment—a bipartisan, fiscally responsible one that invests in our future and creates jobs today. It is a win for highways, a win for transit, a win for fiscal responsibility, and a win for honest taxpayers. The only losers are tax cheaters.

It is inexplicable to me why there is even discussion about the administration threatening to veto this bipartisan package. Opposing the financing provisions would raise troubling questions about the administration's priorities.

Would they rather protect corporate tax cheaters than repair our roads and bridges and provide jobs?

Would they rather help wealthy people renounce their citizenship and avoid paying their fair share of taxes than cut down on the traffic and congestion that puts a drag on our economy and inconveniences our citizens?

Would they rather protect corporations that engage in shady manipulations than create a modern transportation system for America's future?

I hope those who say yesterday's administration letter is a veto threat are wrong. The Finance Committee has done an exceptional job of providing for the needs of our economy, while cracking down on tax cheats.

With a $521 billion deficit this year, we cannot afford to let corporate tax cheaters continue to pass along their bills to the rest of us. We have an opportunity to bring new life to our economy, and old-fashioned accountability to our Tax Code. I urge the President to make their position clear on this bill soon.

If we do what the Environment and Public Works Committee has done, if we do what the Finance Committee has done, if we do what the Banking Committee has done, if we do what Leader FRIST and I have agreed to do and go forward in a bipartisan, cooperative fashion, if we go forward as soon as possible to get this long overdue bill done, we will make progress not only for our Nation's infrastructure, but for our Nation as a whole.

This legislation will impact people all across our country every day. It will provide jobs. It will make us more competitive in the world. Let's get on with passing the bill, and let's do it as thoroughly, as completely, but as much in keeping with the bipartisan spirit already established in three committees, as has been demonstrated thus far.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to the Senator from Nevada.

Mr. REID. I thank the Senator.

Mr. President, first of all, I appreciate the statement of the Democratic leader. We have worked hard on this bill. As I have said before, it is an imperfect piece of legislation, but we have done the best we can and we have been as fair to everybody as we could. We will certainly be responsive to requests people have that will improve the bill.

I hope people who want to offer amendments will do so. We are going to have a mad rush next week. We are going to either finish this bill next week or go off the bill next week. It would be a terrible disservice to the country if we don't finish the bill next week. I hope people, even though it is inconvenient and they are not in their offices, would do what they can to offer amendments if they want to change the bill.

Also, I direct this to Senator INHOFE. It is my understanding the statements from the administration yesterday regarding highways did not deal with our bill but, rather, what is contemplated in the House. I believe everyone should understand that the administration has signed off on the bill reported out of the committee. They support what they have done in financing this bill. The tax provisions that make up about $30 billion of the $255 billion have been supported by the administration. My personal feeling—and I have said this before—is I wish we had more money. We are not going to get more. The President said if there is a bigger bill than what we have, he is going to veto it. The reason I asked the chairman to yield is to say it is my understanding the President supports our legislation.

Mr. INHOFE. Yes. I have a letter I read yesterday. It is dated February 2, 2004. I have not heard anything either way about whether or not they are supporting this legislation. But they outlined a set of principles yesterday to which our bill complies. I think the minority leader covered the three criteria that were used that would keep them from opposing the bill, and I believe they have been met. We talked about it yesterday. One is to not increase gas taxes. Second, it would not have any kind of bonding arrangement. Third, that it would not get in the general fund.

The third one is where there is some debate. I trust the Senate Finance Committee. I talked to both sides, Democrats and Republicans, and they came up with something I think meets the criteria. I am satisfied it does.

Mr. REID. Mr. President, the other thing I wanted to say is, there has been a statement made, and at least two statements made on this floor, about the "pork" in this bill. First of all, pork is not a bad term with me. I think the things we do for our States, whether a new bridge or repairing a road, has nothing to do with anything that connotes being bad when it needs to be done in the State. If they are referring to that, there is no pork in a negative sense in this bill.

The vast majority of money in this bill comes from the highway trust fund. People, when they buy gas for their car, pay into a trust fund we use every 5 or 6 years to fund highway projects around the country. That is what we are doing today. People who talk about this bloated bill with too much money—this bill is paid for. There are no new taxes, and the vast majority of the moneys coming out of the highway trust fund is to fund the most important projects around the country.

I hope people understand this bill, as the Democratic leader said, is not a bill for Democrats or Republicans; it is a bipartisan bill that has the foundation of the programs of President Dwight D. Eisenhower. He, with a Democratic Congress, passed this legislation. We have to work together to pass this bill. This is important legislation.

I repeat to everyone within the sound of my voice, the majority leader said we are going to finish this bill a week from Friday. Finishing doesn't mean we complete this bill. I hope we do that. It would be a disservice to the people of this country if we did not finish this bill.

We are here waiting to do business. If anyone doesn't like the bill, let them come and try to change it. If they change it, more power to them. But waiting around is not going to help whatever concerns people have with this legislation.

Mr. BOND. Will my friend from Nevada yield for a question?

Mr. REID. I will be happy to yield to my friend from Missouri.

Mr. BOND. Mr. President, I appreciate very much my distinguished copartner on the Transportation Subcommittee talking about the need to get this bill through quickly. He was discussing the difference between the bill we have now and the original bill.

I was wondering if it is correct that the original highway bill really didn't have any formulas: it was what one would have to call pork because it had various projects in it. It was an effort by the Congress to outline where money is needed. Is that not basically the form of the original highway bill?

Mr. REID. Yes. I outlined, as the Senator knows, when we took this matter up Monday, the history of the last 20 years with these highway bills. This bill is so much more fair to all 50 States than the bill in 1982, and the three subsequent bills. Some States prior to 1982 didn't even get 80 cents of every dollar they paid into the trust fund. This bill took a gigantic step, and now every State gets a minimum of 95 cents on every dollar they pay into the fund. This is a very fair program. It is imperfect, as I said before, but we are doing much better.

Mr. BOND. Mr. President, if the Senator from Nevada will yield for another question, isn't it true that the scope of this bill, the size of it, reflects programs that Congresses in previous years decided are good for the national transportation policy? In other words, we are not creating a new formula; we have taken the formula, the apportionment that existed. Is it not true that we have attempted to construct this bill so that, working with the formula, every State gets up to 95 cents?

My State of Missouri was one of those States, when I got here in 1987, that was only getting back 77 cents. Every State will get up to 95 cents on the dollar. Every State, at a minimum, will get a 10-percent increase. Some States that would be getting much more money will only get a 40-percent or 40-plus-percent increase, which some may object to and say is not enough. But in this day and age, with a tight budget, it seems to me a 40-percent increase is not bad to take home from a compromise bill. Is that a fair assessment?

Mr. REID. Mr. President, I respond to my friend, he is exactly right. This bill is not some new invention. We have worked over the last several years to develop different programs. One is interstate maintenance, which is self-explanatory. We have an interstate system that has been completed, and we want to make sure that system is in a good state of repair. It is a never-ending job to keep it up the best we can. A large amount of this $255 billion goes to interstate maintenance. We also have something called the National Highway System. We have to make sure there is funding in the bill to take care of that program. It is what we have done in the past.

We also have other programs, such as the Bridge Maintenance Program, which is so important. One Senator came to the floor and said that 29 percent of the bridges are in a state of disrepair. We know that. That is why we are working in this bill to try to keep up with this never-ending system.

Also in this bill, rather than just building roads and pouring more asphalt—and this is something we focus too much attention on, but certainly everyone in the country is concerned about the environment and the air we breathe—we have a program dealing with congestion mitigation and air quality. This is basically the brainchild of Senator Moynihan and Senator CHAFEE. Those are programs in this bill that we have found work well.

The directors of the transportation departments in every State like the program we have. We are not, as I said before, sending a new set of blueprints to all the Governors saying: Try to figure this out. They already figured this out, and we are trying the best we can to fund these programs.

Mr. BOND. I thank the Senator.

Mr. INHOFE. Mr. President, if the Senator will yield, let me make an observation. We talked about this bill for several hours. Almost everyone who came down was objecting to what their State would get from this formula. When you compare this, starting with the same basic structure of a formula as we did in TEA-21—and remember, in TEA-21, we had the minimum guarantee.

Mr. REID. Mr. President, 90.5 percent.

Mr. INHOFE. What that did was take arbitrary political percentages and apply them in order to get votes. We have done far more. This takes into consideration the streamlining provisions about which we haven't even talked. We spent months on this in the committee, as our committee members know.

Safety and freight areas have not really been addressed before. This is something of which we can be proud. I have to say, when we put together the charts of all 50 States, there isn't one State that is not treated fairly, doesn't have an increase and doesn't have some kind of logic balancing the donee-donor, balancing the fast-growing States and the low-population States.

All these points are considered, and I think it is a very good bill. I agree with all on the committee.

Mr. REID. Mr. President, if I may respond to my friend, I don't carry with me a card that includes what happens to the States that are all Republican, but I am carrying with me during consideration of this bill a card that lists every State that has a Democratic Senator representing it and what they get. It is right here. It is hard to find anything that is wrong with it.

I recognize there are some States that for many years have been getting—I want to say this in a way that I will still be a gentleman—far more than what they are entitled to under the formula. When you go to the gas pump and you fill your tank, so much money goes into the fund. There are some States getting far more than they are putting in. There are a few States still getting more than they are putting in. We are balancing this out. As the Senator from Oklahoma said, when we did this in the past—this is my fourth highway bill—we put the numbers together, found out where the votes were, and jammed it through. We have not done that this time.

This is a fair bill. You could take this to a high school civics class and explain what we have done and they would say this is fair. We have been as fair as possible. There are some people, who were driving around in a Lincoln they couldn't afford, who are upset because maybe they are going to have to drop back to a Lexus or something such as that.

The point is, we have tried to be fair. You can't have the program going on the way it was in the past and still recognize basic fairness. I repeat, what happened in decades past was we would find out where the votes were and just jam the bill through: If Missouri was getting 77 percent, there are only two Senators from Missouri, we don't need their votes. We haven't done that this time.

I think the American public will see this legislation is fair and reasonable. I am dumbfounded by some of the people who have come to this floor and complained about what they have gotten in the bill because they have really done extremely well.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, yesterday we started through this bill. It is a rather lengthy bill. It covers a lot of provisions that haven't even been discussed, and I think a lot of Members are not really aware of some parts of this bill.

As the chairman of the committee, I thought it an obligation to go through this section by section, and I did go through sections 1104 through 1204, where we talked about how this was put together, how the formulas were put together. I also spent about an hour talking about the environmental improvements that are made in this bill.

I confess there are many things in this bill that I would rather have done in a different way, and I am sure Senator REID and Senator JEFFORDS would say the same thing. In fact, they have said the same thing. Since we will have to get through this today at some point, I would like to go ahead and start with section 1205 and finish what we started yesterday. I hope any Members who are interested in making comments or offering amendments will come and do so, because I will be doing this in order to get through the bill.

Section 1205 is one in which I was particularly interested. Senator REID yesterday talked about Daniel Patrick Moynihan and the contributions he made over the years. I felt compelled to stand up and remind him that Daniel Patrick Moynihan was a Tulsa boy. He was from Tulsa, OK, and was one of my very favorite people.

I think it is very appropriate that section 1205 is the designation of the Daniel Patrick Moynihan Interstate Highway as a part of the bill. Interstate Highway 86 in the State of New York is specifically designated as the Daniel Patrick Moynihan Interstate Highway in memory of our late colleague.

There are several others who have said good things about him. In fact, in the years I have been in the Senate, Senator Moynihan is the only Senator about whom I have never heard one negative thing.

Section 1301 is the Federal share section. It continues the statutory provisions that lay out what the Federal share for the highway project will be for different States based on the amount of Federal land within their State. The Federal share provisions of current law use a sliding scale. This scale permits States with large portions of Federal land to match Federal funds with fewer State dollars. That is only reasonable because they are not collecting taxes off of these lands and they should not have to pay the same match.

Due to the decreased taxing ability of the States with a higher percentage of Federal lands, these States are given access to a higher Federal contribution for highway projects within their State. The bill before us today modifies this provision slightly to simplify the calculation used to determine the Federal share rates that apply to each individual State.

I might add that in this bill there are certain things my colleagues will see consistently throughout. One is simplification. One is to put it in language that we can all understand, that the public can understand, that our people back home can understand, and so that the departments of transportation in the various States will have a clear understanding as well, and they will take all of these complicated interpretations.

Another thing my colleagues will find all the way through is a streamlining effort to try to get more roads for the dollar. I think we have successfully done that, reaching a lot of compromises. So this is what my colleagues will see as we go through the bill section by section.

Section 1302 is the transfer of highway and transit funds. There is a technical fix that was requested by the Federal Highway Administration that clarifies that title 23 funds, that is the highway dollars, can be transferred to the transit administration from State to State or from State to another Federal agency as long as the project to be funded is eligible under title 23. I think that is a very reasonable approach.

An example of when this authority could be used is a State that has a congestion problem at or near a border crossing. They may determine that the problem is caused in part by inadequate parking facilities for the Customs Service to conduct truck inspections. To solve their larger congestion problem, it makes sense to provide money to the Customs Service to build parking lot facilities for truck inspections. This has been done administratively in the past, but section 1302 provides very clear guidance so they do not have to sit around and guess what in fact is going to come up.

Section 1303, the Transportation Infrastructure Finance and Innovation Act, which is referred to as TIFIA, was established for the first time in TEA–21 to provide Federal credit assistance to major transportation investments. The TIFIA program has proven to be an innovative and successful addition to the conventional grant and reimbursement highway program.

After watching the TIFIA program succeed as a funding device for a few large projects during TEA–21 and after receiving input from stakeholders and recommendations from the administration, the committee bill has made a few changes to the TIFIA program to expand its scope and increase its usability.

The amount of the Federal credit assistance cannot exceed 33 percent of a total project cost. TIFIA offers three different types of financial assistance to the large projects: One, direct loans; two, loan guarantees; and, three, standby lines of credit. The bill also lowers the threshold cost for eligible projects from the TEA–21 level of $100 million down to $50 million to make it available to more people and more projects, making TIFIA accessible to a greater number of large highway projects.

Projects are also eligible for TIFIA assistance when costs are anticipated to equal or exceed 20 percent of Federal highway funds apportioned to that particular State. With the increased emphasis this bill places on freight mobility, the definition of eligible freight-related projects is expanded.

Mr. BOND. Mr. President, I ask my colleague to yield about a matter.

Mr. INHOFE. Yes.

Mr. BOND. We have a number of technical amendments. There is a question about whether we want to move to that. We are preparing a technical amendment. I have discussed this with both sides. Basically, this is a technical amendment that accomplishes a number of things. In essence, it achieves the original goal of an amendment offered by Senator WARNER, which was to increase the metropolitan planning share or takedown from 1 percent to 1.5 percent. We are getting a technical amendment copied, and as soon as we get the copies, if there is no objection from the managers, I thought we would do that.

Mr. INHOFE. I think the Senator was out of the Chamber when I said I eventually wanted to get through this section by section, but I can do this at any time. As soon as the Senator has anything ready, certainly I am interested in taking that up.

Mr. BOND. Mr. President, might we inquire of the managers on the Democratic side if they are ready to take this up?

Mr. REID. If the Senator would withhold offering that for just a few minutes.

Mr. BOND. I will be happy to withhold on that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Reclaiming my time, I think he had stated he was not prepared to do that right now, but perhaps one will be coming along in a short while.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I think probably the best thing to do is to have the Senator lay down the amendment. It is my understanding from the majority and minority that there are a couple of Senators with whom we have to clear it, and we should be able to do that shortly.

Mr. INHOFE. I have no objection to that. I think it is a good idea, and we will so inform Senator BOND.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri.

### AMENDMENT NO. 2265

Mr. BOND. Mr. President, I am very pleased to announce there is an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID, proposes an amendment numbered 2265.

Mr. BOND. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Text of Amendments."

Mr. BOND. Mr. President, I offer this amendment on behalf of Senators INHOFE, JEFFORDS, and REID. This is one small step for mankind toward a highway bill.

There had been some concern about offering amendments. This is a technical amendment. This changes a number of items that, when crafting the bill, were erroneous. Normally we would adopt these technical amendments without objection. But there may be some discussion on it. I wish to explain the one perhaps significant change in this technical amendment so everybody knows what we are doing.

In the previous bill, TEA–21, the metropolitan planning organizations received 1 percent from the Surface Transportation Program to do the work that these agencies are required to do in approving transportation plans, conforming them to air quality plans. This 1 percent takedown, as it is called, amounted to about $1.7 billion over the life of the bill.

In drafting the underlying bill, we increased spending on planning for metropolitan planning organizations by $800 million, almost a 50 percent increase.

When Senator WARNER proposed making the takedown of the share for the metropolitan planning organizations 1.5 percent rather than 1 percent, it was on the assumption that the total of the previous amount plus what we did in committee would amount to 1.5 percent. But as it was drafted and printed in the committee report, it wound up adding what we had previously put in the equity bonus on top of the 1.5 percent.

I believe this amendment restores the MPO portion to that originally proposed and adopted, i.e., a 1.5 percent share, which is what we have all agreed is needed for metropolitan planning organizations.

We have a letter that I will submit, signed by the executive director of the American Association of State Highway and Transportation Officials, the president and chief executive officer of the American Highway Users Alliance, the chief executive officer of Associated General Contractors of America, the executive director of American Road and Transportation Builders Association, and the executive director of the National Conference of State Legislatures.

The letter says, in substance—and I will submit the full letter—that we write on behalf of the organizations to express concerns over the size of the total, the 1.5 percent-plus, the additional equity bonus. Their point is that the large increase results from a combination of adjustments, growth in the overall highway program, an increase in the percentage set-aside, and broadening of the program base subject to the metropolitan planning set-aside.

They believed that adding an additional $2.2 billion for planning would make that much less available for improving, constructing, maintaining, and operating a safe and efficient highway system.

They come out strongly in support—as we all are—of increasing the metropolitan planning funds. The number of MPOs has increased 340 to 378, and many more are looking at the prospect of being designated as nonattainment for the new ozone and fine particulate standards. They recommend an increase more comparable to the growth in MPOs, but they do not think tripling it is wise. So they have asked us to reconsider.

The purpose of this technical amendment, among other things, is to bring it back to the 1.5 percent increase, upon which we have previously agreed.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 28, 2004.

Hon. CHRISTOPHER BOND,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR BOND: We are writing on behalf of the national organizations listed below to share our concerns about the size of the increase in metropolitan transportation planning funds agreed to by the Senate Environment and Public Works Committee—from $1.121 billion over six years in TEA 21 to at least $3.3 billion and possibly as much as $3.9 billion if the set aside of planning funds is applied to the new equity bonus program.

This large increase is a result of a combination of adjustments—(1) growth in the overall highway program; (2) an increase in the percentage set aside for metropolitan planning from 1 percent to 1.5 percent; and (3) a broadening of the program base subject to the metropolitan planning set aside. The combination of the adjustment produces an increase of at least $2.2 billion additional for metropolitan planning and that much less available for improving, constructing, maintaining and operating a safe and efficient highway system.

Some increase in metropolitan planning funds is justified. The number of MPOs increased from 340 to 378—an 11 percent increase, and more metropolitan areas will be designated as non-attainment for the new ozone and fine particulate matter standards. An increase more comparable to the growth in MPOs is understandable, but tripling the set aside for metropolitan planning funds is excessive when our highway needs are so great.

We, therefore, urge you to reconsider the manner in which the MPO set aside is calculated.

Sincerely yours,

JOHN HORSLEY,
*Executive Director, American Association of State Highway and Transportation Officials.*

DIANE STEED,
*President and Chief Executive Officer, The American Highway Users Alliance.*

STEPHEN SANDHERR,
*Chief Executive Officer, Associated General Contractors of America.*

PETER RUANE,
*Executive Director, American Road and Transportation Builders Association.*

WILLIAM T. POUND,
*Executive Director, National Conference of State Legislatures.*

Mr. BOND. Mr. President, I see the majority leader is in the Chamber. We will not act on this amendment at this time. If somebody wishes to object to it after the majority leader speaks, we would ask that they come to the floor and make an objection. Otherwise, I propose that at 3 o'clock we ask that the amendment be adopted or, if we need a recorded vote, we will be happy to do that. One way or another, I hope we can have action on this by 3 o'clock.

With that, I yield the floor.

The PRESIDING OFFICER. The distinguished Senate majority leader.

### REOPENING SENATE OFFICE BUILDINGS

Mr. FRIST. Mr. President, for several minutes I want to give our colleagues an update and make several announcements which will have a direct impact on their schedules for the next several days. I begin by thanking my colleagues for their patience as we work through these uncertain times. I assure them, we are progressing as rapidly as we can, as rapidly as is humanly possible. We are on course to be back in complete functioning operation here. That plan I will lay out shortly.

I do want to make a couple of quick points though. First, everybody is doing well. There are a number of people who have been in very close contact to the poisonous substance which was identified in my office. They are all doing well. The emergency responders are all doing well. That is my primary focus; that is, the safety and well-being of our extended Senate family here. We are continuing to monitor the health of all people who were potentially exposed and we have identified and spoken with each of those. They have had the appropriate counseling. Everybody is doing well.

As the world knows by now, the impact of inhaled ricin, to the best of our knowledge, is over a very short period of time and we are well beyond that window, now 48 hours after the time of exposure. I do commend and applaud my staff because they were astute in noting the powder and responded appropriately and quickly, and that could have, and in fact I am sure did, avert a serious and potentially life-threatening matter for others.

The incident, as I mentioned, is 48 hours old. We were able to move aggressively and rapidly to isolate that affected area in my mailroom. The monitoring of health effects has gone very smoothly. I appreciate the Capitol Physician's Office, as I mentioned this morning and last night, being with all people exposed and have counseled people since that point in time.

We were able to implement plans which had been carefully laid out and coordinated among many different groups, agencies here on the Capitol Grounds, and that results in protection of Members and protection of staff and the reaction in a very sophisticated way to this discovery.

After consultation with appropriate officials and reflecting upon the excellent coordination with the Sergeant at Arms and the Capitol Hill police, I have made a decision this morning, in consultation with the Democratic leader and others, that we can accelerate our efforts to open our Senate office buildings. It is still not going to be as quickly as most people would like, but we can accelerate the initial proposal and plans. This proposal is consistent with safely removing mail and continuing to review data, which literally comes back every 30 minutes to an hour, as teams move through the complex, the very large complex of the Senate office buildings, but also a response on the House side and in the Capitol itself.

Thus, barring any unforeseen discoveries—and I put that provision in there because you don't know an hour later that something may be discovered. But barring any unforeseen discoveries, the time schedule for opening the buildings will be the following:

The Russell Senate Office Building, tomorrow, Thursday, at noon, February 5. We will be able to open that office building at 12 noon. Again, Thursday noon, February 5, Russell Senate office building. Friday at 9 a.m., February 6, we will reopen the Hart Senate office building. The Dirksen Senate office building, which is the crime scene itself, will open on Monday at 7 a.m., February 9.

A lot of people thought it would be days and days to reopen. Initially we did not know how long. People pointed out with the anthrax, the buildings were closed for weeks and weeks. We made a decision to accelerate this schedule based on increased manpower that has been offered by various agencies, our continued understanding about the exposure to ricin, the understanding and information that has placed this in one room at this juncture based on the findings to date, and that in all of the monitoring equipment, the HEPA filters throughout the area that have been examined, and we continue to examine them throughout the complex, of all the monitoring and filtering equipment employed, the filters have all been demonstrated to be clean and therefore there has not been aerosolization of this agent.

I do also want to tell Members they can have access to their offices—they, themselves—after assessing the risk, and our counseling will be directly to them. If they want to go to their office and remove essential papers or documents—not mail; mail should not be touched—they can do that. We do ask that they talk to the Secretary of the Senate's office where the control room is—they have that telephone number—if they plan on going into their office building to access important information to allow them to carry out the essential functions of their office.

We will continue to work with all the Members to ensure a smooth and safe reopening of the Senate complex consistent with this schedule.

Again, Thursday noon, February 5, the Russell Senate office building will open. Friday, 9 a.m., February 6, the Hart Senate office building will reopen. Monday, 7 a.m., February 9, the Dirksen Senate office building will reopen.

Let me close and simply again thank the Capitol police, Chief Gainer, who has done a tremendous job, the EPA, the United States Marines, the FBI, the Department of Homeland Security, the Attending Physician's office, the CDC, the Sergeant at Arms, the Secretary of the Senate, and so many others involved in response to this incident.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the majority leader for his report and for the announcement regarding the opening of offices. He also ought to be commended for his work and leadership in expediting the opening of the offices themselves. This has been a difficult matter because his office has been directly affected, but this is a very good piece of news that we should be back and up and running with all cylinders by the early part of next week.

I share, as well, his expressions of gratitude for all of those who have been involved in this effort to date, having recalled very vividly the nightmares of 2 years ago. It is fair to say we have come a long way in our ability to deal effectively with matters such as these. While this one is different, it is also indicative of the progress we have made in allowing the institution to respond more quickly and successfully and, hopefully, that will be in evidence as we continue our work.

Again, I thank the majority leader for his report. I know this will be good news for all Members.

I yield the floor.

Mr. FRIST. Mr. President, I appreciate the Democratic leader's comments and will turn the floor back to the managers. We will have continued announcements. One of the real efforts we have tried to fulfill and missions we put forward is to stay in touch and communicate as best we can. We will continue to do that. There will be a press conference by the Capitol police with an update later this afternoon and they will sit down and announce more about that to give a technical update in terms of the progress that has been made.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise again as we proceed on the bill to present my concerns about where we are in the process relative to the highway bill and relative to the management of the Federal budget.

The bill before the Senate with the proposed amendment which I believe has been offered, the substitute, creates a significant increase in funding and spending in the area of highways. Many Members support transportation improvements. I have always supported having a strong transportation program because it is critical to our infrastructure. But in doing that, we have to do it within the context of managing the budget correctly. We cannot simply put money into programs because we like them without doing it in the context of what the budget limitations are and what the various income is in the trust fund that would pay for these activities.

The highway bill has always been a trust fund—not always—a trust fund-generated event, where the gas tax and other taxes that are highway related and transportation related are collected and spent for the purposes of building infrastructure. That is the way it should be. That is the way most States do it, too, by the way. I don't think any States use general fund revenues for the purposes of managing their highways, although I am not aware of that. As Governor of New Hampshire, when I had the honor and privilege to serve in that position, this was a very big issue that we not use the general funds for the purposes of managing our highways.

However, what is happening in this bill, unfortunately, is that we are, through a series of accounting mechanisms which are, in my opinion, illusory in some ways and inappropriate in other ways, basically raiding the general fund for the purposes of funding highway construction activity and at the same time we are dramatically expanding the spending levels above what the levels are that are part of the budget process for the highway fund. That is inappropriate. It is inappropriate that we should be going outside the highway fund for the purposes of funding highways and that we should be exceeding the budget levels for the purposes of funding highways. Rather, we should have the fiscal discipline to recognize when you are in a difficult fiscal situation, as we are as a country, when you are running deficits, which we are, unfortunately, as a country, you must, in all accounts, including those which you are strongly committed to, have fiscal discipline. That involves staying within the budget and that involves being sure that in something where you are using a trust fund, you have the funds in place in that trust fund before you spend it.

That is why I am concerned about this bill. It is my opinion if we allow this bill to go forward in its present form we will be significantly aggravating the deficit, we will be dramatically adding to the deficit, and we will be creating a precedent of using the general fund for the purposes of funding the highway accounts. That is bad policy. The underlying policy and having a strong transportation program can still be accomplished, but we should do it within the context of staying within the budget and staying within the highway bill. I have spoken on this before. This is not one item that stands alone on this issue. I suppose if we were running a surplus, or a deficit which was not so large or was not growing, I would probably tolerate this type of spending. This is, rather, an additional straw on the camel's back, and specifically our children. Our children have to pay the debt which we run up in the Government. It is passed on to the next generation. If we are going to be fair to our children and our children's children so they can have the quality of life we have, then we have to give them a government and a fiscal house that is in order.

Unfortunately, within the last 2 years we have not necessarily followed that course of action as a Congress. We have passed a series of bills which have dramatically aggravated the situation relative to the budget, deficit spending, and long-term structural deficits—mostly on the entitlement side, and mostly in the area of programmatic activity that has to be spent, or programmatic activity that is locked in place on a flight path of expenditure. It occurs in the Medicare accounts and it occurs in the agricultural accounts. There is an attempt to do it in the energy accounts. It could potentially occur in this account, if it passes in its present form.

That is why I have such reservations about this bill. I especially have reservations about the substance of it. I am not absolutely sure how it is structured because I haven't had time to look at it yet. But it appears to me that in its present form it does take money out of the general fund and move it into the highway fund through a variety of mechanisms which at best would be called playing fast and loose with the budget rules of this Congress. It is probably, therefore, subject to a budget point of order and is, therefore, inappropriate.

In addition, if we are going to take up this bill, it is our first opportunity to have a bill which could address a variety of other issues we have concerns about as a government.

There is a bill that was passed out of my committee which I had the good fortune to chair, the Health, Education, Labor and Pension Committee, which deals with the rights of public safety officers, specifically firemen and police officers, who work in one of the most dangerous jobs in our country. It deals with fair treatment of them in the area of how they protect their rights in employment. It is a bill which has passed my committee a couple of times. It was being brought to the floor last year, and regrettably it didn't come through the entire process. But it does create an opportunity for fire and police personnel, and public safety personnel—who are very important, and who obviously use our transportation system rather aggressively—to protect the transportation system when there are violations of law relative to the operation on roads, or protecting it when there are hazardous events on the road, or when people are injured and fire rescue personnel respond, or even if there are fires involving transportation vehicles. So it is tied into this whole bill—the protection of police and fire personnel and their rights to have a reasonable workplace and a workplace where they feel they are getting what they need.

It is something which I have been greatly involved in and committed to for many years.

Thus, it is my intention at this time to send an amendment to the desk in the nature of a second degree to the amendment which is the pending substitute.

I send an amendment to the desk.

### AMENDMENT NO. 2266 TO AMENDMENT NO. 2265

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2266 to amendment numbered 2265.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2003".

### SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

### SEC. 3. DEFINITIONS.

In this Act:

(a) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" means any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICERS.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority

### SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in

subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

### SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORTIY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

### SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

### SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

### SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. GREGG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, might I ask the Senator from New Hampshire what his substitute does?

Mr. GREGG. This amendment deals with the rights of police officers to have the right to collective bargaining and firemen to have the right to collective bargaining.

Mr. BOND. Mr. President, this obviously is a very important issue the

Senator has raised. Having this as an amendment to a technical amendment raises questions that I think perhaps should be answered.

First, I point out to my friends who are concerned about it that the number we have chosen for the highway portion of the bill was a number adopted by a 79–21 vote on the floor of this body. In addition, we understand the need to provide funding for highways. The Finance Committee has worked very hard to come up with the funding measures. I don't serve on the Finance Committee, but they have adopted fuel tax compliance measures. They have reformed the provisions for the ethanol exemption. It is a very valuable agricultural fuel that improves the environment. They will not charge the highway trust fund with that. They will pay down the existing interest owed to the highway trust fund and spend down the balance. They will clarify mobile machinery exemptions and transportation taxes, and discontinue refunds going from the trust fund into the general revenue fund for fuel tax exemptions. These are generally related to the highway trust fund.

Further, I will point out for those of us who said we want the trust fund used for highways, the trust fund right now is being used for other things that are not highway related, such as automobile, bus, and truck drivers. Some $36 billion will go to mass transit, a very valuable adjunct to the transportation system but not something that people who pay highway trust fund taxes are using because they are putting the gas and diesel in their own vehicles.

There are also valuable environmental benefits in there such as CMAQ—congestion mitigation for air quality. There are also rails and trails and other easements in there that are a significant diversion of highway trust fund dollars from the direct highway trust fund purposes.

I hope my colleagues who have problems with strict application of highway funds being raised on highway uses deal with that in an amendment that is directly related to the highway bill transportation which is before us.

Obviously, one of the things one can do in the Senate is to offer amendments that are more properly the jurisdiction of other committees, which certainly collective bargaining is, I would say, such an effort. But this bill is so important to the United States, to our economy, and the safety and well-being of the people who use our highways and use our bridges in the United States that I hope we can get back to the main purpose of this measure, which is to continue the highway program, which builds better roads, better bridges, and provides jobs—47,000 jobs for each $1 billion of highway contracts—and provides the future for economic growth in our States.

As I have said on many occasions on this floor, I can tell you jobs are going to be located in the States where they have good transportation systems, and good highways are essential for that.

Finally, in my State it is a matter of saving lives. So I hope we can get back to dealing with the important measures in this bill. I hope we can deal with the specific needs, make the technical amendments that are normally permitted on such a bill, and debate the major provisions.

With that, I yield the floor.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, we have been trying to get through the explanation of this bill section by section. We have done so now all the way up to section 1304. It seems most people were concerned yesterday about the formula. Now we are addressing another problem. But we have not gotten into the full explanation of the bill. We have gone from section 1104 through section 1303.

I am going to go ahead and proceed. If anyone either has an amendment or wants to be heard on the bill, of course, I will give them that opportunity.

Section 1304 is in regard to the facilitation of international registration plans and international fuel tax agreements.

In response to issues surrounding commerce from Mexico, S. 1072 gives the Secretary of Transportation discretion to provide financial assistance to States participating in the International Registration Plan and the International Fuel Tax Agreement. These States incur certain administrative costs resulting from their service as a home jurisdiction for motor carriers from Mexico.

The International Fuel Tax Agreement and the International Regional Plan are agreements among various U.S. States and Canadian Provinces that facilitate the efficient collection and distribution of fuel taxes and apportioned registration fees among each member jurisdiction.

Under both programs, each motor carrier designates its home State or Province as the jurisdiction responsible for collecting fuel use taxes and fees. Since the implementation of NAFTA, the Mexican Government imposes and collects fuel taxes and registration fees differently from the United States and Canada. The National Governors Association is currently evaluating Mexico and its participation in the IFTA and IRP programs. In the interim, Mexican motor carriers may use individual U.S. States or Canadian Provinces as their home jurisdiction. So we are talking about something that is in the interim until the problem is resolved but is necessary.

Section 1305 is in regard to the National Commission on Future Revenue Sources to Support the Highway Trust Fund and finance the needs of the surface transportation system.

As many of you know, I am personally not one to support expansions of bureaucracy or the creation of innumerable review boards, committees, and commissions. However, this bill creates, and I have found good reason to support, a new temporary—temporary—national commission on future revenue sources to support the highway trust fund and finance the needs of the surface transportation system.

Funding the highway program has already become increasingly more challenging. Even as we debate the funding of this bill, we are confronted with the task of finding innovative and efficient funding methods to capture user fees lost to the fuel tax evasion and a host of other issues that the Finance Committee has done a great job in addressing.

However, one issue that has not been addressed, but must be before the next reauthorization cycle, is Federal incentives for the purchase of hybrid and other fuel-efficient vehicles. Fuel efficiency is a goal I support, but I do not believe it should come at the expense of the highway trust fund. So we have these exemptions, which has the result of reducing the revenues that would otherwise come in, even though the goal or the policy we are trying to establish is, perhaps, an inevitable policy.

We run the risk of making economic and environmental advances at the cost of jeopardizing our primary funding source for the highway trust fund—gas taxes. In recent years, the highway trust fund has seen a decrease in revenues. Constant changes in the automotive industry and the economy as a whole impact user fee revenues. We must continue to identify new and reliable revenue sources to sustain the program.

Most recently, we have seen the increase in the cost of fuel and the spiking that has been going on. That has a direct effect on the amount of revenues that are generated from fuel taxes.

In response to these changing and growing challenges, the new commission created in this bill is established to conduct a comprehensive study of the alternatives available to replace or supplement the existing fuel tax as the principal source of supporting the highway trust fund. We may find that this is going to still remain the principal source, but we do not know because we have never had any central place where we were trying to put together something this creative to replace it.

Specific factors which the commission will examine include, one, the effects of each major tax that goes into the highway trust fund; two, the ability to increase taxes if there are future revenue shortfalls; and, three, potential new sources of revenue to support highway, transit, and other surface transportation programs.

In regard to the scope of the study, the commission is charged with suggesting new or alternative revenue sources to fund the needs of the surface transportation system over the next 30 years or the next 40 years—the next long period of time. It is something we should have done before. This bill might have been easier if we had addressed this in TEA-21.

Now we have, in section 1306, the State infrastructure banks. TEA-21 established a State infrastructure bank pilot program that authorized participation among the States of Missouri, Rhode Island, California, and Florida. This bill reauthorizes the program to allow all States to enter into cooperative agreements with the Secretary of Transportation to set up infrastructure-revolving funds eligible for capitalization with Federal transportation dollars.

The SIB program gives States the capacity to increase the efficiency of their transportation investment and to significantly leverage Federal resources by attracting non-Federal public and private investment.

The program provides greater flexibility to the States by allowing other types of project assistance in addition to the traditional reimbursement grant. States utilizing SIBs are able to provide various forms of nongrant assistance to eligible projects, including at or below market rate subordinate loans, interest rate buydowns on third party loans, and guarantees and other forms of credit enhancements. Any debt that the SIB issues or guarantees must be of investment grade caliber. The SIB program represents one more innovative financing option. We believe, after having done this with three or four States, that it is something that should be expanded to other States. This is a very positive thing.

Section 1401 is the Highway Safety Improvement Program.

Along with the new equity bonus program, the bill's new core Safety program is one of the crowning pillars of this legislation. It is both devastating and deplorable that motor vehicle crashes are the leading cause of death among American's between the age of 1 and 34-years-old. In 2002 alone, nearly 43,000 people died on our Nation's highways. Although the fatality rate has decreased when compared to the growing number of vehicle miles traveled, the total number of fatal crashes has gradually increased over the life of TEA-21. Through a reorganization of existing safety programs and a significantly increased Federal investment, S. 1072, appropriately referred to as SAFETEA, strives to combat one of the greatest threats faced on our roads today. Not only is the loss of life to unsafe roads and conditions tragic, but vehicle crashes have a huge economic effect manifested in medical costs, property damage, insurance, and the effects of congestion.

In response to the need for safer roads and road conditions, this bill gives heightened attention to improving traffic safety by creating a new core Highway Safety Improvement Program. Under TEA-21 States were required to set-aside 10 percent of their funds apportioned under the Surface Transportation Program for safety projects to eliminate hazardous locations and improve safety at highway-railway crossings. The new Highway Safety Improvement Program preserves the ability of States to continue funding these important projects, while giving the States even greater flexibility to identify and address other traffic safety issues such as work zone safety, traffic enforcement activities, lane and shoulder widening, use of safety warning devices, safety-conscious planning, and improved traffic data collection.

This is just one more effort to recognize that the States are all different. The same shoe does not fit all. We are giving them an expanded role to determine the best way to handle the problems in Vermont as opposed to Oklahoma or any other State.

Recognizing the various and changing safety needs in each State, the bill provides significant flexibility to the States in order to determine how the Federal safety dollars can best be spent to address the areas of greatest need. These are not always the same in each State.

Section 1402 is Operation Lifesaver. Among the existing safety programs that this bill reauthorizes is Operation Lifesaver. This program has proven effective as a national education and awareness campaign dedicated to reducing fatalities and injuries at highway-railway crossings. Operation Lifesaver has utilized various means to educate both drivers and pedestrians about making safe decisions at railroad crossings and has encouraged better engineering to improve safety at rail crossings. Due to the valuable service this program renders and the cost-benefit effectiveness it has sustained, this bill increases funding for the program from $500,000 per year to $600,000 per year and moves the source of funding for Operation Lifesaver from the Surface Transportation Program, STP, to the new Highway Safety Improvement Program.

Section 1403 is license suspension. Another area of concern in regards to highway safety is the intoxicated driver and especial repeat offenders. Current law imposes penalties on States that have not enacted statutes punishing repeat intoxicated drivers with a hard one-year driver's license suspension. However, as the States have reviewed data and adapted their sentencing structures for repeat offenders in this area, they have found that habitual drunk drivers whose license has already been suspended frequently choose to drive without a license, minimizing the effectiveness of the current State of the law. In the interest of public safety, some States have actually accepted the consequences of the Federal sanction and foregoing available Federal funding in order to impose more effective sentencing of these repeat offenders. This bill recognizes the reality of repeat drunk drivers driving on roads with a suspended license and the wisdom of more effective alternative sentencing schemes. Thus, the bill updates the "repeat offender" sanction in title 23 of the code to allow States to incorporate ignition interlock or similar devices when sentencing repeat intoxicated drivers.

At this point we have come through all the way to section 1404. I would like to see if the minority leader of the committee, who has been so great to work with, the ranking minority member, Senator JEFFORDS from Vermont, has any comments to make about these sections.

Mr. JEFFORDS. I thank the chairman. As has been pointed out already by one of our members, the bill we are talking about is rather extensive. But it was not done quickly or without the tremendous work of staff and many people who have contributed outside of the staff in listening to people from all over the country before we put the final touch on the bill.

The highway bill provides us with an opportunity every 6 years to give our communities, our businesses and our citizens a real boost by renewing our commitment to the world's most extensive transportation system. I am proud to be a leader in that effort this year.

Through the bill before us today, we will improve the condition and the performance of our roads and bridges, thousands and millions of them. That means both safer travel today and lower maintenance costs tomorrow.

I am particularly pleased that our work continues the transportation partnership established under President Eisenhower during the Interstate period and expanded with passage of ISTEA 12 years ago. That means that local leaders, stakeholders and citizens will continue to work with State and Federal officials to set spending priorities and define project scope.

I am also proud that we have maintained the linkage between transportation and the environment in our bill.

Investments in transportation must build strong, healthy communities. Through advanced planning and early coordination we can ensure better results.

I urge my colleagues to work with those of us responsible for this bill so that we may complete our work in a timely way. America's communities are relying on us. The States are relying upon us. All people using the transportation system are depending upon us. I am sure we will produce this document in a way that will make us all very proud.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First, I agree with the ranking member of the committee. We have come a long way. We are ready shortly and will be prepared to deal with some amendments. In the meantime, let's wade through this thing a little bit more.

Section 1404. Bus axle weight exemption. SAFETEA holds over-the-road buses and intrastate public transit buses to the same standards that innercity transit buses must meet with regard to axle weight, air quality, and requirements under the Americans with Disabilities Act. Specifically, the bill exempts any over-the-road buses or intrastate public transit bus from the maximum gross weight limitations imposed by the State.

Section 1405 is the Safe Routes to School Act. This was a provision that handled a number of compromises. It is one we are all concerned about. It has a continuing emphasis on safety. The bill introduces a new program that directly deals with safe routes to school, a safety improvement program established in SAFETEA. Projects eligible under the Safe Routes to School Program are already eligible under the larger Highway Safety Improvement Program.

However, Safe Routes to School provides a dedicated and protected funding source for pedestrian and bicycle safety projects near schools. The program is limited to projects and activities that will impose safety within 2 miles of primary and secondary schools. It sets aside $70 million per year for infrastructure and behavioral activities, such as sidewalk improvements, traffic-calming measures, speed reduction, bicycle facilities, pedestrian crossings, traffic signal improvements, public awareness campaigns, and traffic education and enforcement.

I think that is significant. We have noticed, between the time we have been dealing with ISTEA and TEA–21, there have been increased fatalities in our young kids. We expanded this program during the course of our committee consideration. I think it was a good compromise to make on the purchase of equipment.

When conducting projects under the Federal program's authorization under this bill, some States will occasionally find the equipment necessary to complete the project may be cheaper to purchase than it would be to rent for the duration of the project. In such cases, this bill instructs them to conduct a cost-benefit analysis for the purchase of expensive equipment above specified levels in order to evaluate the savings associated with purchasing the equipment compared to renting the equipment for the duration of the project.

Everything we are doing here is trying to get the very most out of the dollars we are spending in terms of safety and equipment and road construction and the other things we are dealing with in S. 1072.

Section 1407 is work zone safety. Over a thousand deaths occurred in work zones during 2002 due to traffic crashes alone. There has been a lot of awareness in the public about this fact and States are trying to deal with it. We felt it appropriate to have some language in this bill. Although work zones represent a critical component of infrastructure development, they also pose a unique safety challenge for those on the road, and to road workers in particular.

S. 1072 attempts to minimize the injuries and fatalities in work zones by imposing insurance requirements, requiring the use of ITS technologies and safety budgeting in construction and contracting. The Secretary of Transportation is directed to encourage States to choose contractors that carry general liability insurance of at least $15 million. Transportation projects costing more than $15 million are encouraged to include continuously monitored work zone intelligent transportation systems, or ITS systems.

Section 1408. Worker injury prevention and free flow of vehicular traffic. In addition to the provision relating to the safety of workers in work zones just mentioned, SAFETEA also directs the Secretary to promulgate regulations requiring road workers to wear high-visibility clothing, with the goal of decreasing worker injury and maintaining a free flow of traffic.

In section 1501, regarding the integration of natural resource concerns into State and metropolitan transportation planning, my counterpart, the ranking minority member, was very interested in a lot of the parts of the bill that deal with natural resource concerns and State and metropolitan transportation planning. If the Senator from Vermont would like to go over some of these sections, starting with section 1501, it might be appropriate since he had a lot to do with these particular areas.

(Mr. SUNUNU assumed the Chair.)

Mr. JEFFORDS. Mr. President, I am most pleased to assist in this regard.

The environmental provisions contained in this bill reflect a bipartisan compromise reached among the members of the Environment and Public Works Committee. Although there are a number of additional changes I would like to have made in these provisions, I believe the bill deals fairly in regard to these sections, given the variety of strong opinions on environmental subjects.

Several stakeholders have argued any early identification of potential environmental concerns may help reduce or avoid delays during the environmental review. Therefore, this bill specifies factors that may be considered during the transportation planning process.

Current law already requires transportation planners to consider projects and strategies that will protect and enhance the environment and improve quality of life.

The items added by this bill simply provide more direction as to what these concepts mean. These items do not constitute a checklist of items, whereby every item listed must be considered by each State and metropolitan planning organization, or MPO.

Section 1502. As another means of providing for early consideration of environmental concerns, this bill requires transportation planners to consult with appropriate resource agencies.

Interagency consultation should facilitate comparison of transportation plans to conservation plans or maps and inventories of natural or historic resources, where those plans or maps and inventories already exist and are in use.

The long-range transportation plan will also include a discussion of potential mitigation activities and sites that may help compensation for issues due to the transportation plan. This requirement is intended to get States to think strategically about mitigation. It is not to add new mitigation requirements or to require a level of detail better handled at the individual project review stage.

Section 1503. Integration of natural resource concerns into transportation project planning. Additionally, the highway bill contains provisions to incorporate the principles of context-sensitive design into current design standards. These principles involve consideration of the environmental context of a project and encouragement of design that minimizes impact on the project's surroundings. These provisions aim to integrate natural resource concerns into the transportation project planning process.

Section 1504. Public investment in transportation planning and projects. Current law provides an opportunity for the public to be involved to some degree in the development of transportation plans. This bill includes specific ideas for making public involvement opportunities more meaningful, such as making publicly available documents available on the Internet.

Section 1506. Federal and State laws often require habitat, stream, or wetland mitigation to compensate for direct adverse environmental impact caused by transportation projects. To provide additional flexibility and certainty in meeting these requirements, this bill authorizes the establishment of State mitigation funds, using moneys received from the Surface Transportation Program and National Highway System programs.

The State mitigation fund operates as a planning and project management tool available to the States. States can even use the mitigation funds to undertake larger mitigation efforts based on the total impact of a multitude of projects combined rather than project-by-project mitigation. This enables the States to more effectively plan for and provide the mitigation that is or likely will be required for transportation projects under other environmental laws.

The next section, 1511, transportation project development process. TEA-21 directed the Department of Transportation, DOT to "develop and implement a coordinated environmental review process for highway construction and mass transit projects." Unfortunately, this was never achieved. It took almost 2 years for DOT to even propose rules, and those proposed rules were roundly criticized by many interested stakeholders and many in this Chamber.

That proposal has since been withdrawn. So it was necessary for us, obviously, to take the next step legislatively.

This bill sets up a process for complying with current environmental laws. In establishing a process for compliance, the bill does not venture to amend any current environmental laws. It does not venture to amend any current environmental laws.

Under this process, DOT is the lead agency with authority to set work plans and schedules, determine the purpose and need for a project, and determine which alternatives must be considered. This process also includes more public participation than currently required and continues to authorize DOT to provide funds to resource agencies to assist them in expediting project environmental reviews.

Section 1512. Assumption of responsibility for categorical exclusions. Under the National Environmental Policy Act, NEPA, some types of projects can be categorically excluded from lengthy analysis. Qualifying projects are those projects that "do not individually or cumulatively have a significant impact on the human environment."

Approximately 90 percent of all surface transportation projects are processed as categorical exclusions, or CEs, under NEPA. Since this is such an overwhelming percentage of the projects, even a small improvement in processing time for each CE can result in a large improvement systemwide.

The bill before us today attempts to make that improvement by allowing States to assume the Secretary's responsibility for completing the environmental review process for projects classified as CE under current regulations.

This assumption of responsibility will be limited to those States that have adequate capabilities and would remain subject to Federal oversight to maintain proper accountability.

Section 1513. Surface Transportation Project Delivery Pilot Program. Often a State will do much of the work involved with the preparing and environmental review of a surface transportation project. Then the Federal Department of Transportation must review and approve the State's work, the applicable documentation. Some stakeholders have argued that allowing States to complete the NEPA review, regardless of whether the project requires a categorical exclusion, environmental assessment, or even an environmental impact statement, could result in significant time savings and speed up project delivery.

The highway bill sets out to explore this idea by establishing a pilot program that allows up to five States to assume the Secretary's responsibility for the environmental review of a transportation project.

Under this pilot program, States will have to meet several criteria before and after selection to participate. These requirements include soliciting public comment prior to applying for participation, verifying adequate capabilities to carry out the responsibilities to be assumed, entering into a written agreement with the Secretary, submitting to the jurisdiction of the Federal courts, submitting to periodic compliance audits, and complying with the same procedural and subsequent requirements under Federal environmental law as would apply if the Secretary were conducting reviews.

Section 1514. In keeping with the new environmental changes, the bill directs the Department of Transportation to promulgate new regulations within 1 year to implement the planning and project delivery sections of the bill.

Section 1521. Critical real property acquisition. The committee bill enables States to use Federal funds to expeditiously acquire a limited number of parcels of land that may be needed for future transportation development but are threatened by imminent economic development.

The early acquisition of property keeps future transportation options open and provides States with an important opportunity to reserve future alignment alternatives while allowing timely and cost-saving acquisitions.

In limited circumstances and with the Secretary's approval, States can use the Federal funds to cover the cost incurred in acquiring parcels of land that are considered to be critical for any transportation project under title 23. Federal land may be used to acquire property prior to the completion of the environmental reviews for proper acquisition. Environmental reviews and approvals are still required before physical construction, demolition, or clearing is commenced. If a parcel is later sold or leased, States cannot retain the Federal share of the proceeds.

Section 1522. Planning capacity building initiative. Focusing on the importance of comprehensive and integrated planning, S. 1072 establishes a planning capacity building initiative to strengthen metropolitan and statewide transportation planning and to enhance tribal capacity to conduct joint transportation planning.

The bill gives priority to planning practices that support the transportation elements of homeland security planning, performance-based planning, safety planning, operations planning, freight planning, and the integration of environment and planning. The planning capacity building initiative will be administered by the DOT's Federal Highway Administration in cooperation with the Federal Transit Administration.

Section 1601. Environmental restoration and pollution abatement control of invasive plant species and establishment of native species. Storm water runoff from highways has a direct impact on the Nation's waterways, carrying with it pollutions such as brake linings, oils, heavy metals, road salts, nutrients, et cetera. To address these waterborne pollutants, current law already allows States to use STP funds to address water pollution or environmental degradation caused or contributed to by transportation facilities currently undergoing reconstruction, rehabilitation, resurfacing, or restoration so long as the environmental project does not exceed 20 percent of the overall project cost.

This bill extends eligibility for those types of mitigation projects from the States' STP funds to include their funds under the NHS program as well. It further allows the funds to be used for environmental restoration projects not associated with an active construction project.

The stormwater project must address runoff from an existing Federal-aid highway but not necessarily one undergoing reconstruction, rehabilitation, resurfacing, or restoration.

Invasive species are a growing problem both economically and environmentally. These harmful plants plague thousands of areas of rangelands and croplands and have been cited as a staggering problem by such organizations such as the National Cattlemen's Beef Association and the American Farm Bureau Federation. By making both NHS and STP funds available to mitigate invasive species along roadways, we provide States with the flexibility to minimize the impact of vehicles as vectors of these problematic plants.

Section 1602 relates to the National Scenic Byways Program. TEA-21 continues the National Scenic Byways Program authorizing the Secretary of Transportation to designate roads that have outstanding scenic, historic, cultural, natural, recreational, and architectural qualities as all-American roads, or national scenic highways.

This bill amends the current program to recognize that the Secretary already is promoting the collection of "national scenic byways" and "all-American roads" under the designation of "America's byways." If State and Federal representatives reach consensus on establishing a single designation category, then these amendments will provide the Secretary with the authority to use any of the three terms, national scenic byways, all-American roads, or America's byways, as the single designation.

The bill also authorizes the Secretary for the first time to form public/private partnerships to carry out technical assistance, marketing, market research, and promotion with respect to national scenic byways.

Section 1603 is the Recreational Trails Program. This bill continues the Recreational Trails Program allowing Federal funds to be used to provide and maintain recreational trails for motorized and nonmotorized recreational trail uses. New eligible uses of funds permit trail assessment for accessibility and maintenance, and to hire trail crews or youth conservation or service corps to perform recreational trails activities. Current activities eligible under the program educational funding already include nonlaw enforcement trail safety, trail use monitoring patrols, and trail-related training.

Since projects under the Recreational Trails Program are much smaller than typical highway projects, this program is relieved of several normal requirements which, although appropriate for large highway projects, would be excessively burdensome for small trail projects.

Section 1604 covers exemption of interstate systems. SAFETEA establishes an exemption for the interstate system from consideration as a "historic site" regardless of whether the interstate system or portions of the interstate system may be eligible for listing on the National Registry of Historic Places. However, a portion of the interstate system that possesses an independent feature of historic significance, such as a bridge or a uniquely significant architectural feature, may still be considered a historic site individually.

Section 1605 of this bill changes current law to place greater emphasis on the need to consider the preservation of human and natural resources in the decisionmaking process of developing highway projects. Consideration of a variety of highway project impacts has been part of the design process for many years. However, the transportation community has demanded improvements in project delivery and in the makeup of the product that is delivered. Compatibility with the surrounding environment and improved safety for the motorist and the pedestrian are critical.

The bill also directs the Secretary to ensure that the plans and specifications for proposed highway projects have considered preservation, historic, scenic, natural environment, and community values. However, States can use existing processes for demonstrating that they have considered these subject factors.

Section 1606 covers use of high-occupancy vehicle lanes which has been a topic of great interest to both States and stakeholders. This reauthorization bill clarifies existing law and provides more flexibility to State and local agencies for effective management of high-occupancy vehicle, or HOV, facilities. Certain types of vehicles are exempt from meeting the general occupancy requirements for HOV facilities. The bill further identifies the possible operational strategies that responsible agencies may select from to maximize the use of HOV facilities, manage highway capacity, mitigate congestion, and reduce fuel consumption.

Motorcycles continue to be allowed use of HOV facilities. Responsible Government agencies choosing to meet additional requirements may also allow low-emission and energy-efficient vehicles, such as hybrid vehicles, to use HOV facilities. These agencies are also given the authority to toll the use of an HOV facility by vehicles that do not otherwise meet the normal minimum capacity or other exemption requirements.

Section 1607 relates to bicycle transportation and pedestrian walkways. The highway authorization bill makes minor changes regarding pedestrian walkways, specifically allowing the use of the Surface Transportation Program, STP, funds and congestion mitigation and air quality improvement programs, CMAQs, funds for the nonconstruction pedestrian safety programs where current law only mentions bicycle safety.

We also explicitly mention the pedestrian use on bridges, whereas current law only mentions safety programs for bicycle use. The practice of charging user fees for shared-use paths is also permitted so long as the fees collected by a State are used for maintaining and operating the shared-use paths within the State.

User fees may not be collected on shared-use paths that are not within a highway right-of-way nor make user fees be charged for the use of sidewalks or bicycle paths.

I would like to stop at this point and pass the description to my good friend, Senator BOND. Thank you.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, picking up with the description of this bill, which we think is extremely important, I am going to share some other views. But I want to continue with this description of the bill.

Under the current law, there is a general prohibition against placing commercial establishments in recreation and safety rest areas on interstate rights-of-way. This bill creates a small exception to this prohibition by allowing States to place either electrification or other idling facilities that can be used for heating, air-conditioning, electricity, and communication. This will enable truck operators to receive services without continuing to run their engines, thereby reducing vehicle emissions. States, other public agencies, and private entities are already allowed to operate on the interstate system and may charge for the services provided under this new authority.

Why is this important? This is tremendously important. If you travel in your State along an interstate, you will find now that the new hours-of-service regulations require truckers to take more frequent breaks. There are rest areas in my State which are crowded with trucks. There are entrances to and exits from interstate highways where significant numbers of trucks are parked. This is to make sure that the drivers get the rest they need. There has been some controversy over it, but this is the rule and they are abiding by that rule. But when they are shut down and idling, particularly in bitter cold weather so they can get heat in their cab while they get the necessary rest, No. 1, it is causing dangerous situations along the roadway, on the exit and entrance ramps to interstate highways, and they are needlessly burning fuel, polluting the atmosphere, and causing excessive use of imported petroleum at a time when we face a real energy crisis.

So while this is a small part of the bill, it is one which responds to very significant needs to maintain safety for the traveling public, especially the truckers, and also to eliminate air pollution that comes from idling trucks.

Another program that I think is vitally important to empower the improvements in tolling, section 1609, deals with tools for toll programs. One of the effective things that has been used in many highway locations for raising revenue and regulating the flow of traffic is tolling. This bill modifies the Interstate System Reconstruction and Rehabilitation Program, the ISRRP, and establishes a new variable toll pricing program. This variable pricing program replaces the pilot program which was authorized in the previous TEA-21.

The new variable toll pricing program enables the use of variable toll pricing on congested facilities in order to increase mobility and improve air quality. This says that the Secretary can permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the interstate system, to manage high levels of congestion or reduce emissions in a nonattainment area or maintenance area.

This is extremely important when you look at the kinds of congestion we have in many areas during high traffic time. If there are tolls imposed when there would otherwise be heavy congestion, then those who must necessarily travel at that time can continue to do so by paying a toll. This is the ultimate market-based system for assuring that people who do not have to travel at high congestion times will not. Obviously, this means better traffic flow, this means less congestion, and therefore less pollution. So I think this is extremely important.

The Secretary may permit a State or public authority to manage the levels. The States must provide the Secretary with a description of the congestion and air quality problems, and the goals. Any State or public authority already operating under a cooperative agreement under the existing pricing pilot program of TEA-21 can continue under the existing laws.

We also have included some changes in the tolling requirements because in some States there are interstates which are badly out of date and in need of substantial rehabilitation. In the current laws, the provision for establishing tolls on existing interstates has been limited to replacement. If you have ever traveled I-70 in the State of Missouri, which is the lifeline for our State and for much of the Nation for east-west traffic going from coast to coast, certainly traveling between Kansas City and St. Louis, you will find that there are tremendous delays occasioned because the roads are inadequate. They are two-lane roads that are like driving in city traffic, they are so filled with cars and congestion.

In addition, when there are accidents on these roads, it is not uncommon for us to experience an hour or 2-hour delay. In one instance, I managed to miss a 7-hour delay by taking some back roads which I knew about to get around a major disaster.

This measure expands the ability to say if it is substantial rehabilitation or reconstruction, the State, if it chooses, could use tolls to improve an interstate.

Right now, Interstate 70 has the distinction of being the first toll road in the United States. But it also means it is a half a century old and it is at least 20 years out of date. The total cost for repairing it and replacing it is about $3 billion.

Some of my colleagues will be surprised to know that I have not asked in this bill for $3 billion to replace this vital national link. But I do believe we need to provide options for States to deal with problems such as this one. Whether they do it is going to be up to them. In the State of Missouri, there would have to be a vote of the people. They would have to authorize the issuance of bonds and a tolling authority. This does not by any means say we are going to put tolls on it. It provides an option for the legislature, the Governor, the Department of Transportation to consider as they look at how they want to deal with one of these very significant highway corridors, which has become far too often a parking lot rather than a means of facilitating transportation between our two major cities and for people traveling from far beyond, going east to west through the heartland of the Nation, through the State of Missouri.

I think this is a very important provision and one which will provide States reasonable flexibility, not allowing them, willy-nilly, to take roads already financed through the interstate program, to impose tolls on them to finance other activities, but to make sure that we continue to realize the dream of those who initially formulated the interstate highway program to make sure that we can see traffic continue to proceed.

Let me move to another provision in the bill. It is section 1610, which merely directs the EPA to study the ability to monitor differentiation between fine and coarse particulate matter.

As we find out more about the dangers of pollutants, we find they are greater risks in the fine particulates in many instances which can cause far more significant harm than a coarse particulate because of the impact on the lungs.

Section 1611 adds particulate matter areas to the Congestion, Mitigation, and Air Quality Program. The funds under this provision are apportioned on the basis of a ratio of total weighted population of a State's nonattainment or maintenance areas to the total weighted population of all nonattainment or maintenance areas in the Nation.

If you didn't follow me on that, if a State has air quality problems in an area which is one-twentieth of all of the areas in the Nation, then they would get one-twentieth of the total funds available.

It sounds convoluted, but it really targets the CMAQ funds to the areas with greatest needs. Since many areas will need assistance to meet the new 8-hour ozone standard and the new fine particulate matter standard, the CMAQ formula is modified to include those areas. Adjustment factors are used to account for the number of pollutants for areas in nonattainment or maintenance. Section 1611 says CMAQ funds can be used for alternative fuel infrastructure under TEA-21. This bill goes further and encourages the use of CMAQ funds by listing the purchase of alternative fuel and the purchase of biodiesel fuel as eligible activities under CMAQ.

Due to some confusion in some DOT and EPA field and regional offices, we have also clarified that projects to control the extended idling of vehicles are indeed eligible for funding under the CMAQ program.

The bill also fixes oversight under current law that prevents States that do not have any nonattainment or maintenance areas from using CMAQ funds for CMAQ projects. Frankly, this allows us to get more homegrown clean fuels used with the assistance of CMAQ funds.

I happen to know something about soy diesel and about biodiesel. I am a great champion of it, because if you have followed a bus or a truck down the road that is burning straight diesel, you know what an unpleasant smell that can cause and what damage that can do to the environment. Biodiesel is a soybean-based or other biomass-based fuel which operates in a much cleaner burning environment. Several years ago we started a pilot project at the great training facility at Fort Leonard Wood, MO that needed to train soldiers to fight in smoke conditions on the battlefield. They had been burning diesel to provide that smoke. We felt that was not necessarily a good idea to be burning diesel and exposing our finest troops to the diesel pollution and the smoke that was caused. We worked with the Department of Defense to switch that to soy diesel. There was smoke. I asked them after they implemented what the byproducts were. They said, Obviously, we are not polluting the environment with petroleum-based diesel. We are burning a much cleaner soy-based fuel. It is much less harmful to the soldiers. The only problem is it smells like French fries and they get hungry. But given the alternative, that seems to be a good idea.

To the extent we get more buses and trucks using biodiesel, we are going to have greater benefits.

Let me give you two areas where soy diesel or any biodiesel can be a great improvement.

No. 1, firehouses: The fire men and women who live and stay in firehouses have complained for years. When they fire up the firetrucks, they get the diesel fumes coming up into the rest area. Sometimes, our valiant firefighters have to live and sleep in heavily polluted diesel-fuel-soaked areas. This is not only unhealthy, but it is very unpleasant. Fire stations have been some of the first places where we have used biodiesel. It has been extremely popular. Certainly when we are trying to talk about taking care of our first responders and the valiant firefighters who are on the line making sure the engines and the firetrucks below them are burning a clean-burning feel, it is a step in the right direction.

Another important area we have talked a lot about is school bus safety. When you have kids on school buses, the fumes from petroleum-based diesel come into that school bus. Do you know where they are the most dangerous? They are most dangerous when they are at low levels—where the small children are. The smallest children are likely to be exposed to petroleum-based diesel fumes.

We are working to encourage more and more school buses to use soy diesel, and put aside the fact that kids are going to get hungry when they smell something that smells like french fries. But it is vitally important that we lessen the danger to our schoolchildren as well as lessening the use of diesel fuel and providing a significant benefit to those who produce soybean and other biomass.

I see a couple of our colleagues are here. Senator THOMAS wishes to speak. We have lots more to talk about, but I will discontinue at this point and thank the Chair and thank my colleagues for coming to the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I thank my friend from Missouri. I am glad this conversation is going on. Certainly there isn't anything before us that is more immediate in need and more important than this highway bill. Not only is it a matter of infrastructure, of course, that we necessarily need, but it is also a matter of providing more jobs more quickly than anything we can possibly do.

Someone said this morning at one of our meetings that they will wait until next year to use the money. Not at all. I think many of the highway departments similar to Wyoming where I am from are ready to go. They are ready to contract. They can move very quickly.

I think it is terribly important that we move forward on this. I hope before we are through that we have a thorough discussion of the bill. But I hope we don't get off into a bunch of irrelevant amendments that really do not belong in here but are simply trying to be used as a carrot and a stick. That is not the way it ought to be.

In any event, this is a very large bill and it is very detailed. We have talked a lot about the details. I want to talk a little more generally about it.

This bill, of course, has gone through several committees. The EPW Committee, of which I am a member, is the basic committee where a great deal of work was done. This is the same committee that dealt with the previous bill 6 years ago, a bill, as it turned out, that worked very well. There is a great deal of detail here, but the detail has to be done in committee, and we need to now talk about the principles and to move forward with it.

The bill as reported by the Environment and Public Works Committee would authorize $255 billion over 6 years beginning in 2004 to fund the Federal aid for highways, highway safety programs, and other transportation projects. The last surface transportation authorization was the Transportation Equity Act, called ISTEA. We are moving forward one more time. As I said, it replaces an older one, and indeed actually even before that in the early 1990s, we had this same kind of approach with a gas tax. Each of us pays 18.5 cents a gallon of Federal gas tax when we buy gas. That goes into the fund for the purpose of upkeep of the infrastructure.

This bill makes significant progress in streamlining the environmental review and delivery process which, as always, is part of the problem.

It encourages communities and project sponsors to consider environmental concerns earlier so things can go together and it comes out as a manageable package.

It increases the oversight on the expenditure side. There is a great deal of money here. The highway funds are spent by requiring project management plans and annual financial plans of Federal programs. That is as it should be. Accountability is necessary.

Actually, when the Finance Committee then received the bill, the funding from the gas tax was not complete enough to cover what we hoped to do. It happened to be about a 6 percent reduction that had to be filled after it came to the Finance Committee. So we have heard a great deal about that, and I understand most want to fund the highway bill with funds that come from related sources instead of the general fund.

I will say a few words about how we are paying with that in the highway bill. The Finance Committee reported out a mechanism for paying for this bill. This mechanism retains the integrity of the highway trust fund. These are truly transportation-related taxes that are now deposited in the highway trust fund. Some of the taxes were previously deposited in the general fund. In other words, the general fund was getting support for transportation-oriented taxes. The Finance Committee finally righted the wrongs. The taxes should have been funding this trust fund for years. Now they will be.

In addition, there are exemptions enjoyed by certain taxpayers that diminish the taxes that would otherwise be deposited in the trust fund. These are exemptions that are subsidies that have nothing to do with highway policy. The impetus behind the exemptions was energy policy and tax policy. Since they are not highway policy, why should they have the trust fund bear the burden?

No one is taking issue with these exemptions of subsidies but rather the funding structure behind them and who pays. The Finance Committee made changes that the exemptions are allowed, allowing for the highway trust fund to legitimately receive the taxes that have been due for a very long time. The exemptions of subsidies will stay in place but now appropriately become the burden of the general fund.

In addition, the Finance Committee went a step further to authorize new taxes to take up the slack in the general fund. The result is that the tax necessary for the highway fund is there and those funds are replaced by new ones in the general fund so there is an equity.

I heard several Senators talk about funny money and shell games when describing this mechanism. The fact is that all highway tax money will be paid in full into the highway trust fund—no exemptions; no gimmicks.

Any subsidy that certain taxpayers enjoy will stay in place but will be paid from the general fund. Any losses to the general fund will be covered by new offsets that have been identified by the Finance Committee. We are taking some things that should have been going for years into the highway fund—gasohol, gas guzzlers, interest on the trust fund balance, these kind of things that should have been going there—now we put those in the highway trust fund. The general fund does not receive them.

To make up for that, we have certain other changes, including the corporation governances, Enron tax shelters, that have been going into the general fund will now be an offset. We are still, then, as a matter of fact, funding this highway fund from those kinds of taxes that were set in to do the job for highways.

Certainly nothing is more important than highway and transportation infrastructure in this country. It is very important to everyone. Each State has a little different approach to it. Smaller population States, such as mine, that have large areas, have fewer people per mile and therefore the cost per person is higher to keep up the infrastructure. But it is a Federal and national system so it needs to go across to Wyoming, Nevada, as well as across Pennsylvania and any other State.

These are the kinds of tasks that we have undertaken and that have been resolved in a reasonable manner. Obviously, not everyone has the same view.

I mention again, certainly in terms of jobs inspiring more development in States and having the jobs come about quickly, nothing could happen more quickly than in the highway fund.

These are some of the details that will be talked about here. The fact is, as I mentioned, they have gone through three committees and have been given a great deal of attention. Now we should take a look at where we want to be when this highway bill is through to see if we can move forward in our States to strengthen this infrastructure.

I yield to my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Wyoming for his statement. I have worked with him on the Environment and Public Works Committee on this important piece of legislation. The fact is there are a lot of committees involved in this legislation. I am thankful the majority leader brought it to the floor.

We had a cloture vote to move forward with the bill. This bill has been before the Banking, Housing, and Urban Affairs Committee, with Chairman SHELBY, and also before the Environment and Public Works Committee, with Chairman INHOFE. Senators BOND, JEFFORDS, and REID have all had input into this particular piece of legislation. I appreciate all of them for the work they put into this bill. It is not easy with input from the Budget Committee, from DON NICKLES, chairman of the Budget Committee. We had input from the Finance Committee, Chairman GRASSLEY, and also input from the Commerce, Science, and Transportation Committee, which has a small section involving transportation.

This is a transportation bill, not just a highway bill. It is a transportation bill. It takes a good deal of cooperation, working together, to put together any piece of legislation like this. It is not simple.

Most Members experienced the same thing I have experienced in the State of Colorado. The demand and the transportation needs have increased in each of our States. Over time, the demand for transportation mechanisms has grown throughout the country. The States have had to work harder to make their dollars stretch further every year. Transportation projects, whether they are building roads or laying rail, are simply not cheap. They are getting more expensive with each passing year, and the funds required for transportation projects are simply staggering.

The Finance Committee has produced funding mechanisms they believe will be able to fund this bill. We must use the moneys intended for use in building roads and mass transit projects. That is the money in the highway trust fund.

Some time ago, this Congress decided we need to dedicate a stream of revenue into the construction of highways. We need to make sure we maintain the integrity of that process because it is important. It sends a message that highways and this type of infrastructure are important in America. We have told the American people we will use the tax they pay on each gallon of gas they buy directly for funding transportation projects. We must do that. However, it is not appropriate to use moneys from the general fund. We have to stay true to the fiscally conservative obligations we have made for ourselves. We must not add to our country's deficit as we have an increased demand for transportation projects.

That is why I am excited about the potential of an amendment on which I am working. This amendment will allow States to build additional capacity. It is called Fast Lanes. On roads that currently experience problems with congestion, you toll only those lanes. It brings forth a user-pay concept. In other words, if you use these lanes, you will pay for them. I worked hard to get this amendment adopted in committee. It just barely lost by one vote. I hope we can go ahead and get it adopted in the Senate. It gives another mechanism to provide infrastructure in this country, badly needed infrastructure, and has a user-pay concept.

We say on interstate highways you can build additional lanes on to existing highways and toll the highways, toll them with a mechanism. We use our high technology so there are no toll booths. As the trucks and cars go down the toll lanes, commonly referred to as fast lanes, they will receive a bill later for the use they put on the highway. That helps pay for those fast lanes. It is intended to relieve much of the congestion problem we are seeing throughout the United States.

The toll would be paid with electronic technology. There would be no need for a toll booth. The process can happen quickly, without requiring a decrease in speed.

If you wish to use the "fast lane," you pay the toll and do so. However, if you do not wish to pay the toll, you simply drive in the regular lanes, and that means just sit over in the regular lanes for an hour or two on some highly congested roads. It is your choice. But if you decide it is worth your time to go over and pay a toll to go on the toll lanes, then you can do that.

So this is the advantage of having toll lanes. I emphasize that when we talk about "fast lanes," we are not taking existing Federal highway lanes and putting a toll on them. These are new lanes we are putting on the side of some of our interstate highways.

One study found that if every State participates, this ability for States to put in these kinds of lanes could raise close to $50 billion to go toward increasing road capacity.

I realize that it is unlikely all States will use this funding mechanism, but if a tiny fraction of that is raised, that is still additional funding for road capacity that does not put an additional financial burden on those who are not willing and able to pay it.

I see this ability as simply another tool in the "toolbox" that State departments of transportation can carry around. My staff continues to work with Senator BOND's staff to see that these provisions are included in the bill, and I appreciate the assistance they have given and their willingness to work with us on this particular provision.

Because this is a transportation bill, and not just a highways bill, as so many incorrectly term it. I would also like to make a few remarks on the mass transit title of the bill. I went through the Environment and Public Works Committee. I served on that committee, so I had some input there. I serve on the Banking Committee. In fact, I am chairman of the Subcommittee on Housing and Transportation, so I had some input there. I am also on the Budget Committee. So I want to make a few comments about the mass transit side.

Before I turn to the specifics of the Banking Committee's bill, I would like to acknowledge the efforts of Senator SHELBY. As chairman of the Banking Committee, he has worked diligently to make sure the committee's jurisdiction was protected, while moving forward as quickly as possible with a positive bill. I also thank him for his willingness to work closely with me as chairman of the Subcommittee on Housing and Transportation.

Finally, I also thank Senator SARBANES, the ranking member of the Banking Committee, and Senator REED, the ranking member of the subcommittee of which I chair, for their work on this particular piece of legislation. Along with their staff members, they have spent a considerable number of hours working to achieve consensus on many issues in the bill, and I appreciate their efforts.

I was pleased to support the Banking Committee's bill during our markup earlier today. I believe it makes important progress in a number of areas.

First, I am especially supportive of the new growing States formula. For far too long, the transit formulas have sent the lion's share of transit dollars to a small number of cities, primarily located in the Northeast. While we can all agree that transit is important to larger, east coast cities, there is no denying the need for transit services in a number of rapidly growing cities in the South and the West.

While I believe we still need further adjustments to the formula to even better address the growing States, I believe this new formula will finally help growing States begin to address their transportation needs.

I am also extremely pleased to see that the bill places a strong emphasis on rural transit. While many would consider "rural transit" to be an oxymoron, in fact, rural areas can often face even more acute transportation needs than large cities.

Last year, one of my constituents, Larry Worth, testified before the Housing and Transportation Subcommittee regarding the need for transit in rural areas. He described how rural citizens may not have any other alternatives to access medical care, jobs, and vital services. With 40 percent of American counties having no public transportation, this investment is long overdue.

There are a number of other very good provisions in the transit title, but I will not take the considerable time that would be necessary to enumerate them all. Suffice it to say that I believe the transit provisions will be of great benefit to public transportation in America. I am pleased to support the transit title, and I look forward to passage of the bill, preserving the provisions, and staying within our budget.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are checking with our colleagues on the possibility of setting a judicial nomination. As soon as we find out whether that is acceptable, we will ask consent.

Mr. President, we have heard lots of reasons why this bill is not a good bill, why we don't want to go to this bill, why we shouldn't be moving a highway bill. I have talked about some of those reasons, but let me share with you some information that indicates how the people of America think.

The Zogby International Survey Group did a broad-based survey of American voters. Nearly 70 percent of the voters contacted, in February 2003, said they believe America is facing a transportation capacity crisis, that our Nation's roads, airports, and mass transit systems are struggling to handle a growing population and economy.

Fifty-six percent overall and 79 percent of young women with children said traffic congestion is depriving them of more time with their families or for leisure activities today than just 5 years ago.

I don't think these answers should surprise any of us.

Since 1982, the U.S. population has grown by almost 19 percent, the number of registered motor vehicles has increased by 36 percent, and the vehicle miles traveled has ballooned by 72 percent. And—surprise—over the past 20 years we have added less than 5 percent to road capacity, and even less than that to public transit.

What are the conditions of roads in local communities?

Forty-eight percent of those surveyed by Zogby said they were either fair or poor. When you move to Hispanic Americans, 75 percent said their communities have either fair or poor road conditions.

This is a problem in communities. This is a problem particularly for citizens who are maybe at a disadvantage in their community.

This survey's results come from a poll of over 1,000 voters nationwide, with a margin of error of plus or minus 3.2 percent.

I think some of the other findings are pretty important.

Eighty percent of the people polled think the Nation's highways and public transit networks are extremely important or very important to the U.S. economy. That is why we are here. Eighty percent of our constituents think highways and transportation networks are important. That is what this bill is all about. That is why we want to get everybody together to move this bill.

I urge my colleagues, if you have problems with particular portions of the bill, offer amendments. That is how this body functions. We would like to have good-faith amendments that seek to make changes which are necessary so we can move forward in a reasonable manner.

I think the people of America, particularly the 80 percent who say it is important, deserve to see us vote on issues that are of importance to them.

Eight in 10 of the people surveyed agree that an investment in highways, bridges, and public transit should be considered an important element in homeland security and national defense.

Ninety percent believe it is important that their representatives in Congress fight to ensure sufficient Federal funding for transportation improvement projects in their local areas. I think some States must be lower than that because I think in my State it is higher than 90 percent. So some may have only 80 percent who think it is important.

Two-thirds of Americans say roads and public transit play a vitally important role in their life.

These are scientific surveys that merely confirm what I and many of my colleagues already know: If you go back to your home State and have a meeting about highway and transportation funding, you better get a big hall. I have had people come out to fill any hall that I have scheduled a meeting in to talk about it because they want to know more. They know it is important. I think this is vitally important.

I know there are some who may take a different view. Some people claim building more roads just causes more traffic. They even say you can't build your way out of traffic congestion. They are the zero sum game people, the ones who say there will just be more congestion.

Well, congestion is getting worse at a frightening pace in America. I believe the primary reason is a lack of adequate highway and public transportation capacity, not only in our major urban and suburban areas but in rural areas as well. As I have said several times, that is why we are killing people in Missouri. We don't have adequate highway transportation, particularly in rural areas.

Even as we spend more wasted time sitting in gridlocked traffic, many well-intentioned Americans, spurred on by the rhetoric of some of the extreme advocacy groups who want us all to ride bicycles—and I love to ride bicycles, but those won't get me to work and back, particularly when we have icy roads, as we do here, or when we have to take more people with us—are convinced that adding road capacity only causes more traffic congestion, more air pollution, more waste of precious fuels.

I think the answer to that is very clear: Research data from the U.S. Environmental Protection Agency, U.S. Department of Transportation, and the Texas Transportation Institute and common sense, if you and I just sit back and think about it, proves just about the opposite. The real problem is our lack of resolve to provide meaningful solutions to traffic congestion through new capital and operational investments. The failure to do so actually results in tons of unnecessary air pollution and billions of gallons of wasted motor fuel.

The Zogby poll found that 70 percent of America is facing a transportation capacity crisis, and all of these people realize we need, as a nation, the investment in transportation.

Talk about a drag on the economy, according to the Texas Transportation Urban Mobility Report, absent substantial new investments in highway and public transportation capacity, transportation operations across the Nation, the economic cost of traffic congestion in the Nation, lost productivity, wasted motor fuel will grow from about $67.5 billion in 2000 to almost $100 billion by 2009. That is one of the reasons we seek to have the investment. Yes, $255 billion is a large amount. It is not all going to highways. It comes from highway user taxes, but it goes to mass transit; it goes to congestion mitigation; it goes to scenic easements, to other things that improve the environment in which we live.

If we don't make these investments, the Texas Transportation Institute forecasts that over this period the average road speed in America's 675 largest urban communities will fall from about 42.3 miles per hour to 40.3 miles per hour. If you believe, as I do, that time is money, that reduction will continue to grow what is really a hidden tax levied on American consumers as transportation labor productivity decreases and costs increase.

Another one of the problems we have with congestion is pollution. The good news, according to the U.S. Environmental Protection Agency data, is that motor vehicle emissions have declined dramatically since the 1970s, thanks in part to the developments in new automotive and motor fuels technology. Emissions of carbon monoxide are down 45 percent since 1970, volatile organic compound emissions are down 60 percent, particulate matter emissions are down 47 percent, nitrogen oxide emissions are down 5 percent, and lead emissions have been eliminated.

The bad stuff is being reduced. We are getting the bad stuff out. This remarkable environmental achievement, which is responsible for most of the air quality improvement in the United States over the past three decades, was accomplished at the same time the number of licensed motor vehicles in the United States grew 87 percent and total vehicle miles traveled soared by 125 percent. Unfortunately, traffic congestion is retarding clean air progress just as it is retarding American productivity and economic growth.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. BOND. Mr. President, as in executive session, I ask unanimous consent that at 3:55 today, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 457, the nomination of Mark Filip to be U.S. District Judge for the Northern District of Illinois.

I further ask unanimous consent that following 5 minutes for debate equally divided between the chairman and ranking member or their designees, the Senate proceed to a vote on the confirmation of the nomination; further, that following the vote, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

Mr. REID. Mr. President, reserving the right to object, I ask my friend if he would be willing to modify this. We have been asking people to come over and offer amendments. Senator DORGAN is here to offer a germane amendment. He only wants 8 minutes to speak to offer his amendment. I ask that the consent request be modified to have the pending amendment set aside and that Senator DORGAN be allowed to offer his amendment and speak for up to 8 minutes, and then we adopt the Senator's consent as indicated.

I would also say that I am not sure anybody is going to use any time on our side on the nomination anyway. I think adequate time will be preserved.

The PRESIDING OFFICER. Is there objection to the modification?

The Senator from New Hampshire.

Mr. GREGG. I would ask what the Durbin amendment does and does not do.

Mr. REID. The Dorgan amendment deals with farmers' transportation of hazardous products. I have just glanced at it. It appears there is an inordinate burden placed upon farmers to transfer a load of gas to their farms.

Mr. GREGG. What would the amendment of the Senator from North Dakota be to? Mine was a second-degree amendment, I believe.

Mr. REID. We are just laying what is pending aside. His would be a separate, independent amendment to the substitute that is now pending.

Mr. GREGG. And after his was disposed of, mine would be properly in order; is that not correct, Mr. President?

Mr. REID. That is right.

The PRESIDING OFFICER. Does the Senator from Missouri agree to the modification?

Mr. BOND. Reserving the right to object, there is some question on this side about the amendment being an amendment to the commerce title, and at this point we are not prepared to give consent to that. We want to work with the Senator who has been working in good faith, but I have been asked, since this is a matter that relates to a different section of the bill, to hold off. We can work through this if we can go with the original consent.

The PRESIDING OFFICER. Objection is heard to the modification. Is there objection to the original consent request?

The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, if I might be recognized following the vote to offer the amendment, that is fine. You may want to work on this amendment some. It is not an amendment of great moment except to family farmers who are concerned about this. I would like to be able to offer the amendment. I have been down in the capital office hearing the Senator talk about the need for people to come up and offer amendments. This is a germane amendment. I would love to offer it and be able to debate it. In any event, if we go ahead with this vote, which is fine with me, if I could be recognized following this vote to offer my amendment, I would very much appreciate that.

I would ask the Senator from Missouri whether I might be recognized following the vote.

Mr. BOND. Mr. President, on this side I am not authorized to enter into that type of UC. I assure the Senator and my colleagues on the other side we will work with them. There is a concern about moving into the commerce title. We will work with him if we can move forward on the consent for the judge vote; then we will work on this, if we can get consent for that.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, I will go along with what the Senator from Missouri requests. It is kind of unfair to the Senator from North Dakota. We have been begging people to offer amendments. He shows up to offer one and now we cannot do it. It doesn't seem very fair. We may be waiting a long time based upon statements by the chairman in the Chamber. I am happy—

Mr. DORGAN. Mr. President, reserving the right to object—and I will not object—if you want Members to come to the floor with germane amendments, I am here. I have been hearing that a lot today. I have one and it is not a big amendment. What I hear being said at the moment is perhaps you want to go through this bill by title, which is something I have not heard before. It should be open to amendment at any point. That is the reason that, for the last hour or so, I put this amendment together.

My hope is that the Senator from Missouri and those managing will understand, when we are ready to offer an amendment, you ought to welcome it. I hope when I seek recognition, you will allow me to offer it. I expect to speak 8 or 10 minutes. If you want to lay it aside then and work on it, I am happy to do that. I shall not object.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Missouri?

Mr. REID. Mr. President, when are we going to have the vote? It is past 4 o'clock.

Mr. BOND. I believe at this point it is necessary to revise the unanimous consent. First, I say to my friend from North Dakota that the title he wants to amend has not been offered. That is a problem on which we are going to have to work. We have only offered the EPW portion.

I asked unanimous consent that there be 5 minutes equally divided between the chairman and the ranking member and, thereafter, there be a vote on the nomination of Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

I renew my request. Following the 5 minutes, I ask unanimous consent that the Senate proceed to a vote on the confirmation and, following the vote, the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## EXECUTIVE SESSION

### NOMINATION OF MARK R. FILIP TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The PRESIDING OFFICER. The clerk will state the nomination.

The legislative clerk read the nomination of the Mark R. Filip, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I take just a few moments to introduce to my colleagues the nominee on whom we are going to be voting in a couple of minutes. I recommended Mark Filip to President Bush. President Bush nominated him. Senator DURBIN concurred in my recommendation to President Bush. I thank Senator DURBIN for his support in this effort. I also thank Chairman HATCH and Senator LEAHY on the Judiciary Committee, and all members of the Judiciary Committee, for helping to move this nomination forward to the floor.

I think one of the most difficult tasks most of us have in the Senate is finding outstanding nominees to the Federal judicial branch of Government. In many cases, at least from my perspective, the choice has been very difficult. Oftentimes, we will get 80 applicants for a single district court judgeship opening in Chicago and you have to pick just one person. That one person, obviously, is very happy and you have many others who are disappointed that they did not get chosen.

In this case, I was elated to find a person of such outstanding credentials that I could wholeheartedly recommend him to the President. I think in the case of this nominee, Mark R. Filip, we are in fact lucky to have someone of his caliber who is willing to leave a very lucrative practice in the private sector. He is now a partner at Skadden Arps' Chicago office. He is willing to leave that very prestigious position to move into public service and become a district court judge in the Northern District of Illinois.

Mark Filip lives in Winnetka, IL, with his wife Beth. They have four sons.

Mark grew up in Chicago and attended the University of Illinois at Champaign. He graduated summa cum laude from the University of Illinois. While there, he received many academic fellowships, including the prestigious Phi Beta Kappa fellowship. After graduating from U of I, he won the highly sought after Marshall Scholarship to attend Oxford. While there, he received a B.A. and M.A. in jurisprudence and won first class honors at Oxford. Returning from his Marshall scholarship to the United States, he matriculated at the Harvard Law School. He did similarly well at Harvard. He became an editor of the Harvard Law Review.

In Mark Filip's second year at Harvard, he won the Sears Prize, which is given annually to the two students of the second year class who achieved the highest grades. Ultimately, in the early 1990s, Mark Filip graduated magna cum laude from Harvard Law School.

He began his professional career in Chicago, serving as an associate at Kirkland & Ellis, one of the best and oldest firms in Chicago. After a couple of years in the Kirkland & Ellis Chicago office, he moved to the U.S. Attorney's Office and became an assistant U.S. attorney in the Northern District of Illinois, where he gained a lot of experience in a wide variety of criminal cases that he prosecuted successfully, including racketeering, white-collar crime, public corruption, tax fraud cases; and he successfully defended the U.S. Attorney's Office on appeal in many of those cases.

Mark Filip returned to the private sector. After leaving the U.S. Attorney's Office, he became an associate at Skadden Arps in 1999, and in 2001 he became a partner at Skadden Arps.

In recent years, he has been an adjunct professor of law at Northwestern University and the University of Chicago Law School, both outstanding institutions.

Now, again, I emphasize how delighted I am to be able to present to my colleagues in the Senate such a well-qualified nominee, Mark Filip, who is a very young man. He has four children, who range in age from 8 months to 6 years. He is in his late thirties, and I expect that if he goes on the district court in Chicago at this early age, he may well have the opportunity to rise to the circuit court of appeals.

I neglected to mention that between law school and his professional career, he had two very prized judicial clerkships. He served as a law clerk to Steven Williams on the DC Court of Appeals and then as a law clerk for Supreme Court Justice Scalia.

I am confident, having researched and talked to all those he has worked with over the years, that there is no question he will make a superior district court judge.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, today, we are considering the nomination of Mark filip to the U.S. District Court for the Northern District of Illinois. The vote today on Mr. Filip is the second vote on a judicial nominee this year, and demonstrates the Democrats' remarkable cooperation on judicial nominations despite years of intensified Republican partisanship and unilateralism.

Over the past 2 weeks, I have shared with the Senate several disappointing developments regarding judicial nominations: The Pickering recess appointment, the renomination of Claude Allen, and the theft of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats cooperated to confirm a nominee last week and are cooperating to confirm another district court nominee today. We do so without the kinds of delays and obstruction that Republicans used with President Clinton's judicial nominees.

Last week, I discussed the recess appointment of Judge Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit, which was President Bush's most cynical and divisive appointment to date. That appointment is without the consent of the United States Senate and is a particular affront to the many individuals and membership organizations representing African-Americans in the Fifth Circuit who have strongly opposed this nomination. Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a presidential appointment to the Federal bench. The Pickering recess appointment is another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts.

The second disappointing development I spoke about last week was the renomination of Claude Allen as a nominee to the fourth Circuit. Two weeks ago, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary

Third, last week, I also mentioned with disappointment the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the committee. As revealed by the chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and to people outside of the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct and possibly, criminal laws. We do not yet know the full extent of these violations. But we do need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to be able to resume our work in the spirit of cooperation and mutual respect that is so necessary to make progress.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. With the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of September 11 and their aftermath, as of today, the Senate will have confirmed 171 of President Bush' nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly 4 years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1994.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 when Republicans controlled the Senate during the Clinton Presidency, years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit judges confirmed during any of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the Federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton Presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

This week, the chairman of the Senate Judiciary Committee will hold a third hearing for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are confirmed in a Presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority all year, and it took until July 31 to have a hearing for the third circuit court nominee. By that standard, Chairman HATCH has now moved seven times more quickly than he did for President Clinton's nominees in 1996.

In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, as of tomorrow we will have held hearings for three circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be done for the entire year.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House and Republican majority that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this administration continues down the path of confrontation. While there have been controversial nominees whom we have opposed as we exercise our constitutional duty of advice and consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

That we are proceeding to confirm Mark Filip today is another example of extraordinary Democractic cooperation to fill vacancies in the Federal judiciary, despite the Republicans' consistent and unprecedented attacks. Unfortunately, Mark Filip is another young, Federalist Society member whose record raises concerns, just as the record of far too many of President Bush's judicial nominees.

First, Mr. Filip is only 37 years old. He has been out of law school less than 12 years and just a decade ago he was clerking across the street for Justice Scalia. Second, his record demonstrates a partisan, political background. Mr. Filip worked as a volunteer Republican election monitor in Broward County, Florida during the manual recount of ballots in the contentious 2000 election. Mr. Filip has also made several contributions to Republican candidates and political action committees. While in law school, he was vice president of the Harvard Law School Federalist Society and he authored an article entitled "Why Learned Hand Would Never Consult Legislative History Today." In this article, Mr. Filip argues that legislative history should be rejected by judges because it reflects nothing more than the desires of congressional staff and lobbyists, and because it does not reflect the majority will of Congress. More important, Mr. Filip wrote that, when confronted with statutory language that would lead to an absurd result, a judge should apply his or her own reasoning rather than legislative history.

The senior Senator from Illinois met with Mr. Filip to address his background and suitability to be a Federal judge.

Senator DURBIN is a thoughtful man and I respect his judgment. Senator DURBIN's willingness to supply this nomination says alot. I am hopeful that Mr. Filip will be a person of his word; that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge. I also sincerely hope that Mr. Filip will treat all those who appear before him with respect, and will not abuse the power and trust of his position. Sometimes, we take a risk allowing a nominee to be confirmed. This is, frankly, one of those times.

Unfortunately, the Senate has taken a risk and confirmed other nominees of this President who assured the committee that they would follow precedent and would not be results-oriented. In their brief time on the bench, they have already proven to be judicial activities eager to roll back individual rights and limit the authority of Congress to protect civil rights. A number of President Bush's 30 circuit court nominees already confirmed by the Senate have written significant opinions that show their bias in favor of powerful business interests over individual Americans.

For example, Jeffrey Sutton was one of Bush's most controversial appellate court nominees to be confirmed. At the time of his nomination, his record raised serious concerns. He had aggressively pursued a national role as the leading advocate of States' rights and pushed extreme positions in order to limit the ability of Congress to act to prevent discrimination and protect civil rights. His answers to questions posed by Judiciary Committee members did not show that he would be able to put aside his years of passionate advocacy in favor of States' rights and against civil rights. After a lengthy floor debate, he was confirmed by a vote of 52–41, which was the fewest votes in favor of any judicial nominee in the last 20 years and more than enough negative votes to have sustained a filibuster.

In less than 1 year on the bench, he has already issued a dissenting opinion essentially in favor of States' rights and that would have limited Congress' authority under the Commerce Clause. In this case, decided in December, the question was whether a core function of municipal government—the provision of firefighting services—impacts interstate commerce such that an individual can be indicted under a Federal antiarson statute for destroying a fire station. The majority Sixth Circuit panel held that the fire station was used in an activity affecting interstate commerce, relying on the express language of the statute.

Judge Sutton's dissent is a remarkable opinion whose beginning evidences that he has turned his passionate advocacy into judicial activism. His opinion begins, "Some say the world will end in fire. Some say in ice." Judge Sutton concludes that the Federal arson law only applies to buildings with an "active employment for commercial purposes," thereby seeking to narrow the law significantly. His opinion forcefully states that to "conclude otherwise is to embrace the view that even the most attenuated connections to commerce will suffice in prosecuting individuals under this statute." In Judge Sutton's view, arson is a local crime and the "National Legislature" had not clearly conveyed its purpose to regulate an area traditionally regulated by the States.

Ironically, his dissent cautions that "Federal courts should not casually read a statute in a way that alters the Federal-State balance." However, he himself ignores the plain language of the statue and legislative history in his attempts to do just that—to alter the balance in a way that favors his own personal and ideological view of States' rights.

John Roberts is a second controversial nominee who, in his few months on the bench, has already displayed a preference for pursuing political and ideological goals above following precedent. Judge Roberts recently issued a troubling dissent from a decision by the full D.C. Circuit that would have indulged another request by the Bush administration to keep secret the records of Vice President CHENEY's energy task force.

The case was part of a continuing effort on behalf of the Vice President to avoid compliance with numerous court orders requiring him to provide records of his meetings with the National Energy Policy Development Group. Two nonprofit organizations brought litigation claiming that the Vice President's task force had violated Federal law by not making its records public. In order to maintain the secrecy of these records, the Vice President had filed an emergency petition for a remedy that the majority noted "is a drastic one, to be invoked only in extraordinary situations." The majority in the case stated that, were they to accept the Vice President's arguments, they would in effect "have transformed executive privilege from a doctrine designed to protect Presidential communications into virtual immunity from suit" and noted that "the President is not 'above the law,' he is subject to judicial process."

The full D.C. Court of Appeals denied Vice President CHENEY's petition for rehearing en banc. Judge Roberts dissented. He would have indulged the Vice President's desperate attempts to avoid compliance with court orders by granting a motion for rehearing, despite the fact that the D.C. Circuit's five judge majority was the fourth panel of judges to hold that these records must be made available.

A third example of a recently confirmed Bush nominee who has continued to pursue his ideological and political agenda on the bench—as many of us feared at the time of his nomination—is Judge Dennis Shedd. Judge Shedd wrote the opinion in a ruling so hostile to organized labor that one of the most conservative judges on that court harshly stated that Shedd's opinion "overstepped [the] boundaries of a reviewing court."

In this case, the National Labor Relations Board and an administrative law judge found that an employer had unlawfully solicited nine of its employees to sign antiunion statements and had unlawfully withdrawn recognition of the union. Judge Shedd ignored the applicable standard of review and asserted his own view of the facts to conclude that the NLRB had erred in its determination. Approaching the case from a position hostile to organized labor, Judge Shedd "reconstructed" the facts of the case, and allowed an employer, who had previously been found to have used illegal tactics in order to decertify a union, to escape any responsibility. Judge Wilkinson's strong dissent highlighted the expertise of the NLRB in examining an employer's conduct and that the reviewing court's role was limited to determining whether the NLRB had taken a permissible view of the evidence.

In other cases, as many of us had feared, President Bush's circuit court nominees are already handing down decisions to roll back individual rights, civil rights and Congress' authority. Among these are:

A majority opinion by Judge Gibbons, on the Sixth Circuit, which fails to provide accommodation to a person with multiple sclerosis under the Americans with Disabilities Act;

A dissent by Judge Shedd in a bankruptcy case, which would have led to foreclosure on a family farm—a decision which the majority said "misses the mark"; and

A dissent by Judge Rogers in a Title VII case involving illegal retaliation against an African-American employee which would have made it difficult for any employee to present their retaliation claims to a jury.

The President has claimed time and again that he seeks only to fill the bench with judges who will follow the rule of law. He claims that he "has no litmus test" for determining who will and will not be appointed—that he makes his decisions based on the qualifications of the candidates. Despite these statements, the President's nominees seem to have certain striking similarities. They seem to favor powerful interests over individuals. They favor States' rights over civil rights. And many of them are all loyal Federalist Society members and committed to the political agenda of the most conservative wing of the Republican Party. The Senate's constitutional duty to provide advice and consent on judicial nominations is vital in these circumstances—Federal judges must be devoted first and foremost, not to a political platform or certain parties, but to the rule of law, the Constitution, and the basic principles of fairness and justice.

If we are to allow the President to pack the courts with political party loyalists and radical right-wing ideologues, we will cease to have a Government of laws and will end up with a Government controlled by the views of a few. We would risk having a judiciary that functions as a rubber stamp for any right wing argument, policy, or political goal sought to be achieved via the courts.

Yet, despite the troubling records of so many of Bush's confirmed judges and the other disappointing developments this year, Senate Democrats have confirmed vast members of nominees who have come to the Senate floor and are today again making sure that the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton was in office. Today, we proceed to confirm a judicial nominee in spite of the President's recent actions, those of Senate Republicans, and serious reservations about this nominee.

Mr. Filip's nomination was reported favorably to the Senate last October. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November, or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Mark Filip and his family on his confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Mark R. Filip, of Illinois, to be a U.S. District Court Judge for the Northern District of Illinois?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Edwards
Hollings
Kerry
Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

The Senator from Nevada.

Mr. REID. Mr. President, very briefly, we have just approved the 171st judge during the Bush administration. There have been 171 judges approved. To my knowledge, there have been four he submitted who have not been approved, other than those who are going through the committee process. So the score is 171 to 4. A good average, I think.

## SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will continue consideration of S. 1072.

The Senator from Missouri.

### AMENDMENT NO. 2265 WITHDRAWN

Mr. BOND. Mr. President, I withdraw amendment 2265.

The PRESIDING OFFICER. The Senator has that right.

The Senator from North Dakota.

### AMENDMENT NO. 2267

(Purpose: To exempt certain agricultural producers from certain hazardous materials transportation requirements)

Mr. DORGAN. Mr. President, prior to the vote I indicated I had an amendment. I want to begin the discussion very briefly of the amendment. The amendment is one I have worked on for some while. It deals with a relatively small issue with respect to the context of this bill, but a rather large issue for family farmers. Let me describe what it is.

There was a justifiable effort to address issues dealing with homeland security by the Department of Transportation. They issued regulations that would regulate the shipment and transport of hazardous material in commerce in amounts that require the shipment to be placarded and also to implement security plans for that shipment.

The difficulty and the problem is this. The way the Department of Transportation developed this rule, the rule will apply to family farmers, for example, who have a 120-gallon fuel service tank in the back of their pickup truck. Those farmers are not going to have a security plan for that pickup truck and for that service tank.

It is perfectly logical to want to regulate for safety purposes the shipment of hazardous materials.

Let me give you an example of where this goes when the definitions are not carefully crafted. I was a senior in high school when myself and two of my best friends decided to go to the Black Hills of South Dakota for a weekend. It was a pretty big deal for us. We took a pickup truck and we had a 120-gallon service tank full of gasoline. We had a few dollars, and we bought 120 gallons of gasoline and a relatively new pickup, for three seniors in high school. We were prepared to have a pretty good time. If that happened today, we would under the current rules be required to have a security plan in place prior to taking our pickup truck and 120 gallons of regular gasoline on our trip to the Black Hills of South Dakota. Three high school seniors are not going to have a security plan to get enough gasoline to go to the Black Hills and have a good time. Why would we need a security plan? Because anything over 110 gallons of fuel, propane, chemicals, or hazardous materials will be required to have a security plan. Forget about three seniors who went to the Black Hills.

How about a farmer who has that 120-gallon service tank in the back of his pickup truck who stops at a local cafe and goes in to buy a cheeseburger? He is in violation of this rule by the Department of Transportation unless he can physically see his pickup truck through the window because he will be required to have a "security plan" and have a placard.

Again, when I was a young boy, my dad sent me to Dickinson, ND to get 5 or 6 30-gallon drums of spray pesticides and herbicides. It is done all the time. That would, of course, violate the rule these days unless I had a security plan for my trip to Dickinson to pick up 4 or 5 30-gallon drums of chemicals to spray on the crops in the field near Regent, ND.

That is what this rule now would provide. It is a bad rule. It does not mean, in my judgment, to include family farmers. It doesn't mean to put them in handcuffs with respect to the way they handle chemicals and propane and gasoline. But in fact it does. I don't want farmers to be in violation of the rule or in violation of the law. I don't think the Department of Transportation or the Congress, in implementing this rule, anticipated this kind of burden with respect to family farms.

In fact, the University of Illinois Extension Service put out an extension agriculture update. Let me describe what it says. It states the rule by DOT says persons, including farmers, who ship or transport hazardous materials in commerce in amounts that require the shipment to be placarded, must develop and implement security plans by September 25, 2003. Examples of materials to which the security plan apply include explosives such as dynamite, detonators, pesticides, fertilizer, hydrous ammonia, ammonia nitrate, and fuels such as gasoline and propane. If you ship or transport fertilizers, pesticides, gasoline, propane and packages or containers that are larger than 119 gallons, or the total quantity you ship or transport at any one time is more than 1,000 pounds, then you must have a security plan. If you are a supplier who delivers the pesticides, fertilizers, and fuels you use to your farm, then you don't need that security plan. And if you only transport fertilizers, pesticides, and fuels between the fields of your farm, then you don't need to have a security plan. But if you drive to town to get the chemicals, fertilizers, or fuel, then you have to have a security plan.

Incidentally, the text I have just read from is part of a U.S. Department of Transportation fact sheet, and it was entitled "Hazardous Materials Transportation Security Requirements. Applicability to Farmers and Farming

Operations." That was available from the Department of Transportation's Web site earlier this fall. But it now has been removed. It is gone. You now can't find it. If you ask where did this come from, what happened to it, why is it gone, I don't have the foggiest idea. All I know is what it said, and it doesn't say it anymore. Now we are told the Department of Transportation is putting this security plan on hold despite the fact it is the rule, and they are now beginning to discuss the issue with the U.S. Department of Agriculture. They are discussing it with State departments of transportation, and the American Farm Bureau.

That is also in the piece of information from the University of Illinois Extension Service.

First of all, when the Department of Transportation does a rule, you would expect they would do it right side up. You do the consultation first. Then you develop the rule having knowledge of how people react to it and what their notion is of how it should work and how it would apply. In this case, apparently they wrote a rule dealing with hazardous material transportation, including basic fuels and chemicals, and now are beginning to consult with others about how this would impact family farmers.

I am offering an amendment that clarifies using the definition of family farmers in the farm bill, and that this does not apply to family farmers in the routine business of family farming. Somebody with a pickup truck and a service tank in the back full of gasoline that is moving around is not going to have to have a security plan to do that. Someone who is hauling a few 30-gallon drums of chemicals from the shop in town out to their farm doesn't need a security plan to do that. If we are going to have every family farm developing security plans, who is going to enforce that? Who is going to inspect it? Who is going to determine whether it meets DOT inspections and requirements and specifications?

I just think this is a circumstance where it is a template that is put over everything that doesn't fit at all for family farmers. Family farmers do a pretty good job out on the farm. They work hard and try hard. They are the Americans who live with hope. They put a seed in the ground and they hope. They hope it rains, they hope it grows, they hope it doesn't hail, and they hope the insects don't come. They hope they don't get drought or too much moisture, and they hope, finally, if they are able to get it harvested they can haul it to the elevator and get a decent price. They don't ask for a lot. They certainly ask us to stay out of their way with respect to rules and regulations that don't make basic common sense and that do not meet the test of common sense.

This attempt by the Department of Transportation, laudable as it might be, to try to require the development of security plans for the movement of large quantities of hazardous material—certainly dynamite, detonators, and so on. I understand that. But when you talk about gasoline and farm chemicals, we must understand there is a difference between substantial movement from commercial operators and the ordinary transportation of farm chemicals and farm fuel by family farmers around this country.

For that reason, I have offered an amendment that I hope will meet the test of changing this regulation in a manner that represents some basic common sense and relieve the burden from family farmers. As a matter of fact, family farmers are not complying with this. They really effectively cannot comply with it. The Department of Transportation has indicated to some that they would probably not enforce it. You have the Agriculture Extension Service telling farmers, here is what you have to do to comply with the rule that is virtually unenforceable and really doesn't make any sense.

When we see things here that do not meet a test of common sense, what we ought to do is legislate and change it. That is what I propose to do with respect to the hazardous materials transportation requirements.

Let me again say I believe there is a requirement for us to be concerned about the movement of hazardous materials in our country. I fully support the Department of Transportation. They have a difficult and vexing job to try to respond to all of these things. But this particular rule does not meet the requirements, and does not meet the test of common sense dealing with family farmers.

I have not yet offered the amendment. I would like to send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2267.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 880, after the item following line 6, insert the following:

**SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.**

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term "eligible person" means an individual or entity that is eligible to receive benefits in accordance with section 1001D of the Food Security Act of 1985 (7 U.S C. 1308-3a).

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports or offers for transport a fertilizer, pesticide, or fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to—

(1) security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation); and

Mr. DORGAN. Mr. President, I have described the amendment in some detail. I say to my colleague from Oklahoma I would be happy if he would like to have the amendment approved now. But, if not, if there are some issues with respect to language or some discussions we should have with you and your staff about the breadth of this, I would be happy to do that as well. This bill will be on the floor for a number of days. I am only anxious to make certain we dispose of this and approve it before we complete this bill. My attempt is, of course, to cooperate with those who are managing the bill.

Mr. INHOFE. Mr. President, I appreciate that very much. It is probably a good idea to set it aside at this time. We will have ample time later to discuss it.

Mr. DORGAN. I have no objection to it being set aside when others wish to offer amendments. I appreciate the cooperation of the Senator from Oklahoma and the Senator from Vermont.

Mr. GREGG. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DORGAN. What is the objection to? There is no unanimous consent request.

The PRESIDING OFFICER. There was no unanimous consent.

Mr. DORGAN. I don't believe there was a unanimous consent request.

The PRESIDING OFFICER. There was no unanimous consent request propounded.

Mr. DORGAN. So there can be no objection to a unanimous consent request never made.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Hampshire.

Mr. GREGG. I was under the impression there was a unanimous consent request to set the amendment aside. I take it that did not occur.

The PRESIDING OFFICER. That request was not propounded. The Senator from North Dakota indicated he would not object if such a request were made.

Mr. GREGG. Then obviously I do not object.

Mr. INHOFE. Mr. President, that is not set aside by unanimous consent.

There may be others in the Chamber who want to be heard concerning the highway bill. If that is not the case, I will go ahead and continue discussing this. It is our hope to go through it section by section. We are quite a ways along in doing that.

First, I will restate some of the comments I made in the past about this bill. We have spent in the committee an entire year working on this legislation. We have had numerous hearings on various environmental concerns.

procedural concerns. We had State representation at hearings about many of the parts of the bill that will end up giving the States more responsibility to take care of some of their needs. We had a chance to talk about some of the problems voiced in the Senate.

As far as the position of the administration, I do not know what more we can do. We have gone through the objections they had, or the three statements they made, in terms of finding it not to be acceptable. These have been met.

We have serious infrastructure needs now. The State system is 50 years old; 32 percent of our major roads are in poor or remedial condition; 29 percent of the bridges are structurally deficient. I am more emotional regarding the 29 percent bridge figure because Oklahoma ranks No. 1. Missouri is No. 2 in percentage of bridges that are structurally deficient.

We have 36 percent of the Nation's urban rail vehicles and maintenance facilities in substandard or poor condition. And 29 percent of the Nation's bus fleet and maintenance facilities are in substandard condition. The list goes on.

I am particularly sensitive to this, having served for 8 years in the other body on the Environment and Public Works Committee, where we talked about this and watched this as the reauthorizations took place. I participated in both ISTEA and in TEA–21, in both cases, serving at that time in the other body.

I know the way things were done were a little distasteful for me, but we came up with three authorization bills. It is our hope to be deliberate and spend, as we have, a year in looking at all the problems, seeing what would be better than the system used before.

In the past, we had section 1104, minimum guarantees. That has been replaced by the Equity Bonus Program. The minimum guarantees were arbitrary, politically driven percentages each State had. It was the thought that when you get to the point where you have enough votes to pass it, you did not care. We did not want to do that. So we took into consideration the donor status of States, we took into consideration the rapid growing States, States such as Texas, California, Nevada, and Florida, and we actually have ceilings as well as floors to try to satisfy as many people as possible.

Yesterday, we had a number of people come to the floor saying the formula was unfair. We took each State, State by State, which I am happy to do. We have the capability of doing it, again, to show that it is not unfair. We have a formula now and everyone benefits. There is no State that gets less than 10 percent more than they had before and it takes care of the problems.

The donor States have always been a problem. My State has been a donor State since the program began. So the fact that we will all end up with a 95-percent status is very significant.

We have never adequately handled the safety problems. We know about the deaths on the highway: 43,000 people each year dying on the highway. While the percentage has not gone up, the numbers have. We are addressing that.

The intermodal connections and freight movement were never adequately addressed by the previous bills. These are addressed.

Streamlining, so that many of the problems we have—some environmental, some other types of problems—can be dealt with more rapidly and in advance so we can keep the construction going.

We have the IPAM program that will take these programs that are ready to go and get them moving right away. If we are going to do it, do it now and get the people employed. A lot of people are concerned about jobs. Certainly there is no bigger job anywhere.

It has been a long process. I know some Members just do not want a bill, but we will get through the process. We will get a bill and get people back to work and rebuild the infrastructure.

We left off on section 1612. I will handle a couple of sections. The Senator from Missouri will arrive in about 5 minutes with some subjects to address.

Section 1613 is the improved interagency consultation.

Mr. GREGG. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. GREGG. Does the Senator mind, after he finishes his statement, that I be allowed to speak?

Mr. INHOFE. Anyone who wants to speak so long as it is on the highway bill.

Mr. GREGG. I ask unanimous consent that after the completion of the statement of the Senator from Oklahoma, I have 5 minutes.

Mr. INHOFE. I have completed my remarks and there is no objection.

The PRESIDING OFFICER. The Senator from New Hampshire.

### AMENDMENT NO. 2268 TO AMENDMENT NO. 2267

Mr. GREGG. I send an amendment to the desk which second degrees the amendment of Senator DORGAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2268 to amendment No. 2267.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2003".

**SEC. 2. DECLARATION OF PURPOSE AND POLICY.**

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" means any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

## SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to from and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring reinforcement through State courts of—

(A) all rights, responsibilities, and protections provided by state law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

## SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in a appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

## SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

## SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

## SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to

appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. GREGG. This is the same amendment I offered before. Obviously, it was removed from being in order because the underlying amendment was withdrawn, so I have reoffered it to keep it in the batting order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I was happy to do that. I will continue going through section by section.

When we talk about improved interagency consultation, this is another area where this bill is different from the reauthorizations we had in the past. We had intra-agency consultation as well as consultation at the various levels of Government. The States have a much larger voice in the recognition that they are more aware of the problems that exist than we are in Washington. It is very positive. Therefore, the States and MPOs are encouraged to consult with State and local air quality agencies in developing criteria from CMAQ projects and when making decisions as to which projects and programs to fund.

Section 1614 is the evaluation assessment of the CMAQ projects. To ensure that information on successful CMAQ projects is widely available, the Department of Transportation is directed to consult with the EPA to evaluate and assess a representative sample of CMAQ projects to maintain and disseminate a database of these projects.

Section 1615 is synchronized planning and conformity timelines, requirements, and horizon. Currently, the schedules for demonstrating conformity are not the same as the schedules for adopting long-range transportation plans and transportation improvement programs. That is TIPS. This disconnect has caused some areas to be in a continuous planning and conformity cycle.

In response to this inconsistency, the bill aligns the long-range plan updates, TIP updates, and conformity determinations for metropolitan areas on consistent 4-year cycles. Heretofore, there were various cycles and this conforms them to each other.

The bill also changes how far into the future the conformity determination must look to more closely match the length of time covered by the State's air quality plan referred to as a State implementation plan, or SIP plan.

Currently, conformity determinations take a 20-year outlook on the transportation planning side, even though most SIPs cover no more than 10 years. Obviously, we are trying to conform them with each other.

Section 1616 is in regard to the transition to new air quality standards. EPA plans to designate nonattainment areas for the new 8-hour ozone standard, that we have gone through just a few years ago, and the new fine particulate standard, at PM2.5, this year. Areas that have not previously been designated as nonattainment for the same pollutant will have 3 years to submit SIPs which include the motor vehicle emissions budget used to determine conformity. However, only a 1-year grace period is allowed before having to demonstrate conformity. Because of this, an area may have 2 years during which it must use some other means of demonstrating conformity.

Nonattainment areas are given the option of using the motor vehicle emissions budget from an approved SIP for the most recent prior standard for that pollutant. For example, an area that is in nonattainment for the 1-hour ozone standard and is designated as being in nonattainment for the new 8-hour ozone standard may use its 1-hour budget to determine conformity until it has an approved budget for the 8-hour standard.

Nonattainment areas are also given the option of using other currently available tests for demonstrating conformity without an approved air quality SIP.

Section 1617 is in regard to reduced barriers to air quality improvements. Nonattainment areas can use transportation control measures, such as HOV lanes, transit projects, park-and-ride lots, ride-share programs, and pedestrian and bicycle facilities to improve air quality. These TCMs are often included in the State's air quality SIP. Currently, if a State determines it would be better served by substituting one type of TCM for another, the State must already have a substitution mechanism in its approved State implementation plan or it must revise its plan.

This bill provides a substitution mechanism for all States, provided that the TCM to be substituted achieves the same or greater emission reductions as the TCM being replaced, based on analysis using the latest planning assumptions and current models.

Now, it has been our intention, as we announced before, that the chairman of the Transportation Subcommittee, Senator BOND, would be recognized at this time for the purpose of——

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask for the yeas and nays on the Gregg amendment.

Mr. INHOFE. Madam President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma does have the floor. I apologize.

Mr. INHOFE. Thank you, Madam President.

Section 1618 is in regard to the air quality monitoring data influenced by exceptional events.

This bill directs EPA to promulgate regulations governing the handling of air quality-monitoring data influenced by exceptional events, such as forest fires or volcanic eruptions, certainly something of great interest to the Senator from Arizona. These types of natural activities should not influence whether a region is meeting its Federal air quality goals.

The EPA is also required to reevaluate its approach to modeling carbon monoxide emissions from motor vehicles to ensure that it is appropriate for cold-weather States, such as Alaska.

## MORNING BUSINESS

Mr. INHOFE. Madam President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 30 minutes each.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. MCCAIN. Madam President, reserving the right to object, would that preclude me from offering the request for the yeas and nays on the Gregg amendment?

The PRESIDING OFFICER. It would indeed preclude you.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Madam President, I withdraw my—reserving the right to object, and I will not object. I will just tell the managers of the bill that I intend to ask for the yeas and nays on the Gregg amendment when we return to the bill tomorrow.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

The Senator from Oklahoma still has the floor.

Mr. INHOFE. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

## BIPARTISAN CAMPAIGN REFORM ACT

Mr. McCAIN. Madam President, I join my friend from Wisconsin on the floor to discuss the entire issue of the Bipartisan Campaign Reform Act and also at a time when the Federal Election Commission is about to make some decisions regarding implementation of this legislation.

I think it is very important that as the Federal Election Commission is considering making these rules, that it be made very clear what the intent of the authors of the legislation was. Because as I will go into in my statement, it was the Federal Election Commission that created the loopholes that caused the explosion of soft money in American politics. It was not court decisions.

It is not accidental that the Senator from Wisconsin and I have proposed legislation to fundamentally restructure the Federal Election Commission. In the meantime, the Federal Election Commission must understand and read the U.S. Supreme Court decision—I quote from the Court's ruling—stating:

> The main goal of [the national party soft money ban] is modest. In large part, it simply effects a return to the scheme that was approved in Buckley and that was subverted—

Madam President, the words the U.S. Supreme Court used:

> subverted by the federal electioneering efforts with a combination of hard and soft money. . . . Under that allocation regime—

That was a decision by the Federal Election Commission—

> national parties were able to use vast amounts of soft money in their efforts to elect federal candidates.

Now, I hope the Federal Election Commission gets our message. We do not, and will not, stand for the creation of new loopholes to violate this law.

Senator FEINGOLD and I began, in 1995, with our first effort to reform this system. It took us 8 years until the final decision by the U.S. Supreme Court upholding the constitutionality, in a historically ironic decision entitled McConnell v. FEC. I hope the irony of those words is not lost on my colleagues. We will not stand for the Federal Election Commission—which they already have—subverting this law. We will not stand for it. We will use every method available to us to be sure that the law is enforced as it is written and intended and declared constitutional by the U.S. Supreme Court.

It is time for the Federal Election Commission, rather than being an enabler to those who want to subvert the laws, to be a true enforcer of the law, a role which they will find strange and intriguing and certainly unusual for that Commission.

I might add, too, we still have two members of the Federal Election Commission who declared their firm conviction that this law was unconstitutional. If they still hold that belief, as at least one of them has stated recently, they should recuse themselves from further involvement in a law they believe is unconstitutional. In fact, resignation would probably be in order so someone who believes in the constitutionality of this law, as affirmed by the U.S. Supreme Court, would be empowered to enforce it.

In 1995, my dear friend Senator FEINGOLD and I first introduced legislation designed to limit the influence of special interests on Federal campaigns. We began our fight because it had become clear to us that our campaign finance system was broken and this breakdown was having a detrimental effect on our democracy. Seven years, four Congresses, several rewrites, countless hours of debate, amendments, and much hard work by dedicated grassroots activists later, the Bipartisan Campaign Reform Act became law on March 27, 2002.

I know my friend from Wisconsin agrees with me. We could not have done it without the thousands of Americans who made our cause their cause. We could never have achieved this goal. They will have our undying gratitude.

Last month, following an illegal challenge, the Supreme Court ended the 7-year-long battle when it upheld the act, or BCRA, in the case of McConnell v. FEC. For me it was one of the Court's most needed and welcomed opinions. In light of this landmark victory, I want to congratulate those who worked so hard to secure it and to talk about the work that remains to be done to strengthen our democracy and to empower all Americans through civic participation.

We can already see some benefits from these years of hard work. No longer can a Member of Congress call the CEO of a corporation or the head of a labor union or a trial lawyer and ask them for a huge soft money donation in exchange for access to high-level Government officials. That cannot happen today. Just last week, Roll Call reported that for the first time in many years, the two parties did not hold any high-donor fundraisers at the Super Bowl. The article stated:

> With soft money banned, the parties have come to the conclusion that the yield at a Super Bowl fundraiser doesn't justify the expense.

However, let me be clear, this in no way means reform is complete. Our work and the work of thousands of Americans engaged at the grassroots level, the efforts of numerous reform groups, is far from over. While the basis for BCRA, that large, unregulated political contributions cause both the appearance and reality of corruption by elected officials, is self-evident, mustering the evidence needed to prove this to the Court was an extraordinary feat. The mountain of evidence that was compiled, however, provided a solid foundation for the Supreme Court's decision to close loopholes through which were flowing hundreds of millions of dollars in soft money.

The evidence collected included sworn statements from elected officials acknowledging they had been forced to raise large contributions for the political parties, internal memos from political party leaders to elected officials reminding them who gave big contributions prior to key votes, and testimony from business leaders who were provided a "menu of access" by party officials showing how $50,000 gets you a meeting with an elected official, $100,000 gets you a 15-minute meeting with another elected official.

The strength of the evidence on the extent of corruption and the appearance of corruption as well as the creativity with which the campaign finance laws were being evaded led the Supreme Court to uphold BCRA, which sought to close the loopholes that had been opened in the Federal Election Campaign Act.

Significantly, the evidence also led the Supreme Court to find that Congress needed and possessed broad authority to enact laws to reduce the corrupting influence of unregulated money in politics. The Court also made a powerful statement about the so-called regulators of the corrupting soft money system, the Federal Election Commission. According to the Court, the soft money system was the result of a series of loopholes opened by the FEC and exploited by the party committees. I also quoted what Justices Stevens and O'Connor wrote.

While the Supreme Court in the McConnell case recognized the role the FEC had played over the years in eroding the campaign finance laws, it was not asked to consider the rules the commission adopted just last year to implement BCRA—rules that, true to the FEC's history, undermined the integrity of campaign finance law. The Court, however, may soon be asked to do this. Shortly after the FEC took a big bite out of BCRA through its rulemaking process, Representatives SHAYS and MEEHAN filed a lawsuit challenging the regulations. This action is on a fast track in Federal District Court.

Since its inception, BCRA has been reviled by the political party establishments that decried the eminent demise of our two-party system. Yet in the midst of a hotly contested Presidential campaign, evidence suggests the opposite is true. Under BCRA, both the Democratic and Republican national parties are reporting a resurgence of grassroots support and significant increases in new hard money donors. In fact, recent figures show there have been 600,000 new hard money donors to the Democratic Party and 1 million new Republican hard money donors. That is what we intended.

The Court was right to uphold the new reform law. Implemented correctly, it will go a long way to restoring people's faith in our democratic system. That said, reform is not a one-time fight. We must continue the work to strengthen our democracy and reconnect the people to the political process. The adoption and Court sanction of BCRA enables Congress to push forward with important reforms that help improve our system of Government and reduce barriers to political participation.

It is critical that we ensure BCRA is not negated by widespread circumvention of the new law by the FEC and by outside political committees. While we are challenging FEC's implementing regulations, we must also act to restructure the commission so it will not only implement campaign finance laws effectively but actively enforce them.

The American political system needs an agency that will give effect to our campaign laws fairly and free from the partisan influence that currently dominates the commission structure. Without this key reform, no campaign finance reform law can work well.

We must fix the ailing Presidential public funding system. For many years, the system gave Americans a viable opportunity to run for our highest office and increased competition in our Presidential elections, but the system is now outdated and bankrupt. Senator FEINGOLD and I have introduced a proposal to fix it, and we are committed to educating the public about the importance of doing this and to building the coalition needed to make it happen.

Ongoing reform efforts are needed not only at the Federal level but also at the State level. Working at the State level, we can help to restore faith in the political process by improving contribution disclosure laws, promoting clean election programs, and encouraging an independent and noncorrupt campaign finance system.

To break down the barriers to political participation, we must improve ballot access, promote open primaries, and fix the redistricting process.

This is not a partisan issue. It should not advantage one party over the other. What reform does is create transparency, equality, and participation, and inspire confidence in those we represent. The strength and real muscle in this fight lies with the American people. During the long battle in the Senate to pass campaign finance reform, we called on the American public to make their voices heard on Capitol Hill. They answered, and the impact was astounding. The phone calls, e-mails, and letters that flooded into Members' offices had a tremendous impact. Constituent communications translated into votes for reform.

Reform is an ongoing process. It didn't end with Teddy Roosevelt in 1907, and it will not end with JOHN MCCAIN and RUSS FEINGOLD in the Senate. I am very much a realist. From the beginning of this fight, I have said that as soon as the soft money loopholes addressed in BCRA were closed, there would be very smart people all over Washington trying to find ways around the law. I am sad to report these folks wasted no time in attempting to circumvent it again.

The recent creation of certain new organizations under section 527 of the Internal Revenue Code is the first broad-scale attempt to undermine BCRA.

Let me be clear on one thing. There are many legitimate 527 organizations whose method of operation is not in question here. They are nonpartisan. They work to do the things we want to further the goals of democracy. There are, however, some groups that have recently been set up for the sole purpose of raising or spending tens of millions of dollars in soft money to influence the 2004 Presidential and congressional elections.

Madam President, various groups have been created expressly to spend large sums of soft money on partisan voter mobilization drives and sham "issue advocacy" to influence Federal elections. These groups have as their overriding, if not sole purpose, the influencing of Federal elections.

Federal election law requires such groups to register as political committees with the FEC. Federal political committees may only accept and spend hard money—that is, money limited in amount and source. I will repeat that if a 527 is nonpartisan in nature, we have no problem. If a 527 is engaged in partisan activity, they then fall under the same restrictions that any other political committee does that is engaged in partisan activity. That should be obvious to the Federal Election Commission.

These new groups, however, which have made clear that their purpose is to influence Federal elections—they have not made any bones about it—have purportedly set up "non-Federal" accounts to accept corporate and labor union funds and large contributions from individuals. They plan to use these moneys, we are told, to finance partisan voter drives and run sham issue ads aimed at influencing the 2004 Federal elections. This blatant end run around the campaign finance laws should not be tolerated.

When a political committee has an overriding purpose to influence Federal elections, it cannot be allowed to circumvent campaign finance laws by establishing a "non-Federal account" and claiming that the money being raised and spent to influence Federal elections is not for that purpose. These committees cannot be permitted to transform contributions that are clearly for the purpose of influencing Federal elections into "allowable soft money" simply by depositing those funds into "non-Federal accounts." These groups are clearly political committees that should be registered as such with the FEC and must operate accordingly within the hard money amount and source limitations.

After the success of McConnell v. FEC, we cannot sit idly by and allow this potentially massive circumvention of campaign finance laws. BCRA finally closed soft money loopholes and, again, new ones should not and cannot be tolerated. I am pleased to see that the FEC has recognized the immediate need to examine these soft money problems. I hope the Commission will not make the mistakes it has made in the past and will act swiftly and comprehensively to protect the integrity of our campaign finance laws.

Madam President, I also wish to comment on one of the things that happened. We have seen, in the last Presidential campaign, a dramatic reduction in negative campaign ads run by the various candidates. Why is that? It is because of an amendment that was added by the Senator from Maine, Ms. COLLINS, and the Senator from Oregon, Mr. WYDEN, which was called "stand by your ad," I believe. Guess what. Every time there is a message, the candidate says, I am so and so and I approve of this ad. They would not approve a lot of the trash put in and negative attacks, which has one effect, we all know, and that is drive down voter turnout. It has a very salutary effect.

I have to admit that I never thought of that in the 8 years Senator FEINGOLD and I looked at every aspect of campaign finance reform; we had not thought of that amendment. It has a marvelous positive affect, having the candidate say: I am so and so and I approve of this ad.

I also say there was a marvelous team that argued our case before the U.S. Supreme Court. I ask unanimous consent to have a list of names printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Lawrence H. Norton, Richard B. Bader, Stephen E. Hershkowitz, David Kolker, Theodore B. Olson, Peter D. Keisler, Paul D. Clement, Malcolm L. Stewart, Gregory G. Garre, Douglas N. Letter, James J. Gilligan, Michael S. Raab, Dana J. Martin, Terry M. Henry, Rupa Bhattacharyya, Andrea Gacki.

Roger M. Witten, Seth P. Waxman, Randolph D. Moss, Edward C. DuMont, Paul R.Q Wolfson, Purt Neuborne, Frederick A.O. Schwarz, Jr., Charles G. Curtis, Jr., David J. Harth, Michelle M. Umberger, Bradley S. Phillips, E. Joshua Rosenkranz, Alan B. Morrison, Scott L. Nelson, Eric J. Mogilnicki, Michael D. Leffel, A. Krisan Patterson, Jennifer L. Mueller, Stacy E. Beck, Jerrod C.

Patterson, Fred Wertheimer, Alexandra Edsall, Trevor Potter, Glen M. Shor.

Mr. McCAIN. Madam President, I particularly thank Mr. Ted Olson, the Solicitor General, who entered into this situation as one who did not agree with campaign finance reform and became a strong advocate. He made compelling arguments to the U.S. Supreme Court. I also thank Seth Waxman and his team of lawyers, who did a marvelous job. There are so many people and so many organizations that continue to work on our behalf.

Finally, I wish to make two closing points. One, the Federal Election Commission cannot be allowed to undermine this law. The U.S. Supreme Court is very clear about the role of the Federal Election Commission. So we cannot let these 8 years of hard work—not because of Senator FEINGOLD and me but because of the thousands and thousands of Americans who worked so hard to clean up this system that has either corruption or the appearance of corruption associated with it.

Finally, one of the great pleasures of my life in public service is to have the opportunity to know and appreciate and have the undying and everlasting friendship of my dear friend from Wisconsin, who is one of the most honest and decent Americans with whom I have ever had the privilege of knowing and serving. I would be honored to serve with him under any circumstance.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, let me say how fitting it is that the Senator from Maine is presiding at this point, who has made a tremendous contribution to our efforts on campaign finance reform. It is a tremendous privilege to come to the floor with my good friend and longtime partner in campaign finance reform, the senior Senator from Arizona, Mr. McCAIN. Everybody knows we fought side by side for nearly 7 years to see our bill enacted into law.

Finally, on December 10, nearly 2 years after President Bush signed the bill, the Supreme Court upheld our work against a constitutional challenge. It has been a long and hard struggle, and, frankly, we could not possibly be happier with the result. The Court's decision in McConnell v. FEC is a complete vindication of our effort to help rid politics of the corruption of soft money. We are very proud of and also humbled by the Court's ruling.

We are not here to gloat. It is not polite or useful to do so. But if I had a dollar for every time someone said on this floor or in the media that our bill would never stand up in court, I would actually be a wealthy man. Rather, we are here to thank our colleagues who joined with us to pass this historic reform, to review the Supreme Court landmark decision, and briefly take a look forward, as Senator McCAIN has already done. As we often noted during the debate, the McCain-Feingold bill was not intended to be the last word on the topic of campaign finance reform. The Court's decision will serve as a guidepost for future reform initiatives.

First, I thank all of the Members of this body who worked so hard with us to pass the bipartisan Campaign Reform Act.

For many, this was a labor of love. For others, it was a difficult fight because of resistance from their own party or from political or campaign advisers. In the end, as Senator McCAIN said it so well, this bill passed because the American people demanded it and because courageous Senators and Members of the House were willing to stand up to the defenders of the status quo.

I particularly thank the Democratic leader, Senator TOM DASCHLE, and his counterpart at the time in the House, Representative DICK GEPHARDT. Their leadership and strong support made it possible to get the bill through all the complicated legislative obstacles we faced and onto the President's desk.

Also deserving of special thanks is the core bipartisan group of supporters of reform who worked closely with us to pass the bill. Senators LEVIN, COLLINS, LIEBERMAN, THOMPSON, SNOWE, SCHUMER, JEFFORDS, COCHRAN, CANTWELL, EDWARDS, and KERRY all made major contributions to the law that the Supreme Court upheld.

I think it is actually hard to imagine a more clear statement from the Supreme Court than the one delivered in December in McConnell v. FEC. The margin of the Court was narrow, as it often is in complicated and highly contested cases. But the majority could not have been more emphatic that what we did in McCain-Feingold was a constitutional approach to the problems of soft money and also phony issue advocacy that Congress identified and we tried to address.

I have to tell you, that was enormously gratifying after the hard work we did in this body to pay attention to the Court's previous decisions. It meant a great deal to me personally that we looked at what the Court had said about the first amendment of the Constitution and crafted our legislation with respect to that. That is exactly what we did.

We drafted this bill specifically to be consistent with what the Court had said in the past in analyzing the first amendment implication of campaign finance legislation. We worked hard to shape a legislative record demonstrating the need for the reforms we proposed.

In upholding the law, the Court recognized the difficult and painstaking work we did to stay within the constitutional framework set out in previous cases.

The Court said:

> We are mindful that in its lengthy deliberations leading to the enactment of BCRA, Congress properly relied on the recognition of its authority contained in Buckley and its progeny.

I was particularly pleased at the deference the Court showed to congressional judgments about the problems with the system and the best way to address them. That deference has often been lacking in recent opinions in other areas, but this time the Court realized that Congress has special expertise in this area and needs to have the authority to actually address real world problems in the way that it believes will be most effective.

This is enormously important for the future of reform. It shows that the Court understands that under our Constitution, Congress is not powerless to address threats to the health of our democratic or political processes.

In no way, of course, did the Court give to Congress unbridled power. It simply upheld a reasonable and measured response to the soft money problem that many on both sides of the aisle had come to believe was extremely harmful.

One aspect of the Court's opinion is worth noting as we look forward to future reform efforts. The Court laid responsibility for the soft money problem squarely where it belongs, and as Senator McCAIN just did again—with the Federal Election Commission. As Senator McCAIN noted, the Court specifically stated that the FEC "subverted" the law by allowing soft money to be used to aid Federal candidates.

The Court said:

> [T]he FEC's allocation regime has invited widespread circumvention of FECA's limits on contributions to parties for the purpose of influencing Federal elections.

The Supreme Court agreed with us that soft money was a loophole that Congress could legitimately try to plug, and that the loophole was improperly created by the FEC. With this validation of the position taken by reformers for many years, the Court underlined a cautionary note that we have sounded many times before on this floor. No law in this area can be self-executing. To be successful, campaign finance reform must be implemented and enforced by an agency that is dedicated to carrying out the will of Congress, not to frustrate it.

The new law instructed—instructed—the FEC to act quickly to develop regulations to explain and implement BCRA. Time after time, instead the FEC adopted rules that weakened the law. Senator McCAIN and I participated in those rulemaking proceedings, but our advice on many important issues was ignored.

As currently structured, the FEC seems simply incapable of properly applying the law that this Congress enacted. Virtually every complicated issue is approached from a political perspective, and the political parties have extraordinary sway over the Commission's actions.

Senator McCAIN and I viewed the BCRA rulemaking process as a test, if you will, a final chance for the FEC to change its approach and to finally begin to faithfully enforce the law in a nonpartisan fashion. We were very disappointed in the result. We have, therefore, concluded that the FEC, as currently constituted, cannot provide the strong and consistent enforcement of the Federal election laws that this country needs. So together we have proposed to replace the agency with a new body, the Federal Election Administration.

We need to have an agency led by people who are respected by both sides of the aisle and will carry out their responsibilities in a nonpartisan manner rather than simply having representatives from each of the parties canceling each other out with a partisan approach to their jobs. Our bill makes individuals who have worked for or served as counsel to parties or candidates ineligible to serve as administrators.

We have no illusions that this reform will be easy to pass. Those who opposed our bill will undoubtedly oppose replacing the agency that is responsible for the rulings that made our bill necessary and that continue to undermine the new law. But reform of the FEC is essential if the will of Congress and BCRA is to be carried out.

I am also pleased to join Senator McCAIN in introducing a bill to reform the Presidential public funding system. That system did actually work well for seven consecutive Presidential elections from 1976 to 2000. In those elections, Republicans were elected four times and Democrats three times and challengers actually defeated incumbents in three out of the five races where an incumbent was a candidate.

This year, unfortunately, candidates from both parties have opted out of the public funding system for the primaries. Everyone knows the system needs to be updated to keep it functioning in future elections.

I happen to come from a State that had a very good public funding system for State elections for many years. In fact, I won my first race for the Wisconsin Senate, frankly, only because of that system. But the legislature in my State failed to update and revise that system to keep pace with the changing realities and costs of political campaigns, and now hardly anyone uses it. We can't let that happen to the Presidential public funding system.

Again, when I look at the Presiding Officer, I know these kinds of systems can work because they have made them work in her State of Maine. The bill we have introduced is a starting point only, much like the first McCain-Feingold bill in 1995. We want to work with our colleagues on both sides of the aisle to come up with a bill that this Senate can support to preserve the public funding system that has served the country so well since the excesses of the Watergate era demonstrated that private financing of Presidential elections is really not a very good thing for our democracy.

I hope our colleagues will work with us over this year to perfect a bill that can be quickly passed in the next Congress after this Presidential election has been held.

Senator McCAIN and I have also introduced a bill to provide free air time to congressional candidates. The cost of television advertising has skyrocketed, and we believe the Nation's broadcasters, who make great profits from a public resource—the airwaves—should contribute to improving the democratic process. I look forward to continuing to discuss this bill with our colleagues as well.

We do not expect any one of these three major reform bills will be considered on the Senate floor this year. But there is one bill that can and should be enacted very quickly. That is a bill we have introduced to require electronic filing of Senate campaign finance reports. Right now, the Senate lags way behind the House in providing current and complete disclosure of contributions to and expenditures on our campaigns. This is really an embarrassment. It is possible the Rules Committee can quickly correct this problem, but if not, Senator McCAIN and I have introduced a bill to bring the Senate into the 21st century, and we should enact it promptly.

Again, I thank all my colleagues who supported the McCain-Feingold bill. I hope they are as proud of their accomplishment as I am of them. I am convinced we have begun to change this system for the better. Senator McCAIN discussed there is already evidence of that. I think as the 2004 campaign heats up, we will see plenty more examples of how the system has improved, but we cannot rest on our laurels. We saw what happened when Congress essentially left the field for 20 years after passing the post-Watergate reforms. We must be vigilant to protect what we did in BCRA, and we must look ahead and continue to fight for a campaign finance system that enhances, rather than suffocates, the power of individual citizens and voters in our democracy.

Finally, I again express my admiration and appreciation for all Senator McCAIN has done on this issue. For one final time I thank him for calling me in late 1994 and saying he wanted to work with me on this project. Next time tell me it is going to take 8 years. I am more than grateful for this terrific opportunity to not only work with a great American hero, but to have my name associated with him to the point where Senator McCAIN has said that some people think my first name is McCAIN.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

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## CHURCHILL AND THE GREAT REPUBLIC EXHIBIT

Mr. WARNER. Madam President, I was privileged today to go to the Library of Congress where, under the auspices of Mr. Billington, the Librarian of Congress, a very wonderful exhibit is opening entitled—and I hold up the volume: "Churchill and the Great Republic." The exhibit formally opens tonight.

In attendance today were one of Churchill's daughters, his grandson, and other members of the Churchill family. It was a very moving experience. I encourage my colleagues to find time in the next week or 10 days to avail themselves of this very historical exhibit put together by Dr. Billington.

The ceremony today, marking the opening, was attended by the President of the United States, and I, together with my good friend Senator LUGAR, Senator BOB BENNETT, and a number of Members of the House of Representatives, were privileged to be in attendance.

I ask unanimous consent that following my remarks, the full text of the President's speech at this auspicious occasion be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Madam President, I think we are at a remarkable crossroads of history. In terms of the survival of republics, this is about the great republic, about freedom, and about all of those things we hold very dear.

I do not intend to make a political speech, but I say without reservation I think President Bush has given remarkable leadership, certainly in the aftermath of 9/11, an unprecedented attack on our sovereignty, the people of the United States of America, parallel in many respects to Pearl Harbor but indeed more awesome than Pearl Harbor in some respects. We are fortunate to have at the helm in the United States a strong President, a man of courage and of wisdom. I try in my modest way to support his leadership and that of those he has selected as his principal team.

I found this speech very remarkable today, and I would like to read just a paragraph:

> When World War II ended, Winston Churchill immediately understood that the victory was incomplete. Half of Europe was occupied by an aggressive empire. And one of Churchill's own finest hours came after the war ended in a speech he delivered in Fulton,

Missouri. Churchill warned of the new danger facing free peoples. In stark but measured tones, he spoke of the need for free nations to unite against the communist expansion. Marshal Stalin denounced the speech as a "call to war." A prominent American journalist called the speech an "almost catastrophic blunder." In fact, Churchill had set a simple truth before the world: that tyranny would not be ignored or appeased without great risk. And he boldly asserted that freedom—freedom was the right of men and women on both sides of the Iron Curtain.

Churchill understood that the Cold War was not just a standoff of armies, but a conflict of visions—a clear divide between those who put their faith in ideologies of power, and those who put their faith in the choices of free people. The successors of Churchill and Roosevelt—leaders like Truman, and Reagan and Thatcher—led a confident alliance that held firm as communism collapsed under the weight of its own contradictions.

Today, we are engaged in a different struggle. Instead of an armed empire, we face stateless networks. Instead of massed armies, we face deadly technologies that must be kept out of the hands of terrorists and outlaw regimes.

Yet in some ways, our current struggles or challenges are similar to those Churchill knew. The outcome of the war on terror depends on our ability to see danger and to answer it with strength and purpose. One by one, we are finding and dealing with the terrorists, drawing tight what Winston Churchill called a "closing net of doom." This war also is a conflict of visions. In their worship of power, their deep hatreds, their blindness to innocence, the terrorists are successors to the murderous ideologies of the 20th century. And we are the heirs of the tradition of liberty, defenders of the freedom, the conscience and the dignity of every person. Others before us have shown bravery and moral clarity in this cause. The same is now asked of us, and we accept the responsibilities of history.

I find those words very moving, and with a deep sense of humility I commend this President.

This is a picture of Churchill and Roosevelt. Years hence, there will be a picture of President Bush and Prime Minister Blair. If I may say, again with a sense of humility, historians will eventually parallel the Churchill-Roosevelt era with the Bush-Blair era, when two individuals of somewhat contradictory ideologies and, if we may say, party background, nevertheless came together in this hour in the aftermath of 9/11 and formed an alliance, brought together other nations that valued freedom, and formed a coalition that has now deposed a tyrant who, by any fair standards, was indeed a danger to the free world.

I say to the President with complete respect, I think historians someday may call this speech today a runner-up to the Fulton, MO, speech.

I yield the floor.

EXHIBIT 1

REMARKS BY THE PRESIDENT ON WINSTON CHURCHILL AND THE WAR ON TERROR

The PRESIDENT: Thank you all very much. I'm honored to join you as we welcome a magnificent collection to the Library of Congress. I've always been a great admirer of Sir Winston Churchill, admirer of his career, admirer of his strength, admirer of his character—so much so that I keep a stern-looking bust of Sir Winston in the Oval Office. He watches my every move. (Laughter.)

Like few other men in this or any other age, Churchill is admired throughout the world. And through the writings and his personal effects, we feel the presence of the great man, himself. As people tour this exhibit, I'm sure they'll be able to smell the whiskey and the cigars. (Laugher.)

I appreciate Jim Billington for hosting this exhibit, and for hosting me. It's good to see Marjorie. I appreciate the members of Winston Churchill's family who have come: Lady Mary Soames, who is a daughter; Winston Churchill III, the man bears a mighty name, and his wife, Luce; Celia Sandys, who is a granddaughter. Thank you all for coming. We're honored to have you here in America.

I'm pleased to see my friend, the Ambassador from the United Kingdom to America, Sir David Manning and Lady Manning here, as well. I appreciate the members of Congress who have come—the Chairman. We've got a couple of mighty powerful people here, Winston, with us today—Chairmen Lugar and Warner, Senator Bennett, Congressmen Bill Young, Doug Bereuter, Jerry Lewis, Tom Petri, Vern Ehlers and Jane Harman. I'm glad you all are here, thanks for taking time to come.

This exhibit bears witness to one of the most varied and consequential lives of modern history. Churchill's 90 years on earth, joined together two ages. He stood in the presence of Queen Victoria, who first reigned in 1837. He was the Prime Minister to Elizabeth II, who reigns today. Sir Winston met Theodore Roosevelt, and he met Richard Nixon.

Over his long career, Winston Churchill knew success and he knew failure, but he never passed unnoticed. He was a prisoner in the Boer War, a controversial strategist in the Great War. He was the rallying voice of the Second World War, and a prophet of the Cold War. He helped abolish the sweat shops. He gave coal miners an eight-hour day. He was an early advocate of the tank. And he helped draw boundary lines that remain on the map of the Middle East. He was an extraordinary man.

In spare moments, pacing and dictating to harried secretaries, he produced 15 books. He said, "History will be kind to me—for I intend to write it." (Laughter.) History has been kind to Winston Churchill, as it usually is to those who help save the world.

In a decade of political exile during the 1930s, Churchill was dismissed as a nuisance and a crank. When the crisis he predicted arrived, nearly everyone knew that only one man could rescue Britain. The same trait that had made him an outcast eventually made him the leader of his country. Churchill possessed, in one writer's words, an "absolute refusal, unlike many good and prudent men around him, to compromise or to surrender."

In the years that followed, as a great enemy was defeated, a great partnership was formed. President Franklin Roosevelt found in Churchill a confidence and resolve that equaled his own. As they led the allies to victory, they passed many days in each other's company, and grew in respect and friendship. The President once wrote to the Prime Minister, "It is fun to be in the same decade with you." And this sense of fellowship and common purpose between our two nations continues to this day. I have also been privileged to know a fine British leader, a man of conscience and unshakable determination. In his determination to do the right thing, and not the easy thing, I see the spirit of Churchill in Prime Minister Tony Blair. (Applause.)

When World War II ended, Winston Churchill immediately understood that the victory was incomplete. Half of Europe was occupied by an aggressive empire. And one of Churchill's own finest hours came after the war ended in a speech he delivered in Fulton, Missouri. Churchill warned of the new danger facing free peoples. In stark but measured tones, he spoke of the need for free nations to unite against communist expansion. Marshal Stalin denounced the speech as a "call to war." A prominent American journalist called the speech an "almost catastrophic blunder." In fact, Churchill had set a simple truth before the world: that tyranny could not be ignored or appeased without great risk. And he boldly asserted that freedom—freedom was the right of men and women on both sides of the Iron Curtain.

Churchill understood that the Cold War was not just a standoff of armies, but a conflict of visions—a clear divide between those who put their faith in ideologies of power, and those who put their faith in the choices of free people. The successors of Churchill and Roosevelt—leaders like Truman, and Reagan, and Thatcher—led a confident alliance that held firm as communism collapsed under the weight of its own contradictions.

Today, we are engaged in a different struggle. Instead of an armed empire, we face stateless networks. Instead of massed armies, we face deadly technologies that must be kept out of the hands of terrorists and outlaw regimes.

Yet in some ways, our current struggles or challenges are similar to those Churchill knew. The outcome of the war on terror depends on our ability to see danger and to answer it with strength and purpose. One by one, we are finding and dealing with the terrorists, drawing tight what Winston Churchill called a "closing net of doom." This war also is a conflict of visions. In their worship of power, their deep hatreds, their blindness to innocence, the terrorists are successors to the murderous ideologies of the 20th century. And we are the heirs of the tradition of liberty, defenders of the freedom, the conscience and the dignity of every person. Others before us have shown bravery and moral clarity in this cause. The same is now asked of us, and we accept the responsibilities of history.

The tradition of liberty has advocates in every culture and in every religion. Our great challenges support the momentum of freedom in the greater Middle East. The stakes could not be higher. As long as that region is a place of tyranny and despair and anger, it will produce men and movements that threaten the safety of Americans and our friends. We seek the advance of democracy for the most practical of reasons: because democracies do not support terrorists or threaten the world with weapons of mass murder.

America is pursuing a forward strategy of freedom in the Middle East. We're challenging the enemies of reform, confronting the allies of terror, and expecting a higher standard from our friends. For too long, American policy looked away while men and women were oppressed, their rights ignored and their hopes stifled. That era is over, and we can be confident. As in Germany, and Japan, and Eastern Europe, liberty will overcome oppression in the Middle East. (Applause.)

True democratic reform must come from within. And across the Middle East, reformers are pushing for change. From Morocco, to Jordan, to Qatar, we're seeing elections and new protections for women and the stirring of political pluralism. When the leaders of reform ask for our help, America will give it. (Applause.)

I've asked the Congress to double the budget for the National Endowment for Democracy, raising its annual total to $80 million. We will focus its new work on bringing free elections and free markets and free press and free speech and free labor unions to the Middle East. The National Endowment gave vital service in the Cold War, and now we are renewing its mission of freedom in the war on terror. (Applause.)

Freedom of the press and the free flow of ideas are vital foundations of liberty. To cut through the hateful propaganda that fills the airwaves in the Muslim world and to promote open debate, we're broadcasting the message of tolerance and truth in Arabic and Persian to tens of millions. In some cities of the greater Middle East, our radio stations are rated number one amongst younger listeners. Next week, we will launch a new Middle East television network called, Alhurra—Arabia for "the free one." The network will broadcast news and movies and sports and entertainment and educational programming to millions of people across the region. Through all these efforts, we are telling the people in the Middle East the truth about the values and the policies of the United States, and the truth always serves the cause of freedom. (Applause.)

America is also taking the side of reformers who have begun to change the Middle East. We're providing loans and business advice to encourage a culture of entrepreneurship in the Middle East. We've established business internships for women, to teach them the skills of enterprise, and to help them achieve social and economic equality. We're supporting the work of judicial reformers who demand independent courts and the rule of law. At the request of countries in the region, we're providing Arabic language textbooks to boys and girls. We're helping education reformers improve their school systems.

The message to those who long for liberty and those who work for reform is that they can be certain they have a strong ally, a constant ally in the United States of America. (Applause.)

Our strategy and our resolve are being tested in two countries, in particular. the nation of Afghanistan was once the primary training ground for al Qaeda, the home of a barbaric regime called the Taliban. It now has a new constitution that guarantees free election and full participation by women. (Applause.)

The nation of Iraq was for decades an ally of terror ruled by the cruelty and caprice of one man. Today, the people of Iraq are moving toward self-government. Our coalition is working with the Iraqi Governing Council to draft a basic law with a bill of rights. Because our coalition acted, terrorists lost a source of reward money for suicide bombings. Because we acted, nations of the Middle East no longer need to fear reckless aggression from a ruthless dictator who had the intent and capability to inflict great harm on his people and people around the world. Saddam Hussein now sits in a prison cell, and Iraqi men and women are no longer carried to torture chambers and rape rooms, and dumped in mass graves. Because the Baathist regime is history, Iraq is no longer a grave and gathering threat to free nations. Iraq is a free nation. (Applause.)

Freedom still has enemies in Afghanistan and Iraq. All the Baathists and Taliban and terrorists know that if democracy were to be, it would undermine violence—their hope for violence and innocent death. They understand that if democracy were to be undermined, then the hopes for change throughout the Middle East would be set back. That's what they know. That's what they think. We know that the success of freedom in these nations would be a landmark event in the history of the Middle East, and the history of the world. Across the region, people would see that freedom is the path to progress and national dignity. A thousand lies would stand refuted, falsehoods about the incompatibility of democratic values in Middle Eastern cultures. And all would see, in Afghanistan and Iraq, the success of free institutions at the heart of the greater Middle East.

Achieving this vision will the work of many nations over time, requiring the same strength of will and confidence of purpose that propelled freedom to victory in the defining struggles of the last century. Today, we're at a point of testing, when people and nations show what they're made out of. America will never be intimidated by thugs and assassins. we will do what it takes. we will not leave until the job is done. (Applause.)

We will succeed because when given a choice, people everywhere, from all walks of life, from all religions, prefer freedom to violence and terror. We will succeed because human beings are not made by the Almighty God to live in tyranny. We will succeed because of who we are—because even when it is hard, Americans always do what is right.

And we know the work that has fallen to this generation. When great striving is required of us, we will always have an example in the man we honor today. Winston Churchill was a man of extraordinary personal gifts, yet his greatest strength was his unshakable confidence in the power and appeal of freedom. It was the great fortune of mankind that he was there in an hour of peril. And it remains the great duty of mankind to advance the cause of freedom in our time.

May God bless the memory of Winston Churchill. May God continue to bless the United States of America. (Applause.)

The PRESIDING OFFICER. The Senator from Iowa is recognized.

## THE PRESIDENT'S BUDGET

Mr. HARKIN. Madam President, I have had a chance now to look over the President's budget. What with being out of our offices and stuck over in the Capitol and not being able to see some of the people we were supposed to see and conduct business as usual, I have had the chance to look at the budget. Of course, I had heard it was kind of bad. I read some of the preliminary reports, but it was not until I really started digging into it and looking at some of the fine print and getting out a calculator and adding it all up that I realized how stupefyingly bad this budget is. It almost defies logic.

After going through it, I can sum up his election year budget in four words: More of the same. More tax cuts for the wealthy, more massive spending increases on things such as Star Wars and, of course, that nice trip to Mars we are going to take, more giveaways to special interests, and more massive budget deficits.

This is Mr. Bush's fourth budget submission, so now I think we can take stock. We can size up the full 4-year fiscal record of this administration. Quite frankly, the irresponsible actions of this administration over 4 years boggle the mind.

In just 4 years, Mr. Bush has put in place trillions of dollars in tax cuts, overwhelmingly for the very wealthy. In spite of the huge deficits, the President now is demanding that those tax cuts be made permanent. At the same time, he is proposing tens of billions of dollars on new spending programs, and this includes untold billions for trips to the Moon and Mars. There is billions more for Star Wars, which Mr. Bush intends to build now and test later.

President Bush has taken the projected 10-year surplus of some $5 trillion that he inherited from President Clinton and turned that into a projected 10-year deficit of nearly $5 trillion. Think about that. In 4 short years, this President and this administration have taken a $5 trillion surplus and turned it into a $5 trillion deficit, a $10 trillion swing. As I said, it just boggles the mind.

By any measure, this is an astonishing record of economic mismanagement and economic malpractice. In fact, I challenge my colleagues to cite any President in the 215-year history of our Republic who has compiled such a record of sheer recklessness.

The White House now says the deficit in the current fiscal year will be $521 billion. That is bad enough, but that is not the worst of it. Far more dangerous are the long-term, permanent, structural deficits that will result. Mr. Bush dares to claim he has charted a course to cut the deficit in half in 5 years. This has about as much credibility as his claim that Iraq possessed massive stockpiles of weapons of mass destruction. The fact is that, after 4 years, Mr. Bush has zero credibility on the budget.

Let's look at his past projections and promises. In 2001, Mr. Bush promised: "We can proceed with tax relief without fear of budget deficits." That turned out to be untrue.

In 2002, Mr. Bush reassured us: "Our budget will run a deficit that will be small and short term." That turned out, also, to be untrue.

In 2003, Mr. Bush again assured us: "Our current deficit is not large by historical standards and is manageable." That also is turning out to be untrue.

This year, President Bush claims that the massive deficits he has created will be magically cut in half in 5 years' time. Is there any Senator in either party who believes that promise? I don't think so. Mr. Bush has not just created a structural budget deficit. he has created a structural credibility deficit. Few credible economists believe him anymore.

The Washington Post sized up this budget in an editorial yesterday morning. The editorial was titled "Bogus Budgeting." The editorial stated that:

> The Bush administration 2005 budget is a masterpiece of disingenuous blame-shifting, dishonest budgeting and irresponsible governing.

The reality is that the deficits will persist at high levels even if the economy stays healthy. Year after year they will stay at high levels, until the baby boomers start to retire, and then the deficits will explode.

If we look at the operating budget—that is not counting the surplus that comes from the Social Security taxes—the picture becomes crystal clear. Under the operating budget—again, excluding Social Security surpluses—Bush has a huge $675 billion deficit for this year. That is equal to 5.9 percent of our GDP, our gross domestic product, the second highest operating deficit since 1946.

But President Bush claims this operating deficit will drop to $470 billion in just 2 years. Then, according to his own budget documents, the operating deficit begins to rise, reaching $500 billion in 2009—deficits as far as the eye can see.

There are three huge problems here. No. 1, we are continuing to add debt at a very rapid rate. No. 2, the glidepath is not downward to lower deficits but upwards to bigger deficits, and it rises more rapidly as we begin paying Social Security benefits to the baby boomers and, as the Social Security surplus shrinks, the true direction of the budget disaster under Bush's plan becomes clear. No. 3, the Bush budget does not include costs that we all know we are going to have.

For example, get this. The Bush budget does not include any additional funds for Iraq after September 30 of this year. In other words, for 2005, beginning October 1 of this year, fiscal year 2005, there are zero dollars for Iraq. We will have no troops there? We will have no support going to Iraq? After September 30 it is just going to all end? Does anyone believe that? Yet this budget has zero dollars in it for Iraq after September 30 of this year. That alone ought to tell you this budget is bogus.

The 2001 tax bill left a timebomb called the AMT, the alternative minimum tax. In 2001, fewer than 2 million, mostly wealthy, taxpayers paid it. By 2010, if it is not changed, over 30 million taxpayers will be paying it, mostly middle-class families. Nobody around here believes that is going to be allowed to happen. Everyone understands it will be fixed, probably at a cost of over $400 billion. So, what does the Bush budget do? It just fixes it for 1 year. Again, bogus.

What do these huge deficits mean, coming ahead? They mean we are increasingly dependent on the Chinese, Japanese, Korean, and other foreign governments and investors who buy our Treasury bonds.

I said to someone the other day, after looking over this budget and looking over who is loaning us money to buy our bonds, we are actually borrowing money from the South Koreans to finance our deficit.

Mr. REID. Will the Senator yield for a question?

Mr. HARKIN. I am pleased to yield.

Mr. REID. I was struck by the statement made by the Senator from Iowa, that this budget includes not a penny for our troops and the other programs we have going on in Iraq. The question I ask the Senator is, Does this kind of remind you of what took place last year? Does the Senator remember that the President came and asked for a supplemental of $69 billion early in the year, and then later came and asked for $87 billion, in 1 year?

Mr. HARKIN. That is right.

Mr. REID. Does the Senator from Iowa think for 1 minute we are going to spend no money in Iraq, after last year having had two supplementals in the amount of more than $150 billion?

Mr. HARKIN. I tell you, the Senator from Nevada has put his finger on it. Look, everyone knows, we had the $69 billion last year. We knew it wasn't enough, so he had to come back and ask for $87 billion. He got that. We also know that is not enough. Yet the President has the audacity, as the Senator has pointed out, to have a budget that on September 30 of this year has no money for Iraq.

I say to my friend, no one believes that. Yet the President puts it in his budget as though it is factual.

Mr. REID. Will the Senator yield for another question?

Mr. HARKIN. Yes, I am delighted to yield.

Mr. REID. Does the Senator believe that in the Pentagon and in the bowels of the White House they have already prepared the documents for a supplemental appropriations bill to take care of the funding in Iraq and poor little Afghanistan, about which we seem to have just forgotten?

Mr. HARKIN. The Senator from Nevada is very perceptive. He has been here a long time. My good friend from Nevada knows how these things work, and he is absolutely right. The Senator is right. We all know that. The Pentagon already has figures put together. In the bowels of the White House they have figures put together. They already know it is going to cost money for next year.

Again, I guess I respond to my friend by asking him, why wouldn't they be honest with us? Why wouldn't they be honest and put this in the budget? because everyone knows the facts—that it is going to cost some money after September 30.

I ask my friend what possible reason would they have for saying it costs nothing and they are zeroing it out?

Mr. REID. Because they believe, in my opinion, we will do whatever is necessary to fund the key things that are important. I am sure down there they have taken into consideration the programs they say they are going to cut. I believe this is just a prelude to having these people accomplish indirectly what they can't do directly; that is, decimate and in effect void the Social Security laws that have been in effect for this country for more than 70 years. Those people do not believe in Social Security. They don't believe in Social Security.

I carry this with me, because I want people to know I don't make this up. It is my wallet. It is kind of worn. I am not going to read all of it. But let me just read a couple of statements from Senator Robert Dole, our friend, who is a nice man and does a good job now on television being a commentator. This is a direct quote. He said:

> I was there fighting the fight, one of 12 voting against Medicare because we knew it wouldn't work in 1965.

He is one of the patriarchs of the Republican Party who gives advice and counsel to the President of the United States today. He doesn't like Medicare, and most other people at the White House do not like Medicare.

Listen to this one:

> Medicare has no place in a free world.

I am not making this up.

Mr. HARKIN. Who said that?

Mr. REID. The recently departed majority leader of the House of Representatives, Dick Armey.

That is only part of what he said.

> Medicare has no place in a free world.

I am not making this up. That is what he said.

> Social Security is a rotten trick. I think we are going to have to bite the bullet on Social Security and phase it out over time.

These people are doing indirectly what they cannot do directly. They are going to rob this Government of all the moneys they have until they have no choice but to say what we have to do is basically do away with the Social Security program; do away with Medicare. Let the private sector take care of it. If you want some retirement benefits, get it at your job; and if the job doesn't, save it.

Social Security is a rotten trick. That is what they think. But my mother and father who drew Social Security—actually, my dad didn't. He died too early. But my mother did. I don't think it was a rotten trick. I can remember my grandmother. I was a little boy. Every month she got what we called and she called her "old age pension." That was Social Security. That was what gave my grandmother independence from her eight children. She got her check. She didn't have to depend on her children. She was a widow. She got her Social Security check.

I thank my friend very much for talking about this budget, which is as phony as a six-dollar bill.

Mr. DURBIN. Madam President, will the Senator from Iowa yield for a question?

Mr. HARKIN. Yes.

I thank the Senator from Nevada for his questions and for answering one of my questions, too. The Senator is right. There is a part in this budget where essentially the administration points out that with the huge deficits, the Social Security system will be unsustainable in its present form. Talk about code words. There is a code word for privatization. Charge Social Security, turn it over to the private marketplace, and let people take a chance on whatever. I think the Senator from Nevada is absolutely right. I will not say every Republican, because I can't cast the net that far. But I would say there are forces in the Republican Party—the Senator mentioned Senator DOLE and Dick Armey. Newt Gingrich said he wanted Medicare to wither on the vine and also led the charge to try to privatize Social Security.

There are forces at work and they are in control of the Republican Party now that do not like Medicare. They do not like Social Security, and they will do whatever they can to get rid of it. I believe this budget is a step in that direction.

I yield to my friend from Illinois for a question.

Mr. DURBIN. I want to ask the Senator a question through the Chair. I thank the Senator from Nevada for his comments.

But I have before me the budget. It is now in four different books. I have the lead book. By the time you get to page 14 of the President's budget, right in the front end of it, in the introduction, "Winning the War On Terror," is a long section on removing the threat of Saddam Hussein. It talks about Operation Iraqi Freedom, the removal of Saddam Hussein, and the responsibility of the United States in Iraq.

If I understand the Senator from Iowa correctly, despite the fact this is in the opening introduction of the budget, you can pour through this entire budget and not find a single penny—not one cent—that is going to be spent by the United States of America in waging the war in Iraq after September 30 of this year.

Is that my understanding of what the Senator from Iowa said?

Mr. HARKIN. The Senator from Illinois is absolutely right. I didn't believe it myself when I was first told of this. I started digging in the budget along with my staff. I said surely someplace in this budget they must have some money in there to fund our operation in Iraq.

You will look until your dying day and you will not find one penny in that budget for our operations in Iraq after September 30, you will just find a note about possible funding.

Mr. DURBIN. I ask the Senator from Iowa through the Chair this question: Has he heard any member of this administration suggest we will be withdrawing all of our troops from Iraq before September 30 of this year?

Mr. HARKIN. I think the Senator asked a very good question. I don't know. I have not heard them say that. But that is what the budget implies.

Mr. DURBIN. I am sure the Senator has visited with his National Guard in Iowa as I have visited them in Illinois. They have been told just the opposite. The Guard and Reserve have been activated and told they will be gone for a year or 18 months in service to our country. It is clear that once there we are going to support them. We will give them what they need to come home safely with their mission accomplished. But we can't do it for nothing.

My question to the Senator from Iowa is, Why would the President of the United States refuse to include in his budget one penny to wage this war in Iraq and this war in Afghanistan? What is the purpose behind shortchanging this budget and making it look cheaper than it actually is? I ask the Senator from Iowa if he has any opinion.

Mr. HARKIN. I will just say to my friend all you have to do is go back and look at 2002, 2003, and 2004. Look at the last 3 years of the Bush budget and you can see what happened. They have dug themselves and our country into a huge fiscal hole. Now what they want to do, rather than trying to get out of it, is going to dig us even further into that hole and try to make it look not so bad. They are trying to cut here and cut there, and doctor things up a little bit so it doesn't look quite so bad. They put zero money in there for Iraq.

Mr. DURBIN. If I might ask another question——

Mr. HARKIN. It is a shell game. That is all it is.

Mr. DURBIN. The Senator realizes that only 4 years ago we had a $236 billion surplus that we were strengthening Social Security with, paying down America's debt, and reducing the mortgage our children will have to carry. And now, if I am not mistaken, we are going to be faced with this budget which is the largest deficit in the history of the United States of America.

My question to the Senator from Iowa is this: In basic terms for those following this discussion, how do we pay for the debt? I am told every minute the Bush administration spends $991,000 more than we take in in taxes. This results in a $520 billion deficit this year. I ask the Senator from Iowa, How do we balance the books? Where do we turn with a deficit like this to help balance the books?

Mr. HARKIN. We are not going to balance it. But I tell you what they are doing. Effectively, they are going hat in hand to the Chinese, and they are saying, Please loan us some money. The Chinese will buy our bonds. Japan is buying our bonds. I think Japan now is the single largest owner of bonds. I think China is No. 2, if I am not mistaken.

Mr. DURBIN. Japan is $526 billion, and China—I can give you the exact number. I think the figure is $144 billion.

Mr. HARKIN. From China?

Mr. DURBIN. China.

Mr. HARKIN. And they will keep buying more and more and as the huge deficits pile up America's debt. This is going hat in hand to China and Japan and South Korea and many other countries. To do what? To finance huge tax breaks for the wealthy.

Mr. DURBIN. I ask the Senator from Iowa to complete the thought: the obvious question which I ask which we ought to consider, where does China get the dollars to buy the debt of the United States? Where does China have a surplus of dollars coming in? What is it about China that they end up with all of these dollars?

Mr. HARKIN. I ask my friend from Illinois, what is the trade deficit we have with China?

Mr. DURBIN. That is exactly the answer. It is a trade deficit.

Mr. HARKIN. So we have a huge trade deficit with China. We are buying everything from China. They get the dollars, and we go hat in hand, a debtor nation, and effectively say, please, buy our bonds.

Mr. DURBIN. And I ask the Senator from Iowa, in your home State of Iowa and my State of Illinois, we have lost 20 percent of our manufacturing jobs in the last few years; America has lost 3 million jobs under this President, more than any President since the Great Depression. So as we have lost these jobs and lost these businesses, and our economy is sinking—a jobless recovery is no recovery where I live—we see other countries who now take over our manufacturing jobs, like China, and because they are selling more to the United States, they have dollars and turn around and own our debt.

So our workers do not have the jobs, their children have the debt, and China is holding the mortgage. Is that the fact?

Mr. HARKIN. The Senator is on to something. First of all, they are getting our dollars for the products they make and send to this country with cheap labor, with no Social Security protections for the workers. They get all those dollars. They then buy our debt, they buy our bonds. The Senator is right. They buy the bonds and then there is interest on the bonds, a lot of interest. So who gets the interest payments? The Chinese get the interest payments.

So our workers lose their jobs, the jobs go to China, we buy their goods, they get the dollars, they buy our bonds, and the Senator is absolutely right. It is the workers' families, the kids who now have to pony up to pay the interest charges.

Now, I ask the Senator, looking ahead, if, in fact, we have these huge budget deficits which are going to roll on year after year, that means someone has to finance this debt. So we will still be going back to the Chinese and the Japanese, the Europeans and others, to buy our debt.

I ask the Senator, if you are in the position of having a lot of money and you are buying debt, do you want high interest rates or low interest rates?

Mr. DURBIN. I say to the Senator from Iowa, clearly what we have here is a scarce commodity—dollars. And the people who can come up with the dollars want to get paid more for coming up with them in terms of interest. As the interest goes up that is being paid for those holding our debt overseas, it runs up the interest rates in America in terms of how we can expand our businesses.

So we have lost the jobs. We have lost the manufacturing. And with interest rate pressure going up from all of the debt, we are making it more difficult for businesses to rebound, build in America, and create American jobs.

Is the Senator from Iowa aware of the figures given by Senator KENT CONRAD on the Budget Committee that by 2009, every American will have as their personal share of our American mortgage, our American debt, $35,283, so that the debt tax from the Bush administration on every individual American will be over $35,000.

I ask my friend from Iowa if he believes the people in his State, let alone any other State, have a notion that President Bush's failed economic policy is building up the mortgage on every single American and American family for years to come.

Mr. HARKIN. The Senator is right. I ask the Senator to repeat this figure.

Mr. DURBIN. By 2009, each American's share of the debt will total $35,283.

Mr. HARKIN. That is bad enough in itself. I say to the Senator, also by 2009, the interest payments on this debt that we are piling up under this budget that we have will lead to $980 for the credit card of every man, woman, and child in America. In other words, a family of four will pay nearly $4,000 just in interest on the debt in just that year. They are not buying it down but just paying the interest charges. And, with the policies of this administration, they will just grow and grow. We know what happens to families as they have a growing difficulty just paying the interest on their credit cards.

Where is a big chunk of that interest rate payment going?

Mr. DURBIN. Certainly it goes overseas.

And I ask the Senator from Iowa, the President said in the State of the Union, the key to the future of the American economy is to make the tax cuts for the wealthiest people in America, permanent law.

I ask the Senator from Iowa, as he has traveled his State and I have traveled mine, as well, has the Senator found with the working families, a hue and cry, demands to keep President Bush's tax cuts in place, tax cuts that have basically given us the biggest deficit in the history of the United States and have failed to create jobs? Has the Senator heard this in the State of Iowa?

Mr. HARKIN. Not only have I not heard from the people in the State of Iowa, even friends of mine who have a lot of money, who make a lot of money, have basically told me: You guys are crazy what you are doing back there. You have to get this economy straight.

Even the people who made out under this tax break, if they are honest—and many are—are saying: Wait a minute, this is not right for America, not right for our economy.

Mr. DURBIN. I ask through the Chair, I know the Senator from Iowa has had a leadership position when it comes to education and health issues in his appropriations subcommittee. I ask the Senator from Iowa, is the Senator hearing the same thing I am hearing as you visit school districts in Iowa and sit down with school board members and principals and teachers, regarding No Child Left Behind, which is imposing a requirement for testing kids to find out the progress they are making—and there is nothing wrong with that—but then when they find the kids are falling behind, does the Senator hear in Iowa the same as I do in Illinois, hear that these educators are asking, Why did the Federal Government fail to fund this mandate? Why are you sending us the No Child Left Behind mandate and failing to send the money to help educate the children?

Again, we find this President's budget is not funding his education program. It is underfunding his mandate. Does the Senator find the same thing as he travels through Iowa?

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Hampshire.

The time of the Senator is expired.

Mr. HARKIN. How much time was I allowed?

The PRESIDING OFFICER. There is a 30-minute time limit.

Mr. HARKIN. Under what rule was I allowed 30 minutes?

The PRESIDING OFFICER. We had an order for a 30-minute time limit for morning business.

Mr. SUNUNU. It is my understanding the Senate is in a period of morning business with a time limit not to exceed 30 minutes. I will not take that much time. I wish to speak very briefly and ask a rhetorical question, since I am not allowed to ask a question of a Senator who does not have the floor. But then I would be pleased, if permissible under the rules, to yield the remainder of my time to the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SPENDING

Mr. SUNUNU. Mr. President, I happened to come to the floor to hear my colleagues from Illinois and Iowa talking about their concern for the deficit and for spending priorities, and I share their concern.

However, it is worth noting that at this time the pending business of the Senate is a transportation bill that is, by any standards, enormous. It represents an increase of over 40 percent over the previous 6-year bill. It represents a dramatic expansion in the size and scope of Federal Government. It totals over $300 billion. Unfortunately, it seeks to obtain funds by diverting general revenue tax receipts into the highway trust fund, something that has never been done before.

To the best of my knowledge, both of my colleagues who spoke earlier are more than willing to vote for this enormous spending measure.

I just do not think it is credible to take the floor and raise concerns about deficits and spending priorities and, at the same time, be willing to support such a massive increase in infrastructure spending, when we know full well that States are very capable of making sound decisions for this kind of construction and investment. We know full well that it is wrong to divert money from the general revenue fund in order to support an expansion of this funding. And we know full well this bill is significantly in excess of what has been proposed by the President.

While I do not agree with all the priorities in the President's budget, I think it is fair to say that we would have $20 or $30 or $40 or $50 billion more for the priorities my colleagues spoke about if they would join with me in raising concerns about this bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. The Senator is recognized.

## THE BUDGET AND THE DEFICIT

Mr. DURBIN. Mr. President, I would like to engage my colleague from Iowa in a dialog on this issue relative to the budget and the deficit.

The question I asked earlier related to the experience of the Senator from Iowa when he traveled his State and the response of the people of Iowa when it came to the suggestion of President

Bush that his tax cut program—primarily for the wealthiest people in the country—be made permanent law. And I asked the Senator: I know that everyone likes a tax cut, but what are you finding?

If I might have the permission of the Chair to ask this question of the Senator from Iowa, without yielding the floor——

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. What are you finding to be the response, as you travel throughout your State, in terms of the President's tax cut policy?

Mr. HARKIN. Mr. President, I reply to my friend from Illinois, as I traveled around my State since we adjourned back in December, I have not heard anything about making this tax cut permanent. I cannot think of one person who came up to me saying that. But I will tell you what I did hear a lot about.

As the Senator pointed out, I heard from my schools on No Child Left Behind, that they are being underfunded. Special education is taking its toll on property taxpayers all over our State, and they are demanding the Federal Government live up to its promise on special education. I am hearing about the loss of manufacturing jobs in our State. And there are no jobs to be had. I am hearing about the need for better health care for people who do not have health insurance in our State.

I am hearing about the high cost of education. So many middle-class families now, and low-income families, are simply being priced out of higher education. It is taking more and more money to get into college. Right now, a Pell grant provides for about—under this budget—30 percent, give or take 1 percent—maybe 31 percent—of the cost of college. Just 4 years ago, it was 40 percent. So we have lost 25 percent of the purchasing power just of a Pell grant. And these are for poor kids to go to college. Twenty-five percent, just in 4 years, has been eroded. Yet this budget keeps Pell grants right where they have been—with not one penny of an increase.

So I say to my friend from Illinois, this is what I hear Iowans talking about.

Mr. DURBIN. If I might further engage my colleague from Iowa in this dialog and go back to the point I made earlier, I say to the Senator, he has been chair and ranking Democrat on the Appropriations subcommittee that is responsible for education and health, and he has done a substantial and marvelous job, including record funding for the National Institutes of Health and amazing efforts to help the funding of education.

I ask my friend and colleague from Iowa to just reflect on what I have found, and I ask if he has found the same. I have gone to good schools in Illinois, and they have told me the results of the testing. The results of the testing, in the most recent rounds of testing in No Child Left Behind, required that the students reach a 60-percent plus of performance in terms of their learning ability and learning attainment, education attainment—60 percent.

In some of the schools I have visited in the suburban areas of Chicago—not in the cities, in the suburban areas of Chicago—here is what we found. When they took the test, we found that the white students in the schools were testing slightly over 60 percent. So they were meeting their target. The African-American students were testing in the 40-percent range; the Hispanic students in the 25- and 30-percent range; and the special education students, the students with disabilities, below 20 percent. All of these subgroups, if there are certain numbers of them in each school, are all expected to hit 60 percent.

I ask the Senator from Iowa if he has had similar experiences, and if he would share them with me and try to answer the question these educators asked. They said: If these groups are not meeting the test scores they are supposed to meet, and we are going to be labeled a failing school because of that, what are we supposed to do? What will you do to help us in terms of mentoring students, tutoring students, afterschool programs, and summer school programs?

My response to them, sadly, is, if you look at President Bush's own budget for No Child Left Behind, he underfunds the promised money for these school districts. The law authorizing No Child Left Behind said this year we would send $34.3 billion to school districts across America to help these kids—$34.3 billion—and the budget only provides $24.9 billion. So we are underfunding it by $9.4 billion.

Mr. HARKIN. Nine billion dollars, yes.

Mr. DURBIN. I ask the Senator, who deals with this appropriation, and the money behind it, where does this leave our schools in Iowa and Illinois, taking the test, finding the challenge, but without the resources to address it? I ask unanimous consent, through the Chair, for the Senator from Iowa to respond, without my yielding the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I say to my friend from Illinois, Lew Finch, who is the retiring superintendent of schools in Cedar Rapids, talked to me about this. There was an article in the paper also quoting him saying that their good schools are failing and they are doing it for the exact reason the Senator from Illinois pointed out. But here is what he said to me.

He said: I fear that all the progress we have made in the past, under things like the Americans with Disabilities Act, IDEA, Individuals with Disabilities Education Act, and integrating students in schools, bringing kids with disabilities into the mainstream of schools—he said: I fear what we are going to start doing is now segregating them out one more time, segregating them out of our schools again because they are being a drag on all the other students.

Mr. DURBIN. Let me add to what the Senator from Iowa said. This year we will celebrate the 50th anniversary of Brown v. Board of Education, 50 years in America where we have said the integration of schools is essential to equality of opportunity. Separate but equal—Plessy v. Ferguson—was rejected by the Supreme Court 50 years ago, moving us toward a colorblind America and the integration of races in America, something essential to put the era of slavery and racism behind us.

Mr. HARKIN. Jim Crow.

Mr. DURBIN. And I say to the Senator from Iowa—and I know how deeply he feels about special education—I feel the same way, the same intensity level about the reaction, as parents walk into the school board meeting and say: This high school that I planned on sending my son to, my daughter to so she could get into a good college, I read in the morning paper is a failing school. Will you tell me why I made the sacrifice to buy an expensive home in the suburbs to send my child to a school for his future or her future and now it is a failing school? Explain it to me.

The educators will put the test scores up, and they will see it is the minority students and the students of Hispanic ancestry, as well as the special education students, who are leading to this conclusion.

Now, two things can happen, I say to the Senator from Iowa. The good thing that can happen is we will say: What can we do to bring all test scores up, particularly for those kids who are not doing well. Well, you will not find the answer in this budget. This budget misses the target by $9 billion in providing extra teachers, extra technology, extra attention. It is not there.

But there is another course we can take that is sinister and ugly. It is the course that says: Incidentally, when those minority students don't come to school, don't go looking for them—would you?—because they are dragging down the test scores. That would be a terrible outcome.

Mr. HARKIN. Or vouchers.

Mr. DURBIN. Or vouchers. And for those—and there are many, even in this Chamber—who have given up on public education long ago, this is the answer to their prayers.

Mr. HARKIN. I know.

Mr. DURBIN. They will get bad test scores and say: Didn't we tell you public education has failed in America? I say to the Senator from Iowa. I think the funding of education is pushing us into a critical moment in the future of public education. Starting just 2 weeks ago, with the signature on the Omnibus appropriations bill, we will have the first Federal funding of a voucher program for private schools in the history of the United States of America.

Mr. HARKIN. Right here.

Mr. DURBIN. Right here in the District of Columbia.

Mr. HARKIN. Absolutely.

Mr. DURBIN. It is an answer to the prayers of those who have a loathing for public education and for the teachers in public schools who many think have the wrong political allegiance, whatever the reason might be. When you put all this together, you realize it is more than dollars. We are moving ourselves to a decision that is calling into question 50 years of American history and more.

I ask the Senator from Iowa, what is his impression as he reviews No Child Left Behind and this funding and the challenges it presents?

Mr. HARKIN. Our budget has basically two purposes. Any budget, whether it is your own personal family budget, a business budget, or the Government budget, has two purposes: One is to balance income and outlays—in other words, what is the income and what are the outlays, try to get some balance between the two—and the second purpose is to set priorities, choices.

I am sure the Senator is like I am. When you have an income, you sit down and say, this is our income. What is our mortgage? What is our car payment? What is our tuition, all those sorts of things. You add it up and you make choices on how you budget.

That is what this budget is. It is about choices, the choices that this President has chosen: tax breaks for the wealthy, continue those and make them permanent; continue to ship our jobs overseas; continue to underfund education, as the Senator has pointed out; and continue this march towards bigger and bigger debt, bigger and bigger deficits that is going to choke off any hope of having a viable Social Security and Medicare system for our kids and grandkids. Those are the choices in this budget.

Mr. DURBIN. I say to the Senator from Iowa, he and I have a mutual friend in former President Bill Clinton who spoke to a group of Democratic Senators a week or so ago. He said: When you look at this budget and you project what this administration and this budget are headed to, it is the concentration of wealth and power in America, the breakdown of our effort to enlarge the middle class in America and, frankly, to accept—sadly—the reality of the haves and have-nots, the disparity in income.

We don't find in this budget an effort to lower the ladder to allow people to come climbing up, as your parents and my parents and we did in our own lives. That is the worst part of this budget, as the Senator said, tax breaks for wealthy people, for this to be the hallmark of this administration for the next year. It has failed to lift the economy. It has failed to create jobs. What it has done is drag us deeply and deeply into debt.

The Senator brought up the issue of Social Security. We went through the Medicare bill, the prescription drug bill. I have certainly been back to talk to my seniors in Illinois about it. What have you found in Iowa as you traveled around about that bill?

Mr. HARKIN. Well, again, people in Illinois are not that much different than the people in Iowa. I hear the same things you hear. People are frightened. They are not frightened of Saddam Hussein. They are not even frightened by Osama bin Laden. They believe we will have the power and the wherewithal to protect our citizens, maybe not with absolute certainty but with enough that they will feel comfortable in their homes and businesses and in their travel.

What they are frightened about is their kids' education. They are frightened about not being able to pay the next health care bill because they don't have adequate health insurance. They are concerned about whether or not there is going to be a viable Medicare system for their parents, and whether their parents will truly get any prescription drug help at all. There is some confusion right now. People were promised a prescription drug benefit. It passed the Congress last year. The President signed it. Now we are finding out that it is not going to help them that much and that most of the money is going to the pharmaceutical companies.

That is what I find. People in Iowa are afraid that we are headed in the wrong direction. I sense this kind of mood among people, that they know it is not right.

Mr. DURBIN. One of the Presidential candidates, one of our colleagues, refers to two Americas, an America for the wealthy and an America for everyone else. What the Senator has just described is what I hear. People who really believed in the American dream thought that with enough hard work and the right values you could succeed. That is what brought my mother as an immigrant to this country and millions like her. Now the concern is that despite your good values, despite your effort, despite your hard work, you can't reach that point of security because the Senator from Iowa is hearing, as I am, retirees finding that their retirement benefits are being cut off. Their health care benefits are cut off.

These people also wonder if Social Security and Medicare will be there when they need it. If we reach the point where we have diminished those institutions through the prescription drug bill on Medicare, through this budget and its raid on the Social Security trust fund for years to come, then, frankly, we have walked away from the heritage we received.

Mr. HARKIN. If the Senator will yield.

Mr. DURBIN. I am happy to yield for a question.

Mr. HARKIN. There was a recent article in Time magazine talking about how life in America now for many middle-income families, low-income families has become a game of chance. The game is kind of rigged against you.

I remember reading a little newspaper article and the headline was: Vietnamese Immigrants Achieve American Dream, Win State Lottery. The story went on to talk about this Vietnamese couple. They bought a lottery ticket and won the lottery. The idea that this is the American dream, a one-in-a-million chance of winning the lottery, that is the American dream, that our life is a roll of the dice, the odds are a million to one against you. No, that is not the American dream. The American dream is what your parents and my parents did, to work hard, to save, to buy a home of their own, to educate their kids and build a better life.

Mr. DURBIN. Let's pursue one aspect of that which has been an issue on which the Senator has been the leader. Not only has this administration cost us 3 million jobs during the 3 years plus that the President has been in office, more jobs lost than any President since the Great Depression, but now, to add insult to injury, the hardest working Americans, the ones who say we are going to keep going, not just 40 hours a week but whatever it takes for our family, those working hard with time away from their family, working overtime to pay the bills, to get the money together for college, would the Senator from Iowa share with those who are following this debate what this administration has done to overtime pay for Americans for the first time in history?

Mr. HARKIN. It is amazing. Last year this administration came out with proposed rules to change how overtime is figured. Those changes were made without one hearing, not one. Without any consultation with Congress, they just rolled them out there. There was not one public hearing on it.

Without going into all the fine details, it basically means that up to 8 million Americans will have their overtime pay protection removed.

One person said to me: My time with my family is premium time. If I have to give up my premium time with my family to work overtime, I ought to get some premium pay at time and a half.

That has been in law since 1938, the Fair Labor Standards Act. This administration, with one stroke of the pen, one set of proposed rules is going to undermine overtime pay protections for up to 8 million Americans. I can't fathom why they would want to do this to hard-working Americans.

Mr. DURBIN. What was the name of the law?

Mr. HARKIN. The Fair Labor Standards Act.

Mr. DURBIN. The Fair Labor Standards Act of 1938. Is this not the only time since the passage of this law that any President, Democrat or Republican, has reduced overtime coverage and protection for American workers? This is the first time it has ever been done?

Mr. HARKIN. That is true. I want to be very fair. We have changed the Fair Labor Standards Act a number of times since then because some of the job descriptions, buggy whip manufacturers and buggy harness makers, have gone out, obviously.

But, at the same time, we have always expanded overtime pay protection. So the Senator is right. This is the first time since 1938 where an administration has said we want to restrict, tighten down, the amount of people who are eligible for overtime pay protection.

Mr. DURBIN. To follow up on that point, is my impression correct that the Bush administration didn't just sign the law, they sent out information to employers across America saying here is the way to cut the overtime pay of your employees; that the Bush administration proactively sent out this information encouraging employers to cut their employees off of overtime?

Mr. HARKIN. Well, the Senator is right. Again, this is mind-boggling. I will say this—and again to be as fair as possible—there was one part of the proposal that was good, which was to raise the low-income base from about $8,000 to about $21,000. That means that right now, no matter who you are in this country, if your pay is less than $8,000 a year, you are guaranteed overtime regardless of what you do. Well, that needed to be raised for some time. Nobody argues that. They wanted to raise it to $21,000. We agree with that. But in doing so, they issued advice to employers on how to get around it. They said we are going to raise the base to $21,000, but here is advice on how to get around it. No. 1, what you do is simply work your people longer and you build that into their base pay. So you work them longer, but you don't have to pay them any more.

Secondly, they said if they are near $21,000—let's say $20,500—you may want to raise their pay to $21,000 and then they are exempt and you save by not paying overtime. There is gimmick after gimmick on how they can basically get around it. I said this on the floor. This is like the IRS issuing advice to tax cheats on how to cheat on their income taxes.

Mr. DURBIN. Under the Bush administration, we have lost 3 million jobs, we have seen thousands and thousands more manufacturing jobs lost in your State and mine—probably gone forever to China and other places, and then this Department of Labor, for the first time in history, decides that hard-working Americans will not be paid overtime and says 8 million of these Americans stand to lose their overtime pay. If the Senator from Iowa will help me, if we could tell those following this debate, what kind of workers are we talking about? I heard Senator KENNEDY say we are talking about nurses and we are talking about people who are involved in firefighting and police protection.

Mr. HARKIN. That is right.

Mr. DURBIN. These are the people, unless protected through a collective bargaining agreement, who could lose their overtime pay. I say to the Senator, I don't know what it is like in his State, but we are desperate for nurses in my State. We are looking all over the world to bring in nurses. Along comes the Bush administration saying here is a way, incidentally, for this hospital to stop paying overtime to nurses. It is a tough profession being a nurse, demanding. We count on them when somebody in our family is ill. What is going on here when we are cutting overtime for nurses? Why would this administration make that part of their economic policy?

Mr. HARKIN. Well, it is one way some unscrupulous employers—I would not say all—will be helped. Again, I must say to my friend that prior to this rule being issued last year by the administration, and even during the debate on this last year, I never had one employer in my State come up to me and say we need that. Not one. Obviously, there are some someplace who want to get it changed. They must have very close friends in the White House. This is one way of working people longer hours. American workers now work a longer work week than any other workers in any other industrialized country right now. Now they want to work them longer and not pay them overtime.

Mr. DURBIN. To close this chapter completely, I want the Senator to tell us about the legislative history. Didn't you ask us to vote on this on the floor of the Senate? Didn't you ask us to say to the administration, no, you cannot cut 8 million people off of overtime. Didn't the Senate decide that? What happened?

Mr. HARKIN. We had a vote here last summer to basically keep this rule from going into effect. It passed the Senate on a bipartisan vote.

Mr. DURBIN. To protect workers.

Mr. HARKIN. Yes, to protect them and their right to overtime. The House of Representatives earlier passed a bill and it lost by about four votes. After we passed it, it went back to the House and they had a big vote to instruct conferees. In other words, telling their conferees to go along with the Senate provision on this. So we had that. We went to conference and before the conference came to this issue, the gavel was banged and we were never invited back. Guess what. What we voted on here and what the House agreed to disappeared, because the administration came in and said they didn't want it in the big appropriations bill we passed a couple weeks ago. So they thwarted the will of Congress, and of the conferees who never got to vote on the issue. Most important, they thwarted the will of the American people. But I have an amendment in my desk drawer and every appropriate opportunity this Senator gets, I am going to offer it here on the Senate floor because American workers deserve to have their overtime protected—nurses, firefighters, police officers, ordinary working people all over America. If they are going to be asked to give up their premium time with their families, they deserve time and a half.

Mr. DURBIN. I will say this and I will yield the floor. We have a mutual friend, Congressman DAVID OBEY of Wisconsin, who has a favorite saying on the floor of the House about Members of Congress posing for "holy pictures." In this situation, with the vote the Harkin amendment asked for in the Senate, Democrats and Republicans said we are against this Bush policy of cutting 8 million Americans off of overtime pay, and then the House of Representatives in instructing conferees said we are against this Bush policy, so that all of us were posing for this big group picture—holy picture—on how we are standing with American workers.

In a matter of 5 minutes, as the gavel is struck in the conference committee, the Bush White House prevailed and this rule striking overtime for 8 million American workers is signed into law by the President. Is that the final result, until your amendment comes along, I hope?

Mr. HARKIN. The final result is the rules are still pending. They have not implemented them yet. As I understand it, they want to get the rules finalized by March, which is next month. So they want to finalize the rules, put them out there, and it is going to be very hard for us to turn them back again. But we will. The American people will not stand for having their overtime pay protection taken away. Time and a half, for time over 40 hours a week is something every American worker deserves. Some families rely on that extra time. They give up premium time and they work longer so they make a little extra money to get their kids through school. Now we are going to say we are going to work you longer, but we are not going to pay you overtime. The American people won't buy that. We are going to continue to fight here to protect their overtime rights.

Mr. DURBIN. I thank the Senator for this dialog about the budget and about issues involving working families in America. I thank him for his leadership time and, again, whether on special education, funding for college expenses, or protecting American workers on overtime, he has been a leader in the Senate and he will continue to be. There is much more that needs to be said about this budget. At this point, I will defer to others who want to join in this conversation.

I yield the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak for about 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I thank my friend for his kind words and reciprocate by thanking him for his leadership on the floor and in our caucus, and for always being here to respond and make sure we have the information we need on which to base our votes. We served together in the House and we are together in the Senate, and I could not ask for a better neighbor either here or across the Mississippi River.

I will close by again saying this—and I will have more to say about this later. The budget the President has proposed is just one that will harm America. It is going to harm our workers, increase our deficit and, quite frankly, it is going to put in jeopardy the Social Security and Medicare system.

It is a shame all this has been squandered in just 4 years. I believe we in the Senate need to respond, we need to say no to this Bush budget, and we need to have a budget that puts us back on the path we were on just 4 short years ago.

With that, we can have a budget that will be in balance, and we can have a future that is much brighter for our workers, for our children, and for our elderly.

Mr. President, I will have more to say about the budget in the coming days and weeks before the budget resolution is brought to the floor.

I thank the Presiding Officer. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred on April 13, 2001, in San Antonio, TX. A 39-year-old man was attacked in a park because he was thought to be homosexual. After stopping to examine some rocks, the victim was approached by a man with a knife who held him in a bear-hug before stabbing him in the chest. The attacker used anti-gay slurs as he attacked his victim.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

## RETIREMENT OF JUDGE BARZ

• Mr. BAUCUS. Mr. President, I rise today to honor a good friend of mine, Judge Diane Barz, who is retiring from her successful career as a Yellowstone County District Court Judge.

Judge Barz is a remarkable woman who has enjoyed a distinguished and wonderful career as a member of the Montana Bar. Judge Braz' career is notably one of "firsts." She was the only woman in her University of Montana Law Class of 1968, was the first female law clerk to the Montana Supreme Court, started the first "female" law firm with her colleague Doris Poplar in 1973, was the first woman district court judge, and youngest, and the first female attorney appointed to the bench of the Montana Supreme Court.

Judge Barz has not only been an exemplary attorney and member of the bench, she has been a role model for women and champion for children. Anyone who has worked with Judge Braz knows that what ever she does, she does it with a leading role. Judge Barz has been instrumental in the development of your court in Montana as we know it today. She doesn't just sit back—she gets the job done! As a member of the bench, she has been gentle and compassionate with children and families when the circumstances required it, but she could be as tough as nails when justice demanded it. Most importantly, Judge Braz always aspired to do what was right for the children and families of Montana. We have all been well served by her.•

## TRIBUTE TO JOSEPH E. LETA

• Mr. ALLARD. Mr. President, I rise to pay tribute to Joseph E. Leta, whose endless enthusiasm and energy promoted many of Colorado's sportsmen's organizations. Mr. Leta, who passed away on January 14, 2004, was a champion of wildlife and conservation programs. Joe was a lifetime member of numerous sporting organizations which included in Safari Club International, SCIF Sables, Rocky Mountain Bighorn Sheep Foundation, The Mule Deer Foundation, The Elk Foundation, The Alaskan and Canadian Outfitters Association, The Wild Turkey Federation, and The National Rifle Association.

He had a particular passion for Safari Club International and served as President of the SCI Denver Chapter until September 2003. Concurrently and subsequent to his tenure as Chapter President, he was also very active at the National level for SCIF by serving on the Ethics Committee, The Conservation Committee, The Guides and Outfitters Committee, Director of SCIF Nominating Committee, Governmental Affairs Committee, Convention Committee, Humanitarian Committee, and as a Director at Large.

In recognition of Joe's years of dedicated service, the Safari Club International will posthumously present him with the President's Award at SCI's 32nd Annual Hunters' Convention in Reno, NV in January 2004.

As president of the SCI Denver Chapter, he inaugurated the establishment of the SCI Denver Sables, which is a club venue for sports women and men dedicated to preserving our hunting heritage through education. Joe recently proposed that the SCI Denver Chapter establish a scholarship fund for needy junior and senior college students who major in wildlife and conservation management. As a tribute to Joe, the Board of Directors approved the proposal and named the fund The SCIF Sables Joe Leta Hunting Heritage Scholarship Fund.

During Joe's tenure as SCI Denver Chapter President, he presided over such club accomplishments as promoting the Sportsmen Against Hunger Program, which distributed over 3,000 pounds of fresh salmon to Colorado's various humanitarian food banks. He also presided over several revenue generating programs for the benefit of the Colorado Division of Wildlife by promoting big game hunting licenses. Numerous wildlife students at Colorado State University have received educational grants from the SCI Denver Chapter under Joe's direction.

Joe was even instrumental in helping the Wyoming Game and Fish Department by directing SCI funds to construct an anti-poaching cabin in one of Wyoming's more remote regions where unlawful hunting was a problem. Joe was also a champion of the newly formed Colorado Sportsman's Caucus which is a sportsman's support group that interfaces with members of the

Colorado Legislature on hunting, fishing and various other outdoor and wildlife issues.

After graduating from Youngstown University and completing a tour of duty in the U.S. Air Force as an x-ray technician, Joe joined Picker International as a sales representative for their Medical Imaging Equipment Division. He retired from Picker after 30 years of service as a regional sales manager.

Joe Leta was born July 16, 1931 in New Castle, PA as the only child of Joseph and Edith Leta. His wife of 49 years, Shirley and their three children, Joseph, Jr., Christopher, Lisa (Charles) Stanley, and one grandchild, Lacy, survive him.

Joe and Shirley resided in Evergreen, CO for the past 26 years and they are members of Christ the King Catholic Church and the Hiwan Golf Club in Evergreen, Colorado.●

## MESSAGE FROM THE HOUSE

At 1:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3724. An act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

H.J. Res. 84. Joint resolution recognizing the 93d birthday of Ronald Reagan.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 354. Concurrent resolution to correct technical errors in the enrollment of the bill S. 610.

The message further announced that the House agree to the amendments of the Senate to the bill (H.R. 2264) to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

## ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2264. An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3724. An act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures; to the Committee on Banking, Housing, and Urban Affairs.

The following bill was read, and referred as indicated:

H.R. 1446. An act to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; to the Committee on Energy and Natural Resources.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6108. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department of Agriculture's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6109. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2003-2004 Marketing Year" (FV04-982-1) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6110. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Onions Grown in Texas; Decreased Assessment Rate" (FV03-959-4) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6111. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Pacific Northwest Area—Interim Order" (DA–01–08–PNW) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6112. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Almonds Grown in California; Decreased Assessment Rate" (FV04-981-1) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6113. A communication from the Management Analyst, Directives and Regulations Branch, United States Forest Service, transmitting, pursuant to law, the report of a rule entitled "Predecisional Administrative Review Process for Hazardous Fuel Reduction" (RIN0596-AC15) received on February 3, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6114. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to a multiyear contract for the Virginia Class submarine program; to the Committee on Armed Services.

EC-6115. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Payment Withholding" (DFARS Case 2002–D017) received on January 22, 2004; to the Committee on Armed Services.

EC-6116. A communication from the Under Secretary, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02-10; to the Committee on Armed Services.

EC–6117. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Electronic Submission and Processing of Payment Requests" (DFARS Case 2002-D001) received on January 22, 2004; to the Committee on Armed Services.

EC-6118. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC-6119. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report relative to the Defense Task Force on Domestic Violence; to the Committee on Armed Services.

EC-6120. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC-6121. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-6122. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's 2003 annual report for its Sub-Saharan Initiative; to the Committee on Banking, Housing, and Urban Affairs.

EC-6123. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act of 1982 as the apply to the Commission; to the Committee on Banking, Housing, and Urban Affairs.

EC–6124. A communication from the Correspondence Writer, Federal Emergency Management Agency, transmitting, pursuant to law, two copies of correspondences with the Agency and copies of the Agency's response to the correspondences; to the Committee on Banking, Housing, and Urban Affairs.

EC–6125. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rule 17Ad-7(f): Recordkeeping Requirements for Registered Transfer Agents" (RIN3235–AI87) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6126. A communication from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Section 270.38a-1:

Compliance Procedures and Practices of Registered Investment Companies; Section 275.204–2: Books and Records to be Maintained by Investment Advisers; Section 275 .206(4)–7: Compliance Procedures and Practices" (RIN3235–AI77) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6127. A communication from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "Rules, Policies, and Procedures for Corporate Activities; International Banking Activities" received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6128. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Modification of the Community Development Block Grant Definition for Metropolitan City and Other Conforming Amendments" (RIN2506–AC15) received on January 22, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6129. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Special Rules Applicable to Public Land Hearings and Appeals" (RIN1090–AA84) received on January 22, 2004; to the Committee on Energy and Natural Resources.

EC–6130. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Financial Information Requirements for Applications to Renew or Extend the Term of an Operating License for a Power Reactor" (RIN3150–AG84) received on February 3, 2004; to the Committee on Environment and Public Works.

EC–6131. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, a copy of a document recently issued related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–6132. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Performance Budget; to the Committee on Environment and Public Works.

EC–6133. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, a draft of proposed legislation relative to amending the Surface Mining Control and Reclamation Act of 1977; to the Committee on Environment and Public Works.

EC–6134. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Endangered Status for the Rota Bridled White-eye (Zosterps rotensis) from the Commonwealth of the Northern Mariana Islands" (RIN1018–AI16) received on January 24, 2004; to the Committee on Environment and Public Works.

EC–6135. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2005–2005 Subsistence Taking of Fish and Shellfish Regulations" (RIN1018–AI89) received on January 29, 2004; to the Committee on Environment and Public Works.

EC–6136. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, several documents related to the Agency's regulatory programs; to the Committee on Environment and Public Works.

EC–6137. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Revisions to South Carolina State Implementation Plan: Transportation Conformity Rule" (FRL#7614–7) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6138. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL#7611–5) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6139. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision; 1-Hour Ozone Control Programs" (FRL#7610–7) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6140. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2004" (FRL#7615–4) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6141. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Water Quality Standards for Puerto Rico" (FRL#7613–2) received on January 27, 2004; to the Committee on Environment and Public Works.

EC–6142. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to new mileage reimbursement rates for Federal employees who use privately owned vehicles while on official travel; to the Committee on Environment and Public Works.

EC–6143. A communication from the Ambassador, Embassy of Turkey, transmitting, a letter from the Speaker of the Turkish Grand Assembly relative to Senate Resolution 273; to the Committee on Foreign Relations.

EC–6144. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report relative to the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikstan, Ukraine, and Uzbekistan; to the Committee on Foreign Relations.

EC–6145. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–6146. A communication from the Chief of Staff, Federal Mediation and Conciliation Service, transmitting, pursuant to law, the Service's report under the Federal Managers' Financial Integrity Act for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–6147. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6148. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Final Regulations Redesignating 5 CFR Part 970 as Part 919" received on January 20, 2004; to the Committee on Governmental Affairs.

EC–6149. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Agriculture for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6150. A communication from the General Counsel, General Accounting Office, transmitting, pursuant to law, a report responding to the requirements of the Competition in Contracting Act of 1984; to the Committee on Governmental Affairs.

EC–6151. A communication from the Director, Trade and Development Agency, transmitting, pursuant to law, the Agency's annual financial audit and related documents; to the Committee on Governmental Affairs.

EC–6152. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for Calendar Year 2003; to the Committee on Governmental Affairs.

EC–6153. A communication from the Special Counsel, Planning and Advice Division, Office of Special Counsel, transmitting, pursuant to law, the report of a rule entitled "Technical Amendment: Correction of Statutory Citation" received on January 27 2004; to the Committee on Governmental Affairs.

EC–6154. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–291, "Technical Amendments of Act of 2003"; to the Committee on Governmental Affairs.

EC–6155. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6156. A communication from the Acting Director, Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 2003; to the Committee on Governmental Affairs.

EC–6157. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of the Office of Inspector General for the period from April 1, 2003 through October 31, 2003; to the Committee on Governmental Affairs.

EC–6158. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6159. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act of 1982; to the Committee on Governmental Affairs.

EC-6160. A communication from the Chairperson, Board of Directors, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a letter from the Corporation relative to H.R. 3108, the Pension Funding Equity Act; to the Committee on Health, Education, Labor, and Pensions.

EC-6161. A communication from the Railroad Retirement Board, transmitting, pursuant to law, a copy of the Board's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-6162. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Centers for Disease Control and Prevention's final report to Congress on Human Papillomavirus; to the Committee on Health, Education, Labor, and Pensions.

EC-6163. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Year 2003 Inventories of Commercial and Inherently Governmental Activities; to the Committee on Health, Education, Labor, and Pensions.

EC-6164. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6165. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Valuation of Assets; Expected Retirement Age" received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6166. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans" received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Lawrence T. Di Rita, of Michigan, to be an Assistant Secretary of Defense.

*Francis J. Harvey, of California, to be an Assistant Secretary of Defense.

Air Force nomination of Col. George T. Lynn.

Air Force nominations beginning Brigadier General Richard W. Ash and ending Colonel Raymond L. Webster, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nominations beginning Brigadier General Robert E. Duignan and ending Colonel Michael N. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Brigadier General Lloyd J. Austin III and ending Brigadier General Barbara G. Fast, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2003.

Army nominations beginning Brig. Gen. Conrad W. Ponder, Jr. and ending Col. George J. Smith, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Navy nomination of Rear Adm. (Selectee) Albert M. Calland III.

Navy nomination of Rear Adm. James D. McArthur, Jr.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Vincent T. Jones.

Air Force nomination of Richard H. Villa.

Air Force nominations beginning Robert J. Bernard and ending Oba L. Vincent, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nomination of Harris H. Brooks.

Air Force nominations beginning Paula C. Gould and ending John J. Winkopp III, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Air Force nominations beginning Jeffrey S. Alderfer and ending Sandra L. Yope, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Constance A. Bell and ending Yang Xia, which nominations were received by the Senate and appeared in the Congressional Record on November 25, 2003.

Army nomination of Margot Krauss.

Army nominations beginning Mark S. Ackerman and ending Richard M. Whitaker, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of Timothy G. Wright.

Army nominations beginning Ida F. Agamy and ending Kary B. Reed, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of David J. King, Jr.

Army nominations beginning Michael G. Gray and ending Paul M. Saltysiak, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nominations beginning Terry R. Moren and ending Christopher Wodarz, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Army nomination of Amy E. Preen.

Navy nomination of Todd E. Bailey.

Navy nominations beginning Jennifer R. Flather and ending Marie E. Oliver, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Navy nominations beginning Wing Leong and ending Timothy R. White, which nominations were received by the Senate and appeared in the Congressional Record on January 21, 2004.

Navy nominations beginning Jonathan Q. Adams and ending Stacey W. Yopp, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2265. Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SA 2266. Mr. GREGG proposed an amendment to amendment SA 2265 proposed by Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) to the bill S. 1072, supra.

SA 2267. Mr. DORGAN proposed an amendment to the bill S. 1072, supra.

SA 2268. Mr. GREGG proposed an amendment to amendment SA 2267 proposed by Mr. DORGAN to the bill S. 1072, supra.

## TEXT OF AMENDMENTS

**SA 2265.** Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 656, line 14, strike "movements" and insert "improvements".

On page 657, lines 18 and 19, strike "that is a public road".

On page 664, lines 18 and 19, strike "State transportation department under section 106" and insert "recipient of funds under this title".

On page 668, line 22, strike "Conduct of scenic" and insert "Scenic".

On page 680, strike lines 5 through 9 and insert the following:

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.".

On page 685, line 2, strike "replacement and rehabilitation".

On page 685, line 16, strike "1101(a)(14)" and insert "1101(13)".

On page 686, line 24, strike "1101(a)(14)" and insert "1101(13)".

On page 693, line 16, strike "in recommended alternatives" and insert "associated with the future development of the surface transportation system".

On page 693, lines 20 and 21, strike "system operations and management" and insert "transportation systems operations and management".

On page 702, line 10, insert "except as otherwise provided in section 120," before "the Federal share".

On page 702, line 22, strike "Federal-aid system" and insert "those qualifying".

On page 703, line 18, strike "The Federal share" and insert "Except as provided in section 120, the Federal share".

Beginning on page 705, strike line 15 and all that follows through page 706, line 23, and insert the following:

Section 120 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Interstate System Projects.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";

(2) in subsection (b), by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(3) by striking subsection (d) and inserting the following:

"(d) Increased Federal Share.—

"(1) In general.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) Amount.—

"(A) In general.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) Adjustment.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

On page 718, strike lines 1 through 9 and insert the following:

"(2) Administrative costs.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

"(3) Collected fees and services.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

On page 729, lines 21 and 22, strike "Administrator of General Services" and insert "Archivist of the United States".

On page 734, line 12, strike "organizations," and insert "organizations and metropolitan planning organizations,".

On page 734, line 15, insert "State and" before "local".

On page 736, lines 4 and 5, strike "receive funds under this section" and insert "obligate funds apportioned under section 104(b)(5) to carry out this section".

On page 738, line 2, strike "and pedestrians" and insert "pedestrians, and other highway users".

On page 738, line 24, strike "this section" and insert "section 104(b)(5)".

On page 740, lines 21 through 25, strike "accidents" each place it appears and insert "crashes".

On page 741, line 5, strike "The Federal share" and insert "Except as provided in sections 120 and 130, the Federal share".

On page 741, strike line 7 and insert the following:

made available under this section shall be 90 percent.

"(h) Funds for Bicycle and Pedestrian Safety.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.".

Beginning on page 741, strike line 24 and all that follows through page 742, line 6, and insert the following:

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding at period at the end.

On page 742, between lines 9 and 10, insert the following:

(3) Administration.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

On page 742, line 10, strike "(3)" and insert "(4)".

On page 742, between the matter following line 14 and line 15, insert the following:

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

On page 742, line 15, strike "(B)" and insert "(D)".

On page 744, lines 15 and 16, strike "Highway Facilities" and insert "Railway-Highway Crossings".

Beginning on page 744, strike line 17 and all that follows through page 745, line 6, and insert the following:

(1) Funds for railway-highway crossings.—Section 130 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) Funds for Railway-Highway Crossings.—

"(1) In general.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside $200,000,000 for the fiscal year to be apportioned to the States and made available for the elimination of hazards and the installation of protective devices at railway-highway crossings.

"(2) Apportionment.—Funds set aside under paragraph (1) shall be apportioned to the States in accordance with the formula provided in section 104(b)(5).".

On page 745, strike lines 15 through 24 and insert the following:

(3) Expenditure of funds.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) Expenditure of Funds.—Funds made available to carry out this section shall be available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g).".

On page 746, strike lines 1 through 8 and insert the following:

(1) Implementation.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

On page 747, line 18, strike "104(b)" and insert "104(b)(3)".

On page 753, line 11, strike "The Federal share" and insert "Except as provided in sections 120 and 130, the Federal share".

On page 819, line 17, strike "120(b)" and insert "120".

On page 824, line 18, strike "120(b)" and insert "120".

On page 824, line 24, strike "120(b)" and insert "120".

On page 825, line 23, strike "120(b)" and insert "120".

On page 838, line 12, strike "(l)" and insert "(k)".

On page 839, line 2, strike "apportioned" and insert "set aside".

On page 839, strike lines 9 through 16 and insert the following:

until expended."; and

On page 839, line 17, strike "(l)" and insert "(k)".

On page 840, line 9, strike "1601(b)" and insert "1522".

On page 880, lines 22 and 23, strike "not more than 2 percent of the".

On page 890, line 1, strike "apportioned" and insert "available".

Beginning on page 891, strike line 15 and all that follows through page 892, line 8, and insert the following:

"(A) In general.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost; and

"(ii) improving the value and quality of the project.

On page 901, line 13, strike "Congestion.—" and insert "Congestion".

On page 905, line 17, strike "grassland" and insert "grasslands".

On page 906, strike line 17 and insert the following:

"(2) Forest highways.—

On page 910, line 3, insert "and" after the semicolon.

On page 910, strike lines 4 through 11.

On page 910, line 12, strike "(D)" and insert "(C)".

On page 912, strike lines 16 and 17 and insert the following:

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

On page 920, strike lines 1 through 3 and insert the following:

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

On page 929, line 21, strike "1101(a)(7)" and insert "1101(7)".

On page 930, line 8, strike "1101(a)(7)" and insert "1101(7)".

On page 933, line 11, strike "The Federal share" and insert "Except as provided in section 120, the Federal share".

On page 937, line 17, strike "The Federal share" and insert "Except as provided in section 120, the Federal share".

On page 942, line 11, strike "1101(a)(15)" and insert "1101(15)".

On page 942, line 18, strike "1101(a)(15)" and insert "1101(15)".

On page 943, lines 4 and 5, strike "For purposes of this section," and insert "For the purpose of imposing any penalty under this title or title 49,".

On page 943, lines 5 and 6, strike "104(b), 144, and 206" and insert "104(b) and 144".

On page 943, line 14, strike "2003" and insert "1997".

On page 943, line 17, strike "2003" and insert "1997".

On page 946, line 14, strike "The Federal share" and insert "Except as provided in section 120, the Federal share".

On page 947, line 2, strike "**PILOT**".

On page 947, line 7, strike "**pilot**".

On page 947, line 15, strike "are—" and insert "are to—".

On page 947, line 16, strike "to".

On page 947, line 18, strike "to".

On page 947, line 22, strike "to provide" and insert "provide".

On page 947, line 24, strike "to examine" and insert "examine".

On page 956, line 12, strike "ASSISTANCE" and insert "SHARE".

On page 964, lines 9 and 10, strike "titles I, III, and V" and insert "title I".

On page 965, line 24, strike "subsection" and insert "section".

On page 971, line 9, strike "apportioned" and insert "authorized".

On page 971, line 11, insert "under section 507 of title 23, United States Code" before the period at the end.

On page 977, strike lines 3 through 8 and insert the following:

(1) $426,200,000 for fiscal year 2004;
(2) $435,200,000 for fiscal year 2005;
(3) $443,200,000 for fiscal year 2006;
(4) $450,200,000 for fiscal year 2007;
(5) $456,200,000 for fiscal year 2008; and
(6) $463,200,000 for fiscal year 2009.

On page 978, in the matter following line 10, strike "Subchapter I—Surface Transportation" and insert the following:

"SUBCHAPTER I—SURFACE TRANSPORTATION

On page 978, in the matter following line 10, insert after the item relating to section 510 the following:

"511. Multistate corridor operations and management.

On page 981, line 20, insert "and appropriate" after "practicable".

On page 989, strike lines 11 through 15 and insert the following:

"(15) the improvement of surface transportation planning;

"(16) environmental research;

"(17) transportation system management and operations; and

"(18) any other surface transportation research

On page 996, line 13, insert "and innovation" after "technology".

On page 996, lines 16 and 17, strike "innovative technologies" and insert "technology and innovation".

On page 1004, line 23, strike "expended by" and insert "available for expenditure by".

On page 1017, line 16, strike "**ENVIRONMENT**" and insert "**ENVIRONMENTAL**".

On page 1017, line 19, strike "environment" and insert "environmental".

On page 1025, strike lines 9 and 10 and insert the following:

"(D) planning and environment;

"(E) policy; and

"(F) asset management.

On page 1025, line 15, strike "highway" and insert "surface transportation".

On page 1025, line 19, strike "highway" and insert "surface transportation".

On page 1055, line 9, strike "2004" and insert "2005".

On page 1057, line 22, strike "22".

On page 1060, strike line 12 and insert the following:

(d) ALLOCATIONS.—

On each page on which "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003" appears, strike "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003" and insert "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

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**SA 2266.** Mr. GREGG proposed an amendment to amendment SA 2265 proposed by Mr. BOND (for himself, Mr. INHOFE, Mr. JEFFORDS, and Mr. REID) to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place in the amendment insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2003."

### SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

### SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

### SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum event practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representatives of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

### SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by its subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

### SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

### SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

### SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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**SA 2267.** Mr. DORGAN proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit program, and for other purposes; as follows:

On page 880, after the item following line 6, insert the following:

### SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term "eligible person" means an individual or entity that is eligible to receive benefits in accordance with section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a).

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports or offers for transport a fertilizer, pesticide, or fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to—

(1) security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation); and

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**SA 2268.** Mr. GREGG proposed an amendment to amendment SA 2267 proposed by Mr. DORGAN to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit program, and for other purposes; as follows:

At the appropriate place, add the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2003".

### SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the moral of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

### SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" mean any State political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities," in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, medication, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date

enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

### SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

### SEC. 5 ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organizations representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

### SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

### SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

### SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 4, 2004, at 10 a.m., to conduct a business meeting to consider the proposed Federal Public Transportation Act. The meeting will be held in room S 219 of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, February 4, 2004, at 9:30 a.m., to hear testimony on the administration's Health and Human Services Budget Priorities. The meeting will be held in room B318 of the Rayburn House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENT AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, February 4, 2004, at 2 p.m., for a hearing titled "Preserving a Strong United States Postal Service: Workforce Issues, Day 2." The meeting will be held in room 2154 of the Rayburn House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that a fellow in Senator HILLARY CLINTON's office, Joshua Shank, be granted the privilege of the floor during the pendency of this action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that Nick Karellas of my staff be granted floor privileges during the remaining consideration of S. 1072.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to S. Con. Res. 130 (106th Congress), appoints the following individual to the Task Force on Slave Laborers: Virginia Walden-Ford of Washington, DC.

## REFERRAL of H.R. 1446

Mr. FRIST. Mr. President, I ask unanimous consent that Calendar No.

318, H.R. 1446, the California missions bill, be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HOMELAND SECURITY TECHNOLOGY IMPROVEMENT ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 416, S. 1612.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1612) to establish a technology, equipment, and information transfer program within the Department of Homeland Security.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1612

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Homeland Security Technology Improvement Act of 2003".

**[SEC. 2. HOMELAND SECURITY TRANSFER PROGRAM.**

[(a) IN GENERAL.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended—

[(1) by redesignating subsection (d) as subsection (e);

[(2) in subsection (c)—

[(A) in paragraph (7), by striking "and" at the end;

[(B) in paragraph (8), by striking the period and inserting "; and"; and

[(C) by adding at the end the following:

["(9) overseeing and coordinating a multiagency homeland security technology, equipment, and information transfer program to allow for the transfer of technology, equipment, and information to State and local law enforcement agencies."; and

[(3) by adding after subsection (c) the following:

["(d) TECHNOLOGY, EQUIPMENT, AND INFORMATION TRANSFER PROGRAM.—

["(1) IN GENERAL.—The Director shall—

["(A) identify counterterrorism technologies, equipment, and information developed or proven to be effective by—

["(i) consulting with the Undersecretary for Science and Technology;

["(ii) establishing an advisory committee comprised of retired and active-duty law enforcement officials from geographically diverse regions;

["(iii) consulting with State and local law enforcement agencies; and

["(iv) entering into agreements and coordinating with other Federal agencies to maximize the effectiveness of the technologies, equipment, and information available to law enforcement agencies;

["(B) make these technologies, equipment, and information available to State and local law enforcement agencies on an annual basis;

["(C) accept applications from the head of State and local law enforcement agencies that wish to acquire such technologies, equipment, and information to improve the homeland security capabilities of those agencies, and review such applications in coordination with the advisory committee established under subparagraph (A)(ii); and

["(D) transfer the approved technology, equipment, and information, and provide the appropriate training to the State or local law enforcement agency pending the approval of the application of the State or local law enforcement agency under subparagraph (C).

["(2) LIMITATION ON ADMINISTRATION EXPENDITURE.—No more than 10 percent of the budget of the technology, equipment, and information transfer program under this subsection may be used for administrative expenses.

["(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2004 through 2014 to carry out this subsection.".]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Homeland Security Technology Improvement Act of 2003".*

***SEC. 2. HOMELAND SECURITY TECHNOLOGY TRANSFER PROGRAM.***

*(a) IN GENERAL.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—*

*(1) in subsection (b), by adding at the end the following:*

*"(6) The establishment of a multi-agency homeland security technology, equipment, and information transfer program to allow for the transfer of technology, equipment, and information to State and local law enforcement agencies.";*

*(2) by redesignating subsection (c) as subsection (d); and*

*(3) by inserting after subsection (b) the following:*

*"(c) TECHNOLOGY TRANSFER PROGRAM.—In developing the program described under subsection (b)(6), the Secretary, acting through the Under Secretary for Science and Technology shall—*

*"(1) in close cooperation with the Office of Domestic Preparedness, conduct, on an ongoing basis—*

*"(A) research and development of new technologies;*

*"(B) surveys and reviews of available appropriate technologies; and*

*"(C) tests, evaluations, and demonstrations of new and available technologies that significantly improve the capability of law enforcement agencies in countering terrorist threats;*

*"(2) in support of the activities described in paragraph (1)—*

*"(A) consult with State and local law enforcement agencies and others determined by the Secretary, including the advisory committee established under section 430(d);*

*"(B) work with the National Institute for Standards and Technology and any other office or agency determined by the Secretary;*

*"(C) at the discretion of the Secretary, enter into agreements and coordinate with other Federal agencies to maximize the effectiveness of the technologies, equipment, and information; and*

*"(3) provide a comprehensive list of available technologies, equipment, and information to the Office for Domestic Preparedness which shall administer a technology transfer program described under section 430(d).".*

*(b) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended—*

*(1) by redesignating subsection (d) as subsection (e); and*

*(2) by inserting after subsection (c) the following:*

*"(d) TECHNOLOGY, EQUIPMENT, AND INFORMATION TRANSFER PROGRAM.—*

*"(1) ADMINISTRATION.—The Director of the Office for Domestic Preparedness, in coordination with the Under Secretary for Science and Technology, shall establish and administer a technology transfer program through which the Director shall—*

*"(A) make the counterterrorism technology, equipment, and information available to State and local law enforcement agencies each year based on—*

*"(i) the comprehensive list of available technologies, equipment, and information described under section 313(c); and*

*"(ii) the needs identified by the advisory committee established under this subsection;*

*"(B) consult with State and local law enforcement agencies and others, as determined by the Secretary;*

*"(C) accept applications from the head of State and local law enforcement agencies that wish to acquire such technologies, equipment, and information to improve the homeland security capabilities of those agencies, and review these applications with the advisory committee established under this subsection; and*

*"(D) transfer the approved technology, equipment, and information and provide the appropriate training to the State or local law enforcement agencies to implement such technology, equipment, and information.*

*"(2) TECHNOLOGY TRANSFER ADVISORY COMMITTEE.—Under the authority of section 871, the Secretary, acting through the Director of the Office for Domestic Preparedness, shall establish an advisory committee, or designate an existing advisory committee comprised of retired and active duty State and local law enforcement officers, to advise the Director of the Office for Domestic Preparedness and the Under Secretary for Science and Technology regarding the homeland security technology transfer program established under this subsection.*

*"(3) EXPANSION OF PROGRAM.—Upon the approval of the Secretary, the Director of the Office for Domestic Preparedness may expand the program established under this subsection to transfer technology, equipment, and information to first responders other than law enforcement agencies and revise the advisory committee accordingly.*

*"(4) LIMITATION ON ADMINISTRATION EXPENDITURE.—Not more than 10 percent of the budget of the technology, equipment, and information transfer program established under this subsection may be used for administrative expenses.*

*"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2005 through 2014 to carry out this subsection.".*

Mr. FRIST. Mr. President, I ask unanimous consent that the committee substitute be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1612), as amended, was read the third time and passed.

## THE DAY'S EVENTS

Mr. FRIST. Mr. President, we will be closing very shortly but I want to make a couple of remarks on the events of the day. The highlight of the day for me personally was the joint session we had earlier today with the presentation by President Aznar of Spain. His address to Members of the Senate and the House of Representatives very much captured the essence of what makes Spain and the United States of America strong allies and friends in the much broader defense of liberty.

For much longer than many other nations and most other nations, Spain has been a part of United States history and indeed we have been a part of Spain's history. As we look back over the time, that history has been one full of discovery for both sides. It has been an experience rich in harmony and discord.

I was able to talk to the President before as we reviewed that history and after his speech today. It has been a history that has been characterized by wars fought against each other and wars fought alongside each other.

We have had the opportunity to celebrate together the creation of new democracies. We have celebrated together the defense of existing democracies, of old democracies. Together, as we look back over the last several years, we have faced the gravest threats to the security of free people, and through that togetherness and that partnership we have prevailed, advanced, and progressed.

In our hour of need, our response to the acts of terrorism, September 11, 2001, acts that the President referred to—he referred to that day as a terrible day, reflecting, as he did today, that the principles that were attacked that day were the principles Spain had and the United States had, both countries have, and those very principles and values were attacked. I believe he used the words "brutally attacked." In our hour of need, the Spanish people showed us a solidarity, a friendship, and a compassion that very much were the medicine for the soul of our Nation.

Spain—and the President reflects this—has very much been our ally in every sense of the word. It was wonderful for us to be able to welcome him today and to listen to his comments in the Halls of the Capitol of the United States of America.

For me and many others, in the course of the day, as business has progressed on the floor, we have been centered on the response to the ricin attack in the Dirksen Building now a little over 48 hours ago. I am happy to report that everybody is doing fine. A few hours ago I made an announcement that the postal system and that people in the postal system, both inside our buildings and inside our grounds, but also outside, are doing fine, which is very good news. I say that because it is important to realize that this agent ricin is a deadly agent. It is a life-threatening agent and, through exposure, could have hurt many people.

As I said earlier but want to reinforce, we are making great progress in the collection of mail and in examining the Senate office buildings. Officials have moved aggressively. They have moved in an almost symphonic fashion to respond to this insult. As I previously announced, the Russell Office Building will open tomorrow at noon, the Hart Office Building will open Friday at 9 a.m., and the Dirksen Office Building, Monday at 7 a.m. Staff have been patient. Staff have been understanding. Staff have adapted to this terrible incident, working at home and working wherever they can find a space, sometimes in the hallways. I do want to thank my colleagues and the staff for responding in this fashion.

I have previously mentioned that every time I go through the list in my own mind, I leave people out, but all the various people who are working together through the Sergeant at Arms' Office, the Office of the Secretary of the Senate, especially the Capitol Police, the U.S. Marines who are here with us, the Centers for Disease Control and Prevention, the Joint Terrorism Task Force, the Department of Homeland Security, the Environmental Protection Agency, the various law enforcement agencies that have responded, the postal workers, the postal system across the United States of America in what has truly been remarkable when we think of what we have gone through, with anthrax 2½ years ago and a number of other incidents.

Looking back over the 200-year history of this wonderful celebrated building, probably the most celebrated building in the world, the place has been burned down essentially, has been attacked, has been assaulted again and again, but the institution itself, just like the people who are here, who are working here every day, has responded with a resiliency that is truly remarkable. There is a toughness and an ability to bounce right back.

We have not missed a step in terms of conducting the Nation's business in spite of the really tragic occurrence of the last several days.

I will close on this particular issue, again talking about my own staff who responded so admirably. I have my own staff who are in the mailroom, and when they see something is not quite right, they use procedures that they have been trained in and that we have all focused on very much in terms of our procedures. They immediately responded appropriately and handled that operation in an appropriate way with evaluation of the room, notification of the appropriate personnel, and the appropriate response. Without that, people could have been hurt and could have died.

It is nice to be able to see that and commend the people working in such an environment. Unfortunately, these are the realities we have seen, anthrax 2½ years ago, ricin today, Capitol Police officers assaulted in this building and killed not too long ago. The resiliency is truly remarkable in this great institution.

## ORDERS FOR THURSDAY, FEBRUARY 5, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., Thursday, February 5. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 10:30 a.m., with the first 22 minutes under the control of Senator ROBERTS or his designee, the following 22 minutes under the control of Senator GRAHAM of Florida or his designee, the following 22 minutes under the control of the majority leader or his designee, and the final 22 minutes under the control of Senator FEINSTEIN or her designee; provided that following morning business, the Senate resume consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Tomorrow morning, following morning business, the Senate will resume consideration of S. 1072, the highway bill. There are currently two amendments pending to the bill. It is my hope that we will be able to work through those amendments early in the day so we can proceed to additional amendments. Senators should expect votes tomorrow as the Senate continues to make progress on the highway bill.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, February 5, 2004, at 9 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate February 4, 2004:

### THE JUDICIARY

MARK R. FILIP, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

# HOUSE OF REPRESENTATIVES—*Wednesday, February 4, 2004*

The House met at 10 a.m.

The Reverend Dr. Michael J. Easley, Senior Pastor, Immanuel Bible Church, Springfield, Virginia, offered the following prayer:

Let us pray. Creator, Sovereign, Lord of all, help us. Though we do not deserve it, we humbly ask for Your mercy; that You bless this country we dearly love.

Protect us from our enemies. We ask not merely for ourselves but for our children. We ask not merely for our children but for their children.

Protect us from ourselves. May we never exercise the strength of tyrants, misuse talents entrusted to us, or lord over those allotted to our charge.

We pray for this House and all it represents; for our men and women overseas, keeping an oath that they swore; for their families who keep watch and pray; for all who lead, govern and serve; for our marriages, our families; for common sense; for moral restraint to keep Your covenants.

Faithful God, we thank You. Thank You that You look at us and see Your son's work, and thank You that You even hear our prayers.

In Jesus' name, Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain one 1-minute at this time.

## WELCOMING DR. MICHAEL J. EASLEY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it is my pleasure to welcome Dr. Michael J. Easley to the floor of the Congress today to open what will be a very important session day in the life of this Congress in prayer.

Dr. Easley is senior pastor of the Immanuel Bible Church in Springfield, Virginia, and has been in that role for over a decade. He came to the region of the Nation's Capital, however, from Grand Prairie, Texas, where he served in ministry. He recently obtained his Doctorate of Ministry from Dallas Theological Seminary, where he also received a Master's of Theology in 1985.

Dr. Michael J. Easley, Michael to his friends and to the members of his church, is a man after God's own heart. He preaches the word of God with conviction and with sincerity and with clarity. In every sense as a family on the occasions we find ourselves in the Nation's Capital and find ourselves in the pews of his church, on those weekends I can testify, Mr. Speaker, that Dr. Michael J. Easley is, as the Scripture says, a workman approved, rightly able to handle the word of truth.

It is my profound honor to welcome him and to thank his wonderful wife, Cindy, and his four children, Hanna, Jessie, Devin, and Sarah for their contribution to the life and Ministry of Christ in this region of our Nation.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Jose Maria Aznar, President of the Government of Spain, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance anticipated, the Chair feels the rule regarding the privilege of the floor must be strictly adhered to. Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placing placards will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

## RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, January 27, 2004, the House stands in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 10:52 a.m., the following proceedings were had:

☐ 1052

## JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

The Speaker of the House presided.

The Deputy Sergeant at Arms, Kerri Hanley, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Jose Maria Aznar, President of the Government of Spain, into the Chamber:

The gentleman from Texas (Mr. DELAY);

The gentleman from Missouri (Mr. BLUNT);

The gentlewoman from Ohio (Ms. PRYCE);

The gentleman from Nebraska (Mr. BEREUTER);

The gentleman from Illinois (Mr. WELLER);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Maryland (Mr. HOYER);

The gentleman from New Jersey (Mr. MENENDEZ);

The gentleman from California (Mr. LANTOS); and

The gentleman from Texas (Mr. RODRIGUEZ).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort His Excellency Jose Maria Aznar, President of the Government of Spain, into the House Chamber:

The Senator from Tennessee (Mr. FRIST);

The Senator from Alaska (Mr. STEVENS);

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Senator from Pennsylvania (Mr. SANTORUM);

The Senator from Arizona (Mr. KYL);

The Senator from Virginia (Mr. ALLEN);

The Senator from Indiana (Mr. LUGAR);

The Senator from Oregon (Mr. SMITH);

The Senator from South Dakota (Mr. DASCHLE); and

The Senator from Connecticut (Mr. DODD).

The Deputy Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, Her Excellency Mary Madzandza Kanya, Ambassador of Swaziland.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for her.

The Deputy Sergeant at Arms announced the Cabinet of the President of the United States.

The Members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 2 minutes a.m., the Deputy Sergeant at Arms announced His Excellency Jose Maria Aznar, President of the Government of Spain.

The President of the Government of Spain, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you His Excellency Jose Maria Aznar, President of the Government of Spain.

[Applause, the Members rising.]

## ADDRESS BY HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

(The following address was delivered in Spanish, with a simultaneous translation in English.)

President AZNAR. Mr. Speaker, Mr. Vice President, Honorable Members of Congress, ladies and gentlemen, allow me to begin by thanking you most sincerely for the warm welcome you have extended to me this morning. I somehow have the feeling that you, like me, are looking forward to a short speech.

As a parliamentarian and as Prime Minister of Spain, I am deeply honored to be invited to address the United States Congress. This Chamber is a living symbol, admired the world over, of our common desire for freedom and democracy.

I recall the great emotion the people of Spain felt on June 2, 1976, when King Juan Carlos I spoke from this very rostrum on the occasion of the commemoration of the Bicentennial of American Independence.

In his speech, His Majesty the King emphasized the important Hispanic contribution to the formation and independence of this great Nation.

We in Spain were going through difficult and delicate times then; and from this rostrum, our King set out his vision of a prosperous and modern Spain and conveyed the Spanish people's desire for freedom and democracy.

Today, 28 years on, Spain is fully consolidated as a democracy.

The process of political decentralization, which was set in motion with the 1978 constitution, has been completed successfully.

We are one of the great nations of Europe. Active members of the European Union, we are a dynamic, open, and enterprising country of 43 million people. Once an emigrant society, today we receive immigrants from the four corners of the world.

We are the eighth largest economy in the world today. Central to that achievement has been our membership of the European Union. Our economy is growing stably and with confidence at a rate above the average of our European Union partners. And our economy has generated half of all of the jobs created in Europe in recent years.

The Spain of today knows full well that growth and maturity bring responsibilities also. We know that we have to face risks and shoulder commitments, commitments that must be met.

We want to occupy a position in the first line of defense of democracy and the rule of law. Alongside friends and allies in good times as well as in times of difficulty, we share with you values and principles. Let me say that our commitment to freedom is unwavering.

Equally unwavering has been the commitment of the United States, and allow me to pay public tribute here today to the American people for the indispensable role that they have played in the fight for democracy and freedom.

For the last 8 years, it has been my privilege to serve as Prime Minister of Spain. At all times I have defended the value and validity of the Atlantic relationship for the good of Europe, as well as for global stability and security.

During my term in office, I have constantly worked towards that objective, firstly with the Clinton administration and more recently with the Bush administration. Indeed, one of the greatest personal and political satisfactions gained from these years has been the relationship I have established and built up with these two great Presidents.

It comes as no surprise, then, that our relations are nothing short of exceptional at present.

The Atlantic relationship strengthens Europeans and Americans alike, and it makes the world a safer and freer place.

In working intensely to further the process of the European Union, Spain believes that the process has to be carried forward while at the same time preserving and enhancing the Atlantic relationship. It is a relationship that lies at the very origins of Europe's construction. Having played a part in its development, it necessarily has to be a part of its future also.

That has always been our view, and it still is our view today, just a few weeks before 10 new countries join the European Union as members. Many of those countries had to endure the tyranny of communism. Many of them now look to the Atlantic Alliance to guarantee their freedom.

As a European, let me say that I have no wish whatsoever for an alternative to the transatlantic relationship. I want no alternative to the Atlantic relationship. Wanting a strong European Union, as Spain does, and being at the vanguard of Europe, as Spain is, does not entail working to be a counterpower to the United States. It means working towards an Atlantic-minded Europe. Given that we share the same principles and values, it is in our common interest to defend these.

Mr. Speaker, Mr. Vice President, those very principles and values came under brutal attack on September 11, 2001. Nothing can make good the grief and suffering caused on that terrible day when terrorists demonstrated their despicable contempt for human life.

But the American people responded with an admirable lesson in civic-mindedness and responsibility. In so doing, and let me make this absolutely clear, they penned one of the most beautiful pages of our modern era.

The United States was not the only target of the September 11 attacks. Terrorism threw down a calculated challenge to the values that are core to humanity, freedom, moral decency, compassion, and respect for the lives of others.

Immediately after the attacks, Spain expressed its active solidarity and its commitment to the Government and the people of the United States. Allow me here in this Chamber to reiterate that solemn commitment today.

Speaking in Madrid a few months before 9/11, President Bush expressed America's solidarity with Spain's fight against the terrorism that we have had to endure for too long. That solidarity has materialized in the form of active cooperation. We will never forget that gesture of support. And I will never forget it.

The United States and Spain would both like to see the United Nation's counterterrorism committee play a real and effective role. We would like to see a world list of terrorist organizations drawn up and approved. We also feel it important to ensure that the voice of the victims of terrorism is listened to permanently.

Just 10 days ago, the first-ever World Congress of Victims of Terrorism was held in Madrid. The victims are the moral backbone that underpins our fight against terror. They give us valor. They give us courage. But at the same time they also call us into account and demand results from us. They also demand justice and reparation.

There can be no justification whatsoever for terrorism. It destroys the causes it purports to defend. The political or religious causes that terrorism allegedly serves are among its victims also.

And allow me to say here today that terrorists must be made to realize that the only and inevitable outcome is defeat. We derive our strength from the moral superiority of democratic systems. And as has occurred on past occasions in history, I have no doubt whatsoever that freedom will triumph over barbarity this time too.

Today, in Afghanistan and in Iraq, the most important phase of the fight against terrorism is currently taking place. In Iraq, terrorists are trying to prevent the Iraqi people from taking their own destiny in hand.

We refused to countenance the repeated violations of international law by Saddam Hussein's tyranny.

We remain committed to Iraq's material and institutional reconstruction, and I can guarantee you that we fully intend to see our commitments through.

At this point, I would like to pay a sincere tribute to all those who have given their lives in order to restore freedom to the Iraqi people, to guarantee the security and consolidate democracy. Our appreciation and gratitude will always be with those who have died.

The fight against the proliferation of weapons of mass destruction is another common feature of our pursuit of a more stable and freer world.

Recent progress in the fight against the proliferation of these weapons would not have been possible had it not been for the firm stance that we have taken.

Proliferation poses a very real threat to everyone's security. Faced with the risk that these weapons might be used by terrorist groups, we cannot stand by and do nothing. In addressing this challenge, we have to act together and with resolve. To ignore this reality or to evade the real issue and the genuine priorities would not only be highly irresponsible but would prove extremely costly in terms of our own security and freedom.

Mr. Speaker, Mr. Vice President, the transatlantic link stands for freedom, freedom in all areas. And it is thanks to that freedom that North America and Europe are the two most prosperous regions in the world.

Experience shows that free trade is a source of economic growth and wealth for everyone. That is why I proposed recently, and reiterate here today, that we should create a great economic financial and trade zone between Europe and the United States by the year 2015.

I am sure that we can open up a new era of growth and stability that would benefit the rest of the world too.

It is my belief that freedom brings prosperity. That is what I have tried to do in my country since 1996 through economic liberalization and reforms. It is also the reason why in Europe I have promoted initiatives that prioritize above all else liberalization, innovation, and improved competitiveness.

The very close relationship we have forged between our two countries includes a Latin American dimension also. For me, Latin America is a key continent for my country. Spain is the world's second biggest investor in that region behind the United States.

The countries of the region have made great efforts in recent decades to consolidate democratic regimes and free market economies. That is a further reason for our desire to strengthen ties between Europe and Latin America.

I am convinced that the Atlantic relationship will not be complete until it embraces the American continent in its entirety. For the medium and long term, we should set ourselves the joint goal of building a veritable community of common values and interests, including a large free trade area. And rest assured that Spain is willing and ready to work towards that goal.

The Hispanic communities in the United States represent a source of new and, until very recently, unimaginable opportunities for these closer ties between the United States, Latin America, and Europe.

I myself have been a privileged witness to this emerging and very promising reality in Texas, New Mexico, California, New York, and Florida.

Mention of Florida necessarily brings me to say something about Cuba and its large exiled population. Like so many Spaniards, I too come from a family with roots in Cuba. This Caribbean island is one of the last remaining anomalies of history, not just in the Americas but anywhere in the entire world.

I would like to reiterate my desire and hope here today that before too long Cuba can be welcomed into the fold of free nations.

Mr. Speaker, Mr. Vice President, honorable Members of the House, as Prime Minister of Spain, I have endeavored at all times to harness the trust which the people of my country have placed in me for the last 8 years to help make Spain a safer, more prosperous, more committed, and consequently more respected country.

Relations between our two nations stretch back more than 200 years. Spain provided valuable support to the United States in its fight for independence. Thereafter, our relations may not always have been governed by understanding. However, there has never been a more propitious time than the present to undertake grand projects together. What we have achieved together in recent years has already served to create a strong relationship, a relationship between countries that are friends, allies, and partners.

And in concluding, may I say that in Spain the American people have a friend from Europe. In Spain, the United States has a firm, strong, and responsible ally. Let us continue to work together, together for the cause of democracy and freedom in the world.

Thank you.

[Applause, the Members rising.]

At 11 o'clock and 28 minutes a.m., the President of the Government of Spain, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Deputy Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The Members of the President's Cabinet;

The Acting Dean of the Diplomatic Corps.

## JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 11 o'clock and 31 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until approximately noon.

□ 1206

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATHAM) at 12 o'clock and 6 minutes p.m.

## PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## CLINTON ADMINISTRATION'S CASE FOR WAR

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, let me give Members the following quotes: "Sometimes the United States has to act alone, or at least has to act first. Sometimes we cannot let other countries have a veto on our foreign policy." That is a debate quote spoken by President Clinton.

Madeleine Albright: "I am going to explain our position, and while we always prefer to act multilaterally, we are prepared to go unilaterally."

President Clinton: "Would the Iraqi people be better off if there was a change in leadership? I certainly think they would be."

In the last couple of days, we have heard a lot of people questioning the President's veracity. Let us talk about the successes: Libya is cooperating and disarming; Charles Taylor has been forced out of Liberia; India and Pakistan are talking about Kashmir and reducing tensions; and as Senator LIEBERMAN said, "Saddam Hussein was a walking weapon of mass destruction."

Mr. Speaker, I appreciate the leadership of this President. I am proud of standing with him and our military as they combat terror and tyranny around the globe. Shame on the Democrats for suggesting that the President is not truthful.

## PROTECT AMERICA'S NATIONAL SECURITY ACT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in the next couple of days I expect to introduce my Protect America's National Security Act of 2004. The provisions of this bill will include full congressional hearings on what intelligence was used and how the intelligence was used in the decision to make a unilateral attack against Iraq in the winter of 2003. The American people deserve to know.

And then I will ask to allow for the general figure that is utilized for the intelligence budget of this Nation to be presented publicly to the American people. That will not violate our security. I will not ask for a line item listing, but I will ask that the American people, as indicated by a former Reagan administration official, know how much we spend for intelligence. The American people deserve to know.

Mr. Speaker, I hope that my colleagues will realize that our rights as a Congress should not be abrogated.

## DEFICIT SPENDING BEFORE CONGRESS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to speak on the enormous deficit spending that is before Congress this year. It is expected to be between $477 billion to $530 billion. As a fiscal conservative, I find it unacceptable.

One of the core values of conservatism is to fight for limited government, wise use of taxpayer money, and fiscal restraint. This body falls short on being an example of these values. We need only to look to last year when we had several opportunities to cut out waste in government programs, but did not do so. One prime example is where Congress would not pass a simple amendment which would have prevented the funding of sexual arousal and porn studies granted through the National Institutes of Health. I voted for the amendment which would have prevented the use of taxpayer money for these ridiculous studies. I think most constituents agree with me on that. Also numerous amendments by the gentleman from Pennsylvania (Mr. TOOMEY) were presented to reduce spending by across-the-board cuts. What a great idea. We failed to take measures there.

Mr. Speaker, it is time for us to realize the government will continue to borrow for the present by mortgaging the future.

## IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 513 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 513

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

☐ 1215

On Tuesday, the Rules Committee met and granted a modified open rule for H.R. 3030, the Improving the Community Services Block Grant Act (CSBG). This is a very fair rule and I believe that all Members of the House should be able to support it. This bipartisan bill extends the CSBG program through 2009 while strengthening its accountability provisions and preserving current law protections for faith-based service providers using CSBG funds.

In every State across the Nation, various communities combat the devastating effects of poverty using the Federal funds provided by the CSBG. This legislation preserves the CSBG as a true State block grant program, allowing States to establish and operate antipoverty programs that meet the unique needs of their low-income communities. Most importantly, H.R. 3030 fosters increased accountability by ensuring that States are monitoring local grantees to ensure services are being provided in the most efficient manner and that quality services are reaching those who have the greatest need. As many of my colleagues know in communities across America, faith-based organizations play a central role in the battle against poverty. From food and clothing drives to shelters for the homeless and from youth mentoring to job training, faith-based service providers have proven to be among the most effective tools for helping the most vulnerable members of our society. I believe it is the faith-based character of these organizations that makes them so effective. By nature, many of them include helping those in need as a part of their founding mission and their purpose.

The provisions in H.R. 3030 ensure that these organizations can continue to operate antipoverty programs in their communities without losing their Civil Rights Act protection to staff on a basis consistent with their organizational nature. However, there will be amendments offered today that seek to repeal current law and remove this protection for faith-based organizations participating in CSBG.

I urge Members to vote against the Woolsey amendment because the federally funded faith-based programs under the CSBG program must include participants of all faiths, if they choose to participate. The issue at hand does not regard who is treated or helped with Federal money but merely if groups doing the helping or treating may consider in hiring decisions the faith of an employee who would work in their faith-based program.

CSBG has enjoyed a long tradition of bipartisan support. Helping communities to combat the harmful effects of poverty has been and will continue to be a bipartisan goal. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes and I yield myself such time as I may consume.

Mr. Speaker, chronic unemployment still plagues the Nation; 3.3 million workers have lost their jobs since January 2001. The poverty rate in America has risen to 12 percent and the number of children living in poverty continues to climb.

The community services block grants were created to alleviate poverty by funding initiatives that fight its causes. These grants enable over 1,000 organizations across the country to provide services to combat unemployment, inadequate housing, poor nutrition and the lack of educational opportunities.

Because of community services block grants, the Orleans Community Action Committee in Orleans County, New York, is able to provide a broad array of services, including Head Start, teen programs, weatherization programs, transportation, emergency services, family development, help in putting together a budget, help in preparing tax returns, child care services and a community center. For 30 years, Action for a Better Community has been a leader in Rochester, providing programs increasing health, education, safety, employment and housing needs. Every dollar the Federal Government invested in these organizations through the community services block grant program is a dollar wisely spent. An investment in our citizens and our children is an investment in our Nation's future.

The value of these programs is not at issue. The problem with this reauthorization is the ability of provider organizations to use Federal funds to discriminate. H.R. 3030 allows these service organizations to discriminate against clients because of their religion. It allows religious organizations that receive these Federal grants to discriminate based on religion in their employment practices. This is un-American. Discrimination is happening. Employees of the Salvation Army of Greater New York have filed complaints with the Equal Employment Opportunity Commission, and several lawsuits against the Salvation Army are in the works. Employees are being questioned about their church affiliations. One of the duties listed on new job applications is to, quote, preach the gospel of Jesus Christ and to meet human needs in His name without discrimination. The Salvation Army uses millions in public moneys to carry out its charitable missions, but it has recently begun to impose its religious mission upon its employees.

Right here in my hand I have an employment application for a social worker position with a religious organization, and that religious organization uses Federal funds. The applicant is asked his or her religion, length of church membership, the name of his or her church, the church's phone number and address, and the name of its minister. The United States should not permit religious discrimination with Federal funds. As Theodore Roosevelt said, "To discriminate against a thoroughly upright citizen because he belongs to some particular church, or because, like Abraham Lincoln, he has not avowed his allegiance to any church, is an outrage against that liberty of conscience which is one of the foundations of American life."

Mr. Speaker, I would like to take this opportunity to clear up a misunderstanding about what title VII of the Civil Rights Act of 1964 says and does not say. Religious organizations are exempted from the general prohibition against religious discrimination in hiring personnel for work connected to the organization's religious activities. However, religious organizations are not permitted to discriminate in hiring for secular activities. There should be an ability in this Congress to make a distinction between those two descriptions.

This country has spent decades and decades working to eradicate the insidious venom of discrimination. It is an anathema to fundamental American ideals that we would now permit Federal moneys to be used to discriminate against people because of their religion. Taxpayers do not want to subsidize discrimination.

Federally funded programs to attack the causes of poverty do not have a religious mission, regardless of the service provider. Helping someone fill out tax forms is a secular program. Someone's religion is irrelevant to this program. The Federal Government should not fund the religious activities of any religious organization. To do so is a violation of the first amendment of the United States Constitution which we hold up our hands every 2 years and swear to uphold. As the United States Supreme Court said in Bowen v. Kendrick, "Even when the Court has upheld aid to an institution performing both secular and sectarian functions, it has always made a searching inquiry to ensure that the institution kept the secular activities separate from its sectarian ones, with any direct aid flowing only to the former and never the latter."

On its Web site, Action for a Better Community says that faith-based organizations, quote, should be held to the same high standard of outcome delivery as community action agencies without compromising the separation of church and State. We would be wise to listen to their admonition.

I urge my colleagues to support the Woolsey substitute amendment which would clarify that religious organizations are welcome as service providers to low-income Americans and that they are not permitted to discriminate on the basis of religion. And I urge my colleagues to support the Miller amendment which would extend unemployment benefits for the 2 million unemployed Americans whose benefits have run out. Almost daily, my office hears from those Americans who are afraid of losing their homes or having to take their children out of school and simply being unable to meet their obligations. We owe it to them to give them some help until a job can be found for them.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, let me begin by thanking my very good friend, the former mayor of Charlotte, and I should say since I mentioned Charlotte, congratulations on a well-fought Super Bowl. I understand that in Charlotte there was no sense at all that anyone was a loser and it was a great game. She has done a superb job on managing this rule and with her work on the Committee on Rules.

I am proud to be here. I have surmised from the comments from my good friend from Rochester that she is supportive of the rule. She did not indicate that, but I suspect that in light of the fact that with the exception of the preprinting requirement, this is an open amendment process and we have had one substitute that was outlined before our Committee on Rules yesterday and four amendments that have been filed that we will be able to have an opportunity for a free-flowing debate on a very important issue.

I have to say that I am particularly proud of our colleague from Nebraska (Mr. OSBORNE) who has worked long and hard on this and gave great testimony before the Committee on Rules yesterday and understands very well that we are as a Nation seeing very positive signs of economic improvement. It used to be that the full employment rate in this country was 6 percent. I am happy to see the unemployment rate has dropped to 5.7 percent. We just got the report at the end of last week that the GDP growth for the fourth quarter of last year was at 4 percent, which is a very positive sign of improvement.

Jobs are being created, contrary to a lot of the reports out there. Under the household survey which is conducted by the Department of Labor, we have seen 1.9 million new jobs created since November of 2001. So we are seeing positive signs out there, but the gentleman from Nebraska understands that there are still people out there who are in need and there are challenges.

One of the things we want to do is make sure that we lay the groundwork, which is what the community services block grant program has done, lay the groundwork for people to move from depending on others to get to the productive side of our economy. We all know what that does. It not only plays a role in diminishing the reliance on taxpayer dollars but it also tremendously increases the self-esteem level. We have found that time and time again from a wide range of entities which work to help people who are facing dire circumstances get onto the productive side of the economy. It does wonders for their families and it creates a sense of optimism for the future.

The gentleman from Nebraska (Mr. OSBORNE) and his work along with the gentleman from Ohio (Mr. BOEHNER) and others understand that with the community services block grant, we can do a lot of very important things that do provide assistance to those who are truly in need.

And so I simply want to congratulate the gentleman from Nebraska and congratulate all those who have been involved in putting this package together. We are going to have an interesting debate and I know that the substitute will spark a great deal of particular debate and interest. We will look forward to that. I hope very much that just as we, I believe, enjoy strong bipartisan support for this modified open rule, that we will similarly enjoy bipartisan support as has been anticipated on the passage of this legislation.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. OSBORNE), the author of this legislation.

Mr. OSBORNE. Mr. Speaker, I rise in support of the rule. We think this is an important piece of legislation. It seems to have fairly broad bipartisan support in most areas. Obviously this legislation reauthorizes the CSBG Act and preserves the CSBG as a State block grant program. The main issue here is that we do try to do some things that improve the quality of the block grant program.

☐ 1230

First of all, State and local goals must be met by grantees, so there is some accountability, which probably heretofore has been lacking in some cases.

States monitor grantees to ensure that services are provided to those with the greatest need. Many times it has not in the past gone to those who are most destitute.

It streamlines reporting data to HHS to avoid duplication and eliminates extraneous information. I guess everyone likes to see less paperwork.

Also the States must either defund low-performing entities or justify to Labor-HHS why low-performing entities continue to be funded. So there is, again, an area of accountability.

In addition, this particular bill encourages initiatives to improve economic conditions in rural areas, which are often underserved, encourages education and youth crime prevention through youth mentoring, which saves money and lives by investing in young people before they are enmeshed in the criminal justice system, and, of course, it also allows faith-based organizations to consider religion while hiring, while ensuring that recipients are not discriminated against on the basis of religion. Also it continues to fund discretionary programs at current authorization levels and extends them through 2009.

I might just mention one story that I think pretty much illustrates the importance of this situation. A young mother in my district was abandoned by her abusive fiancee. She had no money, no car, no job, no family support, and a 5-year-old child. A Blue Valley community action crisis intervention program provided counseling, obtained housing, helped her find a job, and so she is now supporting her child, productively employed and preparing to own her own home. This is just one story that can be told thousands of times.

So I urge support of this bill. It provides those who have great need in the most efficient, most cost-effective way.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, the first 16 words of the Bill of Rights enshrined in our psyche in this country, the belief that every American citizen should have the right to his or her own religious views.

I want to point out, Mr. Speaker, to colleagues here in the House and to the people across this country, that in this legislation is language that will make it perfectly legal for an American citizen to receive, say, a $5 million job training grant, or a Head Start grant, and then using those tax dollars, that one American citizen can say to another citizen, if you do not pass my private religious test, then you do not qualify for a tax-funded job. In effect, what this bill does is to subsidize, not just tolerate, but to subsidize religious bigotry in America.

How ironic, at a time when we are fighting for religious freedom in Iraq and across the world, that we would pass legislation that would maintain in the law a prescription for religious discrimination. I think it is wrong to do so, and I would be willing to even yield some of my time to any Republican Member that would stand up and tell me that it is okay in 2004 in America to say that you should have to pass my religious test to qualify for a federally-funded job.

That is wrong, and it should not be a partisan issue. It is an American issue, because it is ingrained in the very first 16 words of the Bill of Rights that has protected America's religious liberty for over two centuries.

So far, I have not had any of my colleagues on the other side of the aisle willing to stand up and say in public that it is okay that someone else should have to pass another American citizen's religious test in order to qualify for a federally-funded job. Yet, guess what happens? When the doors are closed and decisions are being made on the bills and interest groups are plying their pressure, that kind of discrimination language was put in this bill.

It is wrong, it is unconstitutional, and I find it morally offensive as a person of faith that any American ought to have to pass someone else's private religious test to qualify for a tax-funded job.

Mr. Speaker, I would welcome a debate on this issue at any point during the debate of this bill with any of my colleagues on either side of the aisle. As I said, this should not be a partisan issue. Protecting religious freedom in America should be an American value, an American issue, and we ought to have the courage in this Congress to stand up to special interest groups and say we do not care how much power you have, we are not going to let you try to put in the law of this land a rule that allows other Americans to discriminate against citizens, to exercise religious bigotry when using Federal dollars to funds those jobs.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, today I rise in support of this rule to reauthorize the Community Services

Block Grant Act. I oppose the substitute because it would repeal current law and strip faith-based organizations of their right to hire the candidates they feel are most qualified for the jobs. These same rights are guaranteed to faith-based organizations under Title VII of the Civil Rights Act of 1964, and have since been consistently upheld in the courts.

Last year, I brought the Committee on Government Reform to Franklin, Tennessee, and we heard from groups of all sizes that helped the needy in Franklin and Middle Tennessee. One of those that testified was Onnie Kirk. He runs the Family Foundation Fund, an organization that helps fatherless children. He testified that they would not accept Federal funds if these funds compromised the character and the purpose of his organization. The amendment would remove those protections.

We should not bend to the false arguments and overburden the very organizations that serve the most needed needy in our society. These organizations have higher success rates than many government programs.

The Community Services Block Grant Act did not and still does not permit Federal funds to be used for the purposes of promoting religion. It allows faith-based groups to use Federal funds for secular purposes, feeding, clothing its needy, helping the out-of-work find jobs, without compromising their essential character. We should keep it that way.

I ask my colleagues to join me in opposing the substitute to H.R. 3030.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I would like to ask the gentlewoman from Tennessee before she leaves the Chamber if she would be willing to have a discussion. I would be glad to yield some time to have a discussion on the issue of whether a group should be able to say with tax dollars that we are not hiring Jews or we are not hiring Catholics in this job training program or education program, even though you are perfectly qualified for that job.

My friend and colleague the gentleman from Ohio (Mr. BOEHNER) is on the floor, and I would be glad to yield for the purpose of a discussion.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, under the rules outlined here in the House, we are debating the rule to consider the bill. Once this rule is approved, we will spend, I would imagine, the better part of the afternoon discussing the protections granted to religious organizations under the 1964 Civil Rights Act. I think that would be a more appropriate time to have this debate.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, I would just say to the gentleman, he and I came to the House together 14 years ago and we know on a daily and weekly basis we utilize rule time to discuss what is in a bill.

Obviously, I do not like this rule because it allowed a bill to come to the floor that I find deeply offensive to the First Amendment protection of religious freedom. But if this was an issue important enough for Madison and Jefferson to debate for 10 years in the Virginia legislature, the issue of religious freedom in America, then certainly it is worthy of our discussion here on the floor.

I guess what I would like to ask the gentleman is just do you not think it is wrong that you would have to pass my personal religious test to qualify for a tax-funded job? Why should you have to pass my religious test? Why should I have the right to give you a religious test to qualify for a job that is being paid for by the American taxpayers?

Mr. BOEHNER. If the gentleman will yield further, the Congress in 1964, and as amended in 1965, passed landmark civil rights legislation in America, and it was the Congress in the mid-sixties who saw fit to provide religious organizations with one small exemption, and that in the case of employment, to religious organizations. And if you read the comments of the debate and the record of that debate, it was because those civil rights laws guarantee Americans full access to jobs, to all types of programs in our country.

But they did understand that religious organizations, by their very nature, ought to have an exemption in employment so religious organizations can, if they want, not all do, hire people of their faith.

The only issue here is whether those organizations, faith-based organizations, that do in fact provide community services with Federal funds, whether they should continue to have that exemption.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, if I could respond to that, then I would be glad to yield, because I appreciate the opportunity to have a discussion on this, I think if the gentleman would go back and look at the debate, including Senator Sam Irvin's comments on the Title VII exemption to the Civil Rights Act and the amendments thereto, you would find that the focus there was saying that Baptist churches with their own money should have the right to hire Baptist pastors; a Jewish Synagogue with its own money ought to have the right to hire a Jewish rabbi, rather than a Baptist pastor.

I think there is a real serious question about suggesting that Title VII said it is perfectly okay for a faith-based group to take Federal tax dollars and say, "Mr. BOEHNER, I am not hiring you today because you do not pass my personal religious test."

Let us put Title VII aside for a moment. There might be differences of opinion about what is in it. Let us discuss the direct principle. Why should any American citizen have to pass another American citizen's personal religious test to qualify for a Federal education program or a job training program? Why should it be legal for a group to accept a $5 million Head Start or job training grant from the taxpayers and say we are not going to hire Jews or Catholics? Or it might be a Muslim group that says we are not going to hire Christians.

In the land that cherishes religious freedom, do you really believe that that is a good public policy?

Mr. BOEHNER. Mr. Speaker, if the gentleman will yield further, let me pose the opposite question to you. Why should a faith-based organization that is providing tremendous community services give up the protections granted to them under the 1964 Civil Rights Act just because they accept Federal dollars in their mission to help low-income people?

Mr. EDWARDS. Reclaiming my time, I will be glad to answer that question, and then I will give the gentleman time to answer my question.

I would say, first of all, I disagree with the gentleman that the Title VII exemption gave faith-based groups a carte blanche to use public tax dollars to discriminate in job hiring. The second thing is, when they accept Federal money, they already, under long-standing law, agree not to proselytize.

So when you accept taxpayer money, there are certain standards you accept. My question back to the gentleman is does he think it is okay for a faith-based group to receive a $5 million job training grant and say we are not going to hire you because you are Jewish or Catholic? Is that okay?

Mr. BOEHNER. If the gentleman would yield further, if that organization in their beliefs want to hire people of their faith, because in many cases the people they may hire will not only participate in a job training program, they may also teach Sunday school, they may also do other things for that religious organization.

But I would bring the gentleman's attention back to the bill we have before us, and the bill before us, that is the Community Services Block Grant reauthorization bill, last passed and reauthorized by the Congress in 1998 and signed into law by then President Bill Clinton, that act in 1998 and the President's signature in 1998 contains the identical language that this bill contains.

Now, the Congress passed this overwhelmingly in 1998, and the President signed it into law. Now here we are 6 years later and we are saying, oh my goodness, there is a problem. If I could just finish, if over the last 6 years it would have been clear that there was a problem with faith-based organizations maintaining their rights under the 1964 Civil Rights Act, I think we would have heard about it. I have not heard a word.

Mr. EDWARDS. Reclaiming my time, there are cases starting to come to the surface. For example, in the State of Florida or Georgia, a Jewish citizen, perfectly qualified for a job, was denied the right to a job simply because he was Jewish.

Now, again, I differ with the idea that the Title VII exemption of the Civil Rights Act allowed faith based groups to exercise religious discrimination or, in the worst cases, religious bigotry.

☐ 1245

But I at least want to clarify, at least the gentleman is saying, for whatever reasons he mentioned, groups ought to be able to do with public tax dollars whatever they want; the gentleman is saying that it is okay for a faith-based group running a federally funded jobs training program to say to a Jew or a Catholic or a Christian of one denomination or another, we are not going to hire you even though you are perfectly qualified for this job, simply because of your religious faith. I think most Americans would think that type of religious discrimination is absolutely wrong, especially when we consider we cannot fund religious programs. We all agree that is prohibited under Federal law.

So what we are doing is we are funding social programs. Why should your religious faith have an affect on whether you can ladle soup at a soup kitchen or train a 5-year-old child? Perhaps we have just an honest disagreement. I think it is wrong for a group to say with tax dollars we are not going to hire you because of your personal religious faith. Perhaps the gentleman feels that these groups ought to be able to discriminate in that fashion. And if he does, then at least that is an honest debate and we will let the American people decide which side they come down on.

One other point. I would challenge the gentleman. Other than the gentleman's tremendous knowledge as the chairman of this committee, there were not 10 Members out of 435 in this House that knew the discrimination language was in there in 1998. I have gone back and chronicled the first 3 or 4 times that we passed charitable choice language like this. The first time was the Welfare Reform Act. Virtually no one in the House, other than maybe the conferees, some of them, knew it was in there. The second time we passed it was at about 1 o'clock in the morning. The third time was at about 12:30 in the morning with 2 or 3 Members on the floor. Every time we passed it Members would say, We already passed this before. People did not know it was in there.

So I think all of that is irrelevant.

The fundamental question is should an American citizen be discriminated against for a tax-funded job simply because he or she is exercising their deeply-felt personal religious faith. In my opinion, that kind of subsidized Federal bigotry based on religious faith is a prescription for disaster in this country. And President Clinton, when he signed this legislation and other legislation with charitable choice language in it, made it very clear he did not support that kind of discrimination, and he only signed the bill because of the other good things in it, and his administration had no intention of letting that kind of discrimination occur. With this administration, the present Bush administration, they have said no, it is okay to discriminate against someone based on their religion.

Mr. BOEHNER. Mr. Speaker, if the gentleman would yield, this is not the only statute on the books that allows religious organizations to maintain their 1964 protections under the Civil Rights Act; there are at least a half a dozen others.

But the point I would make is that if we want to debate the merits or changes to the 1964 Civil Rights Act, let us do that out of the bill that comes out of the Committee on the Judiciary, where it was rightfully debated and processed. The fact is, the 1964 Civil Rights Act is very clear in providing this exemption to these organizations. And if the gentleman disagrees with the 1964 Civil Rights Act, as amended in 1965, let us take that debate to the Committee on the Judiciary, let us bring the bill out here and have that debate. But that is the law.

What we are trying to do here is to comply with that. And in the underlying bill here, the Community Services Block Grant bill, we have had this exemption, maintained this exemption for those organizations. All we do in this bill today is to maintain it.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, I appreciate the gentleman's honest comments. This is the kind of dialogue that this subject deserves. It is too important of an issue when we talk about religious freedom to be debated in a 10-minute debate at 1:30 a.m. So I appreciate the gentleman's willingness to have this honest debate.

I would conclude by saying, Mr. Speaker, that I strongly disagree with the notion that the 1964 Civil Rights Act clearly made it legal for faith-based groups in America to accept millions, and now in this case billions of Federal dollars, and say, We are not hiring you because you are Jewish or because you are Catholic, or because you are Baptist, or because you are Muslim. And I do not think we have to totally revisit the 1964 Civil Rights Act; I think we could just come here on the floor of the House and have an up-front debate.

It is very simple. It is, Do you believe that it is okay for groups to discriminate in job hiring using tax dollars, based on no other reason than that person's personal religious faith? I am confident that the vast majority of Americans do not like religious discrimination. They are appalled with religious bigotry, and while they understand, as I do, that Baptists and Methodists and Jews and Muslims should be able to hire people of their faith, using their own money, once they accept public tax dollars as a funding source, then they accept the obligation that in America, with tax dollars, you do not discriminate against your fellow citizens simply because of their deeply held religious faith.

Mr. Speaker, before I yield further, the gentlewoman from New York has been very gracious with time. I have appreciated this discussion. I see my colleague, the gentleman from Virginia (Mr. SCOTT) on the floor.

Ms. SLAUGHTER. Mr. Speaker, may I inquire how much time is remaining?

The SPEAKER pro tempore (Mr. LATHAM). The gentlewoman from New York (Ms. SLAUGHTER) has 6½ minutes remaining.

Ms. SLAUGHTER. It is such a pleasure to hear a real debate. I am delighted. I continue to yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I yield to the gentleman from Virginia (Mr. SCOTT), and I welcome a 3-person discussion of this question of religious discrimination and religious freedom in America.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman from Texas (Mr. EDWARDS) for his comments and remind people that the 1964 Civil Rights legislation that prohibited discrimination included an exception, as the gentleman from Ohio has indicated, for religious organizations using their own money for religious purposes. No one anticipated at that time that one would take Federal money and try to discriminate in employment based on religion. Let us be clear. If you can discriminate based on religion and what church or religious organization you belong to, you can essentially discriminate based on race.

Now, the question before us is whether or not, in a government-funded program, you can declare that you do not want to hire people of certain religions. Now, the problem that occurs is that if you can discriminate with Federal money, well, why can you not discriminate with your own money? If you have a group of people running a manufacturing firm and they are all of the same religion, why should they have to hire somebody of a different religion? Because it is against the law. Because we have such a sorry history of discrimination in our country that we just decided that we were not going to allow discrimination based on religion; that it is so ugly that we are going to prohibit it by law, and we did. You cannot hire people with Federal money, you cannot hire people with your own money and discriminate against them solely because of their race, color, creed, national origin, or sex. That is the law.

Now, we can change the law. You can start allowing discrimination. You can have somebody come around and say, Well, we are running a manufacturing firm and we do not want to work with people of a different religion; or, We do not want to work with people of a different race. We can change the law. That is our prerogative, and that is what we are doing with this bill if we pass it in its present form. We will be saying to the public that we hire everybody but Catholics or Jews. That is about as ugly a situation as there is. I do not know how you can dress that up and have it come out anything other than ugly. I mean you can put lipstick on a pig, but you cannot pass it off as a beauty queen, and you cannot say, We do not hire Catholics and Jews, and try to pass that off as anything but ugly discrimination.

Mr. EDWARDS. Mr. Speaker, I yield to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I appreciate the gentleman yielding, and I clearly recognize that there is a difference of opinion on this. I do not castigate any aspersions on the feelings of my colleagues. But both of my colleagues on the other side here who have engaged in this debate have referred to the intent of the 1964 Civil Rights Act, and the gentleman from Texas (Mr. EDWARDS) even used Senator Ervin's name in terms of there was no intent for these organizations to give up, to give up their religious exemption.

I have a quote here from Senator Ervin during that debate and he said, "This amendment is to take the political hands of Caesar off the institutions of God where they have no place to be." I would suggest to both gentlemen that Senator Ervin from North Carolina clearly intended for the hiring exemption under title VII to be there.

Mr. EDWARDS. Mr. Speaker, reclaiming my time just for a moment, if the gentleman would check the full debate record, Senator Ervin also said at one point, "After all, it is their money."

Well, now we are not talking about "after all, it is their money." We are talking about the people's money, the American tax dollar, and I think there is a huge difference there.

Mr. SCOTT of Virginia. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I am glad to yield to the gentleman from Virginia (Mr. SCOTT) and then back to the gentleman from Ohio (Mr. BOEHNER).

Mr. SCOTT of Virginia. Mr. Speaker, just so we know what we are talking about, I would like to know whether or not if the bill passes in its present form, you can take Federal money and have a policy of not hiring Catholics and Jews; if it passes in its present form with the Federal money. Now, the church can do what it wants with the church money. That exemption is not affected. But under this bill in its present form, can you have the policy of telling people that you are the best qualified, but we do not hire Catholics and Jews?

Mr. EDWARDS. Mr. Speaker, let me tell the gentleman, I think the gentleman understands what this law would allow.

Going back several years ago, I do not know the present policy, but just a few years ago Bob Jones University made it very clear they did not hire Catholics or Jews. And under this language, you could literally put out a sign, paid for with tax dollars, in a faith-based group associated at that time with Bob Jones University, possibly today, that literally says, No Jews or Catholics need apply here for this federally funded education grant. I find that deeply offensive, especially when these are not religious jobs that we are paying for with tax dollars; these are social programs, education programs, job training programs, and other areas of government.

Why should someone's ability to help a 5-year-old get a head start in life through the Head Start program be denied a job? Why should an adult helping children be denied a job because they are Jewish, Catholic, or some other faith?

I think it is dead wrong. I do not think we have to look at other issues to just face the moral rightness or wrongness of that point. I think it is wrong to be discriminated against in a federally funded job simply because of my personal religious faith. I do not think the gentleman from Ohio (Mr. BOEHNER) ought to have to pass my religious test to qualify for a job training program. I do not think the gentleman from Virginia (Mr. SCOTT) should have to pass the gentleman from Ohio (Mr. BOEHNER)'s 20-point religious test to qualify for an education job funded by the taxpayers. It is just right or wrong.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. SLAUGHTER) has expired.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I appreciate the gentlewoman yielding me this time.

In answering the gentleman from Virginia (Mr. SCOTT)'s question, the fact is this has been the law of the land in this program for 6 years, and I challenge anyone to come to the floor and say where there has been a problem, because there has not been a problem.

But in the bigger question, let us not forget that these faith-based organizations in many of our poorest communities are doing tremendous work to help needy people. And my concern, by changing the law along the lines of what my two colleagues would like to do, would be to provide a chilling effect on faith-based organizations from participating in programs to help their fellow citizens.

So we will have plenty of time for this debate this afternoon once we get into the bill, but I do think that there are various points of view here. They ought to be heard. The rule allows for a clear and open debate on this question and the rest of the bill, and let us have that debate then.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1300

The SPEAKER pro tempore (Mrs. MYRICK). Pursuant to House Resolution 513 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3030.

☐ 1300

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements, with Mr. LATHAM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I get into my remarks on the underlying bill, the Community Services Block Grant reauthorization, let me take a moment to welcome our colleague, the gentleman from California (Mr. GEORGE MILLER), and the ranking democrat on my committee, back to the House. He had some surgery over the break in December and has been in a period of recuperation. And we just want to welcome him back, back to the House and hope that he is in a very pliable and amenable mood.

Mr. Chairman, I rise today in strong support of H.R. 3030, improving the Community Services Block Grant Act, a bill that strengthens the popular and valuable Community Services Block Grant program.

I want to thank my colleague from Nebraska (Mr. OSBORNE) who is the author of this legislation, who, along with his staff and our committee staff, has worked hard to guide this legislation through the committee where the bill received bipartisan support.

The CSBG provides Federal money to State and local agencies to lessen the effects of poverty. States pass at least 90 percent of the Federal funds they receive through to community action agencies who run programs to help with finding and retaining a job, getting food on the table, and providing emergency services.

Since 1981, this program and the agencies it funds have helped millions of fellow Americans. Mr. OSBORNE's legislation makes improvements to this popular initiative by increasing accountability and efficiency while preserving the successful framework of this proven program. The bill requires the community action agencies to set clear, locally determined goals and to work each year to meet those goals. Agencies that repeatedly fall short of their own goals will be subject to action by the States. H.R. 3030 works with the local centers while making sure taxpayer dollars are carefully accounted for.

In the interest of improving the quality of local programs, this bill requires States to reevaluate their lowest performing grantees and justify to the Secretary of Health and Human Services why those organizations should continue to receive Federal funding. Again, this bill makes sure that agencies using Federal funds are delivering high-quality services.

Finally, this bill maintains the current law regarding faith-based organizations. We are all aware that some of the finest social service organizations in this country are run by religious charities; and I, along with a majority of my colleagues on the committee, believe that these faith-based organizations ought to be able to continue to provide help to their neighbors in need.

In 1998 when this bill was last reauthorized, then President Clinton signed into law the same language that we have in the bill of the gentleman from Nebraska (Mr. OSBORNE) today. It allows faith-based community services to continue to maintain the character of their organizations with regard to their own hiring decisions. In fact, a broad group of faith-based organizations including Catholic charities, the American Association of Christian Schools, the Salvation Army, World Vision, and the Coalition to Preserve Religious Freedom have expressed strong support for the faith-based protections included in this bill.

There are some on the other side who would like to strip these rights to deny religious charities the rights they are granted under the 1964 Civil Rights Act and as upheld by the U.S. Supreme Court and current law.

Now, should the minority succeed in depriving these groups of their rights, I do think it would have a chilling effect on the participation of faith-based organizations in the Community Services Block Grant program.

We can expect that at least some of these groups would choose not to participate in CBGC, rather than compromise their character. As we all know, the group most likely to suffer the consequences are the most vulnerable in our society, those who need the help most.

This legislation makes some key improvements to ensure quality and accountability in the Community Services Block Grant program but leaves the essential character of this popular and successful program unchanged.

I want to urge my colleagues to support this valuable antipoverty program that the funds in this bill promote and vote "yes" on H.R. 3030 to improve the Community Services Block Grant program.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by thanking the gentleman from Nebraska (Mr. OSBORNE) and the gentlewoman from California (Ms. WOOLSEY) for all of their work on this legislation.

I want to compliment the gentleman from Nebraska (Mr. OSBORNE), a relatively new Member of the Congress, for his effort in shepherding this through our committee and bringing it to the floor on a timely basis. And I want to thank the gentleman from Ohio (Mr. BOEHNER) for working with us on many of the provisions in this bill to make sure that States and local entities are held to strong accountability while providing services to reduce the effects of poverty. And I rise in strong support of the Community Services Block Grant program.

The Community Services Block Grant is a relatively small, but an extremely important, program. The central purpose of this program is to minimize the effects of poverty and to maximize self-sufficiency. This program gives money to local entities who can create innovative programs and respond to community needs. It helps low-income individuals and families with services such as domestic violence prevention programs, job training and business development, senior services, homelessness, food pantries, adult literacy, and early education.

As we read that list of names, many of us will recognize our friends and families who volunteer in many of these efforts in our communities because the Community Services Block Grant has also been a catalyst to bring together other elements of the community help volunteers to address these problems that are present in our local community. I support the provisions of this legislation, and the substitute makes important steps to further strengthen the accountability of goals and performances.

However, I cannot support this bill because this bill contains a poison pill. I will not support government-sponsored religious discrimination. And we can dress it all up and we can talk all around the point, but the fact of the matter is that what this legislation does is allow faith-based organizations to make discriminatory hiring decisions with the funds from the Community Services Block Grant.

The majority claims that these types of repeals of civil rights laws are necessary for faith-based groups to participate is simply wrong. The faith-based organizations have been participating in this program from its inception. In many instances, the faith-based organizations were here prior to the creation of the Community Services Block Grant.

When we think back to the War on Poverty, when we think back to ending segregation in this country and to providing opportunity in this country, to poor and minority families in our communities, if it had not been for the faith-based organizations, many of those efforts would have never gotten off the ground in many regions of this country, in many of our cities, and many of our communities.

So the fact of the matter is from its inception faith-based organizations have been a key component, a necessary component, and a welcome component to the providing of services under the Community Services Block Grant and in many other governmental activities that we undertake to improve our communities.

Mr. Chairman, I also want to point out that the suggestion that, but for this provision in the law, these organizations are not participating, according to a nonpartisan survey, over two-thirds of local Community Service Block Grant boards include faith-based organizations. Forty percent of the community action agencies contract with faith-based organizations to deliver services.

I expect, again, that Members of Congress will recognize that activity. I certainly do from the congressional district that I represent because I rely on, and our community relies on, and the families and recipients of these services rely on faith-based organizations to extend the efficiency of these programs, to extend the effectiveness of these programs. We do it when working with prison parolees and their families; we do it working with the victims of domestic violence and working with children who need additional mentoring and tutoring, all kinds of activities that take place in our community.

Nearly 100 percent of the community action agencies refer clients to faith-based providers because the services are there and they are effective and they are working. The majority's claim that Democrats and President Clinton have supported discriminatory language we are debating today is really not true. When the Community Services Block Grant was before us in 1998 the religious discrimination language was put into conference report and was voice voted at 2 a.m. Some on the other side of the aisle may recognize that because that has become a habit. Whenever there is something controversial, we do it after midnight in the House of Representatives.

Mr. Chairman, we simply should not as a matter of law give to religious organizations the right to discriminate when they are using Federal dollars, because that makes the government of the United States a partner in the discriminatory agent. And that is what the Constitution is all about, to make sure that the government does not do that.

We had a little tune-up here a little earlier on the floor between my chairman and the gentleman from Texas (Mr. EDWARDS), and I think it is clear that there is a distinction what faith-based and private organizations do with their own money. It is a distinction that has been brightly drawn in Federal law as to what they do with the taxpayers' dollars. Obviously these taxpayer dollars come from people of all faiths, and they should not be used to discriminate.

The underlying bill is a very good bill. It is a very important bill. It is an improved bill because of the work of the members of our committee. But it, in fact, contains this poison pill that specifically provides for discrimination with Federal funds. I will not support that effort. I would hope that most of the Members of Congress would not support that effort, and then we can get on to renewing the effort by the community action agencies, by our States and our cities and localities and agencies and so many of the faith-based organizations that are already providing so many of these services and helping so many of the agencies and helping so many in our community to battle the impacts of poverty on families and children in our communities.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield 6 minutes to the gentleman from Nebraska (Mr. OSBORNE), the author of the bill before us.

Mr. OSBORNE. Mr. Chairman, I would like to thank the gentleman from California (Mr. GEORGE MILLER) for his kind comments regarding the overall worth of the bill. I am glad to see him back.

I really have three comments regarding the faith-based issue. First of all, I think that we need to recognize that there is legal precedent. And some of this has been discussed earlier. There are four different acts: The Substance Abuse and Mental Health Services Administration Act; the Welfare Reform Act of 1996; the Community Renewal Tax Relief Act of 2000; the Community Services Block Grant Act of 1998, which we have been discussing, which is current law; title VII of the Civil Rights Act of 1964, which we have been discussing; Supreme Court decisions such as Bowen v. Kendrick. So all of these provide sound legal support for the fact that faith-based organizations have a right to consider religion in determining hiring. And so we think this is well substantiated.

What time of night we voted on a bill should not have any bearing. We are accountable people. We cannot call Kings Acts because it was at a certain time of day.

We hear about special interests being involved in this, such as the Salvation Army, Catholic Social Services. These are not really very powerful special interest groups, and I do not think we need to worry about them very much.

The second point I would make is this, and the chairman made this earlier, this is a bill that is working. And so often when we get down to where the rubber hits the road in this body, we want to quibble over details, and we do not want to worry about the big picture. The big picture is how many people in need are we helping? And, obviously, this bill has done a good job for the last 6 years. There have been minimal complaints. Matter of fact, we know of no legal challenge to this bill.

☐ 1315

So why all the sudden now is this becoming a big issue?

The third point that I would like to make is simply that of return on investment. And we hear a lot about budget deficits and our tax dollars and how they are being spent. Well, let us take a look at this because I think this is important. I will give you a case history from my district.

One agency has total funding of $8.5 million; $250,000 of this comes from community service block grants. That is 3 percent of the total. This particular agency serves 12,000 people. So if you prorate that, that means an average of $700 goes to each recipient. The community service block grant would then serve 350 of that 12,000.

Now, let us take, say we took that $250,000 community service block grant and said, okay, we got to go rent a building. We have to go hire 3 employees. We have to get a car. We have to buy some computers. We have to get some telecommunications going. You would eat up the whole $250,000 getting started. You would serve nobody.

What we are doing is getting more bang for the buck. I think everybody can understand that. We are not hurting anybody. I think it is important to understand that.

I think it is also important to understand that if faith-based organizations are not allowed to maintain hiring practices where faith is a consideration, obviously, many will leave the program. So they would be open to lawsuits regarding a hostile environment due to religious symbols and art. So if somebody has a picture on the wall that is a religious connotation, and somebody does not like it and they have been hired and they do not understand the mission of that organization, they can file a lawsuit because of a hostile environment which makes it almost impossible to function.

Also, as the chairman pointed out earlier, many faith-based organizations have employees with multiple responsibilities. So the music director at a church may also run the Head Start program. A youth pastor may run the food pantry. If you have multiple responsibilities, you obviously have to have people in place who understand the mission of that particular church or organization, and you cannot say, well, we need to have somebody who is socially acceptable and politically correct, but is actually the antithesis of what that particular organization wants to hire. You cannot do that.

Also, they could lose their tax-exempt status because tax-exempt status is provided to entities which share a common faith. So if you have to hire people that do not share that common faith, then how are you going to maintain that tax exemption? So we often assume the worst about faith-based organizations. I think this is a mistake.

The overwhelming majority of faith-based organizations hire people who agree simply with their mission. They hire people of other faiths but they want to make sure they understand the mission.

Dr. Nelson testified before our committee. She runs a faith-based organization in Chicago. She says their mission is based on a passage from the book of Isaiah that refers to justice and compassion. So obviously they hire a broad spectrum of people from many different faiths that simply aspire to that mission.

So this organization should not be forced to hire those who do not agree with the mission. That is simply what we are saying. We do not think there is widespread discrimination anyway.

Lastly, I will say this: The Supreme Court in Mitchell v. Helms set forth the proposition that members of religious organizations should always be presumed to be acting in good faith. It seems to me that we are doing exactly the opposite here. We are assuming that members of religious organizations act in exactly the opposite, they operate in bad faith. I do not think they do this. That is why for 6 years we have not had complaints. This is working. So we think we have a good bill. We think we need to pass it, as written, and we would urge a vote against the substitute.

Mr. Chairman, I am very pleased to rise today in support of my bill, H.R. 3030, Improving the Community Services Block Grant Act of 2003. H.R. 3030 reauthorizes the Community Services Block Grant Act (CSBG). The Community Services Block Grant program distributes Federal money to more than 1,100 Community Action Agencies nationwide that use those funds to lessen the effects of poverty.

In my congressional district, there are six Community Action Agencies: Blue Valley Community Action, Central Nebraska Community Services, Community Action Partnership of Mid-Nebraska (Kearney), Goldenrod Hills Community Services, Northwest Community Action, and Panhandle Community Services. Each of these agencies provide invaluable services to the citizens of Nebraska.

Many people have asked about what CSBG funds do. In short, CSBG funds provide the glue that help Community Action Agencies coordinate funding and services across the spectrum of what families might need. An example of the success of the CSBG was shared with me by Shelley Mayhew of the Blue Valley Crisis Intervention. Shelley worked with a young mother with a 5-year-old child who was abandoned, with no money or car, by her abusive and violent fiancé.

Unable to search for a job because of her inability to pay for childcare, lack of extended family support, lack of domestic violence services, and her lack of a car, since in rural Nebraska we have no mass transit system, this young mother was referred to Blue Valley Community Action Crisis Intervention. There, through the actions of staff at Blue Valley, the child was enrolled in school, the family received domestic violence counseling and found affordable housing, and the mother found a job that allows her to support her family. Today, this young mother is even enrolled in a program to help her prepare for homeownership. Shelley, the caseworker, says, "I watched a family struggling and hopeless become self-sufficient and optimistic about the future. I feel very fortunate to be part of an agency that makes a difference in so many people's lives."

This is just one story from my congressional district. H.R. 3030 preserves the CSBG as a true State block grant program, allowing States to establish and operate antipoverty programs that meet the unique needs of their low-income communities. It also retains the current definition of an eligible entity to include the grandfather provisions, but requires eligible entities to successfully develop and meet locally determined goals and meet State goals, standards, and performance requirements in order to continue to receive funds.

H.R. 3030 contains a number of important provisions:

Increases quality by requiring States to reevaluate funding the lowest-performing grantees. States are not required to defund these groups, but to explain why underperforming agencies should continue to receive funding. In addition, agencies are required to set locally determined goals and meet those goals and State goals, standards, and performance requirements.

Improves accountability by requiring states to take swift action to improve or defund low-performing entities that do not meet State and local goals.

Retains protections for faith-based charities. H.R. 3030 allows faith-based organizations to make employment decisions based on religion. I realize that this will be a topic of much discussion as we address this bill today, but I hope we can keep in mind that this is current law, signed into law by President Clinton. The bill does not permit federal funds to be used for the purposes of promoting religion. Rather, the CSBG funds under this bill can be used for secular purposes without compromising the essential character of the faith-based organization providing the services.

In addition, the bill maintains current overall funding levels as well as continues funding discretionary programs, including the National Youth Sports Program, which is particularly important to me.

I want to thank all the staff on both sides of the aisle who worked so hard to craft the compromise language that was necessary to insure that H.R. 3030 met the needs of the local organizations that work so hard to provide services to all of our constituents.

I urge passage of H.R 3030 and yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 7 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank my friend and ranking member for yielding me time.

Mr. Chairman, I would like to congratulate the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Nebraska (Mr. OSBORNE), and the gentlewoman from California (Ms. WOOLSEY) for the outstanding work they have done in authorizing the continuation of a very powerful and positive force in our community.

I will support the Democratic substitute because it permits that work to go forward, but it does not contain a very troubling provision that I believe should be struck from the bill.

There are few things that I hold more dearly in my life than my faith. I miss the weeks when I cannot attend my chosen church. I feel like something is missing in my life. I make an effort as much as I can that my children are exposed to their religious traditions so they can make their own choices about religion. I feel awfully blessed to live in a country where I can practice my faith as I see fit. It is one of the things that I most cherish about being an American. But I also cherish that I live in a country where the government can never, never force me to adopt a religious belief or to bend my religious belief because it is the will of the majority.

There are few principles in American law that are without exception, but that is one of them. And I am glad that it is one of them. The provision that is in this bill, although I know that it stems from the best of intentions, and I know that in fact in many cases it would yield the best of results, is ultimately a provision that would do great mischief to this great balance of liberty that the framers of the Bill of Rights gave us in balancing the prohibition against the establishment of religion with the free exercise of religion.

I agree with my friend, the gentleman from Nebraska (Mr. OSBORNE) when he says he presumes that most faith-based organizations most of the time want to do what is right with public money and with private money. That is obviously true. But the Bill of Rights is not about the majority of situations or the majority of people. It is about everyone's rights in every situation to be free from religious discrimination paid for and facilitated by public dollars. Here is the situation that gives me trouble and pause about this bill:

One of the programs that is funded under this bill is the Meals on Wheels program, a terrific program where shut-ins and other people suffering with illness or infirmity can receive a hot meal in their community and in their home. Under this bill, as proposed, if a Meals on Wheels program were to be run by a church or a synagogue or a mosque, and that Meals on Wheels program was advertising for a van driver, not a Sunday school teacher, not a director of religious education, but a van driver, someone who is going to get in the van every day and deliver the meals, the church or the synagogue or the mosque could say, with our tax money, We will not consider you to drive the van if you are not a Catholic. We will not let you cook the dinners if you are not Jewish. We will not let you run the administrative part of the program if you are not a Muslim. With public money.

Now, it is one of the cherished religious principles of this country that with its own money the church or the temple or the mosque can absolutely maintain that hiring practice, and it should. And I will never vote for the legislation that limits or repeals that right, because it is unconstitutional and it is wrong. But I also will never vote for the proposition that is before us today that says with my money and your money, Mr. Chairman, that a church or a temple or a mosque can refuse to hire someone because they do not fit the right religious profile. That is not right.

The reason that we have a country is because people came across the Atlantic Ocean hundreds of years ago to escape a society where if you did not fit the religious conformity of the majority, you could not be a full partner in that society. That is why there is a United States of America. Now when people say, well, faith-based groups are excluded from community development programs because they cannot discriminate with public money on the basis of hiring and firing, that is not true. There are faith-based organizations that run Head Start centers and run Meals on Wheels programs and run homeless programs and job training programs, and they do so respecting the differences between the protected private right to choose whomever you want from your faith or not from your faith and the recognized public responsibility to spend money in such a way that does not discriminate.

This is not a debate about motive. I know that the sponsors of this legislation on the majority side are not bigots and not interested in discrimination in any way, shape or form. I know that their motive, in fact, is to spread the good works of religious organizations in this country and I support that mission as well. But the best way to support and spread the good works of religious institutions in this country is not to entangle those institutions in the machinery of government. The best way to ensure the continued vitality of our churches and our temples and our mosques is to assure their continued independence. And the best way to assure their continued independence is not to ensnare them in the expenditure of public funds in discriminatory practices.

I do not want my church to be able to take my tax money and tell people who are not a part of my church that they cannot come to work there in a federally funded program. I do not want that. And I certainly do not want someone taking any tax money and telling someone of my faith or some other faith that they cannot do the same thing as well.

This is a well-intentioned provision, I am sure, but the results will be a mischief that we will regret for a very, very long time. The right course of action, Mr. Chairman, is to pass the Democratic substitute, move forward with the laudable programs under this bill, and retain the cherished tradition of the separation of church and State that has defined this country's success for so many years and so many generations.

Mr. BOEHNER. Mr. Chairman,I yield myself such time as I may consume.

Mr. Chairman, it should be clear to our colleagues today that the underlying bill, the reauthorization of the Community Services Block Grant program, has been done on a broad bipartisan basis. The only issue here of disagreement in the Chamber is the issue of whether faith-based providers would give up their title VII exemption in order to continue working in this program.

As I mentioned before, for the last 6 years this language allowing faith-based providers to receive federal funds and to maintain their exemptions under title VII has in fact been the law. And to my knowledge, there has been no complaints. Now, it is pretty clear to me, and I think to most of my colleagues, that faith-based organizations, whether they are using their own money or they are using federal funds, I would venture to say that the vast majority of them probably would never take up their title VII exemption or need it. But the fact is that that is the law.

The 1964 Civil Rights Act made it very clear that religious organizations did not have to give up their rights to hire the person of their choice under that act. And all we do here is maintain that and we have been doing this, as we said, in the welfare reform law, a number of other laws, over the past decade or so. And for those who have differences with this law, and I certainly respect their opinion, the fight should not be here on this bill. If they really feel strongly that the title VII exemption for religious organizations should be taken away, they should go to the Committee on the Judiciary and move a bill to change the 1964 Civil Rights Act. But let us not do it on this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), who has worked diligently on this program, not only here as a Member of Congress, but in his prior life of Governor of the great State of Delaware.

Mr. CASTLE. Mr. Chairman, I thank the chairman of the committee very much for yielding me time and all of those who helped put this together.

In a benevolent society, as America is, I think the most important function government can have is the care of those who may be unable to take care of themselves. As we know, with the Community Services Block Grant we are dealing with the very lowest-income part of our population. I doubt if there is a single Member here, either Republican or Democrat, who has not toured or at some point come into contact with probably multiple agencies which are working under this particular grant, and which has made a difference in the lives of people.

I certainly have had that great opportunity as I have seen the Meals on Wheels programs and educational programs and helping with housing and helping with job development, and you name it, the various things these agencies do. It is a very clean flow through to these agencies. It is a very clean delivery system as they deal with that particular part of the population who needs help.

☐ 1330

This is a very important piece of legislation. I congratulate the chairman and the ranking member and everybody else who was involved, the gentleman from Nebraska (Mr. OSBORNE), of course, who is the author of this, for putting together a piece of legislation which both renews what we have been doing and reauthorizes it for the next half dozen years or so but also recognizes that we need to keep an eye on certain things and does that as well.

I think this is a very good underlying piece of legislation. I would encourage each and every one of us to support it and also to support these programs out in our communities, which I think makes a great difference in the quality of life for everybody.

On the faith-based issue, which is obviously the contentious issue here, I think it is important to understand, for whatever reason, this was done in 1998. If my recollection is correct, it became law under a Democratic President at that time. I have not had anybody say to me ever in my State of Delaware that there is a problem with that. Not once have I ever heard it mentioned, and I have been to these agencies on a number of occasions in the course of the last half dozen years, and I have not heard any examples of that on the floor.

Where it is really a problem, where the rubber hits the road, it is a very nice constitutional argument. It belongs in the Committee on the Judiciary, but the bottom line is most of the people who are supplying these services are doing it in a way that benefits everybody, and I would encourage everyone to support the legislation.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today as a supporter of H.R. 3030 which provides Federal funds to local community action agencies and local nonprofits, who use these funds to lessen the effects of poverty. However, Mr. Chairman I cannot in good conscious support this legislation without having the Democratic substitute being accepted as part of this bill. While I support faith-based organizations I also support the idea of religious freedom that is a hallmark of our great Constitution and would be repressed by the passage of this resolution without an amendment.

Mr. Chairman as the representative of the 18th Congressional district in the city of Houston I have seen the good works that can be done by faith-based organizations. I have gone to nearly every church in my district and seen the charity taking place to feed, clothe, and care for our most impoverished citizens. But it is not just churches that engage in this kind of beneficial activity. Throughout my district there are synagogues, mosques, and temples that are out-reaching to the general community. We should be encouraging all these centers of faith to be dialoguing and working with each other. We must eliminate many of the walls that often exist between communities of faith and have plagued so much of the world. The legislation contains the fatal flaw of allowing discrimination based on a person's religious background. If a person of a different faith wanted to take part in a church's homeless project and was turned away because of her faith, how can we approve of that? Each individual should be judged on their intentions not just on their faith. The people who want to work in these faith-based programs only have the best of intentions. They want to positively affect their community and we should not allow others to put roadblocks in their way simply because of their religious affiliation.

The provisions allowing religious discrimination in faith-based organizations is truly unfortunate because this is an otherwise excellent piece of legislation. Not only will it provide community service block grants, but it will hold these programs accountable. States will now have to monitor the effectiveness of programs that are receiving Federal funds under this legislation. I know for certain that this legislation will be very welcome in the city of Houston and indeed in the State of Texas. Our State is full of charitable and caring people whose only concern is the well-being of the community. I have full faith in my fellow Texans that they would accept and welcome a provision not allowing religious discrimination for Federally funded programs. This body has always stood for the rights of all minorities and we should stand with them now. Those who want to engage in charitable activities should be allowed to do so regardless of their religious faith. I hope the majority in this body will accept the Democratic substitute and make this a truly bipartisan resolution.

Mr. RYUN of Kansas. Mr. Chairman, some of my colleagues on the other side of the aisle would like to strip religious organizations of a fundamental first amendment right that has been guaranteed to them by decades of civil rights law—a right that has been upheld by both the Congress and the U.S. Supreme Court.

George Washington in a letter to the Annual Meeting of Quakers held in 1789 said this: "The liberty enjoyed by the people of these states of worshiping Almighty God agreeably to their conscience, is not only among the choicest of their blessings, but also of their rights."

As noted in a recent study by The Heritage Foundation entitled Churches, Charity, and Children: "It is not hard to understand why religious organizations would hire only those with similar religious values. It is impossible to safeguard an organization's mission—religious or secular—without staff and volunteers who embody it."

Our Nation was founded on the premise of religious freedom. It is what makes our Nation great.

Religious organizations are founded on deeply held convictions. It is these convictions that have created these organizations. It is these convictions that make these organizations so successful. It is these convictions that give these organizations life. And today, if we as a Congress do not combat this attempt to destroy these convictions, we will be destroying a part of the very foundation of what and who we are as a Nation.

Mrs. BIGGERT. Mr. Chairman, I rise today in support of H.R. 3030 and in opposition to the amendments offered today.

H.R. 3030 would reauthorize the Community Services Block Grant program and restore the protections granted to religious organizations under Title VII of the Civil Rights Act. This exemption explicitly allows faith-based organizations the freedom to consider religion when hiring staff, and any federal legislation governing federal training and social services funds should continue to protect these rights.

Faith-based providers cannot be expected to sustain their religious mission if they cannot employ individuals who share the tenets and practices of their faith. In many cases, it is that faith that motivates them to serve their community. Such practices have been upheld by the United States Supreme Court in Bowen v. Kendrick, even when the organization is receiving federal funds.

Let me clarify. Federal funds cannot be used for worship or for proselytizing. Nor can these organizations discriminate in who receives services. Any activity that used federal funds must not be discriminatory.

We have a long history of making social service legislation more inclusive by extending the Title VII exemptions in various federal programs. H.R. 3030 contains the same "faith-based" provisions as the Welfare Reform Act of 1996 and the Community Services Block Grant Act of 1998, both of which were signed into law by former President Clinton. The bill we are considering today would simply make the Community Services Block Grant consistent with the legislation governing other major social service programs. Furthermore, in May, the House approved almost identical language in reauthorizing the Workforce Reinvestment and Adult Education Act of 2003.

I urge my colleagues to support this legislation and let faith-based organizations continue the good work they are currently doing.

Ms. LEE. Mr. Chairman, today I rise in strong support of the Woolsey and Miller amendments and to highlight the immense need for anti-poverty and poverty-reduction programs, currently executed by communities through the Community Service Block Grant program.

Unfortunately today, far too many of us are blinded by the politics of service instead of viewing the need for it.

As we debate the merits of this legislation's language, its impact on civil rights, and where funding can be squeezed out of the administration's budget for actual communities to invest in people, we negate the intent of this bill and the work that must be done.

This bill should be about people not politics.

The truth is we are in an ongoing struggle for human dignity, basic human rights and real people living in poverty which this bill has provided resources and support to.

Ending poverty should be our obligation, and President Johnson launched the Community Service Block Grant program back in the 1960s hoping that we would step up to our commitment.

How many of us can argue that we have challenged this chronic problem, while our country has 35 million people living in poverty, 43 million people without insurance, 14.4 million families with critical housing needs, at least 2 million Americans without jobs, and while hunger and homelessness continue to rise with over a million homeless people on the street any given night—nearly a third of whom are veterans.

The Community Service Block Grant is part of a comprehensive, community centered approach to helping those most vulnerable in our country. The CSBG grants funding and resources to groups that: weatherize homes or provide emergency assistance; teach parents on parenting and connect parents to reliable child care; work with elderly and youth after school programs; provide transportation to those with disabilities; teach people about credit and financial literacy; provide crisis assistance to victims of domestic violence; fill food pantries for the hungry; and the list goes on and on.

Mr. Chairman, today the debate over the Community Service Block Grant authorization should go much deeper than mere dollars and cents. The domestic agenda of the Bush administration is crippling America and Congress cannot stand for it.

Our challenge and our obligation to eliminate poverty and guarantee basic human rights and dignity to all men and women must be championed not only by this bill but by some real money and attention.

I stand in support of ending poverty through the reauthorization of this bill, and if my colleagues feel the need to politicize poverty today, then I along with many other Members, will shed light on those malicious maneuvers.

The centerpiece of this debate should be, where there is justice for all men and women, we find peace and respect for human dignity and rights. Today this country needs leadership that will ensure and protect that dignity and our basic and most treasured human rights.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today to speak out in opposition to H.R. 3030, a bill to reauthorize and amend the Community Service Block Grant program. While I strongly support the social services and organizations that these grants help support, this bill does not correct current law, which explicitly allows religious organizations that receive federal funds from the Community Service Block Grant Act to discriminate in their hiring. Instead, I support the amendment offered by my colleagues, Representatives LYNN WOOLSEY, GEORGE MILLER, and others, which would prohibit discrimination in hiring based on religion.

Americans share a fundamental value that we must never discriminate on the basis of religion. Unlike other ideologies, our Constitution specifically protects religion in the first amendment of the Bill of Rights. Yet, H.R. 3030 says federal funds can, in fact, be used to discriminate against someone who may not share the same religion as that practiced by the organization receiving funds. We must not allow our taxpayer dollars to support discrimination.

The fact is that religious organizations have been providing secular social services, such as Meals on Wheels, adult literacy programs, homeless shelters and job-training programs, to people in this country for decades. And, in cases where federal funds are involved, these religious organizations have willingly done so without discriminating in their hiring. We must not go down a road where discrimination of any kind is allowed with federal money.

I urge my colleagues to vote "no" on H.R. 3030 and "yes" on amendments that prohibit religious discrimination.

Mr. UDALL of Colorado. Mr. Chairman, I rise today to express my cautious support of

H.R. 3030, the reauthorization of the Community Service Block Grant (CSBG).

The Federal government sponsors several programs which fight poverty on all levels. The CSBG ties these programs together and provides extra support and flexibility to meet the individual needs of each state. Many public and private organizations which fight poverty will benefit the lives of many more people throughout the country as a result of the help these grants provide.

This bill makes several changes that enhance the quality of services these grant sponsor. For example, organization, when applying for the grant, must submit a detail plan about the type of services they will provide as well as criteria which effectively judge if the organization has meet the goals outline in their submitted plan. by establishing local goals, each organization can tailor their efforts to meet the needs of their clientele, while maintaining a high standard of service and effetive use of taxpayer dollars.

I am also pleased that this bill continues to require funding to improve economic conditions and encourage self-sufficiency for the poor in rural areas. The rural poor face different barriers to reach self-sufficiency than those in urban areas and thus require different types of services to reach a level of independence.

I do have many concerns that efforts to protect against religious discrimination in hiring made in both committee and through amendments to this bill were not adopted by this chamber. While I believe that it is important that religious organizations maintain their religious character, I do not favor discrimination of any kind with federal dollars.

That being said, I believe that this ultimately is a good bill and the efforts made through the Community Service block Grants provide important services to the poor in our country. As a result, I will vote in favor of H.R. 3030 and am hopeful that the Senate will provide protection against hiring discrimination and that that language will remain in the final version of the bill.

Mr. STARK. Mr. Chairman, today I rise in opposition to the "Improving the Community Services Block Grant Act of 2003" and in support of the Democratic alternative.

I fully support the Community Services Block Grant. It has helped lift many Americans out of poverty. It has been instrumental in creating programs that provide many Americans with services and skills to get good jobs and fully participate in their community.

And "community" is an important value underscored in this initiative. The Community Services Block Grant is supposed to build stronger communities, not create divided ones where discrimination is tolerated and encouraged.

Yet, the House Republican bill would do just that. It includes a provision that makes it legal for religious organizations that receive funds under the Community Services Block Grant to discriminate against who they hire or provide services to based on one's religious beliefs. This horrible provision will lead to religious organizations denying essential services to many low income Americans based on their religion and ultimately depriving them of the opportunity to use these community services to climb out of poverty.

I will not vote for legislation that reinstitutes government-sponsored discrimination. I urge my colleagues to vote instead for the Democratic alternative. It funds all the programs Republicans fund in their bill. But, it does so without opening the door to discrimination and intolerance that is a barrier to self-sufficiency and stronger communities across our Nation.

Mr. KIND. Mr. Chairman, I rise today in strong support of the Community Services Block Grant. It is an extremely important program for more than 1,000 communities nationwide and millions of families. In Wisconsin, there are currently 19 eligible organizations and 11 tribes that receive CSBG funds and last year the State received nearly $8 million in funding. I am pleased that in Wisconsin's Third Congressional District that I represent there are five Community Action Agencies serving our community. They include West Central Wisconsin Community Action Agency, Western Dairy-land, Cooleecap, Central Wisconsin Community Action Council and Southwest CAP. I commend these agencies for all the work they do to fight poverty and assist some of the most vulnerable members of our community.

Over the past several years the Nation's poverty rate has risen so that now more than 34 million people live in poverty with an all-time high since statistics were first kept in 1979. Recent unemployment figures are equally troubling. Since 2001, approximately 2.3 million workers have lost their jobs. Given the current economic situation in this country right now, the reauthorization of a program whose central purpose is to minimize the effects of poverty and to maximize self-sufficiency for millions of people is critically important.

Yet, H.R. 3030 before us today fails to correct provisions in current law that permit religious organizations receiving funds under this Act to discriminate in employment based on religion. While these provisions have existed in current law for 5 years, I cannot condone the continuation of discriminatory policies in any context.

During committee consideration of H.R. 3030, an amendment was offered to remove the discriminatory language. This amendment failed, thus retaining this language, which is why I opposed the legislation in committee and why I oppose it again today.

While I strongly support the right of religious institutions to preserve the integrity of their own religious character when it comes to their activities, I oppose the Federal Government providing Federal funds for secular purposes to any organization that could then use these funds in a discriminatory fashion on religious grounds.

I do support the Democratic substitute offered by my good friend, Representative GEORGE MILLER, ranking member of the Education and Workforce Committee. The substitute restores basic civil rights for workers while ensuring the on-going participation of faith-based groups in CSBG programs.

Mr. Chairman, in closing, I want to reiterate my support for the Community Services Block Grant and express my deep disappointment in having to oppose this bill for the mere fact that the congressional leadership insisted on retaining such discriminating language.

Mr. GEORGE MILLER of California. Mr. Chairman, if I may inquire of the chairman how many additional speakers he has on general debate.

Mr. BOEHNER. Mr. Chairman, I do not have any at the present time.

Mr. GEORGE MILLER of California. Mr. Chairman, we have no further speakers, and I yield back our time. We can move right to the substitute. I think we were debating the substitute in any case.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of our time under general debate.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3030

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Improving the Community Services Block Grant Act of 2003".*

**SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT AMENDMENTS.**

*(a) PURPOSES AND GOALS.—Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901 note) is amended to read as follows:*

**"SEC. 672 PURPOSES AND GOALS.**

*"The purpose of this subtitle is to reduce poverty—*

*"(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize low-income communities in urban and rural areas, by providing resources to States for support of local eligible entities, including community action agencies and other community-based organizations—*

*"(A) to plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;*

*"(B) to coordinate a range of services that meet the needs of low-income families and individuals, that support strong and healthy families, and that assist them in developing the skills needed to become self sustaining while ensuring that these services are provided effectively and efficiently; and*

*"(C) to design and implement comprehensive approaches to assist eligible individuals in gaining employment and achieving economic self-sufficiency;*

*"(2) by improving and revitalizing the low-income communities in urban and rural areas by providing resources to States for support of local eligible entities and their partners—*

*"(A) to broaden the resource base of initiatives and projects directed to the elimination of poverty and the redevelopment of the low-income community, including partnerships with nongovernmental and governmental institutions to develop the community assets and services that reduce poverty, such as—*

*"(i) other private, religious, charitable, and community-based organizations;*

"(ii) individual citizens, and business, labor, and professional groups, that are able to influence the quantity and quality of opportunities and services for the poor; and

"(iii) local government leadership; and

"(B) to coordinate community-wide resources and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency and to test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

"(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

"(ii) innovative partnerships to leverage the assets and services that reduce poverty, as provided in subparagraph (A); and

"(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by grants made under this subtitle in guiding the eligible entities and in their programs funded under this subtitle, to ameliorate the particular problems and needs of low-income residents and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

(b) DEFINITIONS.—Section 673(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9902(1)(A)) is amended—

(1) in clause (i) by striking "and" at the end;

(2) in clause (ii) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that successfully develops and meets the locally determined goals described in section 678E(b)(1), as determined by the State, and meets State goals, standards, and performance requirements as provided for in section 678B(a).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(2) in subsection (b)(2)—

(A) by striking "678F" and inserting "678E to assist States, eligible entities, and their partners in projects supported by this subtitle"; and

(B) in subparagraph (B) by striking "monitoring (to correct programmatic deficiencies of eligible entities)" and inserting "monitoring (including technical assistance and training to correct programmatic deficiencies of eligible entities)".

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)(1)(F) by striking "neighborhood-based" and inserting "community-based".

(e) APPLICATION AND PLAN.—Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

(1) in subsection (b)—

(A) by striking "Beginning with fiscal year 2000, to" and inserting "To";

(B) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "youth development programs that support" and inserting "youth development programs, which may include mentoring programs, that support"; and

(II) by striking "and" at the end;

(ii) in subparagraph (C) by adding "and" at the end; and

(iii) by adding at the end the following:

"(D) initiatives to improve economic conditions and mobilize new resources in rural areas to eliminate obstacles to the self-sufficiency of families and individuals in rural communities;";

(C) in paragraph (2) by striking "community and neighborhood-based" and inserting "community-based";

(D) in paragraph (3)—

(i) in the matter preceding subparagraph (A) by striking "information provided by eligible entities in the State, containing" and inserting "an assurance that the State will provide information, including"; and

(ii) in subparagraph (D) by striking "community and neighborhood-based" and inserting "community-based";

(E) in paragraph (9) by striking "and community organizations" and inserting "and community-based organizations";

(F) in paragraph (10) by striking "community organization" and inserting "community-based organization";

(G) in paragraph (12) by striking "and" at the end;

(H) by redesignating paragraph (13) as paragraph (15); and

(I) by inserting after paragraph (12) the following:

"(13) an assurance that the State will take swift action to improve performance or, when appropriate, to terminate the funding under this subtitle of low-performing eligible entities that do not meet the applicable locally determined goals described in section 678E(b)(1) or do not meet the State goals, standards, and requirements as provided for in section 678B(a);

"(14) an assurance that the State will provide a justification to the Secretary if it continues to fund persistently low-performing eligible entities; and";

(2) in subsection (c)(2) by striking "plan, or" and all that follows through the period at the end, and inserting "plan, to meet a State requirement, as described in section 678C(a), or to meet the locally determined goals as described in section 678E(b)(1)."; and

(3) by striking subsection (f).

(f) TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.—Section 678A(a)(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9913(a)(1)(A)) is amended—

(1) by inserting "dissemination regarding best practices," after "technical assistance,"; and

(2) by inserting "(including to assist in the development of reporting systems and electronic data systems)" after "collection activities".

(g) MONITORING OF ELIGIBLE ENTITIES.—Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by inserting "and the locally determined performance goals described in section 678E(b)(1)" after "a State"; and

(B) in paragraph (3)—

(i) by inserting "appropriate" before "goals"; and

(ii) by striking "established by the State"; and

(2) in the last sentence of subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(h) CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.—Section 678C(a) of the Community Services Block Grant Act (42 U.S.C. 9915(a)) is amended in the matter preceding paragraph (1) by striking "established by the State".

(i) ACCOUNTABILITY AND REPORTING REQUIREMENTS.—Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A) by striking "By October 1, 2001, each" and inserting "Each"; and

(B) in paragraph (2)—

(i) in the 1st sentence by inserting "including any activities under section 678C" before the period at the end;

(ii) by striking the 2d sentence;

(iii) in the 3d sentence by striking "also"; and

(iv) in the 3d sentence by inserting "information on the timeliness of the distribution of block grant funds to eligible entities as provided in section 675C(a)," after "including";

(2) in subsection (b)—

(A) in paragraph (2) in the matter preceding subparagraph (A) by striking "beginning after September 30, 1999";

(B) in paragraph (3) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees";

(C) by adding at the end the following:

"(5) COORDINATION OF REPORTING REQUIREMENTS.—To the maximum extent possible, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services managed by eligible entities so as to consolidate and reduce the number of reports required about individuals, families, and uses of grant funds."; and

(D) by redesignating such subsection as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) LOCAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) LOCALLY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, an eligible entity shall establish locally determined goals for reducing poverty in the community, including goals for—

"(A) leveraging and mobilizing community resources;

"(B) fostering coordination of Federal, State, local, private, and other assistance; and

"(C) promoting community involvement.

"(2) DEMONSTRATION THAT GOALS WERE MET.—In order for an eligible entity to receive a second or subsequent grant made under this subtitle after the effective date of this paragraph, such entity shall demonstrate to the State that it has met the goals described in paragraph (1).".

(j) TREATMENT OF BENEFICIARIES.—Section 679 of the Community Services Block Grant Act (42 U.S.C. 9920) is amended by adding at the end the following:

"(f) TREATMENT OF BENEFICIARIES.—In providing assistance under a program described in subsection (a), a religious organization shall not discriminate against a beneficiary, or a potential beneficiary, of such assistance on the basis of religion or of a religious belief.".

(k) DISCRETIONARY AUTHORITY OF SECRETARY.—Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A) by inserting "(including financial assistance for construction or substantial rehabilitation of buildings and facilities, and for loans or investments in private business enterprises owned by community development corporations)" after "assistance";

(ii) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (D), (E), (F), and (G), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) FEDERAL INTEREST.—The Secretary shall establish procedures that permit funds provided under a grant made under this paragraph, or intangible assets acquired with such funds, to become the sole property of the grantee before the expiration of the 12-year period beginning after the fiscal year for which such grant is made if such grantee agrees to use such funds or *such property for purposes and uses consistent with the purposes and uses for which such grant is made.*

*"(C) REPLACEMENT ACTIVITIES.—The Secretary shall establish procedures to allow a grant made under this paragraph to be used by a grantee to carry out activities substantially similar to the activities for which such grant is made if, due to no fault of such grantee, such grantee cannot carry out the activities for which such grant is made. Such procedures shall require that the substantially similar activities serve the same impact area and have the same goals, objectives, and outcomes as the activities for which such grant is made.";*

*(B) in paragraph (3)(B) by inserting "water and wastewater" after "community"; and*

*(C) in paragraph (4) by striking "neighborhood-based" and inserting "community-based"; and*

*(2) in subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".*

*(l) COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—*

*(1) in subsection (c) in the matter preceding paragraph (1) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees"; and*

*(2) in subsection (d) by striking "1999 through 2003" and inserting "2004 through 2009".*

*(m) NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—*

*(1) in subsection (b)(5)—*

*(A) by inserting "(which may be accomplished through mentoring)" after "youth"; and*

*(B) by inserting "to improve academic achievement" after "study practices"; and*

*(2) in subsection (g) by striking "1999 through 2003" and inserting "2004 through 2009".*

### *SEC. 3. EFFECTIVE DATE.*

*This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning after the date of the enactment of this Act.*

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

## AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 4 in the nature of a substitute offered by Ms. WOOLSEY:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving the Community Services Block Grant Act of 2003".

### SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT AMENDMENTS.

(a) PURPOSES AND GOALS.—Section 672 of the Community Services Block Grant Act (42 U.S.C. 9901 note) is amended to read as follows:

### "SEC. 672 PURPOSES AND GOALS.

"The purpose of this subtitle is to reduce poverty—

"(1) by strengthening and coordinating local efforts to expand opportunities for individuals and families to become economically self-sufficient and to improve and revitalize low-income communities in urban and rural areas, by providing resources to States for support of local eligible entities, including community action agencies and other community-based organizations—

"(A) to plan, coordinate, and mobilize a broad range of Federal, State, local, and private assistance or investment in such a manner as to use these resources effectively to reduce poverty and in initiatives that are responsive to specific local needs and conditions;

"(B) to coordinate a range of services that meet the needs of low-income families and individuals, that support strong and healthy families, and that assist them in developing the skills needed to become self sustaining while ensuring that these services are provided effectively and efficiently; and

"(C) to design and implement comprehensive approaches to assist eligible individuals in gaining employment and achieving economic self-sufficiency;

"(2) by improving and revitalizing the low-income communities in urban and rural areas by providing resources to States for support of local eligible entities and their partners—

"(A) to broaden the resource base of initiatives and projects directed to the elimination of poverty and the redevelopment of the low-income community, including partnerships with nongovernmental and governmental institutions to develop the community assets and services that reduce poverty, such as—

"(i) other private, religious, charitable, and community-based organizations;

"(ii) individual citizens, and business, labor, and professional groups, that are able to influence the quantity and quality of opportunities and services for the poor; and

"(iii) local government leadership; and

"(B) to coordinate community-wide resources and services that will have a significant, measurable impact on the causes of poverty in the community and that will help families and individuals to achieve economic self-sufficiency and to test innovative, community-based approaches to attacking the causes and effects of poverty and of community breakdown, including—

"(i) innovative initiatives to prevent and reverse loss of investment, jobs, public services, and infrastructure in low- and moderate-income communities; and

"(ii) innovative partnerships to leverage the assets and services that reduce poverty, as provided in subparagraph (A); and

"(3) by ensuring maximum participation of residents of low-income communities and of members of the groups served by grants made under this subtitle in guiding the eligible entities and in their programs funded under this subtitle, to ameliorate the particular problems and needs of low-income residents and to develop the permanent social and economic assets of the low-income community in order to reduce the incidence of poverty.".

(b) DEFINITIONS.—Section 673(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9902(1)(A)) is amended—

(1) in clause (i) by striking "and" at the end;

(2) in clause (ii) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) that successfully develops and meets the locally determined goals described in section 678E(b)(1), as determined by the State, and meets State goals, standards, and performance requirements as provided for in section 678B(a).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(2) in subsection (b)(2)—

(A) by striking "678F" and inserting "678E to assist States, eligible entities, and their partners in projects supported by this subtitle"; and

(B) in subparagraph (B) by striking "monitoring (to correct programmatic deficiencies of eligible entities)" and inserting "monitoring (including technical assistance and training to correct programmatic deficiencies of eligible entities)".

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)(1)(F) by striking "neighborhood-based" and inserting "community-based".

(e) APPLICATION AND PLAN.—Section 676 of the Community Services Block Grant Act (42 U.S.C. 9908) is amended—

(1) in subsection (b)—

(A) by striking "Beginning with fiscal year 2000, to" and inserting "To";

(B) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "youth development programs that support" and inserting "youth development programs, which may include mentoring programs, that support"; and

(II) by striking "and" at the end;

(ii) in subparagraph (C) by adding "and" at the end; and

(iii) by adding at the end the following:

"(D) initiatives to improve economic conditions and mobilize new resources in rural areas to eliminate obstacles to the self-sufficiency of families and individuals in rural communities;";

(C) in paragraph (2) by striking "community and neighborhood-based" and inserting "community-based";

(D) in paragraph (3)—

(i) in the matter preceding subparagraph (A) by striking "information provided by eligible entities in the State, containing" and inserting "an assurance that the State will provide information, including"; and

(ii) in subparagraph (D) by striking "community and neighborhood-based" and inserting "community-based";

(E) in paragraph (9) by striking "and community organizations" and inserting "and community-based organizations";

(F) in paragraph (10) by striking "community organization" and inserting "community-based organization";

(G) in paragraph (12) by striking "and" at the end;

(H) by redesignating paragraph (13) as paragraph (15); and

(I) by inserting after paragraph (12) the following:

"(13) an assurance that the State will take swift action to improve performance or, when appropriate, to terminate the funding under this subtitle of low-performing eligible entities that do not meet the applicable locally determined goals described in section 678E(b)(1) or do not meet the State goals, standards, and requirements as provided for in section 678B(a);

"(14) an assurance that the State will provide a justification to the Secretary if it continues to fund persistently low-performing eligible entities; and";

(2) in subsection (c)(2) by striking "plan, or" and all that follows through the period at the end, and inserting "plan, to meet a State requirement, as described in section 678C(a), or to meet the locally determined goals as described in section 678E(b)(1)."; and

(3) by striking subsection (f).

(f) TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.—Section 678A(a)(1)(A) of the Community Services Block Grant Act (42 U.S.C. 9913(a)(1)(A)) is amended—

(1) by inserting "dissemination regarding best practices," after "technical assistance,"; and

(2) by inserting "(including to assist in the development of reporting systems and electronic data systems)" after "collection activities".

(g) MONITORING OF ELIGIBLE ENTITIES.—Section 678B of the Community Services Block Grant Act (42 U.S.C. 9914) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by inserting "and the locally determined performance goals described in section 678E(b)(1)" after "a State"; and

(B) in paragraph (3)—

(i) by inserting "appropriate" before "goals"; and

(ii) by striking "established by the State"; and

(2) in the last sentence of subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(h) CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.—Section 678C(a) of the Community Services Block Grant Act (42 U.S.C. 9915(a)) is amended in the matter preceding paragraph (1) by striking "established by the State".

(i) ACCOUNTABILITY AND REPORTING REQUIREMENTS.—Section 678E of the Community Services Block Grant Act (42 U.S.C. 9917) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A) by striking "By October 1, 2001, each" and inserting "Each"; and

(B) in paragraph (2)—

(i) in the 1st sentence by inserting "including any activities under section 678C" before the period at the end;

(ii) by striking the 2d sentence;

(iii) in the 3d sentence by striking "also"; and

(iv) in the 3d sentence by inserting "information on the timeliness of the distribution of block grant funds to eligible entities as provided in section 675C(a)," after "including";

(2) in subsection (b)—

(A) in paragraph (2) in the matter preceding subparagraph (A) by striking "beginning after September 30, 1999";

(B) in paragraph (3) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees";

(C) by adding at the end the following:

"(5) COORDINATION OF REPORTING REQUIREMENTS.—To the maximum extent possible, the Secretary shall coordinate reporting requirements for all programs of the Department of Health and Human Services managed by eligible entities so as to consolidate and reduce the number of reports required about individuals, families, and uses of grant funds."; and

(D) by redesignating such subsection as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) LOCAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) LOCALLY DETERMINED GOALS.—In order to be designated as an eligible entity and to receive a grant under this subtitle, an eligible entity shall establish locally determined goals for reducing poverty in the community, including goals for—

"(A) leveraging and mobilizing community resources;

"(B) fostering coordination of Federal, State, local, private, and other assistance; and

"(C) promoting community involvement.

"(2) DEMONSTRATION THAT GOALS WERE MET.—In order for an eligible entity to receive a second or subsequent grant made under this subtitle after the effective date of this paragraph, such entity shall demonstrate to the State that it has met the goals described in paragraph (1).".

(j) NONDISCRIMINATION.—Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "color,".

(k) TREATMENT OF BENEFICIARIES.—Section 679 of the Community Services Block Grant Act (42 U.S.C. 9920) is amended to read as follows:

**"SEC. 679. OPERATIONAL RULE.**

"(a) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

"(b) RELIGIOUS CHARACTER AND INDEPENDENCE.—

"(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

"(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

"(B) to remove religious art, icons, scripture, or other symbols; in order to be eligible to provide assistance under a program described in subsection (a).

"(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

"(d) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

"(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

"(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an "intermediate organization"), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

"(f) TREATMENT OF BENEFICIARIES.—In providing assistance under a program described in subsection (a), a religious organization shall not discriminate against a beneficiary, or a potential beneficiary, of such assistance on the basis of religion or of a religious belief.

"(g) OPERATIONAL REQUIREMENT.—Notwithstanding any other provision of this section, each entity that carries out a program, or provides assistance, under this subtitle shall carry out such program, or shall provide such assistance, in a lawful and secular manner.".

(l) DISCRETIONARY AUTHORITY OF SECRETARY.—Section 680 of the Community Services Block Grant Act (42 U.S.C. 9921) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A) by inserting "(including financial assistance for construction or substantial rehabilitation of buildings and facilities, and for loans or investments in private business enterprises owned by community development corporations)" after "assistance";

(ii) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (D), (E), (F), and (G), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) FEDERAL INTEREST.—The Secretary shall establish procedures that permit funds provided under a grant made under this paragraph, or intangible assets acquired with such funds, to become the sole property of the grantee before the expiration of the 12-year period beginning after the fiscal year for which such grant is made if such grantee agrees to use such funds or such property for purposes and uses consistent with the purposes and uses for which such grant is made.

"(C) REPLACEMENT ACTIVITIES.—The Secretary shall establish procedures to allow a grant made under this paragraph to be used by a grantee to carry out activities substantially similar to the activities for which such grant is made if, due to no fault of such grantee, such grantee cannot carry out the activities for which such grant is made. Such procedures shall require that the substantially similar activities serve the same impact area and have the same goals, objectives, and outcomes as the activities for which such grant is made.";

(B) in paragraph (3)(B) by inserting "water and wastewater" after "community"; and

(C) in paragraph (4) by striking "neighborhood-based" and inserting "community-based"; and

(2) in subsection (c) by striking "Chairperson of the Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees".

(m) COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9922) is amended—

(1) in subsection (c) in the matter preceding paragraph (1) by striking "Committee on Education" and all that follows through "Human Resources of the Senate" and inserting "appropriate congressional committees"; and

(2) in subsection (d) by striking "1999 through 2003" and inserting "2004 through 2009".

(n) NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—Section 682 of the Community Services Block Grant Act (42 U.S.C. 9923) is amended—

(1) in subsection (b)(5)—

(A) by inserting "(which may be accomplished through mentoring)" after "youth"; and

(B) by inserting "to improve academic achievement" after "study practices"; and

(2) in subsection (g) by striking "1999 through 2003" and inserting "2004 through 2009".

**SEC. 3. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning after the date of the enactment of this Act.

Ms. WOOLSEY. Mr. Chairman, the Woolsey-Miller-Payne-Andrews-Van Hollen-Frank-Scott-Nadler amendment is a Democratic substitute to H.R. 3030. This Democratic substitute is word for word the same as H.R. 3030 except for one big difference: the Democratic substitute prohibits religious discrimination with Federal CSBG funds.

It does this by making just three changes to the underlying bill. First, the Democratic substitute adds the word "religion" to the list of protected groups that cannot be discriminated against with CSBG funds. This list now prohibits discrimination on the basis of race, color, national origin, or sex. We want to add religion to that.

Second, the substitute does not include the title VII exemption to the Civil Rights Act, which is in current CSBG law, permitting faith-based organizations to discriminate based on religion when hiring with Federal funds. In other words, Mr. Chairman, religious discrimination is not allowed when using Federal funds.

Finally, the substitute adds a provision to clarify that while religious organizations are welcome and able to participate in CSBG, they must conduct their activities in a lawful and secular manner when using Federal funds. This language is taken directly from Chief Justice Rehnquist's majority opinion in the Supreme Court case of Bowen v. Kendrick, the case which sets the constitutional requirements for religious organizations that provide government services.

Faith-based organizations have a long and successful history of participating in CSBG programs, and we want that participation to continue. We celebrate their contribution. We want faith-based organizations to participate in the same lawful and secular manner as they did prior to the 1998 reauthorization, an authorization that occurred in the middle of the night that allowed faith-based organizations to discriminate when hiring staff with Federal funds. That change was made by tucking a significant anti-civil rights provision into an otherwise sound conference report that was based on a voice vote in the middle of the night on the House floor; and, of course, it passed.

With this Democratic substitute, Members have the opportunity to actually vote in the clear light of day on whether or not they want organizations to be able to use Federal funds to further religious discrimination.

Mr. Chairman, a vote for the Democratic substitute is a vote for community service block grants. The Democratic substitute funds local community action agencies which sponsor so many important programs that address the needs of low-income families in our communities. Strong community action agencies make for strong families, strong communities, and a stronger Nation.

The Democratic substitute gives Members the opportunity to take a clean vote for CSBG, without voting for religious discrimination, and I urge my colleagues to please support it.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is one of the most important issues we are going to deal with. The question is whether or not organizations receiving taxpayer dollars paid for by every taxpayer in this country for secular purposes, nonreligious purposes, will be allowed to use those taxpayer dollars to discriminate against people based on their religion. There are arguments about what the history is or is not and the current status is or is not. They are on both sides of the case.

Let us deal with the merits. Why should people in this country who pay their taxes be told that they are not eligible because of their religion for a job which is paid for by their taxes? Of course, religions have a right to hire their own co-religionists in religious matters, but let us understand. If you are talking about the propagation of religion, a very important function, under the Constitution's establishment clause that cannot be done with public money. By definition you can only use public money for secular purposes. No one denies that.

The question then is, if you get the money for secular purposes, why should you be able to tell people that they cannot work for you if you do not like their religion? It is not just religion in the more formal sense. It is religion as the recipient defines it. If you believe that no one who believes in evolution can be a true Christian, then you will, under the law, without the Woolsey amendment, be allowed to deny people who believe in evolution the right to work in a soup kitchen.

If there were a nexus in the job, yes. If you were asking people to teach creationism, then you could ban people who believe in evolution, but a janitor, an architect, a contractor? The notion, by the way, that we have to do this to allow faith-based groups to work is unfair to faith-based groups. I do not think they need to be discriminatory.

We are not again talking about telling them they cannot hire people for religious purposes. What is it about people of another religion that is so distasteful that it is somehow wrong to ask people to associate with them? Are we saying that people cannot administer good works, that they have to associate with Jews if they are Christians, with Catholics if they are Baptist, with Muslims if they are Episcopalians? Of course, it is the case that in America what Martin Luther King said years ago is still true, the hour of worship is a pretty segregated one. Tell Orthodox Jews in Brooklyn that they may hire only their own and how many African Americans will be hired? Tell Mormons in Utah that they may only hire their own and how many Americans are hired? Tell the African Methodist Episcopal church or tell the Nation of Islam that they may hire only their own co-religionists, and how many white people or Hispanics get hired?

We need not empower discrimination. In fact, I have worked myself, as many others have, with the archdiocese of Boston, which has a wonderful housing program with combined Jewish philanthropy's housing program. The notion that religious charities cannot do their work unless they are allowed to discriminate against people not of their religion as they define it is factually wrong.

So that is the question here. I would have thought that the lesson of the last few years is that there is too much religious separatism, too much divisiveness, too much us against them in religion. Yes, let us encourage religious groups to be fully participant in good works, but let us not write into the law of the United States the principle that having simply to work with someone of another religion in entirely nonreligious matters, secular matters, is somehow so corrosive to your morale, so corrosive to your ability to function that you ought to be allowed to say to people, yes, pay taxes for this. We will take billions of dollars of tax money paid by everybody, and you Jews, you Christians, cannot apply.

Let me say, I was recently shown something that I am told comes from the Focus on the Family Web site, and if this is an error I will apologize. I hope I will be corrected. I hope it is an error. What I am told it said was, if this amendment passes, Christian charities interested in accepting Federal funds will be required to ignore religious conviction in hiring, even if potential employees practice Islam, Judaism, or no religion at all.

Yes, I think under the American Constitution and our principles, people who practice Islam, Judaism, or no religion at all ought not to be taxed and told that they are not eligible to do the work for which they are wholly qualified except that people do not like their particular religion. I hope the amendment passes.

Mr. BOEHNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are debating the substitute offered by the gentlewoman from California (Ms. WOOLSEY), our good friend and committee member; and the only difference between the substitute and the underlying bill is the issue of whether faith-based providers can continue to maintain their title VII exemption under the 1964 Civil Rights Act.

The gentleman from Massachusetts made a case for the fact that we should not continue to allow this to occur. The fact is that the Congress in 1964, and as amended in 1965, went out of its way to say that religious organizations, when it comes to their hiring, can, in fact, make a decision and use religion as a basis of hiring. That is the law; and for our colleagues who disagree with that, as I said before, let them take this case to the Committee on the Judiciary. Let us go amend the 1964 Civil Rights Act, but it is not the issue here.

Secondly, I would point out that these faith-based organizations in many cases are very effective organizations, helping needy people who need our help, and they do tremendous work; and in many cases, these organizations, faith-based community organizations, hire people who have multiple jobs.

My concern with the language that is being offered in the substitute is that it will, in fact, have a very chilling effect on these faith-based organizations when it comes to their willingness to participate in Federal programs to help meet their mission and our mission of helping poor people that are in crisis.

These organizations have been doing this work for a long time. Many of them have participated in Federal programs where they were protected, like the program we have before us. The Community Service Block Grant program going back to 1998 has the same language in it that the bill has in it today. I have not heard one complaint from anywhere in the country that because they are allowed to have their 1964 civil rights protections that they have discriminated against anyone.

The fact is that these organizations do very good work in our communities. We ought to allow them to participate, as we have.

□ 1345

And it is not just this program. There are at least a half dozen other programs, including the 1996 Welfare Act, that allows faith-based organizations to provide these services while maintaining their protections under the 1964 Civil Rights Act.

So all we are asking in the underlying bill is to maintain the current law and continue to allow these organizations, who are doing great work, to keep doing what they are doing. I think that is a reasonable assumption, and I believe that most Americans would support what we are trying to do with the underlying bill.

Ms. MCCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand today to support the Woolsey amendment because, you see, the underlying bill provides more than $635 million to communities throughout this country to combat poverty, improve the lives of people who are homeless, hungry, jobless, and all too often hopeless. These funds distributed through Community Service Block Grants put valuable resources into all of our communities to combat poverty, and I support the general goals of the underlying bill and the program it funds.

But it is not the funding alone that meets the needs of the homebound, the drug addicted, the destitute, and the hopeless. It is the tens of thousands of determined men and women who work as health outreach workers in shelters, as social service workers, in treatment centers, as counselors, and throughout our community to meet the needs of others. I admire the service and the selflessness of these men and women who live compassion every day they go to work, and not as a soundbite on a campaign trail.

Today, I rise on behalf of the STD and HIV clinic, the foster care social worker, the midnight-to-6-a.m. attendant at a group home, to oppose this bill because it uses their tax dollars and mine to fund religious organizations that can hire them and then fire them based on their religion or how they pray. This bill promotes State-sponsored religious intolerance in employment and it should be defeated, and that is why I support the Woolsey amendment.

Our country was founded on the principle of freedom of religion, and our tax dollars never should be used to enable religious discrimination in hiring. The Bush administration is continuing this disturbing trend of taking social service funding from successful, experienced organizations and redistributing to faith-based organizations that are permitted to use religion in hiring.

How can Congress enable and fund religious organizations to use a person's faith or religious orthodoxy to determine if a candidate is qualified to deliver social services or to mop a floor or to cook soup in a soup kitchen or to teach in a Head Start center? This is wrong. Separation of church and State is not an opt-in or opt-out provision of our Constitution. Using tax dollars to promote discrimination on the basis of religion is just plain, in my opinion, un-American.

I was disturbed by an article in Monday's New York Times describing the Salvation Army's new hiring practices for employees who deliver social services with taxpayers' money that take advantage of the Bush administration's faith-based agenda. The New York division's second-in-command of the Salvation Army is quoted as saying, "Do we require our employees to believe in Jesus Christ and administer the doctrines and tenets of the Salvation Army? Not unless we hire them for a specific ministry." And then he clarified. "Everything we do is related to our ministry and, in fact, is our ministry. The mission of the Salvation Army," which is listed on job postings and calls on new hires to "preach the gospel of Jesus Christ and to meet human needs in his name."

Mr. Chairman, I respect any American's freedom to pray, and I pray myself. I worship and I believe in God, and I believe every American should be able to worship in the way that they choose. But this congressionally funded and sanctioned discrimination based on religion is an abomination and debases our Constitution.

I call on all Members of Congress who respect religious freedom and believe in the constitutional separation of church and State to vote against this dangerous extremist bill and to support the Woolsey amendment.

Mr. Chairman, I include for the RECORD the full text of the New York Times article I referred to earlier from February 2.

[From the New York Times, Feb. 2, 2004]

### CHARITY REOPENS BIBLE, AND QUESTIONS FOLLOW

(By Daniel J. Wakin)

The Salvation Army of Greater New York, long known for its network of thrift shops and shelters, has begun an effort to reassert its evangelical roots, stressing to lay employees that the Army's core mission is not just social services, but also spreading the gospel.

The New York division's new leaders have ordered that job descriptions now state the mission clearly. they have reminded employees who deal with children that they must fill out a form promising to follow the Army's religious mission in working with them. The form also asks those employees to describe their church affiliations.

"Periodically, we have to kind of reclaim the ecclesiastical turf, if you will," said Col. Paul M. Kelly, a former New York division commander who was brought in as a consultant last year to assess its operations.

The effort has stirred a mini-rebellion among some longtime employees who resent what they see as an intrusion on their privacy and the potential for religious discrimination. Such demands for religious loyalty, they say, breach the wall between church and state because the division accepts $70 million in state and city funds for its programs.

"We've been told that things are changing, that they've come to whip us into shape, and they want us to become more like the Army," said one social worker in a Salvation Army foster care program who wanted to remain anonymous for fear of retaliation. "Everyone's really freaked out." Robert Gutheil, a former official with an Army social service program, said the New York division was considered an anomaly within the national Army for the lack of emphasis of religion in its programs.

One high-ranking administrator, in a complaint to the Equal Employment Opportunity Commission, said a Salvation Army official said during a meeting that any staff member who refused to sign revised job descriptions proclaiming the church's mission would be fired. And a former human resources executive said a Salvation Army official asked about religious affiliations of people who worked for her and whether several of them were gay.

Catholic Charities, the UJA-Federation of New York and the Evangelical Lutheran Church's local synod all said they do not require social service employees to reveal religious affiliations or commit themselves to a religious mission.

The Salvation Army's New York division leaders would not comment on the specific charges, but denied that their policies are new or even out of the ordinary for a religious institution. Officials acknowledged, however, that they had begun efforts to reinforce the organization's religious identity among employees as part of a general effort to tell the world about the group's mission.

The Army's charitable role was in full focus last week when the national headquarters announced it had received a bequest of $1.5 billion to build and endow 25 or 30 community centers around the country, each of which will contain a place of worship. The bequest came from Joan B. Kroc, the wife of the McDonald's chain founder, who died in October.

Local Army officials said it was far too early to say how the money would affect operations, but national officials have said the centers will be used for educational and spiritual purposes, not for social services.

Best known for the thrift shops and red kettles that help support its network for services for the poor and homeless, the Salvation Army is first and foremost a worldwide evangelical church, according to the New York division's second in command, Maj. Guy D. Klemanski.

"Everything that we do is related to our ministry, and is in fact our ministry," he said in an interview. "Do we require our employees to believe in Jesus Christ and administer the doctrines and tenets of the Salvation Army? Not unless we hire them for a specific ministry."

The tension between the social and spiritual sides of the Army on display in New York have occurred in Salvation Army divisions elsewhere in the nation, officials said. Major Klemanski said the questionnaire asking about church affiliation has been in effect nationwide since 1993, although it was not always adhered to in the New York division and was re-emphasized last fall. The church questions were to help with background checks, he said, adding that many people in the New York division did not seem to be aware of the mission.

Major Klemanski said it was only natural that the Salvation Army expects general support from its employees for its mission.

"Why would you go to McDonald's and tell everybody to go to Burger King?" he asked. "Why would any one want to go to work for the Salvation Army if they are not supportive of us?"

The major said he and the New York commander, Lt. Col. Nestor Nuesch, arrived in their posts in July with a desire to remind employees and the public of the Army's religious functions. They would have done the same anywhere, he said. "It's fresh leadership."

Their arrival came on the heels of a reorganization plan by Col. Kelly that was circulated last spring. In it, Col. Kelly urged that more Salvation Army members be recruited for jobs. "The Army's 'Christian perspective' is rarely emphasized," he said.

The church and its program are happily growing, he said, "but what appears to be happening is a widening gap between the ecclesiastical Salvation Army and the social service component."

He praised a human resources executive for ordering a Muslim employee to remove "various Muslim artifacts" from one center. His report also questioned whether it was a good idea to have hired a human resources director for the Army's adult services agency "who represents and Eastern religion," apparently Buddhism or Hinduism.

The clash between the group's religious and social service missions goes to the heart of President Bush's effort to make it easier for churches to obtain Federal money for so-called faith-based social programs, a debate in which the Salvation Army has been central.

The group has lobbied the White House to allow exemptions from gay discrimination laws, and in New York, has argued that its hiring policies fall well within the terms of contracts with the city, the city's human rights law and a 1980 executive order.

Opponents sharply disagree. "It's governmental monies to spread the mission of Christ," said Martin Garbus, a First Amendment lawyer who is representing at least a dozen Army employees who are upset by the religious policy and fear retaliation. "The government shouldn't support Pat Robertson, it shouldn't support the Catholic church, it shouldn't support Jewish synagogues."

The New York Civil Liberties Union asked the city and state comptrollers two weeks ago to audit the New York branch, Lawyers for the group say the New York division may be violating city and state contracts prohibiting religious discrimination.

The city comptroller, William G. Thompson, has passed the complaint on to the New York City Human Rights Commission, and the office of the state comptroller, Alan G. Hevesi, said it was studying the case.

Lawyers for the employees said a lawsuit could be filed this week.

"This is an agency acting on behalf of a government providing government services," said Donna Lieberman, the civil liberties union director. "It cannot be in the business of promoting religion and discriminating against its employees based on religion."

Religious institutions are exempt from religious anti-discrimination laws, but not for employees working in government-funded programs, the civil liberties union argues. The Bush administration favors allowing religious institutions to consider religion in hiring people who work for their government-funded programs.

The Army, which operates in 109 countries, was founded in London in the 19th century by a Methodist minister, who patterned its structure and terminology after the military. Adherents undergo training before being "commissioned," or ordained, as "officers," the equivalent of ministers. Army doctrine holds that the Bible is truthful revelation and salvation depends on obedience to Christ.

Nationwide, the Army has 46,000 employees, a budget of $2.5 billion and a reputation for being efficiently administered.

Some 1,700 employees work in the Greater New York Division's social service agencies, which have a budget of $120 million a year, about 60 percent from government sources, the division said. The agencies operate more than 60 group homes, foster care, treatment programs, H.I.V. services, shelters and the like. The New York division, which covers New York City, Long Island and seven counties north of the city, said it touches the lives of 5 million people a year.

A few supervisors refused to hand out the forms that included questions on church affiliations. Some workers feared losing their jobs if they did not sign. They included Jews, Muslims and Hindus, gays and lesbians, atheists and even a lapsed Salvation Army member, employees said.

The civil liberties union has also condemned job descriptions calling for applicants to support "the mission" of the Salvation Army, which is listed on job postings and calls on new hires to "preach the Gospel of Jesus Christ and to meet human needs in His Name without discrimination."

The associate executive director of the children's agency, Anne Lown, who is Jewish, filed the E.E.O.C. complaint, according to the New York Nonprofit Press, which reported the dispute last month. Ms. Lown, now associate director, would not respond to questions about the complaint.

Mr. Gutheil, the executive director of the children's division, said in a Sept. 26 memo to his superiors that the church-affiliation form would have an "enormously chilling effect" on hiring good applicants. He said it was bound to be challenged in court, bringing bad publicity and hurting donations.

"Finally, whatever the legality and whatever the practical implications, this is just plain offensive to many of us who share the Gospel faith of the Salvation Army," wrote Mr. Gutheil, an Episcopalian. "This is a city that thrives on its diversity. Our workplace should reflect that."

Within weeks, Mr. Gutheil had left the Army after more than 20 years. On Tuesday, he said a confidentiality agreement that was part of a severance agreement prevented him from discussing his departure. But he said the dispute contributed to it.

"It was an important stand to take," he said. "I'm sorry I'm not at liberty to say more about it."

Mr. BURNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have had this debate before. We had it in subcommittee, we had it in committee, and the same rhetoric is here on the floor today. The opposition and the Woolsey amendment would roll back time and take us back prior to 1998 and prior to 1964. The underlying bill, H.R. 3030, preserves religious freedom and religious participation by faith-based organizations in community service.

Current law makes it clear that when faith-based organizations participate in Community Service Block Grants, they can indeed take religion into account in their hiring practices. They are not discriminating. Current law recognizes that faith-based organizations should not be asked to compromise their religious character as a condition of using Federal funds to help those who are in need.

Repealing the 1998 law would needlessly strip faith-based organizations of their rights, rights that have been guaranteed to them by title VII of the Civil Rights Act of 1964, and this has been upheld consistently since then by the courts, most notably by the Supreme Court in Bowen v. Kendrick.

Community Service Block Grants allow faith-based groups to utilize Federal funds for secular purposes, feeding and clothing the needy, helping those out of work to find jobs, and they do so without compromising their essential character. The underlying legislation would continue to provide this opportunity for faith-based organizations.

Faith-based organizations have a fundamental right to their religious beliefs. Christian, Jewish, or Muslim. The Federal Government, given its size and scope, would render their services meaningless if this protection was eliminated. We must continue to support the most needy, those in our country who have needs of education, of health, of food and shelter, and faith-based organizations in the 12th District of Georgia are capable of meeting this need.

I oppose the Woolsey amendment and urge my colleagues to support the underlying bill, H.R. 3030.

Mr. HOLT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Community Services Block Grant is a relatively small but important program for more than 1,000 communities and millions of families nationwide, but this amendment is critical because without it a potentially good bill is rendered un-American and unacceptable.

The CSBG purpose is to alleviate poverty by funding initiatives that fight the causes of poverty, such as unemployment, inadequate housing, poor nutrition, and lack of educational opportunities. The unifying characteristic of CSBG programs is that they provide people and communities with the resources and skills they need to become self-sufficient. It is good legislation.

Communities in my 12th District of New Jersey, such as Franklin Township, Somerset County, Trenton, and North Brunswick use CSBG funds to help individuals obtain employment skills, gain access to home ownership and health insurance. It is used for new housing facilities, economic development, job creation, and public service improvements, such as safer streets.

I am glad to see that this legislation, the Improving Community Services Block Grant Act of 2003, as reported, strengthens and improves the CSBG program. It enhances accountability at the local, State and Federal levels. It gives extra emphasis to CSBG's top priority, reducing poverty. I would strongly support the provisions of the reported legislation, and I believe that they would help improve the quality of services to low-income individuals and families so that communities can more effectively move people towards self-sufficiency, with the exception that this, as reported, is un-American.

Because H.R. 3030 fails to remove provisions in law that allow discrimination against beneficiaries of services based on religion, and permits religious organizations receiving funds to discriminate in employment. I must oppose this bill. Now, I agree with the majority that these provisions have existed in current law for 5 years, but that is not reason for us to continue to condone the continuation of discriminatory policies.

For years, faith-based organizations have helped many Americans, but they should not be permitted to turn away qualified individuals from a federally funded job because they are Christian or because they are Jewish or because they are Muslim or because they have any particular faith. It would be wrong to discriminate when hiring. It was wrong, it is wrong, to discriminate when hiring, and it should remain wrong to discriminate when hiring when using taxpayer dollars for that hiring.

The social services of CSBG are not inherently religious activities. It is appropriate to use taxpayer dollars to conduct these activities. Organizations that are faith-based and that are motivated by their religious faith can do these things, even using Federal funds. But they should not use the taxpayer dollars to discriminate. The work they do builds communities. The work funded by CSBG is to build communities. Let us not fund practices that tear apart our communities.

I ask my colleagues to support the Woolsey amendment. And if it does not pass, I ask them to oppose the bill.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. HOLT. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me, and I just wish to respond to the gentleman from Ohio (Mr. BOEHNER), because he repeats over and over that by not allowing faith-based organizations to discriminate using Federal funds, it would have a chilling effect on these organizations. I want to tell him that what would have a chilling effect and does have a chilling effect is allowing the use of Federal tax dollars based on religious hiring.

Using Federal tax dollars to discriminate is chilling, and we must not let it happen.

Mr. SOUDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it needs to be absolutely clear that this amendment would in fact roll back civil rights protections in the United States. Religious organizations have long had protections that this amendment would roll back. The hiring protections in title VII of the Civil Rights Act of 1964, were included in the 1998 Community Services Block Grant authorization. And the President at that time, Bill Clinton, supported this clause directly for social services block grant because he realized that to do so and change anything else regarding this would mean that we would be rolling back civil rights protections for faith-based organizations and churches across the country.

We have long had these types of debates. And one of the things that very much concerns me that those on the other side are doing, as well as some on our side are doing, are muddying up what are very clear waters. Let us make some things absolutely clear. You cannot proselytize, you cannot use public funds under current law, or under the bill that this House is considering to proselytize. It might be part of the goal of your mission that in providing, say, soup to the hungry or shelter to the homeless or helping someone who is dying of AIDS, the reason you are doing it may be Christian and you may be a Christian mission and talking about and viewing this as a holistic part of your mission, but when you are giving the soup, you cannot require a prayer. When you are giving shelter, you cannot require somebody to have a statement of faith when you are providing those services.

□ 1400

The question is not whether we are going to fund Bible studies or fund prayer or that type of thing. The question is can organizations who want to maintain, from their point of view, their organization's statement of faith, whether they be orthodox Jews, whether they be fundamentalist Christians, whether they be fundamentalist Muslims, do they have to change their fundamental mission to hire people who do not share that mission in order to provide soup to the hungry. Giving a bowl of soup to somebody does not require proselytizing them. They can proselytize on their own dime; they can raise money on their own dime.

The question comes when they are doing those services, does the fact that you believe your organization wants to have people of like mind working with it and that you hire people of like mind mean you can no longer provide soup to the hungry?

Let me give Members a couple of specific examples. We have been having a series of oversight hearings on faith-based initiatives around the country, including Chicago, Nashville, San Antonio, Los Angeles, and Colorado Springs. We have been having a full debate at each hearing where we have had people from Jewish organizations who are more secular who do not agree with the position that I am arguing today, and with different organizations like Catholic Charities where they set up separate foundations where they will hire people who do not necessarily share their faith as opposed to directly through the Church. But at every hearing, we have heard from organizations who will not be able to access Federal funds if they have to change their hiring practices. The amendment before us now would not allow the organizations to participate in providing soup, if they don't change their hiring practices.

And by coming down constantly to the floor and saying or implying that these organizations are proselytize is confusing many religious groups around the country. With Federal dollars, they cannot proselytize. The Court has clearly ruled that the software on the computer cannot be paid by the Federal Government if it has any proselytizing in it. But the computer itself does not evangelize. The computer itself does not have a religious message. A school bus taking kids to a camp does not have a religious message in it. If they are going to use the school bus, they cannot put on the side "Jesus Saves You" if it is paid for with government dimes.

At the same time, they can be transported to a place that has different messages. For example, we allow this with Catholic schools in the country. Is the other side of the aisle proposing that Catholic schools can no longer receive assistance under IDEA or Title I, that Catholic schools can no longer receive assistance in the form of basic things to their schools? Of course not. We have done this for years.

What we cannot do is provide religious instruction materials for Catholic schools or other schools. This amendment, if passed, would suddenly pull out whole groups of people who view part of their mission, and I myself am an evangelical Christian, it is telling people like me who want to belong to an organization of evangelical Christians who believe part of our mission is to help the poor, that unless we bring in people who do not share our mission, we cannot even compete to provide assistance to the poor.

Quite frankly, most of these groups do not want to touch it. What I have been able to hear in the different hearings were many people coming forth saying they were afraid that the Federal Government is now going to reach their long arm into our churches and start telling us who to hire and fire, and that is just not acceptable.

Mr. Chairman, the Woolsey amendment would in effect gut civil rights protections for all sorts of religious groups, Muslim, Jewish, Catholic, Protestant; and it would be a travesty if we go backwards in allowing people from their own hearts to want to help the poor.

Although this provision appears innocuous, in fact this language is a blow that will serve to gut the faith-based provision in the law that allows faith-based organizations to retain their religious character while providing federally funded social services.

All beneficiaries and potential beneficiaries are protected from discrimination based on religion. At Committee, Chairman BOEHNER offered an amendment that was accepted which codified the regulatory provision (45 CFR 1050.3(e)) regarding the treatment of beneficiaries. Specifically, the amendment stated that a "religious organization that receives funds under an applicable program, shall not, in providing program services or benefits, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or a religious belief."

Additionally, the CSBG law and regulations both prohibit a faith-based organization from using CSBG funds for religious activities.

Section 679(c), states that "[n]o funds provided directly to a religious organization to provide assistance under any program . . . shall be expended for sectarian worship, instruction, or proselytization."

In Section 1050.3(c), the regulations state that a religious organization may not "expend any direct funding under the applicable program to support any inherently religious activities, such as worship, religious instruction, or proselytization" (45 CFR 1050.3(c)).

Opponents have made the argument that Chief Justice Rehnquist's majority opinion in Bowen v. Kendrick requires the addition of this language, arguing that it was "one of the most important reasons" that the Court had found the funding of a faith-based organization constitutional was because it "did not 'discriminate' on the basis of religion and operated its government-funded services in a secular manner." However, a careful reading of the opinion reveals neither of those points to be valid.

The excerpt from the opponents about the faith-based organization not "discriminating" failed to note that in the full quote (copied below) the phrase was modified by "particularly when" indicating that the decision was valid even before getting to that issue—so it was not "one of the most important reasons."

"We note in addition that this Court has never held that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs. To the contrary, in Bradfield, v. Roberts, 175 U.S. 291, 20 S.Ct. 121, 44 L.Ed. 168 (1899), the Court upheld an agreement between the Commissioners of the District of Columbia and a religiously affiliated hospital whereby the Federal Government would pay for the construction of a new building on the grounds of the hospital. In effect, the Court refused to hold that the mere fact that the hospital was 'conducted under the auspices of the Roman Catholic Church' was sufficient to alter the purely secular legal character of the corporation, id., at 298, 20 S.Ct., at 124, particularly in the absence of any allegation that the hospital discriminated on the basis of religion or operated in any way inconsistent with its secular character. In the Court's view, giving of Federal aid to the hospital was entirely consistent with the Establishment Clause, and the fact that the hospital was religiously affiliated was 'wholly immaterial.' Ibid. The propriety of this holding, and the long history of cooperation and interdependency between governments and charitable or religious organizations is reflected in the legislative history of the AFLA." (Bowen v. Kendrick, 487 U.S. 589, 609 (1987)).

As for the "lawful and secular" claim, again the full quote (copied below) is illustrative. It shows that it was only when there was a concern that funds might be used for religious indoctrination)—which is not permitted under CSBG—was further scrutiny needed.

"But nothing in our prior cases warrants the presumption adopted by the District Court that religiously affiliated AFLA grantees are not capable of carrying out their functions under the AFLA in a lawful, secular manner. Only in the context of aid to 'pervasively sectarian' institutions have we invalidated an aid program on the grounds that there was a 'substantial' risk that aid to these religious institutions would, knowingly or unknowingly, result in religious indoctrination." (Id., at 612) (internal cites omitted).

### Subcommittee on Criminal Justice, Drug Policy and Human Resources

### HEARING ON "FAITH-BASED PERSPECTIVES ON THE PROVISION OF COMMUNITY SERVICES, LOS ANGELES, CALIFORNIA"

Monday, January 12, 2004

Tim Hooten, Executive Director, Office of Ministry and Service, Asuza Pacific University:

Mr. Souder: Have you ever had any complaints from any organization that any of your students started sharing the faith and did not represent the organization?

Mr. Hooten: No, quite the opposite. Especially Foothill AIDS project, for instance. I had a phone call with their Executive Director recently, just asked how are things going there. And he said, you know what—and my question was with concern, like are students causing a problem there. And he said, you know what? Your volunteers are my best volunteers because they really have a heart for these young men and women who are dying.

Mr. Souder: And why do you believe they have that heart?

Mr. Hooten: I believe because they feel that they are there to serve the Christ within the people that they are seeing. As far as my perspective on what the New Testament, as a response to the Old Testament is that when I serve someone, I am actually getting to serve Christ. So it is incarnational in that they be the presence of Christ as they serve Christ.

SUBCOMMITTEE ON CRIMINAL JUSTICE DRUG POLICY AND HUMAN RESOURCES

HEARING ON "THE ROLE OF FAITH-BASED ORGANIZATIONS IN PROVIDING EFFECTIVE SOCIAL SERVICES"

Wednesday, July 2, 2003, Victory Fellowship Annex, San Antonio, Texas

Excerpted comments from the testimony of Greg Kepferle, Executive Director of Catholic Charities of Central New Mexico and Catholic Charities of Santa Fe.

Mr. Kepferle: With Catholic Charities we want to make sure our Title VII exemption under the civil Rights Act is protected, that as a religiously sponsored organization we have the right to hire people who are Catholic and/or who have an understanding of Catholic social teaching; however, in actual practice because of—you know, we're looking for the competent staff with skills and we're serving a very diverse population that we are retaining that right only in select positions.

For example, executive director or positions that are working specifically with parishes or within specific faith-based projects that we have, so we want to make sure that that which is already in the law and we have that right, we want to make sure that's protected. But as a matter of actual practice our hiring practices we hire very diverse staff. We don't for most positions inquire in terms of their religious background or affiliation.

Mr. Sounder: You don't inquire?

Mr. Kepferle: We don't inquire, but we want to make sure we still have that right to do that because just with any organization you want to make sure that, you know, the—if you're selling shoes, you want to make sure that the person that's out there selling shoes wears shoes and believes in that. I mean, just with any business. In our mission it's the mission of following the teaching of the Catholic Church and carrying that out.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Democratic substitute to H.R. 3030, the Community Services Block Grant Act of 2003. Community service block grants have played an essential role in our society to help fight poverty by establishing programs, to help with such issues as employment opportunities, housing, facilities development, and food assistance. These community action agencies have become pillars in communities throughout the country. We all know and accept the fact that over two-thirds of community action agencies have a faith-based organization or representatives on their board of directors. Approximately 75 percent of community action agencies work directly with religious institutions and denominations. Affiliations with faith-based organizations and houses of worship have strengthened their message, outreach, and support for community action.

I am amazed that we would take a good process, a good program, a good approach, and then urge religious institutions to discriminate. I can understand a person who tithes at the New Galilee Missionary Baptist Church where I am a member, and they even let me be a deacon at times. When you tithe, you give of your free will. You decide that you are going into your pocket, and so you should have a right to determine who the clerk of that church becomes. If you want a Baptist person to be the clerk, that is quite all right.

But when you pay your income tax, you are not necessarily doing it of your free will. You are doing it because it is the law of the land. If you do not pay, then something bad is likely to happen to you. There is a tremendous amount of difference between a religious institution having the ability to determine who the pastor's secretary is on the basis of religion, but to determine whether or not a Ph.D. psychologist can work in a program, or to determine whether or not a certified public accountant can be the comptroller for a $2 million grant, or a $3 million grant, that seems to be stretching it a bit; and we are comparing apples with oranges.

Of course religious institutions have had the ability to determine that the church secretary is in need of being Methodist or Baptist or Jewish or Catholic, but please do not tell me that you can handle a $5 million grant using my tax dollars and other people's tax dollars and then tell me that I cannot work here because I am not Baptist.

Members talk about taking us back; yes, we can go back, back to the days when NINA existed, and we would see in the store windows of businesses N-I-N-A, meaning that no Irish need apply. Or if you are African American, you went to the back to get a drink of water or a hamburger or a hot dog. Or you were told that you did not have enough experience or the expertise.

I would urge that we support this amendment so that religious freedom can really be religious freedom. The whole social service, human service system in my community is undergirded by faith-based organizations, Lutheran Family Services, Jewish Federation, the Baptist Council, Methodist Urban Renewal. They all provide excellent services. So do not change it. Do not urge them to discriminate. Vote to support the Woolsey amendment.

Mr. GREEN of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder how many people across America have had the misfortune of tuning into this debate. Because if they did and are watching this debate, they would be wondering what evil it is that has crept into this land.

All over America people are seeing something a little bit different than what the other side is presenting today. All across the land, people are familiar with organizations like Habitat for Humanity, St. Vincent DePaul, Lutheran Social Services, Salvation Army, and in my neck of the woods organizations like Urban Hope and Rawhide Boys' Ranch, which saves young men before they choose a career path of crime, or Matt's Place, which is trying to provide positive outlets for wayward youth. They think of those organizations, and they are trying to match those organizations with the rhetoric that they are hearing from the other side, and shake their heads.

The real issue today is whether or not this institution is going to chase their wonderful groups away, whether or not we are going to try to discourage those groups from taking up the mission of poverty relief that they have devoted themselves to, whether or not we are going to push them away and tell them they need not apply merely because they do not believe certain things that we expect them to believe.

The question is whether or not we are going to lay new burdens on these groups just because they had the audacity to answer the call of the needy, whether or not we are going to push away these organizations who are endeavoring to lift lives and heal communities and build neighborhoods. The question comes down to something that President Bush said in his inaugural speech. I am paraphrasing, but President Bush asked this question of America: When we see that wounded traveler on that road to Jericho, will we step to the other side?

Well, listening to the debate here today, it is clear at least a small number do want us to step to the other side. They want us to turn our gaze and chase away those who would be the good Samaritan. Time and time again, this Congress has supported the concepts and the language that are in this bill today. This Congress has supported it, President Clinton has supported it, President Bush has supported it. Now, apparently, a small group wants to destroy something that is working very well, something that so many Americans look to with admiration. They want to chase it away. This would be a terrible idea. This would slam the door on so many worthwhile projects that are lifting lives and healing neighborhoods.

I desperately hope the Woolsey amendment is rejected. If this amendment is adopted, it slams the door; it chases away and sends a terrible message to so many good people and so many organizations. It would be, in my view, a travesty.

Mr. VAN HOLLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VAN HOLLEN. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Chairman, I want to make a point because I think the previous speaker in the well completely misstates history.

This is not about driving anybody away who wants to help our communities. One of the other speakers talked about rolling back time. We have 30 years of experience where faith-based organizations have stepped up to the plate to help our communities, to help our families, to help our children, to help our homeless; and they have been doing it all along. They were there before the government programs were there. They were there with the initial programs in the 1960s. It was the only way we could get services delivered.

Now, to suggest that somehow because we do not think that they should discriminate in the hiring that we are chasing them away, they were there before this was the law. I was building houses with Habitat for Humanity before 1998. This is not about that. This is about whether or not people in good faith who walked through the front door who need a job who have a talent are going to be chased away because of their religion. That is what this is about, whether or not a completely well-qualified individual who walks in and asks for a job to help out, and is told they cannot have that job because of their religion, that is who is being chased away, people of good faith and intentions who need help in our community who need a job and who are qualified to do the job.

□ 1415

Mr. VAN HOLLEN. Mr. Chairman, I rise in strong support of the Woolsey amendment, and I want to begin by making it clear what this amendment is not about. It is not about the value of the Community Services Block Grant. That block grant is extremely important to millions of Americans in thousands of communities around this land. From Meals on Wheels to child care, to job training, to early education, community action partnerships provide critical support to the communities they serve. Nor is this a debate about those provisions in the underlying bill that strengthen the accountability and local control in the program. Finally, this amendment is not about whether faith-based organizations should be able and allowed to participate in Federal programs designed to help those in need. They should and they do. And those who seek to confuse this conversation and suggest that those organizations will no longer receive Federal support are misleading the American people in this debate today.

So what is this all about? What this amendment does is affirm the critical role of faith-based organizations in providing services in the fight against poverty while at the same time preserving the principles of religious tolerance that are enshrined in the Constitution and the Bill of Rights. The Woolsey amendment is identical to the underlying bill in all respects except one. What this amendment does is prohibits taxpayer-funded job discrimination based on religion. Period. It is that simple. Should applicants for federally funded jobs be evaluated based on their credentials, their experience, their performance and merit, or should they be fired and hired based on their religion or some religious test?

Imagine someone opening their local newspaper, seeing an ad there for a federally funded job, someone who has devoted their life's work to trying to teach young children in early education, and they are excited about it, they open it up and they say, here's the description, help young children, but, by goodness, only Christians need apply; or, within Christianity, only Catholics or only Baptists need apply.

This provides a green light for that kind of discrimination. How can we ask individuals, individuals who may be listening to this debate around the country, who pay their fair share of taxes to support this community effort, to support the programs that we are talking about to help the poor? How can we ask them who have paid those taxes to the Federal Government to not be allowed to take a job with an organization that helps in that regard because of their religion?

That is what the other side asks us to do. In fact, the arguments put forth by the Republicans on this issue today should be troubling to every American. They say that faith-based organizations that take Federal dollars must be able to hire only their own members of their own faith in order to do a good job of providing secular services under this Federal program. It is in their committee report. They have said it on the floor today. Think about what they are saying. These Federal funds in this legislation provide services to help those in poverty. The mission is to provide housing for those without housing. To provide food and nutrition for those who have none. What they are saying is that in order for a faith-based organization to effectively use those funds for those purposes, you have to shut the door on employees of other faiths.

I find it very ironic, Mr. Chairman, that today we are asking the peoples in Iraq and Afghanistan, the Sunnis, the Shia, the Turkmen, the Christians, to come together for the common good, while at the same time here we are saying that in order to fulfill the common good, we have to divide people based on religion. What a terrible message.

Mr. CANTOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in listening to the speakers that have come before me in talking and debating about what this debate is actually about, I will tell you what this debate is about. This debate is about a principle from the Civil Rights Act of 1964 which permits religious organizations to employ persons who are members of or agree with the organization's religious principles. This element of religious liberty was recognized by the framers of that act as well as a unanimous Supreme Court as a fundamental component of the first amendment's guarantee of freedom of religion.

We all have stories in our districts of individuals who have come together, many around faith-based principles, connected with faith-based institutions or ideology who perform tremendous good for our communities; actually, organizations that do much better than what the government may have tried to do in any given instance. I know these organizations, as all of you do. They bring people together, they improve lives, they clean up inner cities, they feed the poor, they help drug addicts return to a productive avenue in life. And these are all roles that perhaps the commercial endeavors have failed at or certainly the government has failed at in many instances.

The critics are saying somehow this is a constitutional issue. But to the critics I say, the Constitution says freedom of religion, not freedom from religion. I received in my office just yesterday a press release from the Union of Orthodox Jewish Congregations of America. Mr. Chairman, I would like to just read an excerpt from this memo from this group. In responding to the critics' assertion that this principle involved in the CSBG program fosters some federally funded employment discrimination, the group retorts:

> This principle is a fundamental component of constitutionally protected religious liberties and exactly analogous to those enjoyed under the first amendment freedom of association by other private agencies organized around certain beliefs and principles.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take a moment and yield to the author of the amendment for a point.

Ms. WOOLSEY. I thank the gentleman for yielding.

Mr. Chairman, my point ought to be taken very seriously by the gentleman from Virginia (Mr. CANTOR). We have all received an action alert in our offices from the Focus on the Family CitizenLink. In the communique they say that on Wednesday we are going to have this debate and we are going to have this amendment to prohibit faith-based organizations from hiring on the basis of religion. As a result, Christian charities interested in accepting Federal funds would be required to ignore religious conviction in hiring even if potential employees practice Islam, Judaism or no religion at all. So the gentleman from Virginia's folks that he quoted would not get hired.

Mr. ANDREWS. I thank the gentlewoman.

Mr. Chairman, I want to make reference to the case of Bowen v. Kendrick which several times has been cited by the majority as proof for the proposition that the court has upheld provisions like these. That is not the case. It is very important to understand the difference between Bowen v. Kendrick and the bill that is before us. In fact, language in Bowen v. Kendrick indicates that there are suspicious constitutional problems with this bill.

In Bowen v. Kendrick, the Congress had enacted the Adolescent Family Life Act which was designed to create grant programs for local agencies to counsel young people on issues of sexual relations, personal responsibility and the like. The statute did not expressly exclude religious organizations from receiving these grants. It was silent about the question of what religious organizations could do. There was a lawsuit brought to declare the statute unconstitutional on its face because it failed to exclude religious organizations. The Supreme Court held that the statute was not unconstitutional because it failed to exclude religious organizations. However, and this is important, one of the things that Chief Justice Rehnquist noted in his opinion was that one of the reasons that the Court concluded that that statute in Bowen v. Kendrick was not unconstitutional, they said, and I am quoting from the official summary of this in the case, however, there is no requirement that grantees, meaning the agencies receiving the funds under that bill, there is no requirement that grantees be affiliated with any religious denomination and the services to be provided under the act are not religious in character.

In other words, what the Court, I think, is implying there is if that statute had said, as this one does, that an Episcopal agency that wants to do counseling of young people about issues of sexual relations can only engage in the teachings of that particular church, that that would have been suspect under the Constitution and probably unconstitutional. What the Court said in this case is, because there was no requirement that a particular denomination receive the grant, that it is okay. That is the precise opposite of what we are talking about here.

This bill would authorize a church, a synagogue or a temple using Federal money to say, you can't drive the Meals on Wheels van if you are a Catholic. You can't wash the dishes in the soup kitchen if you are Jewish. You can only be a member of our church or our mosque or our temple using Federal funds to have this job. That is the opposite of what Bowen v. Kendrick says. The more accurate statement would be that the United States Supreme Court has not dealt with this issue.

But the U.S. Supreme Court is not the only arbiter of constitutionality. On the first day of our session, we all raised our right hand on this floor and swore an oath of allegiance to the Constitution of the United States. With that oath comes a responsibility to interpret the proposals before us as to whether they are constitutional. I would urge my Federalist Society friends on the majority side, my strict constructionist friends on the majority side, to consider that oath before they cast this vote today.

I believe strongly that this provision, which expressly authorizes the use of public money to discriminate on the basis of religion in granting employment, is unconstitutional. Irrespective of how one feels about the other merits here, I think that Members should vote for the Woolsey substitute on that basis.

Mr. PITTS. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I rise today in opposition to the Woolsey amendment. It declares war between the government and faith-based organizations. It cuts services for people in need. It eliminates the role of faith-based organizations in our government's efforts to help. By denying the rights of religious organizations to hire according to their principles, this amendment would deny resources to people who know what they are doing. Many faith-based organizations have proven track records of meeting the long-term needs of people who need it. Many government programs do not. Government may provide food and shelter for a night, but it cannot offer hope and courage many times to build a new life. Faith-based organizations can. There is no need to supplant them or undermine them with another government program. They are great sources of hope and encouragement for those at their wit's end.

In 2002, the Access Agency received $60,000 in CSBG funding. A quick visit to their Web site reveals that the Access Agency has a set of core values and principles, including that they "recognize the dignity and value of every human being" and "believe every human being has the fundamental right to a job, food, clothing, shelter and health care." I doubt anyone would argue that because the Access Agency received Federal funds, they should have to hire someone who does not believe that employment, for example, is a fundamental right. They are not forced by Congress to hire people who oppose their beliefs. Title VII of the Civil Rights Act allows these organizations to hire people who support their mission. This means that a faith-based charity, working to meet the needs of people seeking help, can hire employees who support their religious convictions above those who do not.

Why, then, do some call it discriminatory when a Christian or Muslim charity wants to consider the beliefs of potential employees before hiring them to run a federally funded faith-based program? Such practices have been upheld by the United States Supreme Court. There is a double standard here. Planned Parenthood receives at least $240 million in Federal tax funds. At least in 2002 they did. Obviously they take belief in abortion into consideration before hiring their employees.

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They are not forced by Congress to hire pro-life Catholics, for instance. Why, then, do some call it discriminatory when a Christian or Muslim charity wants to consider potential employees' beliefs before hiring them to run a Federally funded faith-based program?

The Federally funded faith-based programs under the CSBG program must include participants of all faiths if they choose to participate. The issue at hand is not in regard to who is treated or helped with Federal funds, but merely if groups doing the helping or treating may consider in hiring decisions the faith of an employee who would work in their faith-based programs.

Religious freedom in hiring is consistent with constitutional assurances of civil rights, as the Supreme Court has unanimously decided in upholding these protections. It is the critics of the exemption who are trying to undo 35 years of civil rights guarantees by attacking the independence of churches, synagogues, mosques, and religious organizations of every kind.

There is no more vital protection for organizations with a religiously rooted approach to social assistance than the freedom to hire according to their convictions. The leadership and staff of an organization determine its destiny. They alone will carry out its mission, uphold its priorities, embody its deepest values.

If the first amendment guarantee of religious liberty does not protect the employment decision of faith-based organizations, their right to free association, it then will become a meaningless abstraction. This amendment proposes to tell faith-based groups that they have to hire individuals who disagree with their core principles. If it passes, we might as well revisit the Civil Rights Act itself, since we would be rewriting it today.

Faith-based providers cannot be expected to sustain their religious missions without the ability to employ individuals who share the tenets and practices of their faith. The success of any organization is having everyone on board with its essential principles and vision. The Civil Rights Act secures that right, the Supreme Court protected it, and we should follow suit.

By protecting the nature of faith-based organizations in the CSBG, H.R. 3030 encourages providers, who otherwise may not have participated in the CSBG, to do so. This will increase the option afforded to people in need, and it will help more people. This amendment should be defeated.

Mr. GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Woolsey substitute. I am a strong supporter of both faith-based organizations and Community Services Block Grants. In the district I represent, we have many faith-based groups providing help with food, housing, counseling, and so many other areas. We could not do it without them.

America has long been a country of willing volunteers and people eager to give back to their communities and lift up those to whom life has dealt a difficult hand. Many people dedicate themselves to programs that rely on funding from Community Services Block Grants, food pantries, homeless shelters, Meals on Wheels, just to name a few. All of those right now are serving in the district I represent, and they are faith-based. All denominations, the Catholic Church, the Baptist Church, the Methodist Church, that I am a member of, all of them.

I do not think that we want to believe that individuals who want to help combat poverty or help their fellow people should be denied this work based on their religious beliefs. Thank the Lord, our faith-based organizations have always played a historic role in helping deliver these much-needed services, but their important role in delivering any Federal-supported services should not include the ability to discriminate against potential employees on the basis of religion.

Mr. Chairman, everywhere we turn, we see great need in our country. Too many of our citizens go without food or homes to shelter them. These needs know no religious boundaries. It is represented by Protestants, Catholics, Muslims, Hindus, all beliefs. If Americans want to help meet this great need through our community work, we should embrace each and every one of them and not shut the door in their faces because they hold different beliefs.

From my days in Sunday school, the lessons I learned each Sunday morning have remained with me my whole life. Our religious beliefs are best judged not by what denomination we are, but by the actions we take and the manner that we live our lives. The ultimate judgment lies with God, who no doubt looks approvingly on any American who wishes to help their fellow human being.

Mr. Chairman, this is not only a moral issue; it is also a constitutional issue. The Civil Rights Act is clear that it is illegal for employers to discriminate on the basis of religion regarding any condition of employment. My Methodist church, if they only want to hire Methodists, we have the right to do it with our tithes and offering; but you do not have the right to do it with my tax dollars.

This Congress should not be in the business of sanctioning discrimination of any kind, and that is why I urge my colleagues to adopt the substitute. The substitute in no way hampers the ability of faith-based organizations to participate in Community Service Block Grant programs. I have dozens of them today who participate in it and do not ask whether you are a member of their particular denomination or belief. It ensures that employees that are working in these programs are afforded the same civil rights protections that any other Federal-funded employee receives. On both a moral and constitutional level, voting for this amendment is the right thing to do.

Ms. HART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment has been explained in a number of, I think, quite confusing ways this afternoon. I think it is important that we make clear what this amendment does.

This amendment changes the Civil Rights Act. The amendment would prevent religious organizations from employing persons in a manner that is consistent with their faith as currently allowed and allowed for a number of years under the Civil Rights Act. This amendment, again, changes the Civil Rights Act and in my opinion takes the rights of people away.

The amendment would really destroy the opportunity for many very small faith-based institutions to continue operating as they do today.

Do not tell my constituents in the very small towns that I represent in western Pennsylvania that they are not allowed to utilize those from their faith community to provide the services that they currently provide. In fact, many of the people who actually provide those services are not employed; they are volunteers. But the few that they do actually employ are people who are not just working for the faith-based community's service project.

This discussion has been such that these church organizations or church-related organizations are a Federal hiring program. They are not a Federal hiring program. The purpose of the Federal dollars is to empower them with more resources to provide services through the Community Services Block Grant program. That block grant program is not a hiring program; it is a service program.

Do not tell the constituents in the small towns that I represent in western Pennsylvania that they are not allowed to do double duty; that they cannot be, for example, a part-time church secretary of the faith of that institution and also be part of the organization that provides service to alcoholics who are trying to overcome that difficulty.

Do not tell the churches or the synagogues or mosques in my community that they cannot take the part-time person who helps perhaps maintain their building to provide services with organizing their job placement program. Do not tell the people in my community that this amendment does not violate the Civil Rights Act, because it changes it significantly.

These community organizations are very small, and they exist in communities where we do not have great big Federal programs. They are filling in the gap where Federal programs have not been effective.

These programs have been supported by Republicans and Democrats alike, people of all different faiths; and they have been very successful. Do not tell the people in my communities who have been helped by these small programs that there is something wrong with the way that things have been run.

They are most often not using these Federal dollars to hire someone new. They are using Federal dollars to help them carry out the service, whether it is to buy some more food for their soup kitchen program or to help provide more resources for the Meals on Wheels or buy gasoline for Meals on Wheels.

This is not a jobs program. This is a service program, and the people are motivated to provide service, often as volunteers; and a couple of them perhaps will get paid as a result of the monies they get through the Community Services Block Grant program.

It is important that we as Members of Congress look at where these dollars really go. This is not a jobs program; it is a community service program. The law as it is protects civil rights. The law as it is is part of the Civil Rights Act. This amendment would take civil rights away.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we need to remember what we are voting on. This amendment includes all of the provisions of the Community Services Block Grant, for which there is strong bipartisan support. It includes two improvements on the bill. One I do not believe is that controversial, but you never can tell. It just says you cannot run a worship service on the government dime. That is, if you are contracted to provide a government service, you cannot have a worship service in the middle of the government program. If you want to have worship, it has to be separate and apart from the government service, so people getting the government services can get the full benefit of the program without having to be subjected to proselytization or religious instruction. That part, I do not think, is controversial; but you never can tell.

The other part, of course, is the discrimination provision. We have had trouble in the past trying to get down exactly what we are voting on in this, but I think we have come to the time where everybody acknowledges what is going on.

In 1941, President Roosevelt signed an executive order prohibiting discrimination in any defense contract. In 1965, President Johnson signed an executive order, no discrimination in any Federal contract. That has been the law of the land since that time. If you want a contract with the government to run a program, you cannot discriminate based on religion. Now, that does not require you to change your mission or anything. It is just if you are using Federal money, you cannot discriminate.

Now, if you cannot get along with people of other religions, whose problem is it? Traditionally, that is your problem. If you cannot get along with people of different religions, that is your problem; that is not their problem. And if you are trying to get a government contract and just for one reason or another do not want to hire people of other religions, that is your problem; and you have been ineligible to run a government program, personally, faith-based, or otherwise.

According to this, if you cannot get along with people of other religions, it is their problem. The victim is the one that gets hurt in this situation. The minority religions, the ones you want to discriminate against, are the ones that get hurt. That is a change in the law.

Now, remember the present law under title VII, you cannot discriminate against people with your own money. You cannot take money out of your pocket and start hiring people and say on this construction project, I am only hiring people that belong to this church; you belong to another church. Although you are the best carpenter that applied, you are not going to get the job, solely because of your religion. You cannot do that with your own money. Why should you be able to do it with Federal money?

Now, we have heard this thing about the pro-choice groups do not have to hire people that are right-to-life. We have a concept in law called a protected class. There are certain groups of Americans that historically have been discriminated against so badly that we have had to pass laws to prohibit it, have a protected class.

Our history on racial discrimination and religious discrimination is so ugly that we made it illegal to discriminate. So there is a difference between the NRA not hiring people because of their position on gun control and the NRA saying we are not going to hire Catholics and Jews, or we are not going to hire blacks. That is different, because race and religion are protected classes.

Now, these are not gifts to the church. They are contracts to provide government services. If you cannot provide government services the way everybody has been providing them since 1941, the question is, whose problem is it? I believe it is your problem. If you cannot get along with other people and do not want to hire people because of their religion, that is your problem; you are ineligible for government contracting.

This bill in its present form would change that. If you cannot get along with other people, that is their problem, not your problem. We ought to go back to the traditional way, since 1965 on all contracts and since 1941 on defense contracts, that if you cannot hire people, regardless of their religion, then you are not entitled to contract with the Federal Government to provide those services.

We need to adopt the Woolsey amendment. It validates the Community Services Block Grant program. It says that you cannot have discrimination in employment and you cannot run worship services on the government dime. That is the way it ought to be, and that is the way I hope it is if this substitute is adopted.

Mr. ISAKSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentlewoman from California has proposed a solution to a problem we do not have. When you walked here today, there was not a single person stopping you saying, you know, the 1964 Civil Rights Act was wrong and section 702 ought not apply under Community Services Block Grants. When you go back to your e-mail, because we are not getting any mail right now, you do not have anybody writing you that they have been harmed because of a practice of 40 years of the Civil Rights Act of the United States of America.

□ 1445

When you read the news tonight or when you read it last night and you look at television tonight, you look at all of the problems in the world, there is not a single person complaining about community service block grants or about the Civil Rights Act of 1964.

My dear friend, the gentleman from New Jersey (Mr. ANDREWS) referred to the courts have not yet been challenged on this particular issue. Well, I will tell my colleagues one thing, and this is a guess and I stand to be corrected if anybody knows I am wrong, but since 1964, in the last 40 years, no act of Congress has ever been ruled on more frequently or more often or been challenged before the Supreme Court of the United States more than the Civil Rights Act. If what we were talking about repealing was so wrong and evil and punitive, then it would have long since been decided.

But the biggest tragedy of all, and I love the ranking member, the gentleman from California (Mr. GEORGE MILLER), he is a wonderful human being. And he and I are about the same age, and I have worked over the last 30 years on many charitable organizations and faith-based projects, and he has too, but he made a statement that kind of twisted the facts. He said this has not been a problem for 30 years; and he is right, it has not been. But if the substitute is adopted today, we have a big problem, because we are saying to a huge resource of individuals who, for 3 decades when they have been allowed to, have provided meaningful efforts, like the YMCA of Atlanta that delivers the Head Start program for our area; we have said to them, you know, your exemption of the Civil Rights Act no longer applies. You cannot participate unless you change. And who gets hurt? The 350 kids in Head Start get hurt.

Now, we are going to vote on this in a little bit, and I hope we will defeat the substitute, but I want to ask my colleagues to count something. On the way back to your office, count how many people you encounter who bring up the fact that there has ever been a problem with this act or who say thank you one way or another for voting for a substitute that is dead flat wrong.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a misconstruction here of what this amendment is all about, in particular by the gentleman from Georgia who just spoke. This amendment will restore the Civil Rights Act as it was from 1964 to 1998. It undoes an amendment put there in the dead of night, after no hearings and almost no debate, only 6 years ago. And from 1964 to 1998, the gentleman is quite correct, we had no problems with this.

Now, Community Service Block Grants help communities provide services for low-income families and individuals who address the ever-rising number of people living in poverty through employment programs, housing programs, nutrition programs, and education programs. For years these grants have been praised by both sides of the aisle. Yet today we find ourselves debating the issue of whether or not religious discrimination should play a part in providing these services.

Religious discrimination is not the American way. Asking someone his or her religion in a job interview is simply wrong. Asking people what they believe before they can feed the poor, help the homeless, or provide protection to battered families is, frankly, immoral.

Government saying that this is okay and funding it is a betrayal of our most cherished values.

Now, no one with this amendment, or with the law as it existed between 1964 and 1998, which this amendment would restore, no one is telling any religious person not to adhere to his or her faith or to advocate it. No one is telling religious institutions what to teach its members or who should conduct their religious ceremonies. No one is even telling a religious institution who to hire as the janitor. And if the Presbyterian church wants to say only Presbyterians could be hired to be the janitor or the priest, that is fine.

Nor, despite the rhetoric, are religiously affiliated charities under this amendment barred from participating in publicly funded programs. Every Member, including myself, has worked to obtain public funding for these worthwhile organizations. These religiously affiliated charities are the backbone of our social service delivery system, and no one is suggesting we change this, except for this administration and the Republican majority, which wants to destroy what has worked well for years.

What is at issue here is not whether a church or a religiously based group can have a religious test for anyone at all. What is at issue here is whether they can have a religious test for people, paid for by public funds; paid for by public funds to provide a public service.

If the church wants to have a religious test, as I said, for the minister or for the singers or for the choir director or for the janitor, it is free to do so. But those things are not paid for by public funds. If the church wants to compete for a public contract to provide services to the homeless with public funds, or to provide housing with public funds, it should compete for that contract. It should get that contract if it has the best proposal. But it should not be permitted, as it was not permitted until 1998, to have a religious test to say no Jews or no Irish or no Catholics and no Muslims may apply for the publicly funded position to help administer these public funds. For the nonpublicly funded positions of doing anything at all in the church or in the charity, have any religious test you want; that is religious freedom. It is not religious freedom to put a religious test on employment in a public program paid for by the tax dollars of everybody. Protestant, Catholic, Jew, Hindu, Muslim, atheist, we all pay taxes, and our tax policy, our tax funds, should not be used to discriminate against any of us on the basis of religion.

No one should ever see a sign at a government-funded program that says "No Catholics need apply" or "No Jews need apply" or "No Presbyterians need apply," but that is what this bill would allow. In the Yorker case, an applicant for employment with public funds was asked on his job application what his religion was, on the job application. Is that the America we want to live in?

I know that my colleagues on the other side of the aisle complained about what they view as religious tests when it comes to approving judges in the Senate. Why should the person who serves soup in the soup kitchen, the publicly funded soup kitchen, or who aids the poor or the homeless with public funds be entitled to any less consideration?

The amendment in the existing law that we are trying to take out was passed in the dead of night in 1998 with few Members understanding the full implications of the language in it. The gentleman from Virginia and I were here at 1 in the morning to talk about the dangers this kind of publicly funded discrimination posed to our social services programs. Perhaps many of my colleagues were not fully aware of the scope of these change.

Now, as we debate this in the light of day, I urge everyone to take a close, hard look at what is being done. I urge my colleagues to reject this betrayal of our first freedom, our most fundamental of values, the freedom of conscience. I urge support of the Woolsey amendment, and I urge that, again, we are not talking about telling church-based organizations not to participate in public programs; they can do that as they always did prior to 1998. We are simply saying you can only use public funds in a public contract in a nondiscriminatory manner.

I urge support of the Woolsey amendment to restore the law as it was.

Mr. BARTLETT of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the proposed amendment because it would clearly violate the first amendment's guarantee of freedom of religion under our Constitution. This amendment would tell faith-based organizations that they must hire people who do not share their faith and beliefs. This is not the case with other organizations and other deeply held beliefs.

Planned Parenthood receives millions of Federal dollars, but there is no requirement that they hire people who believe in the sanctity of life. Planned Parenthood takes belief into account when hiring, but this is not condemned nor forbidden by the government as unlawful discrimination.

Members of the Congress hire staff based upon competence and beliefs. A major factor in our hiring decisions is whether applicants believe in the same things as we: if we have similar political philosophies, similar ideas about the role of government and what public policies will strengthen our country. It would be ludicrous for someone to say to a Member of Congress that they could not ask a potential employee what their political views were or could not take that into hiring consideration.

Why apply a different standard to faith-based organizations? The government should not discriminate against religious groups that are delivering services to help the poor.

In defeating this amendment, we uphold the Constitution when it says that "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof." Yet, some argue that faith-based organizations cannot receive Federal dollars because that would be a violation of the separation of church and State. May I remind everyone that the words "separation of church and State" are not in the Constitution of the United States. "Separation of church and State" was a part of the now defunct Soviet Union's Constitution, article 128, I believe. Even so, the Congress is not establishing a religion here. When money is given to diverse faith-based groups to help the poor, Congress is not declaring a national religion. The President has made this clear when he said "faith-based programs should not be forced to change their character or compromise their mission."

I urge the House to defeat this amendment.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT of Maryland. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding.

One of the points the gentleman made is that organizations should not be forced, faith-based organizations should not be forced to hire people that do not share their same opinions. As a matter of fact, in a hearing, a field hearing, a Reverend Tony Marciano, Executive Director of the Charlotte Rescue Mission in Charlotte, North Carolina made this statement: "The first 677 words of our mission is to minister the good news of Christianity. So yes, in our application, we ask for your church affiliation. Our statement of faith is attached to the application so that there are no questions who we are and who we are hiring. We expect people, as they sign off on the application, to sign on to our statement of faith. And that is key," he says, "because even though we have people from different denominations, Presbyterian, Baptist, Methodist, et cetera, we need to make sure that everybody is on the same page, you know, as we work with the chemically addicted homeless."

It is not just these organizations, faith-based organizations, that are doing such great work and who are supportive of this language. We have a number of associations: Agudath Israel of America, American Association of Christian Schools, Association of Christian Schools International, Call to Renewal, Catholic Charities, Catholic Health Association of the United States, Center for Public Justice, Christians for the Faith-Based Initiative, Christian Community Health Fellowship, Christian Legal Society, Council of Christian Colleges and Universities, Evangelicals for Social Action, the General Conference of Seventh-Day Adventists, the Heritage Foundation, Latino Coalition for Christian, Community, and Faith-Based Initiatives, the National Association of Evangelicals, the National Center for Neighborhood Enterprise, Prison Fellowship, the Salvation Army, Union of Orthodox Jewish Congregations of America, the U.S. Conference of Catholic Bishops, We Care America, World Relief, and World Vision, all of these organizations are supportive of the underlying language in the bill.

Mr. BARTLETT of Maryland. Mr. Chairman, reclaiming my time, our Founding Fathers would be amazed that we were even discussing this. This Congress, for the first 100 years of our existence, voted money every year to send missionaries to the American Indians. The Continental Congress bought 20,000 volumes of the Bible, copies of the Bible to distribute to their new citizens. For the first 200 years the New England Primer taught the alphabet to our students by using Bible text. In the McGuffrey Reader, the author of that says that he borrowed more from scripture than any other source, and he made no apologies for that. Our Founding Fathers were devoutly Christian. They would be amazed that we are even discussing this. President Adams said that this Constitution was prepared for a Christian Nation which served the purposes of no other. Mr. Chairman, they would be amazed that we are even discussing this today.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the requisite number of words. So would the Jewish and Muslim citizens of this country be amazed.

I yield to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, in response to the comment of the gentleman from Georgia (Mr. ISAKSON) that there is no known discrimination because of the exemption included in the underlying bill, I would like to read a story that I have here, and the story is that in Georgia last fall, Alan Yorker responded to an advertisement in the Atlanta Journal Constitution for a position at the Methodist Children's Home. Mr. Yorker is an exceptionally qualified psychotherapist with over 20 years' experience counseling young people and their families, and over a decade's experience teaching in Emory University professional schools, and a number of appointments to State professional committees. The Home, as the Methodist Children's Home is referred to, has admitted that his credentials placed him among the top candidates for the position. On the strength of these credentials, the Home rushed him in for an interview where he was first required to disclose in an application form his religious affiliation, church and minister.

□ 1500

Mr. Yorker, a Jew, supplied the name of his synagogue and rabbi. As his interview was getting under way, the home administrator checked Mr. Yorker's response to this section of the application, noted that Mr. Yorker is Jewish and announced that the home does not hire people of his faith. Alan Yorker was shown the door.

The same administrator told another woman in the organization that it is the home's practice to throw the resumes of applicants with Jewish-sounding names in the trash. Only because the administrator had not recognized the name "Yorker" as Jewish was he interviewed in the first place.

That is what happens, and that is what happened.

Mr. CHOCOLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in opposition to this amendment. The reason I rise in opposition is because I think it reduces the effectiveness of faith-based organizations because it prevents them from hiring people that share their values and their beliefs.

I think the most effective organizations in many of our communities, and certainly in the second district of Indiana, and I do not think my district is really any different than any other, that some of the most effective organizations that serve our communities' needs are faith-based organizations. With any organization, whether it is faith-based or not, it is the people that make it effective. It is not the building, it is not the computers, it is not anything other than the people that breathe life into that organization.

And it is the people that share common values, common beliefs, and share a common mission that truly make it effective and truly help it serve our communities' needs. Now the supporters of this amendment want to prevent that from happening. They want to prevent people coming together that share common beliefs from serving community needs.

Before we vote on this, I ask every Member of this body to examine their own hiring practices. When we hire people to work in our offices, do we not ask them what their values and beliefs are? Do we not require that the they share our beliefs in their view of the role of the Federal Government? Do we not ask them to share our beliefs in how we should spend the taxpayers' dollars? Do we not ask them to share our beliefs in our political philosophy?

So, Mr. Chairman, I urge a "no" vote on this amendment because I do not think that we should ask anyone to do things that we are not willing to do ourselves. We ask people who work for us in our office to share our values and beliefs so they can be effective in serving the people of this country. I think we should ask no less to allow faith-based organizations to ask people what their values and their beliefs are so they can serve the communities across this country in each and every one of our districts as effectively as possible.

Mr. RYAN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in a moment of full disclosure I am a Catholic. I am a Christian. And I have heard the name of Christ used here several times today. And if we look at one of the stories that one of the gentlemen used a little bit earlier, he talked about the story and the parable of the good Samaritan.

The Samaritans were an immigrant group who had distinct views that were different from the Jews of their time. And there was enormous hatred between the Samaritans and the Jews. And Jesus' parable of the Samaritan was to illustrate, he made the Samaritan a hero to reach out and help a Jew, two groups that hated each other.

As we are having this discussion today, we should not try to twist the story. We should understand that this is about people wanting to help each other. I am a bit confused, though. I had listened to one gentleman who said this money could not be used to proselytize. Then the chairman of the committee said that some of the mission statements of these groups is to minister the good news of Christianity, which is great. We all support it. The Catholic schools I went to for 12 years supported that, but they did it with private money. You cannot use public money to support a religious institution. It is wrong, and it should not be allowed.

My great grandfather who was a little Italian guy, who lived in Niles, Ohio, during the Depression, he would walk down to the bottom of this hill during the Depression, and he would walk to a couple of the steel mills. If you would go out early enough, one of the foremen would come out, and they would say they have three or four slots, and there would be 80 or 90 people there waiting to see if they would get picked that day. But the foremen were all Irish.

So they would come out and my little grandfather was sitting there hoping that his name would be called. And the Irish foreman would pick the Irishmen, always, every day. And my grandfather would probably swear in Italian and work his way back up the hill and try it again the next day. But as wrong as that was, it was okay because it was private money. It was a private business making this decision.

Now we are saying that a Protestant taxpayer will give money to the Federal Government, the Federal Government will get that money and will give it to Catholic charities. Catholic charities will take that Federal tax money that was paid by a Protestant to the Federal Government, and they will hire people to administer their programs. Then the Catholic charities will be able to say we will not hire you because of one reason: you are Protestant.

Look at all these religions. They all share the same values, they are all supportive, and they all want people to be compassionate to one another. They all support social justice, but in this instance your values do not matter. It is what God you pray to or how you view Christianity. It is wrong, and it is confusing. And I do not think the Federal Government should be in this line of work.

The chairman of the committee also stated that you will be able to use this money and they will be able to work a part of the day doing one thing and then a part of the day possibly teaching Sunday school. What could they teach in Sunday school? They are not teaching the theory of relativity. They are teaching religion. You have Federal dollars going to support someone to teach Sunday school religion in the United States of America. We are in Iraq right now trying to teach our values and the separation of church and state. It is wrong, and it should not happen.

And the bottom line is this is a political institution. And this political institution will make political decisions. And money will end up in religious groups that look like us and act like us and have only our beliefs. Not our values, but our beliefs. Then, ladies and gentlemen, we have state-sponsored religion right here in the United States of America.

It is a blow to the Constitution, it is a blow to democracy, and it is a blow to those of us who love freedom, especially religious freedom.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my pleasure to rise today to support the base bill on the Community Services Block Grant Act. Probably my best way of approaching this is just to describe my own community which has engaged in faith-based activities for years. And I am just constantly amazed at the horror stories that are projected today by Members about what might happen if this bill passes.

Let me tell you what has happened in my community and put some of your fears to rest. My community happens to be quite a religious community of many diverse faiths. But yet these churches and synagogues have always felt a major responsibility to the community and to the world about them.

As an example, when Vietnamese first became refugees, my small community had more refugees initially than any other city in the United States simply because our churches became active early in providing relief for these refugees.

The church that I go to is an inner-city church. My wife and I selected that when we moved to Grand Rapids because we wanted to be involved in the central community. Our church has succeeded in starting a community center. It is a faith-based community center, but anyone is welcome.

In addition to that, our church has started a food program for the people in the neighborhood, many of whom are unemployed, on welfare or in very difficult circumstances. We serve approximately 400 people every Saturday. We have a group of volunteers from our church and other churches who every Friday go out and collect food from stores and from warehouses, and make it available in our church basement. We sell it for approximately 10 cents on the dollar. And a number of families that come through can buy a week's groceries for their family for anywhere from $10 to $20.

No attempt is made to proselytize in any of these organizations in our community. It is simply a recognition of the people of these churches that as part of their commitment to their Lord and to their faith; they have to help others. And that is precisely what they are doing. They are providing social services which the government would provide at far greater cost and far less efficiently. And we do that voluntarily.

My city houses the second largest private mental health hospital in the United States, again, started by a faith-based institution. It is still a faith-based institution. It may discriminate in hiring in certain cases because their treatment is based on a certain philosophy of life and faith and it uses that to effectively treat those patients.

Incidently, many of these institutions do already get Federal funds. For example, the hospital I mentioned gets a great deal of money from the Federal Government and from State government for health treatment. No one raises a question about that. No one says this violates the Constitution. They are providing medical treatment, but they do discriminate in hiring, not in every case but many some cases.

You look at the colleges and universities across the United States, and of those are not State institutions, most were founded by religious group. Today there are still many religious colleges, primarily Christian colleges, but also other faiths, represented in the higher educational system of the United States. All of these can make better use of Federal money than many Federal programs can. And many of them do receive Federal funds, whether scholarship grants, or loans, what have you.

But in the case of an organization such as our church and its food program which I mentioned earlier, we could serve many more people if we had government funds. And we would certainly provide it more efficiently and at less cost than a government entity could with paid employees.

So I simply want to point out to the naysayers on this floor that what we are attempting to do in this bill, is not breaking new ground. It has already been broken in the Civil Rights Act. Those who wish to limit the ability of faith-based institutions are, in fact, attempting to infringe on the civil rights of these faith-based institutions and their supporters by prohibiting support from the Federal Government when these churches are, in fact, doing the job that the Federal Government does. And they are doing it in many cases better.

I urge that we defeat the amendments that have been offered. I urge that we continue the practice as we have it. And I urge that we make certain that these agencies will continue to be able to provide the services in the manner they see best and be able to qualify for Federal funds and not be hampered by restrictions on their hiring practices.

I strongly urge that we defeat the proposed amendments and that we vote for the base bill.

I rise today in support of H.R. 3030, Improving the Community Services Block Grant Act.

The Community Services Block Grant provides funding for a state-run network of local non-profit community action agencies. Michigan's third Congressional district is served by three community action agencies: the Area Community Services Employment and Training Council in Kent County, the Community Action Agency of South Central Michigan in Barry County, and EightCAP, Inc. in Ionia County.

In partnership with community organizations, these agencies provide services to low-income individuals, and families. The partners include faith-based organizations, such as Hope Network and its Exodus Correctional Ministries. In addition, several faith-based colleges and universities, including Calvin College, Aquinas College, Cornerstone University and Reformed Bible College, are located in my district. This is multiplied many times throughout the United States, which has approximately 500 religious colleges and universities, many of which work with community action agencies.

Allowing these faith-based partners and universities to receive federal funding is nothing new. Faith-based organizations have been receiving federal money to provide social services for decades.

The faith-based provisions within this legislation allow faith-based providers to maintain the character of their organization through their employment practices. These groups do not exist in order to proselytize, but in order to serve those in need. Faith-based providers, including universities, cannot be expected to sustain their religious mission without the ability to employ individuals who share the tenets and practices of their faith. It is faith that motivates these organizations to serve their neighbors in trouble. To deny faith-based organizations the right to shape the character of their groups through their employment practices is to deny them their motivation to serve. Keeping religious-based staffing legal is the only way to ensure equal opportunity and effectiveness for all organizations and to respect the diversity of faith communities that are a part of our civil society.

Mr. PAYNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join today with the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Ms. WOOLSEY), the gentleman from New Jersey (Mr. ANDREWS) and others, myself included, in offering a Democratic substitute to H.R. 3030, the Community Service Block Grant.

I strongly believe that the Democratic substitute does two important things: one, it supports ongoing participation of faith-based providers and Community Service Block Grant programs; and, two, it restores basic civil rights protection for families and employees who benefit from participating in Federally funded Community Service Block Grant programs.

It was interesting to listen to the earlier discussion when one of the previous Members on the Republican side said that we Members of Congress on our side ask what religion people are before we hire them. I was pretty shocked. I do not know if I know the religion of any of my staff members. I do not even know if they are religious. So we do get revelations here when we have these discussions. And it does, once again, show the difference between the ideologues who are holier than thou when in their employment they are going to find out what religion you are before you can be hired.

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It was also interesting that the same gentleman talked proudly about the former founders, the framers of the Constitution, and how they were so great in using the Bible to teach people as they have used government money to buy these Bibles to teach, one, the American Indians and, number two, simply to use religious people to teach.

Of course, these same framers of the Constitution were the same people that said I was three-fifths of a person. As you may recall in the Constitution of the United States, African Americans were considered three-fifths of a man. And when I was a youngster my grandfather always told me that his grandfather told him about this three-fifths of a man. That is what black people were. These great religious framers of the American Constitution had everyone as a full person but blacks were only three-fifths because in the census for Congress, they did not want blacks, who could not vote in the first place, to be allowed to distort the number of people in Congress in the South.

And so when we start talking about the framers of the Constitution, we need to have a whole day discussing the framers of the Constitution. Since the gentleman from Maryland (Mr. BARTLETT) brought it up, I just thought I would mention it.

I just want to say that, one, I certainly think that we are turning the clock back. For over 40 years, Community Service Block Grant programs have been instrumental in assisting families in poverty, and faith-based communities have made strong partners. It has worked. But as we know, back in 1998 there was a change in the middle of the night. An amendment was put in that changed charitable-choice provisions, which was added to allow religious organizations to receive Community Service Block Grants to use Federal funds to discriminate with respect to employment. This is new. That was done in 1998 when the bill was changed.

So I think that this really says a lot about the people on the other side of the aisle because they want to take Federal money and say that you have the right to discriminate. And on top of that, unfortunately, religion happens to be, on Sunday mornings it is the most discriminating hour in the United States' week, because most churches are totally racially segregated in most communities. So once you start bringing in religion as a way to hire, the next thing that will follow actually is that you will then find that racial discrimination will follow the religious discrimination.

So as we have all people from all races losing their lives daily in Iraq, where we have people in Afghanistan of all races fighting together, we find those who fostered this war on us saying we have got to separate people. We do not separate them on the battlefields. We do not ask the religion when they go out to try to get the enemy. But all of the sudden we are going to ask the religion of people. What hypocrisy. What hypocrisy. You can die on the battlefield under the American flag, but when you go to get a job you have to tell your religion.

I think that the day will come when all of this will pass by the board. It is sooner than we think. It is going to be in November this year.

Mr. CUMMINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the son of two preachers and one who has represented many churches as an attorney before I came to the Congress, I rise today to speak on the Community Service Block Grant reauthorization, a bill that could represent 10 steps forward for our country's most downtrodden, but in the end represents 100 steps back for civil rights.

Forty years after the passing of the Civil Rights Act of 1964, 41 years, Mr. Chairman, after the 1963 March on Washington, 49 years after Rosa Parks' refusal to give up her seat in 1955, just a few weeks after the celebration of Martin Luther King's birthday, and still today, regrettably, we fight to end discriminatory practices.

Mr. Chairman, over 40 years after Americans have fought to put into place laws to end discrimination, I stand here on the House floor fighting against outlandish provisions in this reauthorization of the Community Services Block Grant, a bill designed to ameliorate the ravages of poverty. Unfortunately, this bill also allows taxpayer dollars to be used by religious organizations while letting them engage in discriminatory hiring practices. Furthermore, it does not require that these Federal dollars be used in a nonreligious manner. These are very unfortunate provisions I simply cannot support.

Mr. Chairman, title VI of the Civil Rights Act of 1964 specifically bans recipients of Federal funds from engaging in discriminatory practices. As President John F. Kennedy said in 1963, "Simple justice requires that public funds, to which all taxpayers of all races, colors and national origins contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial, color, or national origin discrimination."

As such, in 1964, following Kennedy's legacy, the new Civil Rights Act was put in place to prevent this from ever happening. Yet today we debate a bill that allows discrimination on the basis of religious preference. As history clearly demonstrates, legalization of any form of discrimination, religious, racial, sexual or other, makes way for the legalization of other forms.

Thankfully, we also have on the House floor today a substitute being offered by my good friend, the gentlewoman from California (Ms. WOOLSEY), and many other Democratic members of the Committee on Education and the Workforce. The Woolsey substitute would prohibit taxpayer dollars from being used for inequitable hiring practices and requires that the funds be used in a lawful and secular manner. There is no doubt that religious organizations play an invaluable role in the provision of services at the local level in antipoverty efforts. However, there is also no doubt that this can be done successfully without exempting them from compliance with our civil rights laws. All recipients of Federal dollars should be held to the full letter of the law.

I urge my colleagues on both sides of the aisle to vote yes for the Woolsey substitute and no on final passage of H.R. 3030. We cannot allow Congress to turn back the clock on all of the civil rights protections that we have fought so hard to build. We have come too far to start over now.

I also urge all of my colleagues to support the Miller amendment extending unemployment benefits. Over 2.9 million jobs lost, versus 1,000 gained last month. That is a zero-sum gain, Mr. Chairman. American workers want to work and they need help.

Mr. BOEHNER. Mr. Chairman, I move to strike the requisite number of words.

As we near the end of the debate on the Woolsey substitute, let me remind my colleagues that the two bills that we have before us are identical, with one exception, that exception being the language that we preserve in the current law to allow faith-based organizations to participate in Community Service Block Grant programs without giving up the protections granted to them under the 1964 Civil Rights Act. That is the only difference.

We have worked the rest of the bill out in a bipartisan basis, but this one issue that we have argued on this floor, we have done so on numerous occasions, whether it be the 1996 Welfare Reform Act, several times last year when we considered the Workforce Investment Act, and when we considered the reauthorization of the Head Start bill, we had the same debate here in the House about whether faith-based providers using Federal funds would have to give up the protections granted to them under the 1964 Civil Rights Act.

As we have heard today from numerous Members, these faith-based organizations do very good work with the poorest of the poor in many of our communities. And to deny them their protections under the Civil Rights Act of 1964, we believe would in fact have a chilling effect on their willingness to take Federal funds and to work in the community to help deal with many of the problems that are there.

When I listen to the debate today, there are a lot of examples used of discrimination, discrimination in hiring. And I would suggest to most of my colleagues that use these examples, if you don't like the 1964 Civil Rights Act that provides religious organizations an exemption in hiring, then we ought to change it. But that is the law. And what we are trying to do is trying to continue to comply with the law, and we should not deny those organizations that are faith-based the protections that are granted to them under the 1964 Civil Rights Acts.

I would ask my colleagues when we near the vote on this substitute, that we vote no on the substitute and to support the underlying bill which, in fact, has been the law since 1998.

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentlewoman is recognized for 5 minutes.

There was no objection

Ms. WOOLSEY. Mr. Chairman, the 1964 Civil Rights Act allows faith-based organizations, religious organizations to use their own funds, and they can discriminate if they choose. That act does not allow faith-based organizations to use Federal funds starting in 1964.

The chairman is right. The only difference in this bill is the faith-based discrimination based on religion language. That is what we would like to remove because, Mr. Chairman, this is a sad move on the side of the Republicans to continue to take perfectly good legislation and allow a poison pill to stay in that legislation thinking that the people on this side of the aisle are going to vote yes, that we have no choice.

You know what? It is wrong. We do have a choice. It is wrong to allow religious discrimination using Federal dollars, and we are going to vote against it.

I support faith-based organizations and the good they are doing in their outreach and their human service programs. I support them totally. The faith-based groups in my district are successful. They tell me, Get that language out of the bill. We do not need it. They agree that the exemption to title VII is useless. It should not be in there and that individual groups should not be able to use Federal tax dollars to discriminate in their hiring policies.

If this language remains in the bill, I, for one, will be forced to vote against the underlying bill because I will not vote to use tax dollars for discrimination.

Mr. SHAYS. Mr. Chairman, I believe people competing for a job should be judged on the strength of their candidacy, not on their gender, the color of their skin, their sexual orientation, or their religious beliefs.

Supporting this amendment was not an easy decision for me. I have grappled with this issue for years because the Civil Rights Act includes an exemption for religious organizations, but I have come to believe that, where Federal dollars are involved, Congress should not condone discrimination on any grounds, even on religious grounds.

With the help of tax dollars, faith-based organizations are able to provide a wide range of social services to their communities, but allowing them to discriminate against those who wish to be of service, simply on the basis of their religion, casts a shadow on the wonderful work these groups are doing.

I understand some faith-based organizations would prefer to have ideologically consistent staffs, but I believe a person willing to take a job with a religious group and commit to advancing the mission of that group can do so whether or not they believe personally in the institution's message. And I believe any candidate who can excel in the workplace, will be able to do so regardless of his or her religious convictions.

The bottom line is, holding one set of religious beliefs does not preclude someone from effectively providing services and even advocating another set of ideas. For that reason, being Catholic, Jewish, Muslim, or Hindu should not hinder a person's ability to perform the functions of a job they are intellectually qualified and willing to do.

Ms. MAJETTE. Mr. Chairman, the Community Service Block Grant program is an invaluable tool for fighting poverty. The Community Service Block Grant works and works well. It works because it allows local discretion to guide the allocation of resources to those programs that the underprivileged in their own communities most need. In my own district, the Partnership for Community Action helps underprivileged children get a Head Start on school, helps citizens weatherize their homes, and helps teen mothers find work. I am proud of these programs and support Federal investment in their efforts.

This same Community Action Agency in my district is involved in faith-based partnerships. They teamed with Christian, Hindu, Islamic, Jewish, and Baha'i groups to work together to address the problems of substance abuse among youth and to decrease the recidivism rate of inmates in our county jail. And they did this all without discriminating on the basis of religion. However, the law allows discrimination.

I am strongly opposed to allowing recipients of Federal dollars to discriminate on the basis of religion. No issue is more important to our Nation than the need to prevent our Federal Government from either supporting or opposing any form of religious expression. Despite this principle, the current law actually allows recipients of taxpayer money to discriminate against someone who doesn't share their religious beliefs. It is unconscionable that this body ever allowed this kind of discrimination to be the law of the land.

I strongly support all of the religious-based organizations whose members devote so much of their time and energy to curing our Nation's ills. I am confident that these organizations make us a stronger, more compassionate Nation.

My personal faith in God is strong and does not depend on a government endorsement. Our Founding Fathers shared the belief that it is in the best interest of both government and religion if they remain mutually prevented from exerting influence upon each other.

Even a single case of someone losing their job because of their faith is too much to allow in our great Nation. As Justice John Paul Stevens has wisely noted, "Our democracy is threatened whenever we remove a brick from the wall that was designed to separate religion and government."

This Congress cannot ever condone employer discriminating against potential employees. For this reason, I support the Democratic substitute which preserves this wonderful program while upholding the constitutional prohibition on religious discrimination.

I support the Community Block Grant Program, but cannot support any bill that condones discrimination.

Mr. BEAUPREZ. Mr. Chairman, I rise today in opposition to the Woolsey amendment, and to recognize the critical importance that Congress must adopt a new attitude toward faith-based and community initiatives and not hinder their ability to effectively assist the needy.

Uncertain times have left many people in search of assistance and in need of a helping hand to improve their lives. I believe is in the vital interest of the United States to care for all of our citizens. Inadequacies seen in many current programs have left millions searching for alternative sources of aid. I believe that the establishment of faith-based initiatives is one of many ways to provide a helping hand to our fellow Americans in need.

Few people realize that faith-based organizations have been utilized for years by all levels of government. President Lyndon Johnson's "Great Society" initiatives expanded FBOs to include welfare and community service programs. Further evolution of FBOs showed that they are effective partners for delivering special services, including literacy programs, counseling, and healthcare services. These programs proved to be a more effective process to deliver vital programs to the needy. I have seen the positive results of faith-based initiatives first hand throughout the Denver metro area. Fine examples are childcare, senior services, and job placement training.

Some of my colleagues believe that faith-based organizations discriminate against employees based on their faith. In 1972, a Democratic-controlled Congress expanded the already-existing 1964 Civil Rights Act Title VII exemptions for religious organizations, which allows religious organizations to consider potential employees' faith when making staffing decisions. The United States Supreme Court, without a single dissenting vote, upheld this law. The Court reasoned that a law is not unconstitutional simply because it allows churches to advance religion, it must be evident that the Government itself has advanced religion through its own activities and influence.

I fully support our constitutional separation of church and state and remain convinced that adequate judicial protection exists to assure compliance. As a former member of a Christian school board, I know first hand that faith-based organizations cannot be expected to sustain their religious drive without the ability to employ individuals who share the tenets and practices of their faith. This is simply because it is that faith that motivates them to serve their neighbors in trouble.

When the objective is helping some of the most distressed and needy in our communities, faith based groups have historically been the best providers. It would seem counterintuitive to limit opportunity for needed services because of an underlying religious affiliation.

Vote to defeat the Woolsey amendment, and for passage of H.R. 3030.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise in support of this substitute to H.R. 3030, which will improve the Community Services Block Grant.

In the Republican version of H.R. 3030, a church could decide that an individual is not qualified to work in a federally funded community services program, simply because that individual does not hold the same religious beliefs.

There is no question that this is a clear violation of civil rights. It must be amended.

Religious organizations provide essential community services around the country. However, we must not allow these organizations to discriminate against people who want to work in federally funded social service programs. The Democratic substitute would forbid such discriminatory practices.

Don't misunderstand me. I absolutely support the amazing work that local religious organizations do to help poor and disadvantaged families. In Orange County, the Orange County Rescue mission provides food and shelter to disadvantaged men and women. This work is necessary, and appreciated.

Indeed, this good work should continue. Religious organizations should receive funding for community programs. The Democratic amendment would allow churches and other religious organizations to receive federal funds for community programs.

But religious groups should follow the same civil rights protections secular organizations are required by law to follow in order to receive Federal dollars.

Religious and civil rights groups support this effort, too, because they understand that discrimination based on religion has no place in the Community Services Block Grant program.

These groups also know that Democrats support programs that help poverty-stricken individuals, whether those programs are operated by secular or religious organizations.

The Democratic amendment will preserve Federal support to religious organizations providing critical community services. It only serves to strengthen those programs by holding them to the same standard of civil rights in employment practices that all other organizations must follow.

Please join me in supporting this amendment.

Mrs. JONES of Ohio. Mr. Chairman, I rise to encourage my colleagues to extend unemployment insurance benefits for 6 months in an effort to prevent over 2 million workers from losing benefits. With the ending of the Federal Temporary Extended Unemployment Compensation (TEUC) program, jobless workers whose regular, State-funded unemployment insurance benefits run out before they can find a job no longer qualify for any Federal unemployment aid.

Mr. Chairman, Congress rejected calls for a benefits extension before the December holidays, and job growth has since remained anemic. The previous unemployment insurance extension expired on December 20. Roughly 375,000 people exhausted their benefits in January, the largest number in a single month in 30 years, and these individuals are receiving neither a paycheck nor unemployment benefits.

According to an analysis of Government data from the Center on Budget and Policy Priorities, nearly 2 million unemployed workers are expected to be in this situation during the first 6 months of 2004. The Center on Budget and Policy Priorities also projected that 2 million people will exhaust their benefits between January and June, a record for any six-month period for which data are available, if benefits are not extended.

In no other month on record—and in no other six-month period for which data are available—have so many unemployed workers exhausted their regular unemployment benefits without being able to receive additional aid. The unemployment rate is currently 6 percent in Ohio. In my congressional district, in the city of Cleveland, the unemployment rate is 13.1 percent—57,191 Ohioans are scheduled to lose their benefits over the next 6 months.

Dear colleagues, how do you recommend I inform my constituents that Congress decided not to extend unemployment benefits? I ask my colleagues to join me and support the Democratic substitute.

The Democratic substitute provides for continued participation by faith-based organizations in Community Services Block Grant programs, but prohibits religious discrimination with Federal funds. Colleagues, Congress has worked to eliminate discrimination since 1964 through the enactment of Title VII of the Civil Rights Act of 1964, that prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment.

How dare we, Members of Congress, allow legislation that will discriminate against anyone come before the House floor. Have we forgotten what Title VII of the Civil Rights Act of 1964 prohibits under religious discrimination: My history reflects working toward the Dream that Dr. Martin Luther King had that, "one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident: that all men are created equal." My work history exemplifies working toward bringing all races together for employment, education, and religious beliefs. I have worked with the U.S. Equal Employment Opportunity Commission. I will also remind all of you that under Title VII of the Civil Rights Act of 1964 for religious discrimination:

Employers may not treat employees or applicants less—or more—favorably because of their religious beliefs or practices. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.

Employees cannot be forced to participate—or not participate—in a religious activity as a condition of employment.

Employers must reasonably accommodate employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion.

Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers and modifying workplace practices, policies and/or procedures are examples of how an employer might accommodate an employee's religious beliefs.

An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employers' legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes coworkers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expression at work, unless the religious expression would impose an undue hardship on the employer. Therefore, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on religion or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under title VII.

It is vital that Congress authorizes additional funds under Community Services Block Grants to be used to pay for a 6-month extension of unemployment benefits. Benefits paid under Community Services Block Grants that will be modeled after the Unemployment Insurance program that expired for workers exhausting regular unemployment benefits after the week of December 20, 2003.

Mr. Chairman, I ask my colleagues to join me and support the Democratic substitute, and vote to provide continued participation by faith-based organizations in Community Services Block Grant (CSBG) programs, but prohibits religious discrimination with Federal funds.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment in the nature of a substitute offered by the gentlewoman from California (Ms. WOOLSEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on amendment No. 4 offered by the gentlewoman from California (Ms. WOOLSEY) will be postponed.

### AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SCOTT of Virginia:

Page 12, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(j) LIMITATION ON USE OF FUNDS; VOLUNTARINESS.—Section 679(c) of the Community Services Block Grant Act (42 U.S.C. 9920(c)) is amended by adding at the end the following:

"If the religious organization offers such an activity, it shall be voluntary for the individuals receiving services and offered separate from the program funded under subsection (a). A certificate shall be separately signed by religious organizations, and filed with the government agency that disburses the funds, certifying that the organization is aware of and will comply with this subsection.".

Mr. SCOTT of Virginia. Mr. Chairman, this is slightly different from the language in the substitute. It requires religious organizations to separate any religious activities from CSBG activities to ensure that such programs meet current constitutional standards.

Several speakers from the other side have mentioned that you should not be able to proselytize during a government-funded program, and that is consistent with this amendment.

The language tracks language that was recommended by the Bush administration's Justice Department during the 107th Congress' consideration of President Bush's faith-based legislation in H.R. 7. It also tracks the H.R. 7 language that was reported by the House Committee on the Judiciary and passed by the full House.

In his testimony to Congress, the Bush administration Department of Justice argued, "Justice O'Connor requires that no government funds be diverted to 'religious indoctrination,' thus religious organizations receiving direct funding will have to separate their social service programs from their sectarian practices."

☐ 1530

The current provisions in CSBG do not meet the current constitutional standard required.

Specifically, the current provision provides that only "no funds provided directly to a religious organization shall be expended for sectarian worship, instruction or proselytization." This language fails to address whether religious organizations can include a religious message in publicly funded services and also fails to answer the question of whether volunteers can be used.

Mr. Chairman, if we do not pass this amendment, we are essentially creating a system where the Federal Government officials will have to pick and choose which religious organization will get the benefit of using publicly funded programs to advance their religious views. Such a policy violates the Constitution and violates their religious liberty to believe their own religion and not be subjected to the views of others as a condition of receiving government-funded services.

In addition to failing to adopt these safeguards, it raises a concern as to how we measure the success of a faith-based program. The administration has said that faith-based institutions are better and more successful, but common sense will tell us that some faith-based programs are better than secular programs, but some secular programs are better than faith-based programs.

To that end, on what basis are we measuring the success of a program if it incorporates religion? Are we weighing the Baptist approach to drug treatment against the Muslim approach?

This amendment answers the simple question, Can you conduct a worship service in the middle of a federally funded program with volunteers or not? This amendment simply answers "no." If you want to conduct a worship service, those activities must be voluntary and separate from the government-funded program. On the other hand, the House can reject this amendment and require some program participants to participate in sectarian worship services as part of the government-funded program.

I hope we adopt the position taken by the Committee on the Judiciary in H.R. 7 and agree to the amendment.

Mr. BOEHNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Community Services Block Grant program has a proud history of inclusion of faith-based organizations in the coordination of poverty reduction services, and we should continue that tradition of inclusion and reject attempts to add new barriers to faith-based organizations who are already serving in this program.

This amendment offered by my good friend from Virginia (Mr. SCOTT) does two things. It adds new language that is duplicative and redundant to the current program or the current operation of the CSBG program; and, second, it complicates the operation of the program by adding a new paperwork requirement only for faith-based providers, I might add, and requiring them to certify to the funding agency that they are in compliance with the law.

On the first issue, the amendment seeks to add language regarding the voluntariness of participation by beneficiaries in religious activities and the separation of these activities from the services under the program. Both of these issues are duplicative and redundant to the current requirements of the program.

Specifically, under section 1050.3(b) of the Community Services Block Grant regulations, the requirement is clear that direct funds under the program may not be expended for inherently religious activities such as worship, religious instruction, or proselytizing. The same section goes on to state that if an organization conducts such activities, it must offer them separately in time or location from the programs or services directly funded under any applicable program, and participation must be voluntary for program beneficiaries.

The second issue is purely a new paperwork requirement, again targeted only at faith-based providers, and based on the unsubstantiated assumption that these organizations are somehow violating the current requirements of the law. This requirement seeks to erect new, unnecessary barriers to the participation of faith-based providers by requiring that they, and only they, certify to the funding agency that they have read the law and will comply. Other program operators that are not faith-based will not have this requirement under the language offered by the gentleman from Virginia (Mr. SCOTT).

Unfortunately, its real purpose, I think, is likely a bit more insidious. In adding this new requirement solely for faith-based providers, it creates further barriers designed to limit the participation of faith-based providers and will likely lead to a chilling effect for both current and potential faith-based providers.

Should this amendment pass, we expect at least some of those groups would choose not to participate in the Community Services Block Grant program. As we all know, the group most likely to suffer the consequences are the most vulnerable in our society and those who need the help most and those who the Community Services Block Grant program is designed to serve.

So I would suggest to my colleagues that we do not need this language. It will drive faith-based providers away from the program, and the amendment deserves to be defeated.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

### AMENDMENT NO. 1 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SCOTT of Virginia:

Page 12, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(j) NONDISCRIMINATION.—Section 678F(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9918(c)(1)) is amended by inserting "religion," after "color,".

(k) EMPLOYMENT PRACTICES.—Section 679(b) of the Community Services Block Grant Act (42 U.S.C. 9920(b)) is amended by striking paragraph (3).

Mr. SCOTT of Virginia. Mr. Chairman, this amendment is simple. It is the specific, straight up-and-down vote on the discrimination amendment without ducking and dodging. It asks the question whether you can take the Federal money and discriminate or not, either you can have a policy of hiring no Catholics and Jews or not or hiring just people that belong to a church that happens to be all black or all white or not.

We know that if we can discriminate based on religion, we can discriminate based on race. We know also, Mr. Chairman, these are not gifts. They are contracts to perform government services.

In 1941, President Roosevelt signed an executive order, no discrimination in defense contracts. In 1965, Johnson expanded that to all contracts. That has been a good policy; and if you cannot work with others, it is your problem. It is not their problem. Since 1965, that has been the law of the hand.

Under the bill, it is the problem of the person being discriminated against. Now we hear talk about rights. This is the first time I have heard about the right of someone to discriminate. We usually talk about the right of someone to apply for a job and be free from discrimination based on employment, but now we have to focus on the right to discriminate. That is wrong to tell somebody that they are the best qualified, that someone is the best qualified for a federally funded job, but we do not hire people of your religion. It is wrong to tell someone if the faith-based organization has won a new contract, it is wrong to tell the group of employees on the job that we will hire everybody except people of a certain religion. That is wrong.

It is either right or wrong to discriminate, Mr. Chairman. I hope my colleagues will say it is wrong by adopting this amendment.

Mr. BOEHNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, our friend from Virginia (Mr. SCOTT) offers the second amendment, which is very close to the language that was contained in the Woolsey substitute, striking the ability of faith-based providers from their protections under the 1964 Civil Rights Act.

The current law, which was signed by President Clinton in 1998, makes clear that when faith-based organizations participating in the Community Services Block Grant program take religion into account in their hiring practices, they are not discriminating. That language is consistent with the protections provided to religious organizations under the 1964 Civil Rights Act.

What the gentleman seeks to do is to take that protection away from those faith-based providers who would participate in the Community Services Block Grant program. It has been the subject of debate for hours here on the floor today; and to save all of us a little time and effort, the amendment would, in fact, have a chilling effect on the willingness of faith-based providers to participate in the Community Services Block Grant program; and, therefore, I believe it is a bad amendment and does not deserve our support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 8 of rule XVIII, this 15-minute vote on Scott amendment No. 1 will be followed by two 5-minute votes in the following order: (1) Scott amendment No. 2 and, (2) Woolsey amendment No.4.

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent that the first vote be the Woolsey vote and then my votes after that, because if the Woolsey amendment is adopted, my votes will not be necessary.

The CHAIRMAN pro tempore. The gentleman's request is not in order. The order of votes is within the discretion of the Chair and the Chair will follow precedent in that the Committee will vote on the perfecting amendments before the substitute.

The order of the votes will be this Scott amendment. This is to be followed by a 5-minute vote on the other Scott amendment, followed by a 5-minute vote on the Woolsey amendment.

The vote was taken by electronic device, and there were—ayes 182, noes 231, not voting 19, as follows:

[Roll No. 15]

AYES—182

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler

Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
McCotter
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—19

Brown-Waite, Ginny
Culberson
DeGette
Dicks
Gephardt
Gutierrez
Hunter
Kucinich
Langevin
Linder
Lucas (OK)
McCrery
Millender-McDonald
Ortiz
Pascrell
Rahall
Sabo
Smith (WA)
Watson

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. GILLMOR) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1609

Messrs. WILSON of South Carolina, TOM DAVIS of Virginia, PEARCE, BRADLEY of New Hampshire, TANCREDO, FOSSELLA, RYAN of Wisconsin, CRAMER and Ms. HARRIS changed their vote from "aye" to "no."

Mr. MORAN of Virginia and Mr. KIRK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 as printed in the RECORD by the gentleman from Virginia (Mr. SCOTT) and amendment No. 4 offered by the gentlewoman from California (Ms. WOOLSEY).

The remaining electronic votes will be conducted as 5-minute votes.

### AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 180, noes 233, not voting 19, as follows:

[Roll No. 16]

### AYES—180

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—233

Aderholt
Akin
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson

Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lucas (KY)
Manzullo
McCotter
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Brown-Waite, Ginny
Culberson
DeGette
Dicks
Gephardt
Gutierrez
Hunter
Kucinich
Langevin
Linder
Lucas (OK)
McCrery
Millender-McDonald
Ortiz
Pascrell
Rahall
Sabo
Smith (WA)
Watson

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1619

Mr. BARTON of Texas changed his vote from "aye" to "no."

Mr. SHAYS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. WOOLSEY

The CHAIRMAN pro tempore (Mr. GILLMOR). The pending business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentlewoman from California (Ms. WOOLSEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

### RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 232, not voting 17. as follows:

[Roll No. 17]

AYES—183

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—232

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
McCotter
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Brown-Waite, Ginny
Culberson
DeGette
Dicks
Gephardt
Gutierrez
Kucinich
Langevin
Linder
Lucas (OK)
McCrery
Millender-McDonald
Ortiz
Pascrell
Rahall
Smith (WA)
Watson

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1627

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 5 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GEORGE MILLER of California:

Page 5, strike lines 20 and 21, and insert the following:

(1) in subsection (a)—

(A) by striking "1999 through 2003" and inserting "2004 through 2009"; and

(B) by striking "681" and inserting "675C(b)(3), 681,";

Page 6, line 2, strike "and" at the end.

Page 6, line 8, strike the period at the end and insert "; and".

Page 6, after line 8, insert the following:

(C) by adding at the end the following:

"(c) ASSISTANCE RELATING TO UNEMPLOYMENT.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2004 to carry out section 675C(b)(3).".

Page 6, strike lines 9 through 14, and insert the following:

(d) USES OF FUNDS.—Section 675C of the Community Services Block Grant Act (42 U.S.C. 9907) is amended—

(1) in subsection (a)(3)(A) by striking "Beginning on October 1, 2000, a" and inserting "A"; and

(2) in subsection (b)—

(A) in paragraph (1)(F) by striking "neighborhood-based" and inserting "community-based"; and

(B) by adding at the end the following:

"(3) ASSISTANCE RELATING TO UNEMPLOYMENT.—With the amount appropriated under section 674(c), the Secretary shall make grants to States to provide financial and employment support to individuals who cannot find employment, who have exhausted their State unemployment benefits, and who, after the week of December 20, 2003, can no longer receive Federal extended temporary unemployment compensation. The eligibility criteria and benefit amounts under this paragraph for such individuals shall be the same as for such individuals prior to December 20, 2003, under the Federal extended temporary unemployment compensation program."; and

(3) in subsection (c)(1) by inserting "paragraphs (1) and (2) of" after "under".

Mr. GEORGE MILLER of California. Mr. Chairman, this amendment authorizes an additional 6 months of urgently needed extended unemployment compensation benefits through the Community Services Block Grant program.

Last week, the shocking neglect of the unemployed by this administration became all too apparent. The tag-team termination of extended unemployment benefits by the Republican leadership and the Bush administration has left a staggering, record-breaking 375,000 unemployed individuals who have been out of work over a half a year and still cannot find work. By July, over 2 million unemployed workers will be left to fend for themselves, with no paycheck and no unemployment assistance. Two million Americans who were working before this recession, 2 million Americans who were working before the tech bubble burst, 2 million Americans who were working before the corporate scandals in this Nation, who were supporting their families and themselves, cannot find work and this government will not help them because this administration does not see it as a priority. In no other month on record and in no other 6-month period for which data is available have so many unemployed workers exhausted their regular unemployment benefits without being able to receive additional aid.

At a time when we see that this administration is willing to lavish billions of dollars on special perks for the pharmaceutical companies and HMOs but nothing for an unemployed family, at a time when we see us borrowing money to rebuild Iraq and provide sole-source contracts that are now overcharging us millions of dollars for the care and feeding of our soldiers, no money for the unemployed. At a time when this administration comes to us and tells us we should borrow to go to Mars, nothing for the unemployed. We should borrow to rebuild Iraq. nothing for the unemployed. Time and again, we have made decisions in this Congress and in this administration that do not include the ordinary, hard-working American families who have fallen on hard times through no fault of their own. Their jobs have been outsourced, their jobs have been sent overseas, their jobs have been eliminated. It is not because they are not struggling. These people want a job. They want a job. They would trade their unemployment check in a minute for a job. But the jobs are not available.

☐ 1630

They were told at the beginning of this Congress by this administration with their economic program, with their budget priorities that they were going to create 1.8 million jobs. Well, here we are, folks, a year later, and they are 1.6 million jobs short. They just did not hit the target. But what they did hit was the misery and the trauma among the unemployed in this country.

In the past, we have recognized when jobs are not available, as the economy bottoms out, as it starts to turn up, we have extended the unemployment benefits to get those people to a job. These people have been looking for work for 6 months. But this administration will not do it. This administration will not do it.

This administration makes this part of the attack on middle-class America, middle-class working people who have lost their jobs. They take away their unemployment benefits. Middle-class America, that relies on overtime to meet their annual support for their families, to provide their cars, to buy their houses, they want to engineer the taking away of their overtime. Middle-class America that needs a pension, they want to take away their pension in the cash balance program.

What is it that middle-class America did that so angered the Republican Party, that so angered this President, that he cannot understand and have compassion over what these families are going through when they are unemployed? What is it that the middle class did that does not allow this President to understand what it means when they close down the factory in your hometown. when they out-source your job to India, to China, to Singapore? Your job just disappeared.

The answer from this administration and this Congress, this Republican Congress, is, tough; it is tough. These are hard-working people. They were working the day before they were unemployed. They have a work history. They have a history of supporting their families, of supporting themselves, of trying to hold on to a standard of living.

The CHAIRMAN pro tempore (Mr. LAHOOD). The time of the gentleman from California (Mr. GEORGE MILLER) has expired.

(By unanimous consent, Mr. GEORGE MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. GEORGE MILLER of California. Mr. Chairman, we have a remedy today. You vote for this amendment, and we can tell the 61,000 people from North Carolina who are expected to lose their jobs over the next 6 months that we will help them and their families until they find a job. You can tell the 66,000 people in Florida that we will help them and their families and their children until they find a job; or the 51,000 people in Georgia or the 314,000 people in the State of California that this government will help them until they can find employment.

Compassionate conservatism? Sounds pretty good to me. Where is the compassion? These are breadwinners. These are providers for families. Where is it that we cannot help them?

There is $17 billion in the Unemployment Trust Fund that was put there by the work and the sweat and the toil of America's workers. and what we are asking you today is to authorize that those funds be released for the next 6 months so that these people can have an opportunity to hold on to their house, to hold on to their health care, to hold on to their children, because that is what happens when you lose all of your financial support: you start to lose your family, you start to see divorce is a possibility, you start to lose your mortgage, you start to lose your car, and you have got to start all over again and you are 50 years old.

That is an America of compassionate conservatism? That is the America of Bush compassionate conservatism? No, that is a very mean-spirited America. But you have an opportunity to turn that around today. You have an opportunity to turn it around immediately. Pass this amendment and ask for a supplemental to take those hard-earned worker funds that are in the trust fund, that are there for their benefit, for exactly this purpose in this economic emergency and help those 375,000 people that this administration pushed off the employment cliff and the economic cliff in this country last month.

Mr. BOEHNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I really do not know where to begin. I have been around the political arena for the better part of 20 years, and I have seen every political stunt that I think there is; but I have never seen a more cynical attempt to exploit American unemployed workers for political gain.

Now, let us talk about the facts that are contained in the gentleman's amendment. The gentleman's amendment would create a new program within the Community Services Block Grant program. This is nothing more than an authorization. It has no money attached to it. The Community Services Block Grant program helps poor people in all of our communities across the country. They have no capability to pay out unemployment benefits. So we have only here an authorization for a program that cannot deliver the funds. And if they were to deliver, it would take years to implement such a system. Yet there is no money that has been appropriated to actually pay these.

Now, these are the kinds of political stunts that occur in the middle of even numbered years divisible by four. But to exploit American workers here in the House of Representatives is wrong, and the gentleman fully well knows that unemployed workers will wait years to get their extended unemployment benefits under the language that is being offered here today.

Mr. Chairman, I might add that last March this Congress provided $8 billion additional to the States for the extension of unemployment benefits, $8 billion. As of January of this year, the States were sitting on $5.4 billion of that money. The States were sitting on it. Thus, if you look at nearly 2 years since Congress provided this $8 billion in Federal funds, States have spent less than half of this to assist unemployed workers. A total of 45 States still have some of their share of the original $8 billion. 31 States, 31 States still have over 90 percent of the money that Congress allocated to them still in their accounts today.

Now, what we ought to be doing is encouraging the States to take care of those who have extended unemployment problems. But my colleagues know and all the Members ought to know that this is not the way to do it and that this is nothing more than a hollow, empty promise, exploiting American workers for political gain; and I do not think this Congress is worthy of that kind of gamesmanship.

We as a House ought to stand up and say no. If we want to have a debate about extending unemployment benefits and to help those who are in need and looking for a job, then let us have that debate. But this is not the place to do it, and the gentleman knows this is not the place to do it.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BOEHNER. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. When would we have that debate? When is that bill coming to the floor? Why did it not come to the floor just before we went home for Christmas? Why did it not come to the floor before these people fell off the edge?

Mr. BOEHNER. Mr. Chairman, reclaiming my time, over the course of this debate I am sure that my colleagues from the Committee on Ways and Means that have jurisdiction over the extension of the unemployment benefits and the unemployment program will be here to handle that debate. But to hold up the Community Services Block Grant program, a program that helps the community action agencies in all of our communities, helps them with their assistance to the poorest of the poor, to hold it up over this kind of a political stunt, I think, is regrettable. It does not deserve the support of our colleagues.

Mr. HINOJOSA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I wonder if the gentleman who just spoke from the State of Ohio knows that an estimated 57,000 residents in his State are likely to exhaust their State unemployment insurance compensation, leaving them and their families without a paycheck or benefits.

Mr. Chairman, I rise in strong support of the Miller amendment. Before Christmas 2003, this Congress adjourned without providing any relief for the more than 2 million workers whose unemployment benefits have or will soon expire.

In my home State of Texas, during the next 6 months, over 125,000 workers will lose these critical benefits and have no means by which to support their families. The number of unemployed Texans expected to exhaust their regular benefits without being able to receive further assistance will be the second highest on record for the months of January through June 2004.

These workers do not want government handouts. They simply want a job. But since there are 2.4 million fewer jobs to be had because of the failed economic policies of my colleagues on the other side of the aisle, the least we can do is provide these workers some financial assistance to tide them over until the promised job growth occurs.

American workers deserve the security of knowing that these important unemployment benefits will be available to them and their families through the rest of this year. I urge my colleagues to do the right thing and support the Miller amendment.

Mr. HAYWORTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment. I appreciate the comments of my friend from Ohio who preceded me.

Mr. Chairman, just to inform my friends on the left, if they want to ask about the number of unemployed in the State of Arizona, and am I aware of it, you bet I am. I also should point out for the record that our Democratic Governor in Arizona vetoed last year an unemployment bill to put to use some of the $8 billion in extended unemployment benefits available to Arizona and the other 49 States. I would remind this House, to amplify what my colleague from Ohio pointed out, as of last month, more than $5.4 billion in unemployment benefits still remains available.

Mr. Chairman, I was surprised that our Governor chose to veto that bill, supported by labor and by business to deal with economic needs in the State of Arizona. So I am well aware of what is happening in my home State.

I am well aware too in this House of another division. My friend from California asked where was the compassion. Mr. Chairman, this points out a fundamental difference. If you measure compassion by the number of people who stay on unemployment, I think that is a curious standard, because Mr. Chairman, compassion is not measured by the number of people who remain on unemployment and collect those checks. True compassion is measured by the number of people who leave unemployment and find real, rewarding jobs.

Expounding on my friend from California's statement, who asked where was the compassion when jobs are lost, a couple of points.

Mr. Chairman, just up in the Subcommittee on Forests and Forest Health, we heard from union members, we heard from some of my fellow Arizonans who were in attendance, we heard from others across the West and across this country about jobs that have been lost because some in Washington thought it was more important to move away from a policy of balance when it comes to resource-based industries, and to support in another branch of government court cases that actually shut down the ability of people across this country to utilize the renewable resource of timber and, sadly, that resulted in catastrophic fire, not only in my State, but in the gentleman's home State of California.

I do not believe it is compassionate to get rid of those jobs. I am sorry my friend was not in attendance at that particular meeting. I am sorry many of my friends on the minority side were not in attendance at that particular encounter, because we continue to talk about restoring jobs and positive policies.

But we do have a fundamental difference, Mr. Chairman. And to my friends who measure compassion by the continuation of benefits on unemployment rather than taking actions to create new jobs, well, I think we understand how they are going to vote on this amendment, although for the record I would point out this does not really improve the unemployment benefits. It sets up a further administrative program, a new grant program, I guess more make-work-for-Washington bureaucrats, without the money necessary, and, by the way, with over $5.4 billion still sitting there in the unemployment program that the 50 States have not utilized. But I suppose if we want to grow government, this would be the action to take.

□ 1645

So, Mr. Chairman, spare us the false compassion, spare us the false compassion of preening and posturing and creating a new grant program, and finding some thin sliver of germaneness, when the real issue here is the fact that we have seen in the last year the biggest December drop in long-term unemployment in U.S. history: 146,000 going from the rolls of long-term unemployment to jobs. That is the real way we get this done.

Mr. Chairman, I would say to my colleagues, reject this amendment, support true compassion, which is putting people to work with real jobs.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate that my good friend from Arizona is concerned about those 23,000 residents of Arizona who are likely to exhaust their State unemployment compensation. But I am a little, I am a little concerned that what we are having here today is a debate that sort of misses the fundamental point.

I do not think the gentleman from California (Mr. MILLER) would have chosen this vehicle and this approach if we were actually able, on the floor of the House, to have an honest debate on the simple act of extending the unemployment. We tried to do that repeatedly before the holidays, but the House does not operate that way anymore. We do not permit a bipartisan effort to come forward with major public policy issues that actually have broad bipartisan support on both sides of the aisle. That was never permitted to come forward.

I appreciate the gentleman from California's creativity at least in bringing forward an opportunity to spotlight the needs of these Americans who, with all due respect to my friend from Arizona, I do not think we encourage them by starving them off the rolls, by arbitrarily limiting it. I do not think that is compassion.

I come from a State that has had serious unemployment problems. We have been at the top 3 for most of the last 2 years; an uncomfortable portion of those 2 years at number one in the country. It is not that we have not been creative in terms of moving people off welfare. We were doing it far before the Federal Government was doing it over the course of the last 5 or 6 years. We are proud of that effort. We are proud of efforts at job retraining.

The simple fact is, this is a serious patch for the people in the Pacific Northwest, in Oregon, in Washington, in California. My friend from Arizona I think needs to take a look at what happened with that drop in unemployment. It was not that there were new jobs created; it is because people gave up. They were discouraged. There were not jobs available. And we are going to cut them off.

Well, I think if we are serious about creating jobs, we have a bipartisan bill in our committee, in the Committee on Transportation and Infrastructure, that would actually put hundreds of thousands of Americans to work in a matter of weeks, rebuilding crumbling bridges, dealing with transit, dealing with roads. We are ready to go. But this administration is not interested. In fact, they have sent signals that if we even had this bipartisan bill that would put hundreds of thousands of people to work doing important things, if we brought it forward, they are threatening to veto it.

I would suggest, Mr. Chairman, that we need to stop, and my friends talk about hypocrisy. Well, I think there is some hypocrisy here. If we could actually legislate on the floor in a bipartisan fashion, we could deal with this directly and there would be an overwhelming vote to extend unemployment benefits. We ought to deal meaningfully with creation of job opportunities like transportation and infrastructure. We ought to move forward, not having the rhetoric of the President that he is concerned about job training and offer a few million dollars, and then have a budget that cuts job training even more. Today, in the Committee on International Relations, we had a hearing that dealt with the problems with people with the L–1 visas that are coming in and taking jobs of Americans and, in fact, having the indignity of Americans training their replacement from overseas in an abuse of that program.

I think we can stop the hypocrisy. We can move forward with simple, commonsense things that are supported by the American people that, if we were allowed to legislate, would get bipartisan support. We ought to start with the Miller amendment today. Hopefully, that will be a signal that we ought to stop the games. We ought to do it in a forthright fashion, and then follow up with transportation investments, follow up with meaningful tax reform like the alternative minimum tax that would take care of middle-class Americans, and do it in a system that I think men and women on this floor would like to do.

I sincerely hope that this vote in favor of the amendment today will be a signal to our friends in the Republican leadership to allow us to debate in a bipartisan way solving problems, extend unemployment, invest in America's future, and meaningful tax reform that will make a difference for American families.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Miller amendment. This amendment would authorize an indeterminate amount of extra funds under the Community Service Block Grant program for States to use for more extended unemployment benefits. I stress that these funds would be authorized, but not appropriated. So everyone listening to this debate should know that this bill would have no effect, even if it were signed into law. It would require another bill, a supplemental appropriations bill, to actually make good on this supposed promise. The chances of that happening are about zero, and here is why.

In March of 2002, Congress provided States a record $8 billion in additional funds they may use to help unemployed workers. Never in our history have we provided more flexible Federal funds to the States to help the unemployed. According to the Department of Labor and based on reports from the States, as of December 31, 2003, States still had more than $5 billion of this $8 billion left over to assist the unemployed. Let me repeat that. Almost 2 years later, the States had $5 billion left over, and almost every State still has at least some of this Federal money left. Thirty-one States, including major States like Arizona, Connecticut, Florida, Georgia, Iowa, Kentucky, Louisiana, Maryland, Maine, New Jersey, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Washington, and West Virginia have more than 90 percent of their money left. Just for the record, California has 88 percent of our money left, or some $800 million.

Mr. Chairman, this Congress has provided generous assistance for the unemployed. In fact, we have provided extended benefits at unemployment rates well below the unemployment rate when the Democrats ended a similar extended benefits program in the 1990s. We have provided States record flexible funds to help the unemployed. I suppose the fact that States still have billions of that money left is lost on the other side.

Mr. Chairman, let us reject this amendment.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to thank my friend, the gentleman from California (Mr. MILLER) for bringing this amendment to the floor.

Mr. Chairman, for most of the day in this debate we have been debating the so-called faith-based initiative in this underlying grant program. It occurs to me that the Bush administration and the majority's unemployment relief program is a faith-based initiative. What they are saying to the unemployed workers of this country is, "Have faith, things will get better."

Saturday was the last day of January. For many of us it meant flipping another page over on the calendar or anticipating the Super Bowl game the next day. But for 375,000 Americans who used to work in steel mills or shipyards or auto plants or tech firms or retail stores, it meant that the next day was the beginning of one of the most anxious periods in their lives because, for them, this is the first week where there is no income at all. The mortgage payment does not stop. The insurance payments do not stop. The utility bills do not stop. The need to pay the grocery bills does not stop. But the one check that was coming into their house stopped on Saturday. And what the majority is saying is, Have faith, our job creation program will save the day.

For the first time since Herbert Hoover was President, this administration will chalk up more jobs lost than gained in its 4-year term. Have faith. There is this $5.4 billion that is sitting out in the States. Have faith that someone will find a way to use it. I say to my colleagues, that is exactly the point as to why the Miller amendment is needed. The $5.4 billion is sitting there, but the people who have exhausted their unemployment benefits are not eligible to receive it, because under the laws of the plan, they cannot receive any more benefits. Have faith. Their faith is in us to change the law so that they become eligible for those benefits.

Now, there are those who will say, well, they ought to be put back out on the labor market; it will help the economy. It will force down wages if more people flood into the labor market and go to work that way. There are jobs there. Look at the want ads. It is all people have to do.

Mr. Chairman, these are the people that President Bush came to this House and talked about needing a new job training program, because the steel mill they used to work in is not open anymore, and they need to get trained to work in a whole new field that they have no training for. These are the people who worked for the tech boom companies that either do not exist or exist in Asia today, and they need new training. This needs to be more than a faith-based initiative. This is a modest but necessary proposal, to say to people who are out there, trying hard every day to find the next job, that we will provide them with a meager bridge to that future, enough to just hang on so maybe that their next trip is not to the bankruptcy court.

I heard my friend talk about compassionate conservatism. This administration is neither compassionate nor conservative. An administration that is borrowing $30 for every $100 that it spends more is not conservative. And an administration that is turning its back on the 375,000 working Americans who lost their benefits last Saturday sure is not compassionate.

We heard about germaneness, that this bill belongs under a different committee. Well, by all means, let us bring it up under the right committee and vote on the funding. This is the only way, because of the creativity of the gentleman from California (Mr. MILLER), that this bill could be brought to the floor.

Be compassionate, and be conservative. Vote in favor of the Miller amendment.

Mr. BRADY of Texas. Mr. Chairman, I move to strike the requisite number of words.

If you ever wonder why the American people have lost faith in politicians, all you need to do is look at this amendment. It is very disappointing. It is a cynical political stunt that hurts the unemployed in America, and it is shameful.

The fact is, this leadership amendment by our Democratic friends does not extend unemployment benefits to even one American. It does not help even one American. That is because they do not use our unemployment insurance fund, the one we help people with. They say, we will create a new program out of an agency that does not even deal with unemployment. It will take months, years, whatever, to set it up, but we are trying to make a plumber do brain surgery, and we will convince you this will help you. Everyone in this room knows this is false.

One would think if something was important, one would put money toward it, but this amendment does not even have a dollar, not even $1 allocated to back it up. Nowhere in this bill. And I would challenge anyone in this room to just point to the part of the amendment that includes the dollar amount we are going to provide for those who are unemployed.

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The answer is you cannot find it because there is not a dollar, nothing to help the unemployed in this amendment. We know that people have lost jobs, which is why this Congress sent to the States an unprecedented $8 billion to help people who are out of work. Since then, in the 2 years since we have done that, States still have most of that money left, $5.5 billion. Forty-five States still have money left. Most of them have 90 percent of what we sent to help people who are out of work. They have not spent it yet.

The fact of the matter is that people did lose their jobs; Congress responded in a big way. The States have these dollars. And this amendment does nothing to help the unemployed. My thought is the last thing unemployed workers need is a false promise, an empty shelf, an amendment that accomplishes nothing but try to score political points off the backs of those who are unemployed. This is a cynical, political stunt that has no place in this Congress.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to my friend from Texas I would invite him to join as a cosponsor of the bill that I filed along with the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. LEVIN), and the gentleman from California (Mr. GEORGE MILLER) that extends unemployment benefits through the jurisdiction of our committee. But I have not noticed his support for that legislation.

Mr. Chairman, many of my colleagues have asked where is the compassion. My question is where are the jobs. Last month we bragged about the growth of employment and we created 1,000 new jobs. Now, that is one new job for every 8,400 unemployed Americans. And we are surprised that people cannot find jobs in our community; 3 million fewer private sector jobs now than 3 years ago. Many people have given up hope because there are no jobs there.

Now, questions have been asked about can the States not take care of this. After all, we made a retransfer of funds, which we do on regular occasions, in order for the States to have money in their basic programs to help people who are unemployed and can keep a modest tax for unemployment benefits. If, in fact, they spent the $5 billion, which has already been obligated, it would trigger in many of our States tax increases. I do not want to do that.

The Federal unemployment trust fund was established for the purpose that it is a national responsibility in tough economic times to provide extra unemployment benefits to people who cannot find jobs. It is a Federal responsibility, not a State responsibility for good reason in that the economic conditions around the Nation are different. Some States may be able to respond, but it is States that are the hardest hit that need the help from the Federal Government.

That is why we established a Federal unemployment trust account, and we have $20 billion in that fund just for this purpose.

That raises the question why are we using this bill as a vehicle in order to provide unemployment benefits for people who are unemployed. And the reason, quite frankly, is that the majority will not give us any other opportunity. Yes, I would prefer to be speaking on the bill that was filed that uses the funds in the Federal unemployment trust accounts to pay for these benefits.

The gentlewoman from Oregon (Ms. HOOLEY) is on the floor. If my colleagues would sign her discharge on the rule, we will be able to bring that bill up. We are only a few Members short on that. But the majority will not give us that opportunity.

So I congratulate the gentleman from California (Mr. GEORGE MILLER) for giving the membership the opportunity to vote on the issue now. What does this bill do? It follows regular order, the regular rules of this body by establishing an authorization for a program, clear indication to our appropriators that we want it funded, that we believe paying unemployment benefits to unemployed workers, that it is a priority of this Congress, and we want it done now. That is what this vote is about.

Do not try to put a smoke screen up here. We brought this issue to the floor; we have asked for it many times. We now have the chance for a clear vote. And I hope that those who are concerned and believe that we should be helping will vote in favor of it. We have now 90,000 workers exhausting benefits every single week. That is 90,000. This is the highest in the history of our Nation.

A couple of my colleagues have talked about in the 1990s we terminated the unemployment benefit program. Yes, when we had created enough jobs to make up for what was lost; where the exhaustion rate, that is, those who have exhausted State unemployment benefits, was not at an all time level. Today that is the highest levels in the history of keeping those records. The highest levels. We have not returned to the level we were prior to this recession.

The right thing to do is extend the benefits, and this amendment gives us that opportunity.

I heard one of my colleagues talk about, well, the unemployment rate is only 5½ percent. But understand how we calculate that. The last month, 300,000 have given up even looking for jobs because there are no jobs out there. They do not count officially in the numbers. But we know by the exhaustion rate that we are at the highest possible times.

So, Mr. Chairman, I appreciate the arguments of my colleagues; but when it gets right down to it, it is the needs of the people in our districts that are at stake. If you believe we should be taking care of the people who are unemployed, that they need our assistance at this time, vote for the Miller amendment.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent that we limit the remaining time on this amendment and all amendments thereto to 30 minutes equally divided between myself and the gentleman from California (Mr. GEORGE MILLER).

The CHAIRMAN pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I do not believe that members on either side of the aisle are mean spirited. I think the Democratic Presidential candidates are honorable men. But if you watch the debates, they are being pretty mean to each other. And I think on this floor between now and November you are going to see a lot of meanness and partisanship that is going to come across in political rhetoric. That is disconcerting. It is not why we came here.

According to my colleagues on the other side, Republicans do not care about middle-class people. And first of all, there is no such thing as a middle-class person. There may be middle income, but to play the class card I think is wrong. We care about middle-income folks. We have different ways sometimes of getting to them and helping them. But we do care.

I want to tell you that my mother and my father and most of my family on both sides are middle income, and we care about their jobs as well. And there are other things that we can do. But I think the rhetoric that is going on between now and November, I think, the American people are going to tune out.

Do you know how many jobs we lost to fires in California and billions of dollars in homes lost and jobs lost? Well, a lot of those jobs could have been saved, but we have some people that want to save the environment through extreme measures. We wanted to cut brush for the last decade that caused a lot of these fires and the firemen not to keep up. The firemen asked us to put in roads in our forests so they would have access to save those forests, save those jobs, and have a safe route out. We lost 23 firemen; 23 firemen killed. They wish they had jobs and a job opportunity. But they do not because we were not allowed to do that because of environmental movements of many of the Members on this floor. And that is wrong.

How many gnat catchers and endangered species do we have in the moonscape in California right now? Look at it. It looks like a moon. It looks like a desert.

We had a lot of people killed and a lot of jobs lost. And that is wrong. Now, I am not saying it was intentionally done, but for political reasons or whatever it is, there is a lot of ways in which we can come together. But the distance you are going to put between the parties between now and November for this kind of tactic I think is wrong.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I rise today in support of the amendment from my friend, Mr. MILLER, that would extend temporary unemployment benefits for America's unemployed workers.

It is shameful enough that Congress went home during the height of the holiday season and left many unemployed workers with no where to turn. Yet, it's been over a month since these benefits expired. And each week, approximately 80,000 more unemployed workers feel the stinging effects of our inaction.

The Republican leadership will tell you we don't need to extend temporary unemployment benefits because the stock market is up, the economy is rebounding and jobs are being created. Tell that to the half a million unemployed workers who've exhausted their benefits since December 31. The Republican argument simply doesn't pass the laugh test.

In the past five months, this country has seen net job gains of only 56,000. Any only 1,000 jobs were created in December. It is clear from these numbers that whatever economic growth we are experiencing is not translating into jobs.

Mr. Chairman, when this worthwhile program was created, unemployment stood at 5.7 percent and the President's net job loss numbers totaled 2 million.

The latest numbers show that unemployment is still at 5.7 percent, and net job loss has increased to 2.3 million. These numbers tell the true job growth story.

And no amount of economic rhetoric can convince me that America's unemployed workers aren't in need of 13 additional weeks of unemployment benefits.

The American worker needs our help.

I urge my colleagues, let's do right by America's unemployed and pass this crucial amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, I rise in support of the amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I rise in strong support of this amendment.

Mr. Chairman, each week, over 90,000 workers are losing their unemployment benefits. Many of these workers are from my district in East Los Angeles and the San Gabriel Valley, where unemployment remains as high as 10 percent in some areas.

Without a paycheck and without jobless benefits, these workers are struggling to put food on the table. They're looking for jobs, but the jobs aren't there.

Only 1,000 new jobs were created nationwide in December, well below the 300,000 that President Bush had promised his tax cuts would create.

The number of unemployed and without jobless benefits doesn't even include the more than 70,000 grocery workers in Southern California that have been out of work since a labor dispute erupted there more than 4 months ago. These workers are fighting to maintain affordable health care and fair wages. Without a paycheck and without jobless benefits, they, like the long-term unemployed, are struggling to make ends meet.

It's an outrage that Congress left town last December without extending unemployment benefits.

Let's not repeat this mistake. Extend unemployment benefits and support the Miller Amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the committee.

Mr. RANGEL. Mr. Chairman and my colleagues, I rise in support of the Miller amendment, but I am a little surprised that my Republican friends believe that we do this for political reasons and that this is not the place to have political goals in terms of protecting our constituents.

I would be the last one to say that the President of the United States wants to go to war for political reasons. I think it is an interest in steroids when he made this a priority in the State of the Union and was not political, and the fact that he wants to make permanent tax decreases for the rich. All we are trying to do is say that there is a difference between Republicans and Democrats. And we are concerned and will do everything that we can to try to bring some comfort to those people, the 9 million people who are without jobs. It means that they lose self-esteem, they lose the ability to take care of their families, some have lost their homes.

And I think that whether you are a Republican or a Democrat, this should be a priority. It is okay to talk about how the stock market is going, but it gives small comfort to people that have not been able to have respect and dignity and be able to work.

Now, some of my colleagues are saying that the people that we are giving unemployment assistance to, that these people will not be seeking employment. They know that is untrue, and they know they say that, too, for political reasons. But do not make politics such a dirty word.

We had an election where a President received less than the popular vote. There is a reason for it, and we want to make it clear in this House of Representatives, where we are elected, the difference between you and us.

So do not be offended by it because we will be talking about education, about health care, about veterans benefits, about the deficits that you have driven this country into, and we will be talking about a war that we should not be involved in too. So when you say politics, be very kind and put sugar on the words because sometimes your next speaker may have to swallow the very same words that they spoke on this floor.

Mr. BOEHNER. Mr. Chairman, we will reserve the balance of our time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, because of the 125,000 unemployed without employment benefits in Texas, I rise to support the Miller amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, Oregon has had the dubious distinction of being the number one State for unemployment. We lost more than 57,000 jobs. I think people need to be reminded that unemployment benefits do not pay their full salary. This is a bridge from one job to another. And when people go out and cannot find a job, they need that bridge.

I was talking to one woman. She is in her 50s. She has worked her entire life. She was laid off. She has looked for a job every single day. She had to sell her home to be able to support herself and her family. A gentleman just a week ago I was talking to said he is 52; he has got a daughter who is an honors scholar in high school. He would like to see her go to college. Now he is afraid about losing his house and how he is going to support his family.

These benefits are not used for luxury items. They are needed to pay the rent and mortgage, buy food, pay utility bills.

The President has talked about marriage promotion programs costing billions of dollars. But it is scientific fact that poverty and homelessness directly increase the rate of divorce. Therefore, unemployment benefits, which keep families experiencing temporary hardships off the street until they find a job, should be considered the best marriage promotion program of all. Yet these benefits have been ignored by this Congress and this administration.

Some have raised concerns that extending unemployment benefits would bankrupt the system. Yet there is money in the bank to be used only for this purpose. There is not a legitimate argument toward not extending these unemployment benefits. This is a no-brainer. Vote "yes" for this amendment.

Mr. OSBORNE. Mr. Chairman, in the absence of the gentleman from Ohio (Mr. BOEHNER), I recognize myself for 3 minutes.

Mr. Chairman, I have been here all afternoon. I know the chairman of the committee has been here all afternoon. The main reason we have been here is we would like to see H.R. 3030, the Community Service Block Grant Act of 2003, passed.

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I think most people here believe this is a good bill. It does provide needed services. There was a dust-up over the faith-based provision, but I think for the most part people are supportive.

We already have an unemployment compensation system. This amendment creates a new grant program. It creates a second system operated through Health and Human Services instead of the Department of Labor. What this amendment will do, it will certainly confuse consumers. It will splinter resources. It will weaken an already good bill. And furthermore, there is no money to fund the amendment. We would have to go through the appropriations process separately.

The amendment, in addition, is inconsistent with services provided under CSBG provisions. CSBG provides grants to States, not to individuals directly. So we have an entirely new system here and it alters the entire nature of the program.

Lastly, let me say something that is little bit controversial. I do not try to be partisan. I do not try to be controversial, but there are some numbers thrown around here about unemployment and I think that certainly many of those are accurate, many of them are very justified. However, we seldom hear the figures I am going to quote.

During 2003 we went from 137,447,000 jobs in the United States to 138,479,000 jobs, from January 2003 to January 2004. The unemployment rated dropped from 5.8 to 5.7. We would like to see it down at 2 or 3 percent, but it is dropping and it will probably continue to drop. So we feel that some folks that have lost their jobs have become entrepreneurs. Some have gone into business for themselves.

We understand the problems that the other side is trying to address. We simply do not believe this is the vehicle to do it. We would like to see the bill passed. We think that people need it, and we think that it is a well-written bill and I think will command widespread support, but this amendment certainly does not enhance the bill in any way.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Chairman, the majority says "This is not the way" when you stand in the way. You say, the majority, the jobs are the answer, when under your dominion we have lost 3 million jobs in this country. You talk about this being a political ploy. No. What it is is an effort to force your hand, to lose your iron grip on unemployment compensation.

In the 1991-1992 recession, just 10, 12 years ago, the program ended after the creation of 3 million jobs, so people could find a job. Now you have ended this program when there has been a loss of 2 million jobs.

So you say the READ Act. That $8 billion went to the States to pay regular State 26 weeks of benefits, not to extend the benefits program that is the Federal extended benefit program.

So let me just say to every Member here who votes no on this amendment, it will be interpreted appropriately as a vote "no" against the millions of unemployed people in this country, the 375,000 every month who are exhausting their benefits. Vote "yes."

Mr. OSBORNE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Chairman, I rise in strong opposition to this amendment.

Let me first of all thank the gentleman from Nebraska (Mr. OSBORNE) for his work on this very balanced measure that came forward from the committee chaired by the gentleman from Ohio (Mr. BOEHNER). It is a bipartisan measure. I am convinced at the end of this day that this bill itself will enjoy bipartisan support; but I have been told. I have not followed the debate completely, but I have been told that a number of people have been raising concern about the fact that we are not giving the minority an opportunity to have a chance to discuss the issue of unemployment insurance.

Well, I would ask rhetorically, what is it we are doing right now? Obviously, we are considering this measure under an open amendment process, allowing an opportunity for this issue to be addressed. Let me also say that as we look at the overall question of extending unemployment, it seems to me that we need to realize that during the Clinton administration, when we saw an unemployment rate at 6.4 percent in 1994, we saw an end to the benefits that we are talking about right here. In years past, a 6-percent level of unemployment has traditionally been considered full employment.

Now obviously every single one of us is concerned about the fact that there are people in this country who are looking for a job, who have not been able to find a job. We want to do everything that we possibly can to encourage them. We want to do everything that we possibly can to help them. And, quite frankly, the Community Services Block Grant structure that is being put into place and extended through this legislation, I believe will go a long way towards providing assistance to those who truly are in need. But it is very clear, if you look historically at what a constant, blind extension of unemployment insurance often creates, it does in fact create a disincentive for many people who should be looking for job opportunities from doing just that.

I happen to believe that as we look at this measure today, we are in a position where the proposal before us does not even go under the structure that has existed in the past for unemployment insurance. This notion of taking this issue and transferring it to the Department of Health and Human Services I believe is misplaced, and I believe that there should, in fact, be an opportunity for us to take a closer look at this.

We are seeing very positive indicators of improved economic growth. Mr. Chairman, we are seeing very positive indications right now that good jobs are being created. Now, we know that the level has dropped from 6 percent down to 5.7 percent, again, many tenths of a percent below what it was in 1994 when we saw an end under the Clinton administration of these benefits being provided. But we also know that the gauge for determining unemployed is somewhat different. We need to look. I think along with the traditional level of job creation, we need to look at the Household Survey that is conducted by the Department of Labor. The Household Survey itself takes into consideration some very important factors: those who are self-employed. And, quite frankly, according to the Household Survey, since November of 2001 we have seen the creation of 1.9 million new jobs in this country.

Now, I believe there are other steps that can be taken which will help create greater opportunity. The issue of global trade, I know, is a hotly debated and often controversial one. This administration and many of us in a bipartisan way in this Congress are working hard to try to pry open new markets for U.S. goods and services worldwide. I believe that will help us in our quest to address this issue of unemployment that is there.

So we have a great opportunity to continue bold, strong, dynamic economic recovery. This amendment does not help us in that quest at all.

Let me say that I do believe as we look at this issue going down the road, it will be very important for us to sustain the economic growth that is there today. And the establishment of a new program, the establishment of a new program will do nothing but hurt our quest to get this economy going. And so I thank, again, my friend for his leadership and yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Chairman, the chairman of the committee comes out here and says he is confused. I will tell you what to do. Pick up the phone, call the President and tell him if he does not deal with this, he is going to meet it at Election Day.

There are millions of people who are losing their benefits, and what they are getting from this administration is, hey, everything is going well. The stock market is going up. What is the matter with you people? But the Labor Department says, 3 people looking for every job available in this day.

Now, we hear all kinds of dust thrown in the air. There is $5 billion sitting out there somewhere. The fact is that Illinois, Minnesota, Missouri, North Carolina, New York, and Texas are borrowing money in their regular unemployment program. Never mind the extension of benefits. They are borrowing. That is where that $8 billion went before. It is gone. And now you say, well, you know, geez, if things are getting better, now that people are off work, some of them are picking up bottles and they are taking them in and they are getting maybe a tenth of a cent for a can.

Yes, there are a lot of people out there, but the CBO says that when people do not get unemployment benefits, 50 percent of them go into poverty. Fifty percent. That is what our President wants.

Now, wait for those ads that come out in the fall. The compassionate conservative President of the United States said to the unemployed, Why do you not get a pointy stick and pick up garbage in the park or something?

Mr. President, we are looking for you to do something.

Vote "yes" on the Miller amendment.

Mr. Chairman, what has this President, what has this Administration, what has this Congress come to?

Ordinary Americans are being forced to beg for help.

Across this great country, ordinary Americans are drowning in the President's economic policies. They need a lifeline. That's all the extended unemployment benefits program provides.

Today, America faces a soaring budget deficit and a terrifying employment deficit. Average Americans can't find work and can't find compassion from this Administration.

The President wants to extend tax benefits to the rich, but won't extend unemployment benefits for average Americans.

Under this Administration, we've moved from an economy that includes all Americans to an agenda that precludes average Americans.

375,000 workers exhausted unemployment benefits last month, the highest single month number in history. What do we say to these people? Good luck.

In my home state of Washington, 82,000 people will lose all benefits by June. That's on top of the thousands of people who have already exhausted their benefits. What do we say to these people? Well, the stock market is up—what's your problem?

Under President George Bush a dozen years ago, this Congress and that President enacted a temporary federal unemployment program to help workers through the 1990–91 recession. The program lasted almost a full year after the job deficit created in the recession was erased.

Under President George W. Bush, America has a 2.5 million-job deficit, but the extended benefits program ended at Christmas by a President who believes in arrogance, not compassion.

The President and Republican leaders say the economy is growing and nothing needs to be done. Nothing could be further from the truth.

The economic growth that has occurred has been with few jobs and fewer prospects. One thousand jobs nationwide grown in December by the Bush economic debacle.

America needs to grow 175,000 jobs per month, every month, for the next year, just to get back to where we started. Just to shrink America's employment deficit to zero.

Without unemployment benefits while they find a job, the Congressional Budget Office found that almost half of the long-term unemployed would be in poverty. We are forcing Americans into poverty.

What has the President, what has this Administration, what has this Congress come to? I stand here and ask: What would a leader do?

A leader would have the courage to act. Would have the strength to act. Would set aside partisan politics to embrace the common good. And act on behalf of our fellow man.

Americans forced into poverty, crushed by a recession they did not create and struggling to survive—that is America today for too many people from Maine, to Washington, to California.

America needs leaders. This Congress has at least one. My distinguished colleague from California, Mr. GEORGE MILLER, has offered an amendment to extend unemployment benefits.

I ask that we stand together as Americans and unanimously pass this amendment and that the President sign it immediately. Let America have something to believe in. And someone to believe in—the people they elected.

I wonder if the gentleman who just spoke from the state of California knows that an estimated 314,000 residents in his state are likely to exhaust their state unemployment insurance compensation, leaving them and their families without a paycheck or benefits.

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD). Members are reminded to address their remarks to the Chair.

Mr. OSBORNE. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me time.

How can we possibly pass the Community Services Block Grant to aid the poor, and leave the people who are being made poor by the jobless recovery with nothing?

I agree with the gentleman from Arizona who said the remedy for this is jobs. Why do you think we are on the floor? Because this economy has not been forthcoming with jobs. Some of us cosponsored a bill for a $50 billion program for jobs creation, almost all of this in terrorism infrastructure. That never made it to the floor. That was paid for, ready to go, terrorism projects infrastructure. So what are we left with?

We have got to do something for those who do not have the jobs that the economy has not provided. Look, something very different has happened to our economy. This global economy is different. We do not understand it, but we do understand the unemployed. We have got to do something about the long-term unemployed. That is who we are talking about. And the way to do it is to make these benefits available to these people who comprise the largest number of people losing their unemployment in 30 years.

It provides a stimulus to the local community in which they live, where the businesses are going out of business as well because the people do not have jobs. We get 2 bangs for the buck. It is time to make it up to these people whom we left with no benefits when we went home for Christmas.

Mr. OSBORNE. Mr. Chairman, we reserve the balance of our time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, recently I held town hall meetings across the congressional district that I am privileged to represent in Oregon. In Scappoose on Monday night, the first person to speak was a woman who told me that she had been unemployed for a long time. Her benefits had run out. She is terrified of losing her health care. And most galling for an Oregonian, she is thinking about moving to California and taking a job while leaving her children and family behind.

Oregon has a jobless rate of 7.2 percent. Scappoose, located in Columbia County, has an unemployment rate of 10.6 percent. But these are not just naked statistics. Each one of these unemployed people risks losing their car, their home, of being unable to afford college payments or vital health care for their family.

So today we are called upon to show some compassion and extend unemployment benefits. At the end of the same town meeting in Scappoose, a fellow got up and asked, "Who can solve this? Who can make a difference in this?"

He asked a straight question and I gave him a straight answer. If the President of the United States picked up the phone and asked for a straight extension of unemployment benefits, it would happen this week. And I said that before I knew that the Miller amendment would be up for a vote today.

So today I would like to say to the President of the United States, it is time to phone home. It is time to phone home so that you feel the passion, the anger, and the pain of millions of Americans who have been without work for a long time and are now without unemployment benefits.

☐ 1730

I ask for an "aye" vote on the Miller amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I agree with the gentleman from Washington. In my home State of Illinois, it is estimated that in the first half of 2004, 91,928 individuals will have exhausted their benefits, with no relief in sight.

We have heard about the unemployment rate going down, but what we have not heard is the way in which the rate is calculated. The real deal is that there are so many people not even looking for work, who have given up, until that makes it look as though the rate is going down.

The reality is unemployment is sky high. We need relief and we need it now. Vote for the Miller amendment.

Mr. GEORGE MILLER of California. Does the gentleman have any additional speakers?

Mr. OSBORNE. Mr. Chairman, we reserve the balance of our time.

Mr. GEORGE MILLER of California. How much time do we have remaining?

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from California (Mr. GEORGE MILLER) has 4½ minutes remaining.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, we are in incredible denial on the other side of the aisle. Once again, it is not needed, not now, not this way.

Nationwide, 375,000 people will exhaust their unemployment benefits this month. In Oregon, by March, 43,000 will have lost all their benefits. We hear the unemployment rate is dropping. Yeah, the statistic is dropping. We are not creating jobs. People no longer qualify for benefits. Well, they do not count as unemployed anymore.

We heard this extraordinary statement that some have become entrepreneurs, some are the modern day equivalent of selling apples and pencils on the street corner. Yeah, the entrepreneurs in my district are picking up bottles and cans for the five cent deposits, and it is really ironic.

Unlike the tax cuts for the billionaires where we have to borrow money from average working people and the Social Security trust fund to give tax breaks to billionaires, we do not have to borrow money to extend unemployment benefits. Working people have already paid the tax. There is $17 billion in the unemployment trust fund. All we need is for the majority to allow us a vote to authorize spending that money that is on account to help these people in their time of desperation and the President to sign the bill.

Vote "yes."

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, this is an important debate. I appreciate that my colleagues on the Republican side of the aisle do not like this bill being used for this purpose; but let me say to them, this is the only vehicle we have because they will bring us nothing to address the unemployment problem in this country and the loss of unemployment benefits. We are trying. We are trying on this side of the aisle to use any vehicle we have to try to get this Congress to respond to the needs of millions of Americans who are at risk of losing or have already lost their unemployment benefits, millions of middle-class Americans who are working hard, who are about to go in a downward financial spiral that leads to chaos in their families, that leads to bankruptcies, that leads to the loss of assets, millions of working Americans who play by the rules, had a job, worked hard at it, and then through no fault of their own they lost it.

This Congress stands by as 375,000 people lost their benefits in the month of January. We knew it was going to happen. We went home for Christmas. What kind of Christmas did these people have when they knew that their benefits were going to run out? What kind of Christmas did these hard-working families have?

We have heard a lot over the last couple of months about two Americas. This is the other America. This is the America without stock options. This is the America without vacations. This is the America without jobs.

Most of them have worked their whole lives, played by the rules, tried to do it the right way, tried to raise their families: and now all of that is at risk, and we sit with $17 billion in the trust fund, and they say go to the States. The State of Illinois is out of money. The State of Minnesota is out of money. The State of Missouri is out of money. North Carolina is out of money. New York's out of money. Texas is out of money. California's about out of money, and Arkansas is heading in that direction.

My colleagues do not have a solution, go to the States. What a cynical approach. The gentleman from Texas takes the well and says go to the States, and his State with 300,000 people in it is out of money, is out of money. So his answer apparently is nothing for these families.

I do not get it. I just do not get how this happens to people who work all year long, year after year; and then they find out they are closing the factory, they are closing the mill, their job has disappeared. They run out and try to find another job. They cannot find the job. They run from place to place. They send out resumes; they go through retraining. They cannot find a job, and then they run out of unemployment benefits, and they get to go home to their spouse and to their children and say we are going to have to sell the house, we are going to have to sell the car, we have lost our health insurance. What is this Congress for? What is this Congress for if we are not here to try and bridge those people across these troubled waters from unemployment to employment.

I know my colleague is going to say, these people want a job? You bet your buns they want a job. They just do not have one in the Bush economy. They just do not have the opportunity.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, we are debating the Community Services Block Grant reauthorization program that funds the community action agencies in all of our communities to help the poorest of the poor, Meals on Wheels, other coordination of social services, to help those that are very needy. It is a very important program and a program that needs to be reauthorized.

But out of nowhere, at the 11th hour, we get this cynical attempt to talk about extending unemployment benefits. It has no business on this bill. As I said before, this is an authorization. There is no money attached to it; and for goodness sakes, no unemployed worker in America ought to count on anything happening out of this bill because it never will be funded.

The gentleman from California, my good friend and colleague, although we do disagree and we are disagreeing today, knows that this has no chance of becoming law. We are here scoring political points today at the expense of unemployed workers, and I really do think that is a sad use for the U.S. House of Representatives, not that there is never politics played here, but they are not usually played on the backs of the unemployed. I think that is what causes me such distress as I stand here today in opposition to the gentleman's amendment.

Two years ago, when we sent this $8 billion out to the States for unemployment out of the Federal unemployment trust fund, we told the States they could do a number of things with that money. They could increase benefits. They could add additional workers. They could increase the amounts or they could extend unemployment benefits for those whose were expired.

As we have heard in the debate today, 45 States have almost all of the money that we sent them. 45 States; and so the money is there and the States, in my view, are acting to help those people. Why are we here?

Even if this were germane and it were in order, the money would go out to the States. The same States that already have the money, would they really help any more unemployed workers? The States ought to get off their rear ends and help those who need help. We know there are people out there whose benefits have run out, and those State legislators and those Governors ought to step up to the plate and use the money we sent them out of the Federal unemployment trust fund to help them.

In the meantime and back to this debate, this amendment does not deserve to be here. This amendment does not deserve our vote. I will not vote in a cynical way to try to tell unemployed workers we are going to extend their benefits when I know, when I know that this bill will never be funded, and this program, even if it were funded, would take years and years to actually implement the extension of benefits for these workers. It is not fair to them, and playing politics on the backs of unemployed Americans is beneath the dignity of this institution.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Miller-Woolsey amendment to H.R. 3030 which ensures that Federal funds will not be used to support discrimination in hiring and I commend the authors for sponsoring it.

Mr. Chairman, I support and have always supported faith based organizations. They have played a major role in the delivery of social services in our country, in particular those who have been a part of the Congressional Black Caucus's Minority AIDS Initiative.

But what the White House and the Republicans are trying to do is relinquish government responsibility for the safety nets that millions of people rely on. More importantly, under cover of supporting the work of our faith-based institutions, they are attempting to unravel our civil rights by writing into the bill the right to discriminate.

Mr. Chairman, we need to call this egregious hand that they are trying to deal to the American public and say no to weakening our safety nets and a big no to discrimination.

Is there no shame?

Mrs. JONES of Ohio. Mr. Chairman, I rise to encourage my colleagues to extend unemployment insurance benefits for 6 months in an effort to prevent over 2 million workers from losing benefits. With the ending of the Federal Temporary Extended Unemployment Compensation (TEUC) program, jobless workers whose regular, state-funded unemployment insurance benefits run out before they can find a job no longer qualify for any federal unemployment aid.

Mr. Chairman, Congress rejected calls for a benefits extension before the December holidays, and job growth has since remained anemic. The previous unemployment insurance extension expired on December 20. Roughly 375,000 people exhausted their benefits in

January, the largest number in a single month in 30 years, and these individuals are receiving neither a paycheck nor unemployment benefits.

According to an analysis of government data from the Center on Budget and Policy Priorities, nearly 2 million unemployed workers are expected to be in this situation during the first 6 months of 2004. The Center on Budget and Policy Priorities also projected that 2 million people will exhaust their benefits between January and June, a record for any 6-month period for which data are available, if benefits are not extended.

In no other month on record—and in no other 6-month period for which data are available—have so many unemployed workers exhausted their regular unemployment benefits without being able to receive additional aid. The unemployment rate is currently 6 percent in Ohio. In my congressional district, in the city of Cleveland, the unemployment rate is 13.1 percent—57,191 Ohioans are scheduled to lose their benefits over the next 6 months.

Dear Colleagues, how do you recommend I inform my constituents that Congress decided not to extend unemployment benefits? I ask my colleagues to join me and support the Democratic substitute.

The Democratic substitute provides for continued participation by faith-based organizations in Community Services Block Grant programs, but prohibits religious discrimination with Federal funds. Colleagues, Congress has worked to eliminate discrimination since 1964 through the enactment of Title VII of the Civil Rights Act of 1964, that prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment.

How dare we, Members of Congress, allow legislation that will discriminate against anyone come before the House floor. Have we forgotten what Title VII of the Civil Rights Act of 1964 prohibits under religious discrimination: My history reflects working toward the Dream that Dr. Martin Luther King had that, "one day this nation will rise up and live out the true meaning of its creed: We hold these truths to be self-evident: that all men are created equal." My work history exemplifies working toward bringing all races together for employment, education, and religious beliefs. I have worked with the U.S. Equal Employment Opportunity Commission. I will also remind all of you that under Title VII of the Civil Rights Act of 1964 for religious discrimination:

Employers may not treat employees or applicants less—or more—favorably because of their religious beliefs or practices. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.

Employees cannot be forced to participate—or not participate—in a religious activity as a condition of employment.

Employers must reasonably accommodate employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion.

Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers and modifying workplace practices, policies and/or procedures are examples of how an employer might accommodate an employee's religious beliefs.

An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employers' legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes coworkers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expression at work, unless the religious expression would impose an undue hardship on the employer. Therefore, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on religion or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under title VII.

It is vital that Congress authorizes additional funds under Community Services Block Grants to be used to pay for a 6-month extension of unemployment benefits. Benefits paid under Community Services Block Grants that will be modeled after the Unemployment Insurance program that expired for workers exhausting regular unemployment benefits after the week of December 20, 2003.

Mr. Speaker, I ask my colleagues to join me and support the Democratic substitute, and vote to provide continued participation by faith-based organizations in Community Services Block Grant (CSBG) programs, but prohibits religious discrimination with Federal funds.

Mr. LANGEVIN. Mr. Chairman, in my home State of Rhode Island, and throughout the country, Community Services Block Grant (CSBG) funds play a critical role in food and clothing assistance for low-income families, access to quality child care and other programs to help families and individuals achieve self-sufficiency and find and retain meaningful employment. Support from such programs makes it possible for many adults to overcome the challenges of poverty, return to the workforce, provide for their children, and keep their families together.

Because I believe in the mission of the CSBG, to combat poverty in meaningful, measurable ways, I strongly support the amendment offered by Representative GEORGE MILLER to H.R. 3030. The Miller amendment, which would authorize a 6-month extension of unemployment benefits, promotes the antipoverty mission of the CSBG. Rhode Island's unemployment rate is near a 7-year high, and thousands of jobs have been lost over the last 3 years. I have heard from many of my constituents who have lost their regular unemployment benefits and are on the verge of selling their car or home just to provide food for their families. The President proclaimed that the economy is improving, but the paltry 1,000 jobs created in December 2003 are not nearly enough to keep up with those who wish to enter the job market. Until real job creation occurs, we must help those who wish to enter the job market. Until real job creation occurs, we must help those that are left behind by providing additional unemployment benefits.

Finally, I urge my colleagues to preserve these critical programs as we reauthorize the CSBG and to guarantee that employees of CSBG-funded organizations are not subject to employment discrimination. The Woolsey amendment will allow religious organizations to continue to participate equally in CSBG programs, while ensuring that organizations receiving these Federal funds do not engage in employment discrimination based on religion. I urge my colleagues to support the Woolsey amendment and recognize that discrimination in hiring in federal funded programs is fundamentally wrong.

Mr. HOLT. Mr. Chairman, on behalf of these Americans, who are constituents, our neighbors, and the people who have entrusted us with the care of our Nation, it is essential that we renew their unemployment benefits, and it is essential that we do it now.

Middle-class Americans cannot sustain the American dream while not receiving any income for 3 or 4 months, or even longer. We owe them this continued assistance until this economy can provide them with jobs they desperately want again.

An estimated 375,000 unemployed individuals are exhausting their regular unemployment benefits in January without qualifying for any further assistance—and are receiving neither a paycheck or unemployment benefits.

In New Jersey, the 99,000 unemployed workers expected to exhaust their regular benefits without being able to receive further assistance will be the second highest on record for the months of January through June.

Mr. Chairman, the Congress must make the plight of middle-class America its number one concern. Without the temporary extension of unemployment benefits under TEUC, Americans will continue to struggle to pay the bills in this still-weak job market.

By extending the unemployment benefits for an additional 6 months, it will grant more time for unemployed Americans to find new jobs. While experts could explain various aspects about the business and economic cycles and how companies will begin hiring again in the future, this does not solve the present problem of how bread winners are going to pay bills and how food is going to get into the stomachs of children so that when they go to school, their day is spent learning and not focusing on the pain in their gut.

Mr. Chairman, the American public needs the Miller amendment so I ask my colleagues to pass the Miller amendment.

Mr. DAVIS of Illinois. Mr. Chairman, in my home State of Illinois, it is estimated that in the first half of 2004, 91,928 individuals will have exhausted their benefits and will not qualify for additional aid. This places Illinois along side of nine other States as reaching the second highest on record for the number of unemployed workers expected to exhaust their regular benefits without being able to receive further assistance. We all have heard the news of the unemployment rate going down—but unlike the paper it is printed on, the unemployment rate is not clear as black and white but hazy and has a lot of gray. According to the Illinois Department of Employment Security, the Illinois unemployment rate dropped in December from 6.8 to 6.4 percent with the number of unemployed declining by 20,800. However, as the Illinois Department states, the declines in both the number of unemployed and the unemployment rate were largely due to people who just stopped looking for work and therefore not counted as unemployed. Even according to the U.S. Department of Labor, as unemployment declined from October 2003 to December of 2003 by 8,797 to 8,398 unemployed individuals, the number of individuals considered not in the labor force grew from October 2003 to December 2003 by 75,147 to 75,631.

Our real concern and focus should be on who is unemployed and on the growing number of individuals that are not in the workforce and are no longer looking for employment. In Illinois, the group of individuals unemployed and no longer looking for employment jumped by 15 percent between the third quarters of 2000 and 2002. Men accounted for a third of those counted as not currently employed along with a 20-percent increase in no longer seeking employment. Men are also on unemployment for a longer period of time. From the third quarter of 2000 to the third quarter of 2002, the duration of unemployment grew by more than 75 percent or from 7 weeks to just under 13 weeks. The racial minorities are also finding themselves unemployed for a longer period of time. The average unemployment period for African Americans in Illinois rose by more than 50 percent of 4.6 weeks. African Americans are dramatically unemployed more so than any other ethnic group. According to the Department of Labor, in December 2003, 10.3 percent of all unemployed workers were African Americans compared to 6.6 percent of Hispanic workers and 5 percent of White workers.

Mr. Speaker, thousands of Americans have already exhausted their benefits and approximately 2 million unemployed workers will exhaust their benefits in the next 6 months. To fully stimulate this economy, we must ensure we are assisting not the few at the top but the masses of workers, who keep this country moving. I am in full support of the Miller amendment to authorize additional funds under CSBG to be used to pay for a 6-month extension of unemployment benefits. Instead of contributing to our economy by buying school supplies, paying rent or a mortgage or going out to dinner, without this amendment and without an extension of unemployment benefits more of our constituents will be forced into poverty with the chance of losing their home, having no food to eat, no new shoes for their children, no way to pay for a doctor let alone over the counter medications and the list continues. The old saying remains clear—we either pay for it now—or we pay more for it later. I urge all my colleagues to support the Miller amendment.

Ms. MAJETTE. Mr. Chairman, I rise today on behalf of the over 51,000 Georgians who have exhausted their regular unemployment benefits and still can't find a job. We must extend unemployment benefits for these Georgians and the estimated 2 million workers nationwide who will exhaust their benefits in the next 6 months. We must extend these benefits until the administration starts taking job creation seriously.

The administration's policies are not creating jobs and there is no plan to create jobs either. The Bush administration has presided over the worst job-loss record in half a century—we have lost almost 2.4 million jobs since Bush took office—and yet this Congress and the President are denying that jobless Americans even exist. That is unacceptable.

These Americans have worked hard and paid into the system, but now they are unemployed and they need a safety net for a few more weeks. Until we start creating jobs, we must show compassion for these hard-working Americans who lost their jobs through no fault of their own during the economic downturn.

My colleagues on the other side of the aisle continue to say that this unemployment extension is unnecessary because the Gross Domestic Product is back on the rise these days, and the stock market has turned the corner. The stock market rise might be helping the wealthy who benefit from Bush's tax cut, but it is not helping the over 51,000 Georgians who can't find a job.

These economic indicators are good news, but this has been a jobless recovery. Last month only 1,000 new jobs were created in this country. Until this economy starts creating jobs—and lots of them, these economic indicators don't mean a thing. These Americans need jobs—and until then, they need unemployment insurance.

These hard-working Americans expect and deserve our help. During past recessions, Congress habitually extended unemployment insurance until there were enough jobs to make it unnecessary. The numbers speak for themselves. There just aren't enough jobs—and until there are enough jobs, we need to meet our obligation to these workers and their families.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 179, not voting 27, as follows:

[Roll No. 18]

AYES—227

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burns
Burr
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Green (TX)
Green (WI)
Grijalva
Harman
Hastings (FL)
Hayes
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Lampson
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pomeroy
Price (NC)
Quinn
Rangel
Reyes
Rodriguez
Rogers (MI)
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—179

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)

Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Graves
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Manzullo
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Vitter
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—27

Brown-Waite, Ginny
Calvert
Conyers
Culberson
DeGette
Dicks
Gephardt
Goss
Granger
Gutierrez
Kucinich
Langevin
Linder
Lipinski
Lucas (OK)
McCarthy (MO)
McCrery
McHugh
McInnis
Millender-McDonald
Napolitano
Ortiz
Pascrell
Rahall
Ruppersberger
Smith (WA)
Watson

### ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD) (during the vote). There are 2 minutes remaining in this vote.

☐ 1805

Messrs. ROTHMAN, GOODE, JONES of North Carolina, BURNS, TAYLOR of North Carolina, NEY, FOSSELLA, TURNER of Ohio, SAXTON, SHAYS, MURPHY, WELDON of Pennsylvania, and Mrs. EMERSON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY. Mr. Chairman, on rollcall No. 18, I was unavoidably detained. Had I been present, I would have voted "yes."

Mr. McHUGH. Mr. Chairman, due to the need for me to be out of town on official Committee business, I missed the following vote taken during consideration of H.R. 3030, Improving the Community Services Block Grant Act. Had I been present, I would have voted as follows: Rollcall No. 18, the Miller amendment on unemployment compensation: "yes."

Stated against:

Mr. GOSS. Mr. Chairman, this evening I had to depart early for a previously scheduled meeting. As a result, I was not able to be present for rollcall vote 18. Had I been present, I would have voted "no" on rollcall vote 18.

### PERSONAL EXPLANATION

Mr. PASCRELL. Mr. Chairman, on February 4, 2004, I was not able to be in attendance during rollcall votes 15 through 18. I have deep concerns about H.R. 3030 which would permit organizations that receive public funds to discriminate in hiring based on religion. Had I been in attendance, I would have voted "yes" for rollcall vote 15, "yes" for rollcall vote 16, "yes" for rollcall vote 17, and "yes" for rollcall vote 18.

The CHAIRMAN pro tempore (Mr. LAHOOD). Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements, pursuant to House Resolution 513, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3030, Improving the Community Services Block Grant Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3030, IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

Mr. McKEON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3030, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2169

Mr. SANDERS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2169.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the majority leader the schedule for the House next week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour debates and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday, the House will convene at 10 a.m. We plan to consider the Senate amendment to H.R. 743, the Social Security Protection Act. In addition, we plan to consider H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act and a short extension of the highway program as well. The current extension expires at the end of February, so we must consider a short-term extension while we are working actively on TEA–LU.

Finally, I would like to remind all Members that we do not plan to have votes on Friday, February 13. I will be happy to answer any questions.

Mr. HOYER. Mr. Speaker, I thank the gentleman for the information he has given to the Members and for the schedule.

Mr. Leader, you indicate there will be a short-term extension of the highway reauthorization bill scheduled for next week. Can you tell us as to when the full reauthorization, the permanent reauthorization, will be ready for consideration on the floor?

Mr. DELAY. Mr. Speaker, I think that the committee should be prepared to mark up this very important legislation very shortly after the Presidents' Day district work period. The 4-month extension that we are talking about doing next week should not in any way indicate that we want to postpone the completion of this very important bill until June. The 4-month extension that we are talking about is simply to give highway administrators, especially in the northern States, the predictability that they need to let contracts for the spring and summer construction season.

In discussions with the chairman of the Committee on Transportation and Infrastructure, he informs me that he is working as hard as he can to get the TEA–LU bill up as quickly as possible. And once they get it marked up, it goes through the Committee on Ways and Means. After that, we will bring it to the floor as quickly as possible.

□ 1815

Mr. HOYER. I thank the gentleman for those comments. To reiterate, the extension will be until May 30 or 31?

Mr. DELAY. I have not seen the actual language. That is being consulted with your side. The last I was advised, it would probably be June 30.

Mr. HOYER. I thank the gentleman for that information.

For Members' planning purposes, does the gentleman expect to have votes next Thursday? I know we have it on the schedule, but I am wondering whether or not the leader has any insight into whether or not we will need next Thursday or not.

Mr. DELAY. We do not have a busy week on the floor for next week, but at this point we are inclined to work through Thursday, not through Thursday but at least Thursday morning to early afternoon. This will give committees an opportunity to hold hearings and get some markups completed so we will have legislation ready for the end of February and through March. But I do not expect to have a long day Thursday.

Mr. HOYER. Unemployment insurance, as the gentleman knows, has been a real concern, I think, of all of ours but particularly we have raised this issue in terms of the extension. When Congress adjourned last year, it failed to extend, as the gentleman knows, the emergency unemployment compensation program which left 90,000 American workers and their families every week, which now is approximately 375,000 workers by the end of last month, in the lurch, off of unemployment benefits.

We have just passed, in my perspective at least, a very significant amendment which will give some hope and relief to these folks whose families have lost at least some type of floor for their maintenance of their families, the purchase of food and payment of rent and mortgages and things of that nature. I know we just passed it, but I would be very interested in whether the leader has any thoughts as to whether or not it would be possible to accelerate this matter so that we could get it back here so that we could give relief to these families that we have been talking about for many months.

Mr. DELAY. My friend considers that amendment a very significant amendment. I have a different point of view. As the gentleman is surely aware, the provision that he refers to that just passed is a completely new, unfunded program in a new agency with no experience or competence to handle this issue. Frankly, it was a very clever political stunt and I have to hand it to the gentleman, but if you look at the substance of this, I cannot imagine any member of the conference committee actually voting to allow that to come out of conference.

I would remind the gentleman that the unemployment rate today is lower than it was when President Clinton and a Democrat-controlled Congress cut off extended unemployment benefits, and in my opinion the way to help the working class is not to grow the government but to grow the economy and create jobs.

Mr. HOYER. Reclaiming my time, and I appreciate the leader's observation of my cleverness or the cleverness at least of the gentleman from California (Mr. GEORGE MILLER) and our side of the aisle. The most clever thing, though, that we did was to get 229 people in the House of Representatives to say, we need to give relief to these folks who have lost their unemployment insurance. That was the most clever. The gentleman did not vote on that side of the proposition, I understand that, but 229 Members did, Republicans and Democrats. I would respectfully suggest to the leader that his observation may be correct, that the way in which this was done, because the rules required us to do it this way, may not be the best way to do it. There is a best way to do it and it can be done immediately, hopefully even by unanimous consent; simply extend, as we have been requesting for the last 4 months, to extend unemployment benefits so that these folks, these 375,000 who have lost their unemployment benefits, would be covered. The gentleman and I may agree. This may not be the best way to do it. It may have been a clever way, as the gentleman observes, for us to get this issue up, but as I say, the more clever thing was to get 229 Members of the House, a majority of the House, to say that we ought to be doing this.

Mr. DELAY. If the gentleman will yield, he did not use all of my quote. I said it was a clever political stunt. Members do vote sometimes, without questioning anybody's motive, do vote for political reasons or whatever reason they may. But the truth still remains, and our side of the aisle feels very strongly that it is more important to provide jobs than unemployment. We understand the gentleman's point of view. We respect his point of view. We have a different point of view. If this was a substantive amendment that had real teeth in it, I do not think the vote would have been the same.

Mr. HOYER. Reclaiming my time, apparently the leader believes the 39 Republicans who voted for it voted for it as a political maneuver. I do not think that is the case. I do not think it was a political stunt.

Mr. DELAY. That is not what I said.

Mr. HOYER. There were 39 Republicans who joined over 190 Democrats to say that we need to give unemployment insurance to those families who have lost it. To assert that that was a political stunt, with all due respect, Mr. Leader, is incorrect. It was a conviction, a belief, strongly held, long advocated, that we give relief to those who have lost their unemployment insurance benefits, just as it has been our belief for a long period of time that we give that child tax credit to those 6.5 million families, those 12 million children, those 200,000 service personnel who are not covered by the child tax credit.

Mr. DELAY. If the gentleman will yield, I have to correct the gentleman. He says a long-held belief. I do not understand what the gentleman's definition of "long-held belief" is. When his party was in control in 1993 and the unemployment figures were higher than they are now, the economy was not as good as it is now, his party brought to this floor the cutting off of long-term unemployment benefits. Yet now when the economy is even better, when the unemployment rate is almost to full employment, the gentleman feels very strongly, and it is not for politics, I am sure, very strongly that now we have to extend. So long-held beliefs are in the eyes of the beholder.

Mr. HOYER. Reclaiming my time, surely the majority leader jests. Surely the majority leader knows that Secretary Snow said that the administration was going to create 200,000 jobs per month. Surely the gentleman knows that last month the economy created, in December, the last month we have figures for, 1,000 jobs. That is one-half of a percent of the performance that the Secretary of Treasury said was going to be accomplished, 1,000 out of 200,000. Surely the gentleman knows that during the time period in which he talks, the Clinton years, the 8 years, 22 million jobs were created. This administration has lost 2.5 million jobs over the last 3½ years.

Mr. Speaker, there is a commitment on this side of the aisle. There was the commitment in the Reagan recession, there was a commitment in the first Bush recession to extend. In fact, as the leader must know, we extended unemployment benefits more frequently with Democratic votes in the Reagan administration and in the first Bush administration than we have done in this recession, with Democratic not only support but leadership on those extensions. With all due respect, Mr. Leader, I would say that the assertion that somehow that Democrats are not for extending unemployment benefits when we have families in trouble is simply inaccurate.

I would be glad to yield to the gentleman.

Mr. DeLAY. I appreciate the gentleman yielding to me. It is not inaccurate to state that in 1993, before the Clinton administration took credit for an economy that was created by a Republican Congress, the Democrat-controlled House cut off extended benefits. The gentleman knows that we can use figures all over the place. The gentleman is right, only 1,000 jobs were created in December, but it was very interesting to note that 146,000 long-term unemployed went off the rolls and went to work in December alone. The trends are that jobs are going up, the trends are that unemployment is going down, that jobs are being available and the long-term unemployed will be able to find jobs.

Mr. HOYER. Reclaiming my time, Mr. Leader, I want to make this comment. I make it as an interesting comment, that during the Clinton years, the gentleman claims that it was the Republicans who created those jobs. Is it not ironic, Mr. Leader, that the Republicans cannot do that when they not only have the House, the Senate, but also the Presidency? Could it be that perhaps the difference was President Clinton? Because with total control, as your friend Dick Armey noticed last time, you own the town and have for the last 3 years. Is it not ironic that you claim credit for doing it before but you cannot do it now?

Mr. DeLAY. I lived this history. I very much remember that the Balanced Budget Act of 1996 and 1997 was vetoed twice by President Clinton and then signed by President Clinton with very little changes. The restraint on spending through the whole process, the Welfare Reform Act that was vetoed two or three times if I remember, all of the issues that actually got to the President's desk in those years were resisted by the President while he took credit after he signed it for everything, including the economy.

Then we find ourselves coming into a new administration when the recession started in the old administration, and this administration was saddled with a recession as it came in and did exactly what needed to be done, along with the Republican House and Senate and, that is, give the types of tax relief and economic policies that now we see are working and a growing economy that the American people are experiencing, not the economy described by the other side of the aisle. Unemployment is going down, jobs are going up, people are finding jobs. I see no reason to extend after 26 weeks unemployment benefits.

Mr. HOYER. Reclaiming my time. I know that the leader believes that. He has said it before. He has voted that way. We understand that. There is very little confusion.

I noted that by the President's own admission when he spoke to the House and the Senate, he was saddled with a $5.6 trillion surplus. He has successfully turned that into a $4 trillion deficit, an almost $10 trillion turnaround the wrong way. So in terms of being saddled, Mr. Leader, the recession, by the admission of the administration, was over some many months ago and we still find ourselves in a place where not only do we have 2.5 million people unemployed but we have some 3 million people who are discouraged and are no longer on the rolls because they are no longer seeking employment.

I guess we could go on all night on this. We have a different view. But I really believe and would hope, as we did in the child tax credit, that we could certainly pass an extension to take care of those 375,000 people who have lost their unemployment insurance over the last 3 months.

## ADJOURNMENT TO FRIDAY, FEBRUARY 6, 2004

Mr. DeLAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Friday, February 6, 2004.

The SPEAKER pro tempore (Mr. RENZI). Is there objection to the request of the gentleman from Texas?

There was no objection.

## ADJOURNMENT FROM FRIDAY, FEBRUARY 6, 2004 TO TUESDAY, FEBRUARY 10, 2004

Mr. DeLAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, February 6, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, February 10 for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DeLAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1830

## RECOGNIZING ACCOMPLISHMENTS OF UNIVERSITY OF SOUTHERN CALIFORNIA'S FOOTBALL, WOMEN'S VOLLEYBALL, AND MEN'S WATER POLO TEAMS

Mr. McKEON. Mr. Speaker, pursuant to the order of the House of February 3, 2004, and as the designee of the majority leader, I call up the resolution (H. Res. 511) recognizing the accomplishments of the University of Southern California's football, women's volleyball, and men's water polo teams, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 511 is as follows:

H. RES. 511

Whereas the USC football team went 12–1 overall, its best record since 1978;

Whereas the USC football team won its second consecutive Pac-10 title;

Whereas five USC football players were selected as first team All-Americans;

Whereas nine USC football players were selected to the All-Pac-10 first team;

Whereas USC won the Rose Bowl, its 21st Rose Bowl victory;

Whereas USC scored at least 20 points in its last 26 games (a school record), had a stretch of 11 consecutive 30 point games (also a school mark) and 7 straight 40 point contests (a Pac-10 record), and scored 534 points during the season (also a Pac-10 record);

Whereas USC won the Associated Press national championship, its ninth national title, and first in 25 years;

Whereas USC women's volleyball team finished the season with an undefeated record of 35–0;

Whereas USC women's volleyball team won its last 47 matches, an NCAA record;

Whereas USC's women's volleyball team won its 6th national championship;

Whereas this year's USC's women's volleyball team is considered to be one of the greatest teams to have played the sport;

Whereas USC men's water polo team had a 24–3 record;

Whereas USC men's water polo team won its second-ever NCAA title;

Whereas 3 USC water polo team members were selected as first team All-Americans;

Whereas Coach Pete Carroll, USC football, Coach Mick Haley, USC women's volleyball, and Coach Jovan Vavick, USC men's water polo, each were honored as National Coach of the Year in their respective sports; and

Whereas in the span of less than 30 days, USC's football, women's volleyball, and men's water polo teams brought home national championships, the first time ever that USC won 3 national titles in the fall season: Now, therefore be it

*Resolved*, That the House of Representatives recognizes and congratulates the University of Southern California's football, women's volleyball, and men's water polo teams for their superior achievements.

The SPEAKER pro tempore (Mr. RENZI). Pursuant to the order of the House of Tuesday, February 3, 2004, the gentleman from California (Mr. MCKEON) is recognized for 1 hour.

### GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 511.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 511, which would recognize the accomplishments of the University of Southern California's football. women's volleyball, and men's water polo teams. I want to thank my colleague and friend, the gentlewoman from California (Ms. WATSON), for introducing this important resolution.

Mr. Speaker. Los Angeles was little more than a frontier town in 1880 when the University of Southern California first opened its doors to 53 students and 10 teachers. Then. Los Angeles still lacked paved streets, electric lights, telephones, and a reliable fire alarm system. Today, USC is located at the heart of one of the biggest metropolises in the world and is home to nearly 30,000 students and 3,800 faculty.

The central mission of the University of Southern California is the development of human beings and society as a whole, through the cultivation and enrichment of the human mind and spirit. USC has worked to accomplish this mission through teaching, research, artistic creation, professional practice, and public service. As a result, USC has become world-renowned in the fields of communication and multimedia technologies, has received national acclaim for its innovative community, and has solidified its status as one of the Nation's leading research institutions. It is the largest private employer in the City of Los Angeles, and USC physicians serve more than 1 million patients each year.

Today, the House of Representatives is recognizing another exceptional facet of the University of Southern California, its world-class sports program.

House Resolution 511 is a resolution that recognizes the accomplishments of the University of Southern California's football. women's volleyball, and men's water polo teams.

This past year, the USC Trojans football team only lost one game, which was its best record since 1978; won its second consecutive Pac-10 title; won the Rose Bowl; and won the Associated Press national football championship, the University's ninth national football championship.

The USC women's volleyball team finished the season without a single loss. with a record of 35 victories and no defeats; won its last 47 matches, which is an NCAA record; won its sixth national championship; and is considered to be one of the greatest teams to have played the sport.

The USC men's water polo team finished the season with a record of 24 victories with only three losses and won its second NCAA national championship.

In addition, football coach Pete Carroll, women's volleyball coach Mick Haley, and water polo coach Jovan Vavick each were honored as National Coach of the Year in their respective sports.

That is why, today, the House is considering House Resolution 511, so we can congratulate the significant achievements of the University of Southern California's football, women's volleyball. and men's water polo teams. Their hard work and dedication to their respective sports is admirable and deserves to be recognized by the House of Representatives.

I congratulate the University of Southern California for their incredible victories and ask my colleagues to join me in recognizing their championship teams.

Ms. WATSON. Mr. Speaker, it is with great pride that I rise in support of House Resolution 511, which recognizes the accomplishments of the University of Southern California's 2002–2003 football, women's volleyball, and men's water polo teams.

The University of Southern California is a cornerstone of California's 33rd Congressional District. This institution is a magnet for diverse people and ideas, attracting students from all 50 States and more than 100 foreign countries. In fact, USC is ranked as one of the most diverse private research universities in the Nation. As an educator, I am inspired by USC's commitment to academic excellence. The university's dedication to the highest standards is also reflected in its sports programs, which consistently produce some of the best student-athletes in the nation.

Mr. Speaker, today I rise to honor the first three teams in USC's history to win championships in the same fall season. Incredibly, all three squads also feature coaches who are National Coach of the Year honorees.

The USC Trojan football team has shown unique skill, charisma, dedication and love for the sport. The Trojans accumulated a 12–1 record while competing against some of the best programs in the country. The football team secured its second consecutive Pac-10 title, won the Rose Bowl, its 21st Rose Bowl win, and was awarded the national championship by the Associated Press, its ninth national title, and first in 25 years. Five USC football players were selected as first team All-Americans and nine team members were selected to the All-Pac-10 first team. Football coach Pete Carroll also received two more national championship trophies from the Football Writers Association of America (The Grantland Rice Trophy) and The Sporting News.

The Women of Troy volleyball team capped an undefeated (35–0) season to capture its second consecutive NCAA crown, the first time in the history of USC women's volleyball, and its sixth national championship. The team also became the first repeat champion to go undefeated. Many consider this year's women's volleyball team to be one of the greatest teams to have played the game.

The USC men's water polo team, with a 24–3 record, won its second-ever NCAA title. Three of the water polo team members were selected as first team All-Americans.

Mr. Speaker, I congratulate USC President Steven Sample, Athletic Director Mike Garrett, Coach Pete Carroll, USC football, Coach Mick Haley, USC women's volleyball, and Coach Jovan Vavick, USC men's water polo, for a season to remember.

Mr. MCKEON. Mr. Speaker. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Tuesday, February 3, 2004, the resolution is considered read for amendment and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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## CONGRATULATING GRAND VALLEY STATE UNIVERSITY LAKERS FOOTBALL TEAM FOR WINNING 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION II FOOTBALL NATIONAL CHAMPIONSHIP

Mr. HOEKSTRA. Mr. Speaker, pursuant to the order of the House of February 3, 2004, and as the designee of the majority leader. I call up the resolution (H. Res. 498) congratulating the Grand Valley State University Lakers football team for winning the 2003 National Collegiate Athletic Association Division II Football National Championship, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 498 is as follows:

### H. RES. 498

Whereas on December 13, 2003, the Grand Valley State University Lakers football team won the 2003 National Collegiate Athletic Association (NCAA) Division II Football National Championship by defeating the University of North Dakota Fighting Sioux by a score of 10 to 3;

Whereas the 2003 Championship was the Lakers' second consecutive national title and third straight championship game appearance;

Whereas the Lakers are only the sixth team in NCAA Division II football history to win consecutive national titles;

Whereas the Lakers finished the season with a record of 14 wins and 1 loss;

Whereas the Lakers have compiled a total of 41 wins and 2 losses over the last three years;

Whereas 14 members of the Lakers football team earned All-Great Lakes Intercollegiate Athletic Conference honors, 8 of whom were selected to the first team;

Whereas Lakers football team members Scott Mackey, Keyonta Marshall, David Hendrix, Michael Tennessee, and Lucius Hawkins were honored as All-Americans for the 2003 season by the Internet website D2Football.com;

Whereas the Lakers set a Great Lakes Intercollegiate Athletic Conference single-season record for attendance, drawing 52,225 total fans in the 2003 season;

Whereas the Lakers won their 240th game in school history with their victory in the 2003 championship game; and

Whereas the Lakers' display of strength, ability, and perseverance this season has made the State of Michigan proud: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates the Grand Valley State University Lakers football team for winning the 2003 National Collegiate Athletic Association Division II Football National Championship;

(2) recognizes the achievements of the players, coaches, and staff of the Lakers football team and invites them to the United States Capitol to be honored in an appropriate manner;

(3) requests that the President recognize the accomplishments of the Lakers football team and invite the team to the White House for a ceremony in honor of their National Championship; and

(4) directs the Clerk of the House of Representatives to transmit a copy of this resolution to Grand Valley State University for appropriate display.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 1 hour.

### GENERAL LEAVE

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to congratulate the Grand Valley State University Lakers football team who, on December 3, 2003, defended their NCAA Division II national football championship by defeating the University of North Dakota Fighting Sioux 10 to 3.

The 2003 national champions fought through the playoffs with a tight defense that limited its final three playoff opponents to a field goal each. The title match-up was a close, dramatic contest that pitted the 14 and 1 GVSU Lakers against the 12 and 2 Fighting Sioux. Ultimately, the Lakers emerged victorious after intercepting North Dakota in the shadow of their own end zone with 20 seconds remaining in the fourth quarter, spoiling a last-minute, come-from-behind attempt.

Grand Valley State picked up its 240th win in school history with a victory over the Fighting Sioux. Before a national audience, Grand Valley State University avenged its heartbreaking 17-14 loss to the same Fighting Sioux in the 2001 title match-up.

Finally, I would like to congratulate the students, alumni, faculty, and nearly 5,000 fans of Grand Valley State who trekked to Braly Municipal Stadium in Florence, Alabama, to cheer on their Lakers during a cold and rain-soaked afternoon.

Mr. Speaker, I will include for the RECORD the full roster of this national championship team and their coaching staff.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in support of H. Res. 498, to honor the players, coaches, and staff of the Grand Valley State University football team, which won its second consecutive NCAA Division II national championship on December 13, 2003.

Rising to the top of one's field of endeavor, whatever that endeavor is, is an accomplishment worthy of praise in and of itself. However, repeating that accomplishment is an even more difficult achievement. When you attempt to maintain that top spot, everyone else has you in their sights. You are the focus of their efforts to wrest the trophy from your grasp. That is what makes the achievements of the 2003 Lakers football squad all the more impressive.

Coach Brian Kelly and his staff led their squad of young men through a difficult nonconference and conference schedule, then marched through the playoffs to face the University of North Dakota in the NCAA Division II championship game, a game they lost to the University of North Dakota just 2 years previously.

This time, the Lakers, led by All-American selections Scott Mackey, Keyonta Marshall, David Hendrix, Michael Tennessee and Lucius Hawkins, defeated the Fighting Sioux 10 to 3, to complete what arguably could be called the most successful 3-year run for a college football team in the State of Michigan. GVSU has rolled up a 41–2 record in three seasons, reaching the national championship game each year and winning the championship twice.

Congratulations to the players, the coaches and staff, the students and the faculty of Grand Valley State University. This jewel of a school, with campuses in Allendale in the district of the gentleman from Michigan (Mr. HOEKSTRA), and Grand Rapids in my district, is a wonderful institution, not only for its athletic achievements, but also for its academic pursuits. Its contributions to the West Michigan community are too many and too far-reaching to enumerate here today, but we commend University President Mark Murray and the Grand Valley State University Board of Trustees for providing stellar leadership for this wonderful public institution.

Mr. HOEKSTRA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Tuesday, February 3, 2004, the resolution is considered read for amendment and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## CONGRATULATING UNIVERSITY OF DELAWARE MEN'S FOOTBALL TEAM FOR WINNING NATIONAL COLLEGIATE ATHLETIC ASSOCIATION I-AA NATIONAL CHAMPIONSHIP

Mr. CASTLE. Mr. Speaker, pursuant to the order of the House of February 3, 2004, and as the designee of the majority leader, I call up the concurrent resolution (H. Con. Res. 355) congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I-AA national championship, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The text of House Concurrent Resolution 355 is as follows:

### H. CON. RES. 355

Whereas on Friday, December 19, 2003, the University of Delaware Blue Hens men's football team won its sixth national title;

Whereas the University of Delaware won the championship game by defeating the Colgate University 40–0;

Whereas the Blue Hens swept through the Division I-AA playoffs, outscoring opponents by a combined score 149-23 in victories over Southern Illinois, Northern Iowa, and Wofford;

Whereas the Blue Hens captured their seventh Atlantic 10 Football Conference title, were named winners of the Lambert Cup as the top team in the East for the 18th time and were named Eastern College Athletic Conference (ECAC) Team of the Year for the 10th time;

Whereas the University of Delaware team was led by co-captains Mike Adams and Jason Nerys and All-American quarterback Andy Hall;

Whereas the roster of the University of Delaware team also included Dominic Santoli, Germaine Bennett, G.J. Crescione, Roger Brown, Antwan Jenkins, David Boler, Brian Ingram, Justin Long, Ryan McDermond, Ryan Carty, T.J. DiMuzio, Zach Thomas, Terry Kelly, Brad Michael, Dave Camburn, Joe Bleymaier, Mike Weber, Ryan Trask, Brad Shushman, Sean Bleiler, Leon Clarke, Brent Steinmetz, Ben Cross, Lawrence Jones, Jamie Rotonda, Nicos Chivis, Lonnie Starks, Drew Kisner, Kyle Campbell, Jeremy Kametz, Jeffrey Robinson, Maguell Davis, Bryan Tingle, Lou Samba, Andy Snapp, Anthony Cinelli, Niquan Lee, John Nauss, Rashaad Woodard, John Mulhern, KeiAndre Hepburn, Kevin Pulley, Sidney Haugabrook, Dominic Madigan, Antoinie

McClure, Jeffrey Thompson, Blake Anderson, Mark Moore, Craig Browne, Marquez Davis, Nick Iarrobino, Mike Buchman, Mondoe Davis, Andrew Wilson, Marco Kristen, George Potts, Mike Bingnear, Mark Ciavirella, Greg Benson, Brett Wharton, Brendon Morfe, Rich Beverley, Tom Parks, Chris Edwards, Scott Conley, Chris Korkuch, Trip DelCampo, Brian Sims, Jared Wray, Paul Thompson, Bobby Delacy, Joe Cordrey, Jesse O'Neill, Brian Jennings, Vince Mumford, Michael Taylor, Steve Selk, Rick Lavelle, Richard Washington, Nat Bell, Chris Mooney, Shawn Johnson, Bubba Jespersen, Sean Sweeney, and Randall James;

Whereas second-year head coach K.C. Keeler enjoyed one of the most outstanding seasons in college football by setting a school record for wins in a season with a mark of 15–1;

Whereas Coach Keeler and his coaching staff, including Kirk Ciarrocca, Dave Cohen, Bryan Bossard, Kyle Flood, Paul Williams, Rob Neviaser, Rick Brown, Brian Ginn, Craig Cummings, Frank Law, Brandon Walker, Mike Marks, Russell Barbarino, Dr. Vincent Disabella, Keith Handling, Joan Couch, deserve much credit for the outstanding determination and accomplishments of their young team;

Whereas fans across the State of Delaware have supported the team over the course of the season and more than 6000 Delawareans traveled to Tennessee to watch the championship game;

Whereas the Blue Hen football program encompasses all the facets of university life, including growth of character, academic involvement, campus involvement, and graduation; and

Whereas the students, alumni, faculty, and supporters of the University of Delaware are to be congratulated for their commitment and pride in their national champion men's football team: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) congratulates the University of Delaware men's football team for winning the 2003 National Collegiate Athletic Association Division I-AA football national championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff;

(3) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to the University of Delaware for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 National Collegiate Athletic Association Division I-AA men's football national championship team.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the gentleman from Delaware (Mr. CASTLE) is recognized for 1 hour.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 355.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I rise today to pay tribute to some very impressive Delaware athletes, the University of Delaware Fighting Blue Hens football team, which on December 19, 2003, beat Colgate University to win the NCAA Division I-AA national championship at Max Finley Stadium in Chattanooga, Tennessee. As I was there, I can tell you it was about 28 degrees and blowing and snowing during the entire game.

This was the first national championship for the University of Delaware since 1979 and its very first in Division I-AA.

Throughout the season, the Blue Hen team impressed, inspired, and awed Delawareans by their dedication, hard work, and immense talent. In my opinion, this was a perfect ending to an absolutely stellar season, led by head coach K.C. Keller and his fine group of athletes. Each and every person who contributed to this win deserves to be recognized, obviously the coaching staff led by Coach Keller and all the others for their leadership and encouragement of these athletes. And, of course, the players who worked so very hard as a team, inspiring each other to reach the goal they set for themselves.

There are so many really great players on the team, so many great coaches, and the same is true of this whole division of I-AA football, and particularly the University of Delaware football team. I know all Delawareans join me, because I know all Delawareans follow this football team and join me in congratulating them on what they have done.

The families and friends, who come from as far as California and other places in the country to follow the team, also deserve a tremendous amount of credit. As one who attended practically every home game, the Navy game, when they beat Navy, and a few other games even away, I will tell you that it was a wonderful season of great significance to the people of my small State and to the wonderful University of Delaware.

And they won by big scores, Mr. Speaker. It almost looks like a dynasty in the making, by much bigger scores than anything else we have seen in the course of this year. For that reason, we have great hopes for next year and into the future for this great heartwarming experience of the University of Delaware Fighting Blue Hens football team.

Mr. Speaker, I urge swift passage of H. Con. Res. 355.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday February 3, 2004, the concurrent resolution is considered read for amendment and the previous question is ordered.

The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## COMMENDING WAKE FOREST UNIVERSITY DEMON DEACONS FIELD HOCKEY TEAM FOR WINNING 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I FIELD HOCKEY CHAMPIONSHIP

Mr. BURR. Mr. Speaker, pursuant to the order of the House of February 3, 2004, and as the designee of the majority leader, I call up the resolution (H. Res. 497) commending the Wake Forest University Demon Deacons field hockey team for winning the 2003 National Collegiate Athletic Association Division I Field Hockey Championship, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 497 is as follows:

H. RES. 497

Whereas on November 23, 2003, the Wake Forest University Demon Deacons field hockey team won the 2003 National Collegiate Athletic Association (NCAA) Division I Field Hockey Championship, the second consecutive National Championship for the Wake Forest University field hockey team;

Whereas the Demon Deacons defeated the Duke University Blue Devils by a score of 3 to 1 in the 2003 Championship match in Amherst, Massachusetts;

Whereas the Demon Deacons defeated the Pennsylvania State University Nittany Lions by a score of 2 to 0 in the 2002 NCAA Championship match in Louisville, Kentucky;

Whereas the Demon Deacons are only the third team in NCAA Division I Field Hockey history to win back-to-back National Championships;

Whereas the Demon Deacons began and ended the year as the number one ranked college field hockey team in the Nation;

Whereas the Demon Deacons finished the season with a record of 22 wins and 1 loss, outscoring their opponents 96 to 13 and winning 95 percent of their games, achieving the best record in the Nation and in Wake Forest University history;

Whereas the field hockey team is the only team in the history of Wake Forest University athletics to win the Atlantic Coast Conference regular season and tournament championships and the NCAA Championship in the same year, accomplishing the feat in both the 2001–02 and 2002–03 seasons;

Whereas Wake Forest University field hockey team members Kelly Dostal, Kelly Doton, Katie Ridd, and Lucy Shaw were honored as All-Americans for the 2002–03 season by the National Field Hockey Coaches Association;

Whereas the Wake Forest University field hockey team had more members honored as All-Americans than any other collegiate field hockey team in the Nation;

Whereas Head Coach Jennifer Averill was named the Field Hockey Coach of the Year for 2002 and 2003 by the National Field Hockey Coaches Association;

Whereas the Wake Forest University field hockey team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving collegiate field hockey's highest honor; and

Whereas the Demon Deacons have brought pride and honor to the Wake Forest University community and to the State of North Carolina: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commends the Wake Forest University Demon Deacons field hockey team for winning the 2003 National Collegiate Athletic Association (NCAA) Division I Field Hockey Championship;

(2) recognizes the achievements of all the field hockey team's players, coaches, and staff and invites them to the United States Capitol to be honored in an appropriate manner;

(3) requests that the President recognize the field hockey team's accomplishments and invite the team to the White House for a ceremony in honor of their National Championship; and

(4) directs the Clerk of the House of Representatives to make available a copy of this resolution to Wake Forest University for appropriate display.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the gentleman from North Carolina (Mr. BURR) is recognized for 1 hour.

GENERAL LEAVE

Mr. BURR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 497.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BURR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a proud alumni and as a former athlete of Wake Forest University, it is my privilege to bring before this House this resolution.

On November 23, 2003, the Wake Forest University field hockey team won the NCAA Division I–A field hockey championship by a score of 3 to 1 over the Duke Blue Devils. Having also won the 2002 championship, the Lady Deacons became only the third school in Division I history to have won back-to-back championships.

The team was led by 2002 and 2003 Coach of the Year, Jennifer Averill, and 2003 All-Americans Kelly Dostal, Kelly Doton, Katie Ridd, and Lucy Shaw.

□ 1845

The Deacons started and finished the season ranked number one by the National Field Hockey Coaches Association. They outscored their opponents 96 to 13, and they finished the year with a record of 22 and 1. The seniors finished their careers with an overall 88 and 12 record, 2 NCAA championships, 4 final-4 appearances, and 2 ACC championships. The team won the 2003 ACC regular season, ACC tournament, and the NCAA tournament, only the second time any athletic team at Wake Forest has achieved such an accomplishment. The only other team in school history that shares its distinction with last year's field hockey team was in fact the famous golf team of Jay Haas, Curtis Strange, and Lanny Wadkins who won back-to-back NCAA championships for Wake Forest.

Mr. Speaker, this resolution is but one of many awards and accolades these young ladies will receive this year. As true student athletes, though, they will all receive the most valuable award after completing their studies: a degree from one of the most prestigious and respected universities in the country.

I want to also congratulate the athletic director, Ron Wellman, and the school president, Tom Hearn, and the entire Wake Forest community and wish the field hockey team the best of luck as they seek their third consecutive title next fall.

Mr. Speaker, before I relinquish my time, since we will in a few minutes acknowledge the great success of the New England Patriots and their victory in the Super Bowl, let me take this opportunity to say as a football fan and as a Carolina Panthers fan that I congratulate the Patriots, and I also think that for football fans across this country, regardless of their allegiance, it was one of, if not the best, Super Bowls in history.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BURR. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding. As the Member who has the honor of representing the district in which the Patriots play their home games, I very much appreciate, as I know the team does, the graciousness of the gentleman's remarks.

Mr. OLVER. Mr. Speaker, western Massachusetts has long been known to all in the sport of field hockey as a place to look for the rising stars of the game. Wake Forest University was lucky to get two of our best, Kelly Doton of Greenfield and Kelly Dostal of Hatfield.

I have no doubt that the successes both Kelly Doton and Kelly Dostal accomplished at Greenfield High School and Smith Academy paved their way for winning the NCAA Division I Field Hockey Championship. Their contributions to the Wake Forest team earned them both All-American honors.

In December, the United States National Field Hockey Association named Kelly Doton National Player of the Year. This award came after an exceptional career at Wake Forest that included being named to the NCAA All-Tournament team four consecutive years and receiving the ACC Player of the Year award for 2002 and 2003.

Kelly Dostal has enjoyed similar success at Wake Forest. The Hatfield, MA, native was the country's leading field hockey scorer this past season. Kelly is also the youngest player to have ever been named to the U.S. National Team. There is no doubt that Kelly will continue her long list of accomplishments in her last season this fall.

I extend my congratulations to both Kelly Doton and Kelly Dostal for their individual and team accomplishments. Greenfield, Hatfield, and all of the First District of Massachusetts are proud of their acomplishments.

Mr. BURR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RENZI). Pursuant to the order of the House of Tuesday, February 3, 2004, the resolution is considered as read for amendment and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## CONGRATULATING ST. JOHN'S UNIVERSITY ON WINNING THE 2003 NCAA DIVISION III FOOTBALL NATIONAL CHAMPIONSHIP

Mr. KENNEDY of Minnesota. Mr. Speaker, pursuant to the order of the House of February 3, 2004, and as the designee of the majority leader, I call up the resolution (H. Res. 493) congratulating the St. John's University, Collegeville, Minnesota, football team on winning the 2003 NCAA Division III Football National Championship, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The text of House Resolution 493 is as follows:

H. RES. 493

Whereas St. John's University defeated Mount Union College of Alliance, Ohio, by a score of 24-6 in the 2003 Amos Alonzo Stagg Bowl on Saturday, December 20, 2003;

Whereas St. John's finished the season 14–0 and is the winningest football program all-time in Division III at 508–213–24 in their 93 seasons;

Whereas this is St. John's first national championship since 1976 and fourth in school history;

Whereas this football championship capped a season in which St. John's Coach John Gagliardi became the all-time winningest football coach in NCAA history;

Whereas Blake Elliott, St. John's senior wide receiver, was the recipient of the 2003 Gagliardi trophy as the outstanding Division III college football player;

Whereas the St. John's University Johnnies snapped Mount Union's NCAA-record 55-game winning streak in the championship game; and

Whereas three chartered planes full of loyal St. John's fans were among the 5,073 people who watched the Stagg Bowl in the freezing cold of Salem, Virginia, and many more watched the nationally televised game: Now, therefore, be it

*Resolved*, That the United States House of Representatives congratulates the St. John's University, Collegeville, Minnesota, football team on winning the 2003 NCAA Division III Football National Championship.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3 of 2004, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 1 hour.

Mr. KENNEDY of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to honor and congratulate the St. John's University football team from Collegeville, Minnesota on their NCAA Division III National Championship.

The Johnnies were underdogs in the championship game against Mount Union College of Alliance, Ohio on December 20, 2003, because Mount Union entered the game with an NCAA record, a 55-game winning streak, and had won 109 of their 110 previous games.

But as senior wide receiver Blake Elliott, winner of the Gagliardi Trophy said, all it took was 52 guys believing, and believe they did, and so did the other players, students, professors, monks, alums like myself and my family, and proud parents in Minnesota scattered throughout the country and on that frigid field in Virginia.

The Johnnies put on quite a show for the fans of all ages. For the 3 chartered planes full of St. John's faithful who braved the Minnesota-like weather on the East Coast and the many more watching on nationally televised TV, St. John's put on a great game. They finished a perfect 14 and 0 season with a 24–6 victory in the 2003 Amos Alonzo Stagg Bowl, the Division III championship game. This team victory capped off a season that also saw Coach John Gagliardi become the all-time winningest football coach in NCAA history, earning him a trip to the White House. This is St. John's fourth national championship in school history, and highlights the tradition that has brought national attention to St. John's and its partner school, the College of St. Benedict in west central Minnesota. They are both exceptional liberal arts schools with a proud Catholic Benedictine tradition.

I am proud to have been able to have followed closely each of the last two St. John's championship seasons. I was a student for the most recent championship in 1976 and now am proud to represent St. John's in my congressional district. As an alum and a fan of St. John's football, I try to make as many games as possible. The alums, professors, monks, local fans, and students alike watched the Johnnies play football in the recently renovated Clemens Stadium, set in a beautiful natural bowl that seats about 5,000 fans; although many more attend the games, like the 13,000 fans that attended the game against Bethel College to break the all-time coach and win record, as anybody who comes to the stadium can get in.

The St. John's tradition is woven into these games, which can become more of a reunion than a mere football game, where fathers and grandfathers who played for St. John's come to watch their sons and grandsons play. Before the game begins, the St. John's men's chorus sings the National Anthem and the Johnny Fight Song, and all former men's chorus singers, including me, get a chance to come down and join in. Every player that goes out for the football team dresses for home games and the sidelines are filled with over 150 players. John Gagliardi joked to me that St. John's is the only team that gets penalties for having 2 players with the same number on the field at the same time, because John plays everyone he can.

But the tradition at St. John's goes well beyond the football team. It extends to the classrooms and to the monastery. Players are expected to be student athletes and many of them go on to success in a wide variety of their chosen careers. In fact, during John's 51 years coaching at St. John's, no player has failed to graduate, and most do so in 4 years.

Student life at St. John's is intertwined with the monastery life, as many of the resident directors and the professors are monks living at the on-campus monastery. Monks attend the games and are said to, on more than one occasion, tell the coaching staff that if the players just get the ball close enough, they will pray it in. This partnership shows the camaraderie, team spirit, and drive that leads to the success that is alive and the students that play football for St. John's year after year, and it is one we celebrate here today.

Therefore, I once again congratulate the players, coaches, parents, and all of those associated with St. John's on the team's national championship and encourage the House to pass this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the resolution is considered as read for amendment and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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## CONGRATULATING THE NEW ENGLAND PATRIOTS FOR WINNING SUPER BOWL XXXVIII

Mr. BRADLEY of New Hampshire. Mr. Speaker, pursuant to the unanimous consent request of February 3, 2004, I call up the Resolution (H. Res. 512) congratulating the New England Patriots for winning Super Bowl XXXVIII, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The text of House Resolution 512 is as follows:

### H. RES. 512

Whereas, on February 1, 2004, at Reliant Stadium in Houston, Texas, the New England Patriots defeated the Carolina Panthers 32–29 in Super Bowl XXXVIII;

Whereas this victory is the second world championship for the Patriots in the last three years, the first being a 20–17 victory over the St. Louis Rams in Super Bowl XXXVI;

Whereas the Patriots' victory over the Panthers is the fifteenth straight victory for New England, setting franchise records for consecutive wins and most wins in a season;

Whereas Coach Bill Belichick, stressing teamwork and determination, led his players to the best record in the National Football League through the regular season with a 11–2 mark;

Whereas the Patriots' ability to win despite serious injuries is a testament to the coaching staff and the team's desire to once again hoist the Lombardi Trophy;

Whereas quarterback Tom Brady was selected as the Super Bowl's Most Valuable Player for the second time, becoming the youngest quarterback to win two Super Bowls and two Super Bowl MVP awards; and

Whereas all of New England is proud of the accomplishments of the entire Patriots organization and the dedication of the ever faithful New England fans throughout the 2003–2004 NFL season. Now, therefore, be it

*Resolved*, That the House of Representatives commends the World Champion New England Patriots for their extraordinary victory in Super Bowl XXXVIII.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the gentleman from New Hampshire (Mr. BRADLEY) is recognized for 1 hour.

Mr. BRADLEY of New Hampshire. Mr. Speaker, before I yield myself such time as I may consume, for purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I thank my colleague and friend from New Hampshire for his graciousness in yielding to me, and I yield myself such time as I may consume. I am glad to be along with him and many of our colleagues from New England cosponsoring this resolution congratulating the New England Patriots on their second Super Bowl title in 3 years.

I have said this before, Mr. Speaker. In the profession which we have chosen and are lucky enough to have had some success in, we sometimes find ourselves being blamed for things that are not our fault. But those occasions are offset by those times when we can bathe in entirely unearned glory.

The New England Patriots, as they now are, are an excellent team that did a superb job, well coached; they dealt with injuries, they held together, compiled a superb record. And those who represent New England in Congress get to stand up here and bathe in their glory. I am grateful to them for winning the championship and for the fact that we can do that.

I do not think politicians ought to insinuate ourselves into professional sports. It has been my experience that at professional sports events, the needed ones are the fans. So we are not trying to do that. What we are doing jointly is to pay our respects to a group of very dedicated, hardworking young men.

Let us be clear. To do what any professional football team does, particularly to do what the Patriots do, requires a degree of discipline and dedication and willingness to do hard physical work in very adverse weather conditions. They are very well coached. The ownership of the team deserves credit.

I will make just one political point. I am very proud to note that the stadium in which they won so many of their games and from which they went out to win the Super Bowl championship, in the town of Foxborough, Massachusetts that I represent, was not built with public money. This is an indication that there is no need to go to the taxpayers to get money to build public stadiums. There is an ability to do that when a team is well-run and well-managed and well-owned by private capital.

So I really want just again to say how proud the people, not just of the town of Foxborough or my district or northern Massachusetts are, but all over New England, as my colleague from New Hampshire makes clear, because as the team is the New England Patriots, we had to import somebody from New Hampshire, because Massachusetts is incapable at this point just technically of bipartisanship on our own. But I really appreciate the gentleman from New Hampshire's cooperation, and congratulations to the New England Patriots for doing an important thing so well.

Mr. Speaker, I yield back the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from Massachusetts (Mr. FRANK) for sponsoring this resolution saluting the New England Patriots in their second Super Bowl championship in the last 3 years, and I yield myself such time as I may consume.

It is indeed an honor to be able to stand here tonight, Mr. Speaker, and talk not only as a fan but as a person from New England about what it means to our region to be able to salute these New England Patriots. We are always grateful in New England, having rooted for the Red Sox for so long and witnessed so many heartbreaking seasons, for well-coached, well-run, well-organized teams that win and bring home the ring.

So many individuals need to be saluted, but it is important to note that when we talk about the New England Patriots, we talk about teamwork. We talk about cooperation. We talk about individuals in high-profile positions subverting themselves to the greater good of the team, and that has always been the history of this team that had to recover from injuries, that had to recover from the loss of major free agents at the beginning of the season and still, despite those setbacks, were able to win.

But it is also important for us to note several individuals that have made not only this season possible, but others in the past. It starts with the ownership of the New England Patriots. Mr. Bob Kraft and his sons have just done a tremendous job bringing back first-class football to New England and keeping the franchise in Massachusetts. And were it not for the Kraft ownership and all of the things that they have done to make this possible, we would not be seeing that success today.

The coaching staff led by Bill Belichick has done just a stupendous job of putting together unique individuals and making the team function as something that is greater than the sum of all of the parts.

But Bill Belichick cannot do it by himself. He has a tremendous staff in the front office all the way down to the trainers and the people that work in public relations. From the top to bottom, the Patriots' organization is a tremendously well-run organization. The players are, bar none, the best team in the league. And when Adam Vinatieri kicked that field goal, even though he had missed 2 already that afternoon, you knew that he was going to kick the third one and that we would win again.

□ 1900

Also, in need of being saluted are long time announcers Gil Santos and Gino Cappelletti, the voices of the New England Patriots who for many, many years kept the faith alive.

And perhaps the most important people that need to be celebrated are the fans of New England who have never given up on their team not only this year but for the last several years and braved the coldest of cold weather, the snowiest of snowy days, and were outnumbering the Carolina fans in Houston last week by 100 to 1.

But as we celebrate the Patriots, let us also not forget the fine teams that they beat all year, starting with the Carolina Panthers who no one gave a chance to be successful in the Super Bowl last week who played a tremendous game. It was one of the greatest games in the history of the National Football League.

The Patriots also beat two other fine teams in the playoffs: the Indianapolis Colts and the Tennessee Titans and had a tremendous regular season where they won 12 in a row and then three playoff games. Hopefully, we will continue this next year and do it one game at a time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I thank the gentleman from New Hampshire (Mr. BRADLEY) for yielding. And when I was over at my office and you were praising the fans who had braved the cold weather those two playoff games, I said he must be talking about me. I have been a season ticket holder since 1986. So I wanted to come to the floor and join you in giving credit to this outstanding organization.

And the interesting thing about it is when Robert Kraft and his family bought this franchise, they were literally headed to St. Louis. In fact, the Kraft family could have made a lot of money simply by allowing a group of investors from St. Louis to buy out his interest in the stadium and in the contract that the team had with the stadium at that time.

I also want to congratulate the Kraft family for the outstanding organization that they have set up, and also Coach Belichick. It is interesting there are a lot of people that criticize Bob Kraft, who went out and gave up draft choices in order to get Bill Belichick away from the New York Jets. And a lot of my colleagues who were Jets fans thought they had gotten a great deal because they got draft choices.

And Bill Belichick has done an outstanding job in terms of fostering team work. This is a team that gets introduced before games as a team. I think all of us see in professional sports a lot of things that we do not necessarily like, the sort of "me generation" of individuals getting all the credit. That does not happen on this team. And I think that sports leagues across America could learn a lot by looking at the success of this team, the fact that so few players made the Pro Bowl.

And, finally, the individual players on that team, starting with their quarterback, they exemplify the best. I know I had an opportunity to be at the White House when Tom Brady was there. A lot of people thought it was a political thing. It was not a political thing. The Patriots players contribute to the community. They are involved in the community day in and day out. And I was proud that Tom Brady was here that evening for the State of the Union.

And I am looking at next year. As my colleague acknowledged, we have two picks in the first round, two picks in the second round, one pick in third round, and two picks in the fourth round. It seems to me that we have the opportunity to have a top-notch team each and every year.

I probably have more information that we could go on. But I am glad that this resolution is before the House.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield myself such time as I may consume and thank my colleague from Massachusetts (Mr. MEEHAN) for giving that wonderful description of the Patriots and the fact that he was one of the brave 70,000 people that braved well below zero weather to root on the Patriots against the Tennessee Titans.

Once again, Mr. Speaker, one of the greatest games in Super Bowl history. We all from New England, fans, everyone all across the spectrum of New England salute our Patriots.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I want to make the point that one of the reasons why I was able to brave the cold weather was because I was wearing Malden Mills Polar Tec, which is a great product that you and I have worked together to try to help that company. That is why I was so warm during those games because I had Malden Mills Polar Tec, manufactured right in Lawrence, Massachusetts.

Mr. BRADLEY of New Hampshire. Mr. Speaker, he is very right. I wear it all the time as I climb 4,000-foot mountains. I urge passage of this resolution.

Mr. McGOVERN. Mr. Speaker, I would like to thank the gentleman from Massachusetts, Mr. FRANK, and the gentleman from New Hampshire, Mr. BRADLEY, for bringing this resolution honoring the New England Patriots for their Superbowl victory to the floor today.

Mr. Speaker, I want to offer my own congratulations to the Patriots for winning Superbowl XXXVIII, their 2nd championship in 3 years. The team has come together again this year, and proven to us that they truly are World Champions.

While some around the Nation may know of our quarterback, Tom Brady, the majority of players on our team are not the superstars found in other cities across the country. However, we in New England know Troy Brown, Tedy Bruschi and Ty Law, not just for their individual accomplishments but for what they are a part of—a team.

Mr. Speaker, Coach Bill Belichick said it best when he reminded the faithful fans that the players "gave up a little of their individuality" for the greater goal. "That's what they did, and that's why they're champions." They have demonstrated to us and the rest of the world that winning a title isn't about statistics and breaking records, but instead about team work and focus.

In addition to the Patriots' coaches and players, the team is guided by a terrific management team. Robert and Jonathan Kraft have worked tirelessly to build a strong organization and they also deserve praise today.

I want to thank each and every player and coach on the team for showing their fans, the country and the world, that old-fashioned teamwork comes out ahead. Congratulations to the New England Patriots and to their fans.

Mr. LANTOS. Mr. Speaker, I am delighted to rise in support of H. Res. 512, congratulating the New England Patriots for winning Super Bowl XXXVIII. The Patriots victory is again cause for celebration on both coasts as fans in San Mateo, California and the San Francisco Peninsula join in celebrating native son Tom Brady, the MVP Quarterback for the Super Bowl champion Patriots.

Under the glaring lights of Reliant Stadium in Houston, and before an estimated worldwide audience of one billion viewers, Tommy Brady, as he is known in San Mateo, showed the remarkable poise and the expert leadership that his teammates and Patriot fans have come to expect. He calmly guided his team down the field toward Super Bowl victory in what may have been the greatest Super Bowl of all time.

In fact, during the game's final drive, with the game tied, and under what must have been great pressure, Tom Brady rose to the task by completing four out of five passes to set up the game-winning field goal.

Mr. Speaker, I am delighted to support this legislation as well as to pay tribute to Tom Brady, who from his days of flag football on Portola Drive in San Mateo, to the fields at Juniperro Serra High, to the University of Michigan, to the National Football League and being named Most Valuable Player of Super Bowl XXXVI and XXXVIII, has always played with confidence and charisma and found success at every level. It is obvious from watching Tom Brady play that he truly loves the game of football. He always smiles, and his enthusiasm and confidence is infectious to his team. As one of his wide receivers said, "You can't say enough about that kid. He has a tremendous amount of confidence, and it rubs off on everyone else."

Now, only 26 years of age, and the youngest quarterback to have two Super Bowl MVP awards and two Super Bowl Championship rings, fans around the league anxiously await his future accomplishments. His stellar performances as well as uncanny ability to guide his teams to come from behind victories has reminded many of another quarterback with Bay area ties, former San Francisco 49er and Hall of Famer, Joe Montana.

On behalf of the city of San Mateo and football fans everywhere, I wish him continued success in his already remarkable career and strongly urge my colleagues to vote in favor of H. Res. 512.

Mr. OLVER. Mr. Speaker, on Sunday, February 1st, the New England Patriots won their second Super Bowl in 3 years. The Patriots' season was a testament to teamwork, dedication, and determination in the face of adversity. Bouncing back from an opening day loss, the Patriots came together to put forth a season that will be remembered as one of the greatest in New England history.

At no time in the season did any member of the Patriots profess to be more important than any other, and at no point did the loyal fans' support wane, even in the harshest conditions. The New England Patriots are a shining example of all that is good in sports: teamwork, sacrifice, and humility. They are deserving champions, and I am proud to join my New England colleagues in co-sponsoring this resolution honoring the Super Bowl XXXVIII Champion New England Patriots.

Mr. CAPUANO. Mr. Speaker, I rise today to offer my enthusiastic congratulations to the New England Patriots, Super Bowl Champions for the second time in three years.

When the Patriots celebrated their first Super Bowl title in team history two years ago, the excitement that we all experienced was unparalleled. This year, with the team's second victory, we may have surpassed the joy of that first win. I think every New Englander was filled with pride yesterday, as a crowd of over 1.5 million fans turned out in chilly temperatures to fill the streets of Boston. We watched the fans on City Hall Plaza cheer as the Patriots, led by their team owner Bob Kraft, gifted Head Coach Bill Belichick, and players now known on a first name basis—such as Tom, Ty, and Adam—took to the stage.

These fans were cheering more than just a Super Bowl victory. This team of New England Patriots exemplified hard work, determination, and humility. They worked together as a team above all else, and respected all of their opponents, regardless of their records. It was this dedication that led to their amazing streak of 15 straight wins, the longest winning streak in the NFL in more than 30 years. Throughout it all, they had a keen awareness of what their quest meant to the fans of New England who have supported them through the good years and bad ones. They were a source of joy, hope, and inspiration. We admire the Pats for their achievements and look forward to win number three.

Mr. LANGEVIN. Mr. Speaker, I rise today to congratulate the New England Patriots on their thrilling victory in Super Bowl XXXVIII. In a season of tremendous adversity marked by difficult early-season losses and numerous injuries, this team displayed the values of hardwork and determination that so epitomize the region from which they hail. After beginning their season with a heart-breaking defeat at the hands of the intra-division rival Buffalo Bills, the Patriots went on to win all but one of their next fifteen games, including a franchise-record twelve-game winning streak. Ignoring the seemingly relentless skeptics, the Patriots defeated a hard-nosed Tennessee Titan team and halted the high-octane Indianapolis Colts to gain a spot on the world's biggest stage in Super Bowl XXXVIII.

One again relying on the leadership of quarterback Tom Brady and the steady foot of kicker Adam Vinatieri for last-second heroics, the Patriots defeated a stubborn Carolina Panther team to earn their second Super Bowl victory in the past three years. Abiding by the values of teamwork and perseverance instilled by head coach Bill Belichick, the New England Patriots are an example to all Americans of what it means to be a true champion. In addition, I would particularly like to congratulate Mike Cloud, a resident of Rhode Island, on being part of a team that makes all of New England proud.

I hope our colleagues will join me in congratulating the Super Bowl champion New England Patriots.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, February 3, 2004, the resolution is considered read for amendment and previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## OVERTIME REGULATIONS AND VETERANS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, as one of the chairmen of the two labor committees here in the House and as a veteran, I am here to denounce an effort by Big Labor to scare our Nation's veterans and service men and women into thinking the Department of Labor is out to take away their overtime. The Department of Labor is working on revisions to the regulations governing overtime pay. These regulations would provide 1.3 million more Americans with overtime and help millions of hard-working people in this country.

Let me be absolutely clear, the Department of Labor's proposed overtime regulations do not apply to the military, and nothing in existing law or the proposed regulations suggest that being a veteran would have any effect on overtime pay. It is a sad day indeed when the men and women of our forces are exploited for political gain. Opponents of these regulations ought to be ashamed.

SECRETARY OF LABOR,
*Washington, January 27, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: I write to provide you with the facts to correct the record following last week's Senate floor debate on the Consolidated Appropriations Act with regard to the Department of Labor's proposed revision of the Fair Labor Standards Act's overtime exemption regulations. I also would like to thank you for your support and leadership on this important issue.

The recent allegations that military personnel and veterans will lose overtime pay, because of proposed clarifications of the Fair Labor Standards Act (FLSA) "white-collar" exemption regulations, are incorrect and harmful to the morale of veterans and of American servicemen and women. I want to assure you that military personnel and veterans are not affected by these proposed rules by virtue of their military duties or training.

First, the Part 541 "white collar exemptions" do not apply to the military. They cover only the civilian workforce.

Second, nothing in the current or proposed regulation makes any mention of veteran status. Despite claims that military training would make veterans ineligible for overtime pay, members of Congress should be clear that the Department of Labor's proposed rules will not strip any veteran of overtime eligibility.

This has been one of many criticisms intended to confuse and frighten workers about our proposal to revise the badly outdated regulations under the FLSA "white collar" exemption regulations. It is disheartening that the debate over modernizing these regulations to meet the needs of the 21st Century workforce has largely ignored the broad consensus that this rule needs substantial revision to strengthen overtime protections.

The growing ambiguities caused by time and workplace advancements have made both employers' compliance with this rule and employees' understanding of their rights increasingly difficult. More and more, employees must resort to class action lawsuits to recover their overtime pay. These workers must wait several years to have their cases adjudicated in order to get the overtime they have already earned. In fact, litigation over these rules drains nearly $2 billion a year from the economy, costing jobs and better pay.

I hope that this latest concern will be put to rest immediately. Once again, I assure you that military duties and training or veteran status have no bearing on overtime eligibility. We hope that future debate on this important provision is more constructive. If we can provide further assistance in setting the record straight, we would be pleased to do so. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ELAINE L. CHAO.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. RENZI). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## ASSOCIATION HEALTH PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I wanted to come to the House tonight and talk about the Republican agenda for taking care of the uninsured. The uninsured remain a major problem in this country, and I think we have a unique opportunity in front of us this year for actually reducing significantly the number of uninsured in this country.

The President actually gave mention of this in his State of the Union address here a little over a week ago. There are three Republican bills out there right now that would significantly impact downward the number of uninsured of this country.

Mr. Speaker, my colleagues recall we passed in this House as part of the Medicare bill the bill that would allow expansion of health savings accounts. This is an issue that is near and dear to my heart because I had an Archer MSA for a number of years back when I was in my private medical practice, and I know the power of these accounts in being able to allow an individual to build wealth and build wealth that is dedicated to their health care needs.

This is the single best way to enhance the consumer aspect of health care in this country, which I believe is an aspect that is absolutely critical.

With a health savings account, an individual can choose their own doctor. There is nothing more fundamental in this country in the private practice of medicine than being able to choose your own physician. One can consult with your physician about services that one needs. One is not consulting with an HMO board somewhere. You are actually making these decisions yourself with your physician in the treatment room. There is no question that health savings accounts allow the maximum amount of portability because one is not relying upon some program or some insurance benefit. The individual owns the money.

As Republicans, we hear it over and over again: we like to own things. In this case, one keeps control of that money. If a person loses their job, that money stays with them. It is there for the purchase of COBRA benefits should they need it or to tide you over until one obtains health insurance benefits with another job.

This is an important point that I do not think a lot of people understand. I had a medical savings account for my last 5 years in the private sector. I came to Congress. A medical savings account is not available to Members of Congress, or at least it was not last year when we were sworn in. That money that I had in the medical savings account remains for me in that account. It is growing year by year through the miracle of compound interest.

And should I go back to the private sector at some time, I fully would expect to use that money to once again join another medical savings account somewhere else.

Another program that the President spoke to the other night when he was here, and this is an extremely important point, and, realistically, Mr. Speaker, we cannot get this one done fast enough. In fact, the House has already passed association health plans. We did this last June. This proposal would give small businesses the ability to band together across State lines, if need be, to purchase health insurance as part of a larger group. This gives small businesses greater bargaining power when it comes to the health coverage needs of their employees.

In addition to that, it lowers administrative costs. The other body has this bill. Of course, I encourage them to take this up and pass needed relief for Americans working for small businesses.

Association health plans will decrease the number of uninsured and give small businesses the ability to offer health insurance to their employees that they previously might not have been able to afford or in subsequent years would have to abandon because of the cost.

This is a win-win situation for the employee and for the business owner. Finally, the President spoke to the issue of tax credits for the uninsured. This is probably one of the most powerful ways to really reduce the number of uninsured in this country. The gentlewoman from Texas (Ms. GRANGER) has offered this bill. I am happy to be a cosponsor of this bill. I look forward to us moving this bill forward in the House this year. I was glad the President spoke to that.

Mr. Speaker, one might ask how many people will be helped with these three proposals that are out there now. You get a number of estimates around from different people, some more optimistic, some more pessimistic. I think we would all agree as Republicans one probably could not get a more pessimistic estimate than from Roll Call. Mr. Morton Kondracke in his Pennsylvania Avenue column from January 26, that was a week ago Monday, Mr. Kondracke was actually critical of the President's State of the Union address about not doing more for the uninsured.

But by Mr. Kondracke's own figures, we would reduce the number of uninsured in this country by 10 million over this next year simply by doing these three proposals which are all easily within our grasp.

Medical savings accounts have been done; association health plans have been done in the House awaiting action over in the other body; finally, tax credits for the uninsured, something we can take up and do with a minimum of heavy lifting this year.

Mr. Kondracke goes on to say that the association health plans would provide relief for 2 million workers. Health savings accounts would benefit an additional 4 million people, and the tax credits would benefit another 4 million people. This is 10 million. This is one quarter of the uninsured in this country done in this year.

So, Mr. Speaker, I think we have got a message in front of us that is just too powerful to ignore. And I look forward to working with my friends on both sides of the aisle to get these three things done this year and get them working for the American people.

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## DEPARTMENT OF VETERANS AFFAIRS BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker and colleagues, I was truly sad when today in the Committee on Veterans' Affairs hearing I saw the figures in the administration's budget request for the Department of Veterans Affairs for the coming fiscal year.

Last year in an effort that was actually just completed a couple weeks ago, many Members of Congress, both Republicans and Democrats, worked with the support of our Nation's veteran service organizations to finally arrive at a budget, while not completely adequate, at least addressing many of the needs of our veterans.

So I was very disheartened to find ourselves in the same place we were a year ago. We were faced with the same tired old proposals to raise the copayments on prescription drugs at the VA, a proposal that Congress soundly defeated probably many times.

We are faced with a proposal for a $250 annual fee for many veterans, which Congress also has defeated. So we are faced with a VA policy of continuing to suspend enrollments for the so-called priority 8 veterans. These are veterans, but they cannot be enrolled because we cannot handle them.

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And this budget request from the administration cuts the VA nursing home program and cuts funding, if you can believe this, for medical research. Imagine how our veterans must feel. Actually, we know how they feel. The Paralyzed Veterans of America has issued a press release entitled, "Another Year, Another Inadequate Budget Request for Veterans' Health Care."

They go on to point out that this request includes the lowest appropriation request for VA health care made by any administration for a decade. Although the VA Under Secretary for Health has testified that an average yearly medical care increase of 12 to 14 percent is needed to meet the cost of inflation and mandatory salary increases, there is less than 2 percent more than last year's appropriation recommended in the President's budget.

Likewise, the leaders of the Veterans of Foreign Wars and other veterans organizations have expressed dismay, if I can say the least, at the proposed VA medical care funding. In fact, I feel I should just pull out the old tapes and old speeches from last year and rerun them, except it is not last year. And since the last budget request from this administration, the Nation has sent our young men and women to a war in Iraq, and they will be coming home as, guess what? Veterans.

Caring for our veterans is one of the costs of war, and the budget request does not take note of this fact.

I have enormous respect for Secretary Principi, who I believe does a great deal with inadequate budgets. But even this Secretary, or should I say especially this Secretary, needs a Congress that will pass a budget that is worthy of our veterans.

So sign me up for the battle again this year. Whatever is needed we will do to fill the budget holes that the President has left in this fiscal year.

Most of all, let us take note that this budget request points out the need for mandatory funding for VA health care. Let me repeat, mandatory funding of VA health care. It is now called discretionary, so we have to go through this battle every single year. Let us pass mandatory funding for VA health care so we will not have to rerun the same tapes next year and the next year and the next year.

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## CONGRESS MUST DECLARE WARS

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, there is plenty of blame to go around for the mistakes made in going to war in Iraq, especially now that it is common knowledge that Saddam Hussein told the truth about not having weapons of mass destruction and that al Qaeda and 9/11 were in no way related to the Iraqi Government.

The intelligence agencies failed, for whatever reason this time, but their frequent failures should raise the question of whether or not this secret spending of $40 billion annually of the taxpayers' money is a good investment. The administration failed in making the decision to sacrifice so much life and limb by plunging us into this Persian Gulf quagmire that will surely last for years to come. But before the Congress gets too carried away with condemning the administration or the intelligence gathering agencies. It ought to look to itself.

A proper investigation and debate by this Congress, as we are now scrambling to accomplish, was warranted prior to any decision to go to war. An open and detailed debate on a declaration of war resolution would certainly have revealed that the U.S. national security was not threatened and the whole war could have been avoided. Because Congress did not do that, it deserves the greatest criticism for its dereliction of duty.

There was a precise reason that the most serious decision made by a country, the decision to go to war, was left by our Constitution, to the body closest to the people. If we followed this admonition, I am certain that fewer wars would be fought, wide support would be achieved for the sacrifices, there would be less political fingerpointing when events go badly, and blame could not be placed on one individual or agency. This process would more likely achieve victory, which has eluded us in recent decades.

The President has reluctantly agreed to support an independent commission to review our intelligence gathering failures and that is good. Cynics said nothing much would be achieved by the commission studying the pre-9/11 failures but it looks like some objective criticisms will emerge from that inquiry. We hope for the best in this newly named commission. But we already hear that the inquiry will be deliberately delayed, limited to the failure of the agencies, and may divert into studying intelligence gathering related to North Korea and elsewhere.

If the inquiry avoids the controversy of whether or not there was selective use of the information or undue pressure put on the CIA to support a foregone conclusion to go to war by the administration, the inquiry will appear a sham.

Regardless of the results, the process of the inquiry is missing the most important point, the failure of Congress to meet its responsibility on the decision to go or not go to war. The current mess was predictable from the beginning. Unfortunately, Congress voluntarily gave up its prerogative over war and illegally transferred this power to the President in October of 2002. The debate we are now having should have occurred here in the halls of Congress on a declaration of war resolution. Indeed, the Congress chose to transfer this decisionmaking power to the President in order to avoid the responsibility of making the hard choice of sending our young people into harm's way against a weak Third World country. This the President did on his own, with Congress' acquiescence. The blame game has only emerged now that we are in a political season. Sadly, the call for and the appointment of the commission is all part of this political process.

It is truly disturbing to see many who reneged on their responsibility for declaring or rejecting war in Congress by voting to give the President the power he wanted are now his harshest critics.

## THE VALUE OF INVESTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HONDA) is recognized for 5 minutes.

Mr. HONDA. Mr. Speaker, I would like to start out my comments with a quote. "See, I ran for office to solve problems, not to pass them on to future Presidents and future generations." President Bush at a fund-raiser in Oregon, August 21, 2003.

Mr. Speaker, I believe our national budget should reflect a community's values and priorities. It should reflect the needs of the American people, including good jobs, safe community, quality education, and access to affordable health care.

In my home district in Silicon Valley, we understand the value of investment. This means crafting budgets based on right choices. Do we fund a trillion dollar tax cut or do we provide after-school programs for our children? Do we give away billions to HMOs or do we help seniors afford their prescription drugs? Do we increase tax breaks for the businesses that ship jobs overseas, or do we work to recover the 2.6 million manufacturing jobs lost in the past 3 years?

Unfortunately, the budget submitted by President Bush fails to fund priorities important to middle-class Americans. President Bush's budget has a different set of priorities: budget-busting tax cuts, fiscal irresponsibility, overpayments to HMOs, and reduced funding for important domestic programs.

President Bush's budget lays out $1 trillion for tax cuts but provides $9.4 billion less for education than was promised in the No Child Left Behind Act. In California alone, this will result in $897 million less for school districts through the title I programs and $105 million less for children with disabilities through the IDEA program. President Bush is eager to make his tax cut permanent and even make new ones. But he cannot seem to deliver the funds promised when he signed the No Child Left Behind Act nearly 3 years ago.

President Bush's budget includes $46 billion in overpayment for HMOs as a part of the Republican Medicare plan but it does nothing to lower the price of senior citizens' prescription medication.

President Bush has claimed for 3 years that his economic program would create jobs. But in that time the U.S. has lost nearly 3 million jobs. The President asserted in the State of the Union address that additional tax cuts would create jobs, but the numbers do not support this claim. This is not even a true budget because it will miss the costs of ongoing military operations in Iraq.

The budget also avoids long-term reform of the alternative minimum tax, even though the AMT will soon force millions of middle-class families to pay more taxes. And this is in direct contrast to the original intent of AMT. A recent estimate by the Congressional Budget Office put the full price tag of AMT reform at over $500 billion, a cost not factored in by the President's budget.

If this budget reflects President Bush's priorities, then it is clear where his priorities lie. President Bush has chosen the interest of an elite few over the needs of the many. I urge my colleagues to align their priorities with those of the American people and oppose the budget proposed by President Bush. That budget reminds me of Swiss cheese. It is full of holes.

## MUSHARRAF'S ROLE IN NUCLEAR EXCHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to again discuss Pakistani government transfer of nuclear technology to rogue nations such as North Korea, Iran and Libya.

Pakistan's behavior has been publicized for months and months, but all of the blame for nuclear exchange has thus far been placed on the scientists involved, particularly Abdul Qadeer Khan at the Khan Research Laboratories. Although criminal action has been pursued against Khan, I have remained very concerned over President Musharraf's and his senior advisors' direct role in assisting covert nuclear weapons programs in North Korea, Iran, and Libya.

In the past few days, scientists involved in the Pakistani nuclear program as well as opposition leaders in the Pakistani Parliament have charged that Musharraf, in fact, had knowledge of the nuclear exchange, and the Pakistani military was directly involved. Mr. Speaker, I am simply outraged. Musharraf likely knew that the exchanges took place, and is not being honest about his connection to the activity at the Khan Research Laboratories. He is stretching the truth in order to protect himself as well as his relationship to the United States, and to guarantee the continued flow of military funding from international sources, including the United States.

In the past, I have requested that President Bush reimpose Symington sanctions on Pakistan. Under the 1977 Symington amendment, these sanctions were imposed banning Pakistan from receiving economic and military assistance as a result of importing uranium enrichment technology. After 9/11, this ban was waived by President Bush. Given the evidence, in combination with Musharraf's intent to deceive us about his knowledge of Pakistan's exports of nuclear technology, I feel that it is more important than ever for President Bush to reimpose Symington sanctions. Furthermore, it is imperative that the United States stop providing military assistance to Pakistan until democracy is restored and terrorist violence in Kashmir comes to an end.

Mr. Speaker, Pakistan has been an ally in the war against global terror, but the United States and Pakistan are at a crossroads. Pakistan's government's participation in nuclear exchange, under Musharraf, has helped to create a nuclear black market in Iran, Libya and North Korea to thrive. I shouldn't even have to mention the devastating effects of uranium enrichment materials falling into the hands of terrorist groups, but this in fact is a concern that has been facilitated by Pakistan.

The Bush administration has been praising Musharraf for removing Dr. Khan from his position as advisor to the Pakistani Prime Minister, but it is high time that the administration open its eyes to the reality of the situation and take immediate action against Pakistan.

## WHERE IS THE COMPASSION?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, today the majority of Republicans in this House voted against extending unemployment benefits. Every single Democrat voted to extend unemployment benefits. Let me say that again. Today the majority of Republicans in this House, which is supposed to be the people's House, voted against extending unemployment benefits. Every single Democrat voted to extend unemployment benefits.

How hopelessly out of touch with reality these House Republicans and their majority leader, the gentleman from Texas (Mr. DELAY) are. Have they not noticed the jobless recovery?

The gentleman from Texas (Mr. DELAY) said he would not support extending unemployment benefits. Let me remind him, unemployment benefits are earned benefits.

Every day our office gets phone calls from constituents asking whether Congress will extend their unemployment benefits, earned benefits. We are getting so many calls because hundreds of thousands of Americans have exhausted their unemployment benefits and they have not been able to find new jobs.

In our community Sunoco advertised for 10 jobs, and over 2,000 people applied. This week in my district another company is shutting down, Georgia Pacific, Dixie Cups, over 207 more jobs gone.

The good jobs just are not coming on line. The President says, bring it on. Well, I say, bring on the jobs. Where are they? So through no fault of their own, 9.1 million Americans are out of work. And with each passing month more and more of these unemployed Americans take a step closer to the brink as they find themselves not only out of work but also out of unemployment benefits which they have earned. No pay check coming in, bills to pay, no new jobs on the horizon, trying to hang on, and now no unemployment check. That is due to a Republican Congress that does not care.

Mr. Speaker, we all heard President Bush back when he was running as a moderate talking about compassionate conservative. Mr. Speaker, where is the compassion? People are getting desperate, but the Republicans in Congress are turning a deaf ear to their cries. Look what the Republican leadership did here today, voting no, the majority of Republicans voting no to extend unemployment benefits.

House Republican leaders said here tonight, there is no problem with no jobs. Just go out and try to find some. That is right. The Republican line is that the economy is back and there is no reason to pass unemployment benefits. They are so hopelessly out of touch.

George W. Bush is the first President since Herbert Hoover who has lost more jobs than he has created. Where is the compassion for the 395,000 workers who exhausted their regular unemployment benefits on December 22, just before Christmas? Or what about the 400,000 workers who exhausted their benefits last month, the largest number of workers ever to exhaust unemployment benefits this past January?

The pain inflicted by the Bush administration's economic policies has spread from coast to coast. Hardest hit is North Carolina. More unemployed workers are expected to exhaust their jobless benefits than any other State, over 61,000 workers.

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In nine States, the number of unemployed workers who will exhaust their regular benefits will set a new record. North Carolina, Michigan, Pennsylvania, Oregon, Indiana, South Carolina, Idaho, Vermont, Arkansas, where is the compassion for people in these States?

In 10 other States, the number of unemployed workers who will exhaust their regular benefits by summer will be the second highest on record: California; New York; Texas, where the majority leader is from; Ohio; Illinois; New Jersey; Wisconsin; Connecticut; Arizona; Nevada.

More than half the unemployed workers cut back on spending for food and more than half postponed medical or dental appointments. Without unemployment benefits, almost half the long-term unemployed workers would be in poverty. With unemployment benefits, only 19 percent would fall into poverty. Why is there not a resounding number of Republican Members who see extending unemployment benefits, which are earned benefits, as a matter of compassion?

They are so hopelessly out of touch. I hope that the American people will write the Members of the other body, the Senators, and tell them to pass an extension of unemployment benefits. That is our hope now that the majority of Democrats in this House have sent that bill for their approval.

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## THE NATION'S PROGRESS IN THE WAR IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, I rise this evening with my fellow colleagues in the Congressional Black Caucus to discuss our Nation's progress in the war in Iraq.

First and foremost, Mr. Speaker, I would like to honor those soldiers who have paid the ultimate price of war through the sacrifice of their own lives. I continue to pray for their families and friends who are struggling to cope with their grief and loss.

I also pay tribute to the soldiers who have returned from Iraq, forever changed as a result of injuries sustained during their tour of duty. Just a week or so ago, I visited Walter Reed Army Hospital and looked into the faces of young 19 and 20 year olds as they told stories as to how they lost their legs or lost their arms or lost their hands. I said to one young man. How do you handle this? I mean, looking at your life and where you go from here, how do you handle this? He said, Well, I simply look at it as a day's work. As I stood there, I could not help but think about the fact that this young man, if he were to live another 50 years, will be living without a leg and without an arm. So we pay special tribute to these young people, many of whom just came out of high school, fighting a war.

So often, Mr. Speaker, the stories of the men and women performing their daily operations in Iraq get lost as we debate the merits of the war and our post-war intelligence, and I want to make it very clear that the Congressional Black Caucus has and will continue to support our troops. We see them as some very brave men and women who every day go out in sometimes 130 degree heat, in difficult circumstances, in many instances not having the proper equipment that they need although we paid for it; and yet and still they go out, and they give the best they have. So we honor them.

We read newspaper accounts here and television reports of another soldier killed in Iraq by a roadside bomb, and we are momentarily touched; but, ultimately, Mr. Speaker, after the moment has passed, our lives continue on. Unfortunately, the lives of the five soldiers who are reported to have died in Iraq from my home State of Maryland will not continue on. The families of Command Sergeant Major Cornell W. Gilmore, 45 years old; Lieutenant Kylan A. Jones, 31 years old; Corporal Jason David Mileo, 20 years old; Specialist George A. Mitchell, 35 years old; and Staff Sergeant Kendall Damon Waters-Bey, 29 years old. He was one who was either the second or third person to lose his life in Iraq, and we just want it made very clear that our prayers are with the families and friends of these strong and wonderful people.

Mr. Speaker, please do not mistake my intentions. I am not invoking the names and memories of our troops to fulfill any political purpose. Whatever the political affiliation of these soldiers and their families, they deserve to be remembered and honored for swearing to protect our freedoms and for laying down their lives in the pursuit of their mission.

Mr. Speaker, it is because of these courageous Americans that so many of my colleagues and I in the Congressional Black Caucus vehemently opposed launching war on Iraq. As elected representatives, we realize that the decisions we make here in the Congress of the United States of America reach far beyond these hallowed halls. We understand that the price of war cannot be captured in any budget.

Speaking of moneys appropriated by the Congress, just today we read in the news reports that Halliburton will be returning some $27 million to the Government of the United States because it overcharged our government; and I tell my colleagues, Mr. Speaker, it bothers me because I shall never forget that when the Congressional Black

Caucus and others got up before this war started and began to talk about this war and began to address the issues of why we were going to do this preemptive strike when it seemed that inspections were working, when we talked about it was so important and we emphasized that we not lose lives if we could avoid it, when we asked the question how all of this would be paid for and we could not get the President to meet with us or even talk to us, but here and then we were called by some unpatriotic, unpatriotic. I ask the question, if that was unpatriotic, what is it when we have a corporation during a time of war that turns around and has to return some $27 million to the Treasury of the United States of America? That is a key question, and is that patriotic? I would submit to my colleagues that it is not.

The key is that as we debate over and over again the 9 million people who are unemployed in this country, when we debate over and over again the fact that there are 44 million people who have no health insurance, when we debate over and over again the fact that so many of our people are going through so many difficult circumstances, and then we think that as April 15 approaches people will be making sure that they write those checks out to the Government of this United States and then we turn around and find out that we have been overcharged $27 million, something is absolutely wrong with that picture.

Mr. Speaker, something is wrong with our auditing and oversight if a company like Halliburton can be paid that much for something they did not provide. The price of war is far greater than the original $79 billion funding request and even greater than the $87 billion supplemental request that Congress doled out to support the war effort last year.

The price of war is the human blood spilled in Iraq's deserts. The price of war are the tears of children shed over flag-draped caskets. The price of war are the widowed wives and husbands working a second job or collecting government assistance to support their families. The price of war is the young man who I ran into at BWI Airport the other day who said that he was a Reservist and because of the war he was not getting the type of money that he would normally get and he and his wife not only were getting divorced but the fact is that he was trying to find a way to file for bankruptcy.

War and death are inextricably linked, Mr. Speaker. Therefore, in our considerations to authorize war, we must decide whether the cause is great enough to die for. Mr. Speaker, I believe that fighting for freedom is always a worthy cause. As Martin Luther King once said, "An injustice anywhere is a threat to justice everywhere."

However, Mr. Speaker, that is not how the urgency of this war was communicated to the American public. President Bush did not initially come to the American people and say that we must engage our military forces to remove Saddam Hussein because he is a bad dictator and is oppressing his people. Rather, the President very clearly, time and time again, told the American people that Saddam Hussein had weapons of mass destruction and must be disarmed.

On October 16, 2002, the President said, "The Iraqi regime is a serious and growing threat to peace. On the commands of a dictator, the regime is armed with biological and chemical weapons, possesses ballistic missiles, promotes international terror and seeks nuclear weapons."

On January 16, 2003, President Bush, as the Commander in Chief, said, "In the name of peace, if he does not disarm," talking about Saddam Hussein, "I will lead a coalition of the willing to disarm Saddam Hussein."

The message was clear and the stage was set. The United States had to deploy our troops and disarm Saddam Hussein.

But early last year, Mr. Speaker, we noticed a rather curious phenomenon. As the polling numbers for American approval of the war adjusted, so did the rationale the administration used to convince the American public that this war was not necessary.

Former Treasury Secretary Paul O'Neill is quoted as saying that he was surprised that no one in a National Security Council meeting ever asked why Iraq should be invaded. He was shocked, when he probably could have predicted that there would be so much death, that there would be so much harm not only to our American soldiers but to innocent Iraqi people by the thousands. He sat there shocked that no one asked the question why are we going to invade Iraq.

In a recently published book describing the operations of the Bush White House, Secretary O'Neill says, "It was all about finding a way to do it. That was the tone of it. The President saying go find me a way to do this."

Mr. Speaker, the conscience of the Nation should be shocked and awed by this sort of back-door and backup policy-making. The lives of our American soldiers should not have been bartered away in closed-door meetings between people whose own children are not asked to stand in harm's way.

Mr. Speaker, I cannot help but think of Staff Sergeant Kendall Waters-Bey. The family of United States Marine Staff Sergeant Kendall Damon Waters-Bey is from my district. In fact, his family used to live about five blocks away from my home. Mr. Speaker, the words of his father will forever be ingrained in the DNA of my memory. As he held a picture of his son, Michael Waters-Bey, he said, "I want the President to get a good look at this, really good look here. This is the only son I had, only son."

□ 1945

I ask, Mr. Speaker, was Mr. Waters-Bey's son at the forefront of the National Security Council's consciousness as they made their decision to take this country into war? I would think not, because otherwise I am sure they would have come to a different conclusion.

Mr. Speaker, if you remember, in November of 2002, the United States called for U.N. weapons inspectors to comb Iraq in search of hidden weapons of mass destruction. After 4 months, the weapons inspectors found nothing. Then, the United States concluded that it was our responsibility, our right to invade Iraq forcibly and disarm Saddam Hussein. During that time, Mr. Speaker, many of my colleagues and I came to this House floor urging, begging, pleading, and petitioning this President to give the inspections process a chance. We asked the President to work with our international allies to exhaust every diplomatic option possible before deploying American troops to disarm Hussein. Yet our letters and pleas went unanswered.

Now here we are today, almost a year later, Mr. Speaker. It has been almost a year since we declared the U.N. inspections process to be ineffective, almost a year after the first soldier died in Iraq. Almost a year later and we still have not found any weapons of mass destruction. Yes, we have found Saddam Hussein but, no, we have not found any weapons of mass destruction. It is interesting that Saddam Hussein is still alive and over 500 of our bravest men and women in uniform are not.

Now, Mr. Speaker, we have the Secretary of State, Secretary Powell, in a recent Washington Post interview, saying that if he had been told that Iraq did not possess stockpiles of banned weapons, he is not sure that he would have supported the Iraq invasion. Almost a year to this day, Mr. Speaker, Secretary Powell told the U.N., and I quote, "Our conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapon agents. That is enough to fill 16,000 battlefield rockets." Yet just last week, former chief U.S. weapons inspector David Kay told a Senate committee that, and I quote, "Iraq's large-scale capability to develop, produce, and fill new chemical weapons munitions was reduced, if not entirely destroyed, during Operation Desert Storm and Desert Fox. Thirteen years of U.N. sanctions and inspections."

Considering these facts, Mr. Speaker, we must ask ourselves if the ultimate goal of this preemptive war was to disarm Saddam Hussein, was our mission really accomplished? Could we have reached the same end by utilizing a different means? If we had enough intelligence to determine that Saddam was hiding chemical and biological weapons from the U.N. inspectors, then why has the Intelligence Community not been able to lead us to those weapons? Mr. Speaker, something is wrong with this picture.

I am glad the President has finally agreed that there should be a commission to look into the apparent intelligence failures, but the Congress should have a role in that selection process. In the name of the over 500,000 troops that were deployed in Iraq, I call on the President to ensure that this process remains immune from election year politics, and I call on the President to hold himself and his administration accountable for the findings of any commission report.

Mr. Speaker, last year, around this time, the President addressed a group of Governors and said, and I quote, "The country expects leaders to lead." I would agree with President Bush on that point. The country expects leaders to lead and not to mislead the American people blindly down a path of war.

Mr. Speaker, I wish now to yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. Speaker, I wish to ensure that this evening is a somber occasion because it is a dialogue with our colleagues and one we hope will not be mired in politics but in truth. I stand somewhat, Mr. Speaker, with tears in my eyes. The chairman of the Congressional Black Caucus has convened this Special Order, and I am grateful to him for his continued leadership, and I look forward to working with the caucus to provide a voice and a message not only to the American people but to our colleagues.

As I said, Mr. Speaker, I rise with a heavy heart and tears in my eyes because we are talking about life-and-death matters; peace and war. I almost wish, Mr. Speaker, I could turn back the hands of time, turn back the clock, and find ourselves on the floor of the House on that fateful fall of 2002. Out of respect for their families, I will just call them by their first names, but maybe Private Ray David, out of San Antonio, who died during the Christmas holiday would still be alive; and maybe Armando, who was a private in the United States Army, who died just 12 hours ago, might still be alive; or maybe Irving, who died just about 5 or 6 days ago, from Fort Worth, Armando being from Houston and Irving being from Fort Worth Texas, might still be alive.

This is not a frivolous discussion, Mr. Speaker. It is a very serious discussion. I think I would like to raise with my colleagues a discussion of what do we do next. There are families whose pain will never leave them, the pain of the loss of their young child, son or daughter, will forever be with them. Our respect and admiration for those brave young men and women will forever be a mark on our souls. We will honor them each Memorial Day, we will cite them year after year, some 500 and growing.

There are names that many of us will never know. Included in that, of course, are the loss of civilian lives in Iraq, lives for which the leaders of our government have said were innocent lives, some even have been children. The turmoil in Iraq speaks to the fact that this is a somber and sobering time. So I rise today because my challenge is whether or not the Congress will perform its duty.

Let me also acknowledge a veteran and friend and respected member of this House who we will hear from shortly, the gentleman from New York (Mr. RANGEL). I would like to say to him that I look forward to joining him in commemorating the fallen soldiers as we proceed in this session, because I think that is extremely important.

But I rise this evening for a different challenge of this Congress. Yes, the President has accepted the constant request and inquiry for a commission. He has done so by embracing it and putting it close to the bosom of the administration. It is one appointed by the administration, dominated by the administration, run by the administration. And I ask my colleagues, does the Constitution, in establishing three branches of government, want us to abdicate our congressional duty of oversight over the executive branch? They are independent branches, judiciary, executive and legislative, but just as we have the responsibility of the purse strings in the House, we also have the responsibility of oversight over operations and policies of the President and the administration.

So I believe it is imperative that this Congress, whether it is a parallel duty, an action, or whether or not it substitutes for this commission. I believe it is imperative that this Congress wage its own investigation as to the reasons and the basis of the use of intelligence that generated a unilateral preemptive strike against Iraq.

So I intend to offer the Protect America's National Security Act of 2004 that will call on full congressional hearings, no holds barred, if you will, to use a phrase that we often utilize, questioning what intelligence was used in the decision of the administration to go to war, how that intelligence was analyzed, and on what basis was it utilized to convince the Congress, the representation to Members of Congress, that weapons of mass destruction existed. How was that intelligence gathered, who gathered it, who analyzed it, and how was it presented to Members of Congress for the decision to be made in a resolution that a preemptive unilateral attack should be made? I believe also that the American people need to know.

Finally, included in this bill, I want to ensure that the general amount, the bottom-line figure utilized by this government in intelligence gathering, the budget of the CIA, should be produced to the American people. Mr. Speaker, not the line-by-line item, not to give them an excuse that we are now intruding on secured matters, but to give the American people the lump sum as to how much is being utilized. They deserve to know and we would not be violating any security for doing so.

This legislation will also include more resources for more trained intelligence analysts, more analysts trained in Arabic, more recruitment of diverse analysts, if you will, and then it would have a provision that would enhance the checks and balances on the use of intelligence that would be placed as a basis for going to war with any country in any Nation. The Protect America's National Security Act of 2004.

It is imperative that for the lives lost, for the tears shed, for the mothers crying, for the fathers' broken hearts, for the wives in complete confusion, for the children without fathers, sisters without brothers, brothers without sisters, aunts and uncles that are missing, we need and owe this to the American people.

I simply would say, Mr. Speaker, that we can now look at language from the Vice President of the United States on August 26, 2002: "Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction."

"Right now Iraq is expanding and improving facilities that were used for the production of biological weapons." President Bush, September 12, 2002.

"The Iraqi regime possesses and produces chemical and biological weapons and is seeking nuclear weapons." President Bush, October 7, 2002.

On what basis were they making these statements? This cannot be left to a bipartisan commission selected by the President, even if it is represented to be bipartisan. Congress must do its duty.

"We have also discovered through intelligence that Iraq has a growing fleet of manned and unarmed aerial vehicles that would be used to disburse chemical or biological weapons across broad areas. We are concerned that Iraq is exploring ways of using UVAs for missions targeting the United States." Again, President Bush, October 7, 2002. Yet the Carnegie report of just a few months ago, and David Kay has indicated there are no weapons of mass destruction. There were no weapons of mass destruction at the time that the President and the administration represented to this Congress and the American people that they existed.

□ 2000

Mr. Speaker, why is this important? It is important because we have to go on. Now the President comes to us with a budget that has a deficit of over $500 billion. He offers to the American people $4.1 trillion in tax cuts because he is asking to make his tax cuts permanent for 1 percent of Americans. Then he provides a gift to the American people, $10,368, a burden for each family of four, making tax cuts permanent. At the same time he increases the burden on veterans by increasing their copayments, closing veterans hospitals, and denying access to health care.

I believe this Special Order tonight is so crucial because it raises for the American people a challenge to them standing up for their destiny, their destiny as to whether or not we remain in Iraq and lives continue to be lost. But more importantly is the question of whether or not we have now a road map that will lead us to war with other countries around the world unilaterally and preemptively. That is why I believe it is crucial for the American public to stand up and be heard on the Protect America's National Security Act of 2004, demanding this House and Senate to do its job with a full and comprehensive investigation.

Lives that were lost, those willing to go into harm's way, did not for a moment stop and ask the question why. They were called to duty. They took an oath of office. They were National Guard, Reservists, and enlisted personnel; and they went willingly on behalf of the United States of America. They died on the fields of battle, their blood shed because of us. We in this Congress who still live owe them not only a debt of gratitude but we owe them the truth. We owe our Reservists an extension of their benefits, the ability to retire at 55, and we owe them the greatest understanding of the sacrifice that they have made.

In closing, as my colleague indicated, we have all visited the young men and women in our hospitals, Bethesda Naval and Walter Reed. Their faces are bright with a sense of hope and duty. They talk about the tragedy of their loss, lost limbs, lost spirit; but they remain undaunted, willing to serve again.

I cannot imagine that this Congress, many of whom stood on the floor of this House and cried as they debated the resolution to make the choice of giving the President unfettered authority to go to war. I cannot now imagine that this Congress would refuse its duty for finding out the truth on behalf of those who were sent to war by our vote, by those who voted for it, and then of course then sent these young men and women off to war and refuse to now stand to find out the truth. We hope that that will occur.

Mr. Speaker, I ask that we make sure that this occurs as we move forward in this year.

Mr. CUMMINGS. Mr. Speaker, in the Congressional Black Caucus I have often said that many of us are truly honored to have two of our founders of the Congressional Black Caucus, the gentleman from Michigan (Mr. CONYERS) and the next gentleman, to speak. That we are able to serve with them is a tremendous honor because they bring so much wisdom and history to us and so much excellent guidance. Certainly the gentleman from New York (Mr. RANGEL) is one of those gentlemen. I say to the gentleman that as he has consistently pressed on this war in trying to make this President and this Nation look at war as something of last resort, we appreciate it. We will join you as you salute all of our soldiers who have given so much.

Mr. Speaker, I yield to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS) for giving some of us an opportunity to show what patriots we really are and how much we love this country, which has given us one of the highest opportunities, and that is to serve in this House of Representatives.

On November 30, 1950, I found myself shot by the Communist Chinese on the northern border of North Korea. When it was all over, I thanked God I had my life with the Purple Heart and the Bronze Star and came home and felt I was a patriot. That fighting was to give all Americans the opportunity, some that had been denied my forefathers, to participate fully, to support our government when we thought she was right and to be patriotic enough to be able to criticize our government when we thought she was wrong.

I think we in the Congressional Black Caucus have even a higher responsibility than a lot of Members of Congress because our constituents believe in us so much that they give us the latitude to express their concerns and to talk about their aspirations as well as their fears. That is one of the reasons why we do not have to take polls, we do not have to get on the phone and ask them what do you think about the war. But we know that as great as this country is, that one of our responsibilities is to make certain that she is all that she can be; and it is our responsibility, as our forefathers before us, to take it to that higher level, and we cannot do that if the resources of this country are depleted or we find our youth are not there to pick up the baton and take it to a higher level.

If this country can decide because we do not like somebody or we think that person is a threat or because they have demonized their own people or they have talked in a way that we do not like against the United States, that we can have a preemptive strike and remove that person, and then we find out later as we find every day that the information we relied on was faulty, what happens if next time the information is reliable but just no one believes us? What happens when the President says that there is an imminent threat against the United States of America, and then we find that Americans and the Congress say, yes, we have heard that before.

It just seems to me that those people who voted to give the President this authority felt in their hearts that there was an imminent threat to the United States of America. But I listened carefully to the President changing all of the reasons that he had given for why he asked this Nation to send its young people to Iraq in a unilateral preemptive strike against Iraq and Saddam Hussein. There used to be a time when he would talk about the relationship to al Qaeda. There used to be a time when he talked about weapons of mass destruction. There used to be a time that he talked about an imminent threat to the United States of America.

But if I hear him correctly now, he is saying, what difference does it make, we got rid of Saddam Hussein. What difference does it make? It makes the difference if the President had come here to the House of Representatives and said, do you want to get rid of Saddam Hussein. We probably would have had a unanimous vote, yes, we do. But what if the next question was: Are you prepared to give us 532 lives of young people in order to do it?

Suppose he said the price to get rid of this international terrorist was to have 2,000 men and women maimed and crippled and in our hospitals. Suppose he said in this war the Secretary of Defense would report to the American people, albeit by a leak, that he did not know if we were winning this war or not even after these losses. Suppose, further, Mr. Rumsfeld would say he had no clue whether or not we were creating more terrorists than we were killing. Suppose he said that he was just thinking out of the box, but in his opinion the whole thing was a slog.

Suppose he said that in addition to having our young men and women who love this country and salute the flag every time it goes up, that enlisted into the Army coming from our inner cities and rural areas in order to get a better education and better handle on life, or like some of us who volunteered, that we could not make it economically and this was an opportunity to get better training. Suppose he said even though they had 3-, 6-, and 9-year enlistments, that they would give them additional time to serve because it was a national emergency, suppose the President had told us when he asked the Congress to take out Saddam Hussein that 20 percent of the soldiers over there would be men and women from the Reservists and the National Guard.

Suppose he said they would not be all young people, they would be 30, 40, 50, even 60 years old. They would have to give up their civilian jobs, and some have already served the military. Suppose he said they would have a drop in their income from their civilian pay, and these people who go away for weekends and 2 weeks to train would now have to be separated from their wives and families for over a year. Suppose he had said that they would have to go to Iraq two and three times and that soon these civilian soldiers will be 40 percent of the occupation of Iraq.

Mr. Speaker, suppose he had said that we are running out of people and that we would have to consider a draft, that we are talking about our Nation will have to make a sacrifice in order to remove terrorism from this region of the world, and everybody had to share in the sacrifice. Members of Congress, their children and grandchildren would be drafted, members of the cabinet would be drafted. Suppose he said in order to get rid of this demon, all of these things would be necessary, I wonder whether or not the President would have gotten the vote if we knew all of these facts.

Mr. Speaker, that is why I am saying it is so important for us to be able to alert America that this whole idea of removing Saddam Hussein had absolutely nothing to do with the terrible strike that the terrorists had in my beloved City and State of New York. The President, by the admission of Secretary O'Neill and other competent writings, had already planned to remove Saddam Hussein, that the whole concept of a preemptive strike was a part of our foreign policy, and it was the tragic event of 9/11 that allowed him to connect an idea that they already decided to do, taking advantage of the emotion of the Members of Congress who thought they were reflecting the emotion of the people in the United States.

If we just allow this to go by, if we do not have competent outside investigations and if our Secretary of State said he did not know if he would have gone to the U.N. and supported this invasion if that information had been there, then what happens if we do have another crisis and that is the situation that is before us?

So I ask the Congress to do this, please do not forget our true fallen heroes. It is not the ones that just return home; it is those that come home in the darkness of night. We do not even know whether we have a flag over their coffin because the press are forbidden to be there. We ask that those of us in the Congress form a caucus for these fallen heroes to be there for their families and kids and to make certain that we are treating them not like we are treating the veterans in the budget today, but that we make a commitment that even though they are not our kids in terms of being our biological kids or grandkids, they are the children of our Nation and we have made a commitment that we are going to protect them.

□ 2015

And we are going to raise the standard before we go to war to make certain that our Nation is being threatened. Going over there and having people being killed by land mines, just standing up as sitting ducks or falling helicopters, that is not what you call fighting for America. That is being put in a no-win position and we are losing the life of one American a day.

I am asking Republicans and Democrats, liberals and conservatives, be patriotic, be patriots. Sometimes it takes a little courage and we have to explain to our voters and our constituents what we are talking about. But we do not have a draft. Some Members do not know the pain the families are going through, and the President says that some Americans do not even know we are at war. Mr. President, the families of those that have been struck in Iraq, they know we are at war. We in the Congressional Black Caucus would like to educate the American people that war is hell and we should never, never, never go to war if we can negotiate a peace.

Mr. CUMMINGS. I want to thank the gentleman from New York. I really appreciate what he has said. We thank him for his service to this country in so many, many ways.

Mr. Speaker, it is my honor to yield to the gentlewoman from California (Ms. WATERS) who night after night and day after day before this war started came to this floor and laid out a brilliant case, over and over again, as to why we should not be going to war. If there was anybody in this entire Congress, Mr. Speaker, who could say I told you so, it would be the gentlewoman from California. I have absolutely no doubt that this is an issue that tears at her heart every time she hears about another person being harmed in Iraq.

Ms. WATERS. Mr. Speaker, I would like to thank the chairman of the Congressional Black Caucus for organizing this Special Order and I too commend him for taking so much of his time to organize us to come to this floor to help shed light on what is going on in this Congress and in this world. I look forward to every opportunity that he affords me to participate.

The massive costs of the war and how they will affect Americans in their everyday lives is an incredibly important issue that we must continue to discuss. This past Monday, the President sent his fiscal year 2005 budget to Congress. We found out that under this President's guidance, the Nation's debt has grown to record numbers. This year alone, the deficit is expected to be at least $521 billion. And the national debt has grown by $1.7 trillion since 2001. Yet instead of taking the necessary steps to bring our fiscal house into order, the President has proposed more of his failed policies.

I am having an interesting time, Mr. Speaker, discussing this with my friends. They say to me, MAXINE WATERS, I thought that you were the one that has been accused of being one of those tax-and-spend liberals but now your President has outdone you. He is spending money like a drunken sailor. How can you explain it?

I say to him, I cannot explain it, but it falls into that category of misdirection, of tales that are being told that just do not hold up when you place them under scrutiny.

The President's budget is extremely dangerous. It calls for eliminating 38 education programs and cutting funding for dozens of others. It does virtually nothing for the 43 million Americans who have no health insurance. It cuts $1.6 billion from HUD's section 8 voucher program and an additional $130 million from public housing. The President's budget even cuts, by 7 percent, programs designed to protect our drinking water, keep our air clean and other important environmental programs.

The budget even calls for imposing copayments and enrollment fees for our veterans in order to receive health care for their injuries sustained while protecting our Nation. I find it appalling that our President would require our veterans to pay up to $250 enrollment fees in order to receive the care they need. But these are just a few examples of the administration's policies that penalize working Americans. The war in Iraq is a continuation of these policies. It is the working American that is fighting, dying and paying for this war. The wealthiest of Americans, on the other hand, are not being asked to make any of these sacrifices. None are serving themselves, and few if any have sons or daughters in the U.S. Armed Forces. And they are the beneficiaries of hundreds of billions of dollars in tax cuts which makes it increasingly difficult to pay for this war.

To date, the President has asked for and received $157 billion for this war in Iraq. Amazingly, recent press reports suggest that the President will ask for another additional $50 million shortly after the next election for military activities in Iraq and Afghanistan. This will bring the total to $206 billion. What is so disappointing, though not surprising, is the difference between what we were told the costs would be for this war and what the costs are turning out to be. Throughout the buildup to the war, and even during the early stages, the American people were assured that the costs would be minimal. Who can forget Deputy Secretary of Defense Wolfowitz' statement in March of 2003 when he said, "We're dealing with a country that can really finance its own reconstruction and relatively soon." But the sad reality is that it is the American people who are paying for this war.

Mr. Speaker, as we look at this administration and this war, we cannot help but now understand why the American people are finally waking up to how they have been misled and misdirected by this President and this administration. Of course, we heard references tonight to the reason we were told we were going into this war and we must say it over and over again; we did a preemptive strike because Saddam Hussein and Iraq had weapons of mass destruction and we were in imminent danger. We were told this over and over again and Colin Powell even had some maps. He pointed to some sheds where chemicals were being made and the weapons of mass destruction were being developed.

But we have been misled on many things by this President and now we find ourselves in a terrible situation in Iraq. We are not in control. Our soldiers are dying, being picked off one by one. Suicide bombings are taking place. Soldiers are losing their lives. I am sure their families are asking, why? Or what does this all mean? Not only are they losing their lives, we were told after the President could no longer support or justify the weapons of mass destruction that we really needed a regime change, that we had to be about the business of creating democracy in Iraq. Now we are at the point where our President has said they are going to turn over governance to the Iraqis, only to find out that this President does not want free and fair elections, he does not want free and fair elections because, oh, somebody may win that he does not like. And I want you to know that the protests are growing in Iraq about the fact that this President now wants to select and choose who will be in charge of Iraq. He wants to put in a council through some kind of caucuses to avoid the Shiites being in control, because they may be the ones that get elected in this war as opposed to the Sunnis that they would like to have elected. But whether we are talking about Iraq or Afghanistan, we really did not have a plan. We really thought we could just bomb everybody into submission, take over the oil fields and chop up the spoils. And are we disappointed.

My goodness, how much more insult do the American people have to take from this administration? Here we have the Vice President of the United States of America, Mr. DICK CHENEY, who is still receiving paychecks from his old company, Halliburton. And what have we found out about Halliburton? They are cheating us right and left. Not only have they overcharged us for the oil they are importing from Kuwait to Iraq, we find out they are cheating us on the amount of the food that they are serving to our soldiers. They are giving us extraordinary numbers, only to find out that they are not really serving the numbers that they represent.

I talked about some of this last night, but it goes on and on and on. We are paying for a war that we should not have been in in the first place. We are paying contractors who are cheating us like Halliburton, who are getting no-bid contracts, and there is no end to all of this. This administration is going to have to pay a price for what it has done. I am glad that we are here talking about it this evening.

Mr. Speaker, the administration's rhetoric does not support the situation we find ourselves in today. We were not welcomed as liberators, there are no weapons of mass destruction, hundreds of U.S. soldiers are dying, and taxpayers are paying billions of dollars for a war that need not be fought. Meanwhile, our responsibilities here at home are being neglected.

The Senate's ricin scare yesterday reminds us that our homeland is not as secure as it should be. Our schools continue to be in disrepair and hundreds of thousands of workers are losing their jobs.

Mr. Speaker, we need to reassess our priorities. Unfortunately, this budget does not do any of these things. There is so much more we can say, but I am going to yield my time to our leader here so that he can wrap this up tonight. But we have more to say and we will be back again because the American public wants to hear from us.

Mr. CUMMINGS. I want to thank the gentlewoman for her statement. I also want to thank her for her compassion. And so it is tonight, Mr. Speaker, the Congressional Black Caucus, which has earned the title of being the conscience of the Congress, but I often say the conscience of the Nation, has come together to try to address these issues. As the gentleman from New York and as the gentlewoman from California stated very clearly, what we are about this evening is trying to make sure that we let the American people know what is going on, because we believe that they need to know and they need to understand what goes on in this Congress and how it affects them on a daily basis.

But the fact still remains that there are families tonight who are sitting watching this, and they are asking the question, as the gentlewoman from California said, of why is it that my son is no longer with me? Or why is it that my mother is no longer with me, a child may say.

But the fact is that we must be clear. We have asked this President over and over again to meet with the Congressional Black Caucus which represents over 26 million people. And as I have often said, they are not just African American people. As a matter of fact, more than a third of them are white. The fact is that we believe very strongly that when we come to this floor, we are speaking for America. And so it is, Mr. Speaker, the Congressional Black Caucus urges our constituents and urges the Nation to pay close attention to all that is going on with regard to this war and all that is not.

Mr. PAYNE. Mr. Speaker, last year, I led the opposition to a pre-emptive war in Iraq—which, according to testimony given this week by former top U.S. Weapons Inspector David Kay, wasn't even pre-emptive. If Saddam Hussein had no weapons of mass destruction program, what potential harm were we pre-empting?

President Bush has led our country further and further away from the fold of the international community, ignoring the United Nations Security council's findings, and virtually demolishing the international support we had received following September 11th. He has challenged Americans to a "you're either with us or against us" agenda, which leads to the most dangerous kind of patriotism—where questioning and dissent are considered un-American. Well I, as an American and a patriot, am now standing again to ask questions about the cost of this war.

We spent $396 billion in military spending alone for 2003. As big as this number is, it does not even include the cost of the Iraq war, which was funded through two additional supplemental requests; the first for $79 billion, the second was another $87 billion. Together, that amounts an amazing $562 billion. For 2003, that amounts to almost $11 billion dollars spent ever week, and more than $1.5 billion spent every day. Compare that to this year's Department of Education budget of $54 billion, which works out to less than 150 million dollars per day, which averages out to less than $3 million per day in education spending in each state. $1.5 billion on the military, $3 million on education: so where are our priorities?

Here at home, 9 million Americans are unemployed, 35 million live under the official poverty line, 44 million have no health insurance, and millions more are unable to make ends meet. States face their worst fiscal crisis since the Great Depression, and the yearly federal budget deficit is passing $500 billion and growing rapidly. My own state, New Jersey, is facing a projected $5 billion budget deficit for 2004.

And this administration doesn't intend to change course anytime soon. According to the 2005 budget released this week, they are planning to spend $2.2 trillion on the military over the next 5 years.

For 2004 alone, they plan to spend $399 billion on the military (which does not include any possible future supplemental funding requests for Iraq or Afghanistan) which is more than the combined spending that year for education, Health, Justice, Housing Assistance, International Affairs, Veterans Benefits, Natural Resources & Environment, Science & Space, Transportation, employment, Employment Training, Social Services, Income Security, Economic Development, Social Security, Medicare, Agriculture, and Energy.

Where we spend our money is a telling sign of where our priorities lie. We have abandoned our children, our teachers, our laborers, our homeless, our veterans, and our seniors in order to fund these regime-changing, unilateral military actions. We are under funding No Child Left Behind, IDEA, after-school programs, and family literacy programs. We have not extended unemployment benefits for those without jobs. We have offered our seniors a Medicare program that does almost nothing to cut their prescription drug costs, and we're threatening to destabilize their Social Security through privatization.

I am very concerned about the direction in which our country is headed. We're sliding further and further down a slippery slope where our county's basic needs are not being met. That is why this year's presidential election is so key. We need a leader that can mend the relationships broken by this unnecessary war and its ill-administered aftermath. We need to bring home the tens of thousands men and women whose lives have been placed on the line for no good reason. We must see change for the better.

More numbers:

For the cost of every cluster bomb, we can enroll 2 children in Head Start.

For the cost of every minute of the war on Iraq, we could have paid the annual salary and benefits for 15 registered nurses. For every hour of the war on Iraq, we could improve, repair, and modernize 20 schools. For the cost of one day's war on Iraq, we could have prevented all of the budget cuts to education programs in 2003. For the amount of money we spend every week in Iraq, we could build 142,857 units of affordable housing. For the amount of money we spend to buy one stealth bomber, we could pay the annual salary plus benefits for 38,000 teachers. We might be able to give a few of them a raise—image that!

Each day the Pentagon spends $1.7 billion, which is enough to build 200 new elementary schools, house 136,000 homeless, or provide Pell grants to one million college students (per day!).

With less than the cost of ONE of the Iraq supplementals, we could do all these things: Provide basic health and food to the world's poor: $12 billion. Rebuild America's public schools over 10 years: $12 billion. Reduce class size for grades 1–3 to 15 students per class: $11 billion. Reduce debts of impoverished nations: $10 billion; Provide health insurance to all uninsured American kids: $6 billion; Increased federal funding for clean energy and energy efficiency: $6 billion; Public financing of all federal elections: $1 billion; Fully fund Head Start: $2 billion.

Other countries military spending: Russia—$65 billion; China—$47 billion; Japan—$42.6 billion; U.K.—$38.4 billion.

These combined are a total of $193 billion, which is less than half our FY '03 or FY '04 military spending—not including the cost of Iraq and Afghanistan.

Please don't confuse military spending with the safety and security of our Nation. It is a common misconception that higher military enhances homeland security. However, many of these responsibilities fall onto our struggling, under funded State and local government agencies, whom we know as "first responders," and to agencies outside of the Defense Department, such as the FBI, FEMA, and the Coast Guard. This massive military spending budget addresses none of these programs.

Another matter of concern to me is not only how much money we're spending on our military, but how that money is being spent. The President's $87 billion supplemental contained an astronomical waste of taxpayer dollars. These are just some of the administration's requests:

$100 million for several new housing communities, complete with roads, schools, and a medical clinic; $20 million for business classes, at a cost of $10,000 per Iraqi student; $900 million for imported kerosene and diesel, even though Iraq has huge oil reserves; $54 million to study the Iraqi postal system; $10 million for prison-building consultants; $2 million for garbage trucks; $200,000 each for Iraqis in a witness protection program; $100 million for hundreds of criminal investigators; and $400 million for two prisons, at a cost of nearly $50,000 per bed.

## GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore (Mr. KING of Iowa). Is there objection to the request of the gentleman from Maryland?

There was no objection.

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## REPORT ON TRIP TO LIBYA, IRAQ, AFGHANISTAN, UZBEKISTAN, AND MILITARY HOSPITAL IN GERMANY

The SPEAKER pro tempore (Mr. KING of Iowa). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, the topic of my Special Order this evening, and I think I will be joined by other Members from both sides, is our recent trip to Libya, Iraq, Afghanistan, Uzbekistan, and our military hospital for our troops in Germany. But before I get into my comments about the trip, let me put some specific quotes from Dr. Kay, who has just been referred to by a previous speaker, who made the allegation that Dr. Kay said there was no basis for our activity in Iraq.

Mr. Speaker, let me put the actual quote in the RECORD, not something that is paraphrasing, but the actual quote. In an interview that Dr. Kay conducted on NBC TV, he was asked to comment on whether it was prudent to go to war. Dr. Kay said, "I think it was absolutely prudent. In fact, I think at the end of the inspection process, we will paint a picture of Iraq that was far more dangerous than we even thought it was before the war."

Mr. Speaker, that is not me paraphrasing; that is not me summarizing or putting my own spin on what Dr. Kay said. That is a direct quote from Dr. Kay, and the American people and our colleagues need to understand that as we analyze what has been said in the findings of the Kay report, that we actually look at those statements, as opposed to trying to spin them. Some of our colleagues on the other side, especially those running for the Presidency, have tried to put a spin on what Dr. Kay said. It is more important for the American people and for our colleagues to look at in actuality what he said.

But, Mr. Speaker, there is one more point I want to make on this whole effort of the spin of Dr. Kay, which ties into our trip, because of the 45 meetings that we held over the 7 days, visiting eight different countries and traveling 25,500 miles in military aircraft, including a military aircraft to get over, a Navy plane, C–130s and Blackhawk helicopters in Iraq, I think the most significant meeting we had was in Iraq, and that meeting was with the individual who is actually responsible for the Iraqi Survey Group, which is actually doing the search for weapons of mass destruction.

Now, Mr. Speaker, many of our colleagues in this room and many of the people around America have been convinced by the media that Dr. Kay was in charge of the investigation for weapons of mass destruction. Mr. Speaker, that is wrong. Dr. Kay was a consultant to the general who was in charge of the Iraq Survey Group, and that general is a two star general by the name of Keith Dayton.

On our trip to Iraq, in Baghdad we were taken to the Fusion Center, where all of the intelligence is brought for the Iraqi Survey Group to do their work, and for 90 minutes members of the Republican Party and the Democrat Party who were a part of my bipartisan delegation had a chance to listen to the actual leader of the inspection process in Iraq give us an update.

I want to share with our colleagues, Mr. Speaker, what General Dayton said. First of all, he was perplexed. He was frustrated. He could not understand why David Kay came back to America and made this public report when he had not yet, first of all, talked to the individual who was responsible for the Iraqi inspection process, General Dayton. In fact, all of the individuals that we met who were overseeing the 1,500 people who are involved in the Iraq survey team were equally frustrated.

We learned, for instance, that when David Kay left Iraq, he was not entirely happy, because he was dissatisfied that General Dayton had other missions besides the search for weapons of mass destruction and actually had troops assigned to efforts like looking for our POW-MIA Scott Spiker, and also were involved in the antiterrorism efforts on the ground. David Kay became upset and told this to General Dayton, that there were assets being diverted away from his efforts to look for weapons of mass destruction. That was one of the reasons why David Kay left the Iraqi theater to come back to America.

Mr. Speaker, I have not seen that in the American media. I have not heard that story yet brought forward. But the individual in charge of the Iraq Survey Group, General Keith Dayton, told us that when we had our meeting with him in Baghdad.

Mr. Speaker, we also learned that Dr. Kay had not been in Iraq for the last several months, during which time he could have had an exchange, an update of the work that was being done by the Iraq Survey Group. So, Mr. Speaker, I think it is essentially important that we take an additional step here.

Now, Dr. Kay has issued a report that I think stands on its own and speaks for itself. It does not help when Members of this body or the media or candidates for the Presidency misinterpret what David Kay said. But we need to go beyond that, Mr. Speaker. We need to bring over the individual who was actually responsible for the weapons of mass destruction search in Iraq. That is not Dr. Kay; that is General Keith Dayton. General Dayton has that responsibility, and it is he who oversees those 1,500 people.

General Dayton told us that they are in fact enthusiastic about the work they are doing. He explained to us the process now under way to send teams into the rivers of Iraq, the lakes of Iraq, the bodies of water where they have leads that perhaps weapons of mass destruction were dumped, and they are now conducting that search.

They also told us, General Dayton and his colleagues, that there are literally millions of pages and volumes of documents that have yet to be searched that can provide leads as to where weapons of mass destruction might be.

I can tell you after visiting the "spider hole" up in Takrit where Saddam Hussein was holed up for a number of days, that our military personnel went over top of that site a dozen times and never found Saddam Hussein. Now, that hole was rather large. So if we could not find a hole with Saddam in it for 8 or 9 months, then I think we certainly owe it to General Dayton to give him the time to continue the search for the evidence that he thinks in fact his team can come up with.

So the point is, Mr. Speaker, that on this meeting in Iraq with the general in charge of the survey team for weapons of mass destruction, we got a clearly different picture from that that is being portrayed by the American media, both in terms of Dr. Kay's report and the spin that has been made on that report.

Today, Mr. Speaker, Secretary Rumsfeld appeared before our Committee on Armed Services in the House, and I was the first Member of Congress that was invited to ask questions of Secretary Rumsfeld. I laid all of this out to him, and I asked him if he did not think it was time to do what the famous media person, Paul Harvey, used to say at the end of his stories: and now we will hear the other half of the story.

Mr. Speaker, today I requested of Secretary Rumsfeld that Major General Keith Dayton be brought back to America to testify before the Congress about the work that he is directing right now on looking for weapons of mass destruction. Then Members of Congress can ask him about the conditions under which David Kay operated, that he was in fact a consultant to General Dayton. Then we can ask the questions about the circumstances under which Dr. Kay left Iraq. Was there friction? What was that friction? Then we can ask the most important question for the American people of a two star general who is apolitical and is not going to put any kind of a spin on his statement. What is your current effort in Iraq and do you expect and do you anticipate the ability to find weapons of mass destruction over the next several months?

I can tell you, Mr. Speaker, what he told us unconditionally is that they are very much into this search. It has not ended; it is not winding down. In fact, they have placed more in the way of assets and resources into the search for weapons of mass destruction.

Now, oftentimes in this city we do not pay attention to the facts. We try to spin things. So I think it is extremely important that we bring over General Keith Dayton to give us a firsthand accounting of the search for weapons of mass destruction and to give us the other half of the story to the findings of Dr. Kay, who was a consultant to General Dayton.

Mr. Speaker, let me get back to the trip that we took, the bipartisan trip, which in fact was the first trip to Libya by Americans since 1969.

My job as a member of the Committee on Armed Services for the past 17 years has been to make sure that we give our military the best equipment, the best technology, and the best training to allow them to continue to be the best military on the face of the Earth, and we have done that. I am a self-described hawk in terms of supporting our military.

But, Mr. Speaker, as the vice chairman of the Committee on Armed Services, I consider my number one priority to be the avoidance of war, because war has always got to be the last choice, because when we commit our troops to war, then we put America's sons and daughters into harm's way, knowing full well that some or perhaps many of them will not return to their families.

So over the past 17 years, while serving on the Committee on Armed Services, making sure our military has the equipment they need, is properly trained, and has the financial support that they deserve, I have spent an equal amount of time on the proliferation of weapons of mass destruction technology and trying to find ways to take those enemies of ours and those would-be enemies of ours and turn them into, if not allies, at least countries that we can work with.

My primary focus has been with the former Soviet states, where I have traveled almost 35 times and established a relationship with the parliaments of all of those former nations that were once a part of the Soviet Union. For the past 13 years, with my colleague, the gentleman from Maryland (Mr. HOYER), we have co-chaired a formal effort with the Duma in the Russian Government, the legislative body of that country, to establish a close relationship of friends and partners. We have had some ups and downs, but the fact is that we are still working aggressively together.

We have done the same thing with Ukraine, with the Rada; with Moldova, with the Parliament; with Georgia, with their Parliament; with Azerbaijan and with Armenia. We have done it with Uzbekistan, and we are now reaching out to other countries that were once a part of the Soviet Union to bring all of those countries into a level of cooperation and understanding with us.

Mr. Speaker, the Soviet Union and its republics were the source of much of the technology that ended up in the hands of the Libyans, the Iraqis, the Iranians, the North Koreans and the Syrians. In fact, Mr. Speaker, during the 1990s, I must have given 100 speeches on what we saw occurring on a regular basis, the transfer of technology from Russia and China and those former Soviet states into the hands of those five countries that I just mentioned. Time and again there were violations of arms control agreements. But the response of the administration in the nineties was to pretend we did not see it, because the administration was more concerned with keeping Boris Yeltsin in power, even when the people of Russia had come to believe that he was no longer a credible leader for their nation.

Mr. Speaker, we did the same thing in reaching out to other countries, like China, that in fact were heading towards a course of perhaps being an enemy of the U.S.; leading six delegations to that Nation; being the only elected official asked to speak two times at the National Defense University of the People's Liberation Army in Beijing.

Finally, Mr. Speaker, last May, after 2 years of planning, I was proud to take the first delegation of Members of Congress, again a bipartisan delegation, into Pyongyang, North Korea, the goal there being to support the President and continuing the dialogue of the six nations to eventually resolve the conflict between North Korea, South Korea and the rest of the world.

In fact, Mr. Speaker, following the next round of six-way talks at the end of this month, I will again lead a delegation back into North Korea to continue a positive effort to support our President in finding a peaceful solution to the Korean nuclear crisis, again to avoid war, because of the consequence of putting America's sons and daughters into harm's way.

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Now, I also fully realize, Mr. Speaker, that that is not always possible, and one case in point was Iraq. We gave Saddam Hussein 18 chances to abide by U.N. resolutions, 18 opportunities to come clean, to basically come forward and tell the world what he had been doing. And the response of Saddam Hussein was to thumb his nose at us and at the rest of the world and to defy the world community. As a result, the President was left with no choice when he asked us to support him in a resolution of war.

For the life of me, Mr. Speaker, I cannot understand the logic of those in this body and the leader of France, Jacques Chirac, and the leader of Germany Gerhard Schroeder who criticized President Bush for going into Iraq to remove Saddam Hussein. Because what is interesting is, just 4 short years ago, many of these same people criticizing President Bush from this body, as well as Jacques Chirac and Gerhard Schroeder, were the very individuals pushing Bill Clinton into a war in Yugoslavia to remove Milosevic from power. And guess what, Mr. Speaker? When Schroeder and Chirac and some of the Members of this body who are criticizing President Bush pushed Bill Clinton into an armed conflict, they did not go to the U.N. for a resolution, because they knew full well that Russia would veto any such resolution of the Security Council. So what did they do? Bill Clinton, Gerhard Schroeder, and Jacques Chirac, supported by many of those in this body who have been criticizing President Bush, did not go to the U.N. as George Bush did, they went to NATO.

Now, Mr. Speaker, NATO is a defensive body. It was organized as a defensive entity to defend Europe and the NATO countries from an attack by a nation like the Soviet Union. NATO was never meant to be an offensive organization. But in 1999, many of those same people, including many of those Democrat candidates for President today, were out there supporting Jacques Chirac and Gerhard Schroeder and Bill Clinton in using NATO for the first and only time ever in its history as an offensive invasion force into a non-NATO country.

So we invaded Yugoslavia. We bombed Serbia. We removed Milosevic, who was a war criminal. But what is so confusing to me, Mr. Speaker, is that those same people who were on Bill Clinton's band wagon to invade Serbia and Yugoslavia because Milosevic was a war criminal, all of a sudden, having supported George Bush, even though he went to the U.N. for the 17th and 18th time, even though Saddam Hussein has been characterized by everyone, from Max Vanderstadt, the U.N. Human Rights Advisor, to Amnesty International as the worst human rights abuser since Adolf Hitler, did not want to support the effort in Iraq. Sounds like politics to me, Mr. Speaker. It does not sound like much consistency or substance.

How can you be for removing a war criminal like Milosevic from power and not going through the U.N., but using NATO as an offensive force, and then 4 years later, criticize President Bush after having gone to NATO for the 17th and 18th time, after having given Saddam Hussein every opportunity, and then, in the end, who decided we had to remove this war criminal, this user of weapons of mass destruction, as he did against the Kurds, as he did against the Iranians, from power. It does not make sense to me, Mr. Speaker, unless, of course, you add in the political equation.

But again, in that case, I thought the military action was justified, but I would say in the case of North Korea and Libya and perhaps Iran, if we can avoid conflict, we should take every opportunity to explore that to its end.

That is why, Mr. Speaker, almost a year ago, at a conference on world energy issues in Houston, Texas, I challenged major international energy corporations to come together and establish an International Energy Advisory Council, to specifically focus on the use of energy as a mechanism to avoid war and as a mechanism to help us solve regional conflicts that could lead to major escalations of war. That group, headed up by Jeffrey Waterers, had an initial meeting in Washington, D.C. in July in the Rayburn Office Building, where Chalabi came over from Iraq and spoke to the energy leaders about Iraq postwar. We had major leaders from the State Department and DOD came into speak, and allowed the energy corporations, including those from Iraq and Iran, to come together and see if energy could not provide a partial solution to the crisis both in Iraq as well as other crises around the world.

In October, a second forum was held in London, again attended by all of the major leaders around the world in the energy industry, which I could not attend. But following that meeting, I set up a private meeting with Colonel Gadhafi's son, Saif al Saleem al Gadhafi, a 34-year-old, London-educated, Ph.D. candidate at the London School of Economics, who today is apparently, according to some pundits, in line to succeed his father as the leader of Libya.

I wanted to meet this individual, because we had mutual interests, to see whether or not there was a possibility of breaking new ground with Libya politically, of seeing whether or not there would be a movement away from the policies of the past, which I had heard to be rumored back in the middle part of last year, unaware of what was happening with our own private discussions within our government. In January of this year, the meeting with Saif al Gadhafi took place. He and I had a long discussion. We talked about Libya's past relationship with the U.S. and the West. We talked about the horrible bombings, the terrible tragedy of Lockerbie, the bombings in Berlin, the linkage of Libyan state-sponsored terrorism, and I told Saif, we can never forgive and never forget. Likewise, he told me it was difficult for he and his father to forget that we had bombed their home and in fact killed his 1½ year old sister. But we both said it was time to look to the future as opposed to the past.

But Saif was one who was looking to settle the past problems with the Lockerbie victims' families, to look at putting to rest those issues where Libya had done horrible things, and that perhaps it was time to move into a new direction. So he invited me to bring a delegation of our colleagues to Tripoli. I said I would gladly take that invitation. Two days later, a formal written invitation came to my office in Washington from the chairman of the People's Congress in Libya, inviting me to bring a delegation in. We secured a military plane and we decided our trip would involve not just Libya, but a trip that the White House had been encouraging me to take with Members to Iraq and Afghanistan.

So the plane was secured, and from the Speaker's list of Members who were asked to go to Libya and Afghanistan, we assembled a delegation, a bipartisan delegation, including my good friend, the gentleman from Texas (Mr. ORTIZ) who would have been here tonight, but he had a death of a close friend and is down back in his district; the gentleman from New York (Mr. ISRAEL), a Democrat; the gentleman from Louisiana (Mr. ALEXANDER), a Democrat; the gentlewoman from Michigan (Mrs. MILLER), a Republican; the gentleman from California (Mr. GALLEGLY), a Republican; the gentleman from Indiana (Mr. SOUDER), a Republican; and the gentleman from California (Mr. ISSA), a Republican. The gentlemen from California (Mr. GALLEGLY) and (Mr. ISSA) joined us the day before we left. They were not a part of the delegation going on to Iraq and Afghanistan; they only joined us for the Libyan portion of the trip.

And I would say, Mr. Speaker, any Member of Congress could have come with us on that trip into Libya. We had over 100 empty seats on our aircraft. So any Member of Congress could have joined us if they had just called and expressed an interest, as the gentlemen from California did the day before we left.

Mr. Speaker, our trip to Libya and the other countries was exhausting. As I mentioned earlier, we traveled 25,500 miles, we visited 8 countries, and we had 45 meetings. Members of our delegation on some nights got less than 2 hours sleep. When we arrived in Kuwait, before going into Iraq, we arrived at 4 o'clock in the morning from our plane, got to our hotel and had to be up at 6 o'clock in the morning for the military to take us into Baghdad. So I want to congratulate the members of the delegation that were on this trip because of their outstanding service to the country in performing an extremely difficult task, completing the mission that we set out for ourselves.

But I want to talk specifically about what we actually did and, in the end, I will ask to put our trip report in the CONGRESSIONAL RECORD.

We did not know what to expect in Libya, Mr. Speaker, because no one had been there from our country for the past 35 years. We were not sure what the response would be. In fact, we were told by the White House and the National Security Council that the Libyans did not want any presence of the U.S., they certainly did not want to see the flag flown, and they did not want America in any way displayed because it would upset the people of the country. In fact, up until the 11th hour, they did not want us to land our military plane at the Tripoli Airport. How wrong they were.

When we arrived in Tripoli, Mr. Speaker, and our plane pulled up to the tarmac, the number one spot in front of the air terminal at the main Tripoli Airport, there was a whole core of individuals from the leadership of Libya waiting to meet us. Officials from the government of the country, the foreign ministry, the people's Congress, all out there welcoming the Americans back to their nation. In fact, there was a huge media entourage, TV cameras, reporters who were there to ask us questions about why we were there and to follow us through our initial meeting which was held in the lobby of the Tripoli Airport.

The welcome was unbelievable: unbelievably positive. As we sat down and talked about our agenda for the 2 days we were going to be there, I had asked for less than a dozen meetings. Mr. Speaker, not only was every meeting that I asked for granted to us, but they even went beyond and gave us meetings we had not asked for. We met with the Prime Minister, the Deputy Prime Minister, the Vice Prime Minister, the Foreign Minister, the minister in charge of removing weapons of mass destruction from Libya. We met with the foundation established by Saif al Gadhafi, the same foundation overseeing the refunding of the money that is owed to those victims' families of the Lockerbie disaster. We met at the largest university in Libya, Al Fateh University, which has 75,000 students. We met with the leaders of the Libyan-American Friendship Society, which was started in 2000, where 400 people waited for 3 hours for us to arrive in this large tent to welcome us openly with American flags flying outside of the tent and inside of the tent, with children dressed up in colorful costumes to sing for us, with young people reciting poetry for us and speeches welcoming America back to Libya.

Everyplace we went, Mr. Speaker, every person we met, every group we talked to was hungry and starving for a new positive relationship with America.

In fact, during our first day in downtown Tripoli, I asked the delegation to break away with me to go on an unplanned event, to walk 3 or 4 blocks away from the hotel, and to go into the marketplace, the old city, the shopping district, where hundreds of shops and local stores are there for the Libyan citizens to buy their materials, their clothing, their housewares, their pots and pans, and the things that they need for their own lives. The delegation walked together, without any pre announcement, without guards around us, without any advanced alert, and we went through the marketplace. Every person we met in the Libyan marketplace in downtown Tripoli was positive. They came up to us, they shook our hands. A young 10-year-old, when the gentlewoman from Michigan (Mrs. MILLER) said, Hi, how are you, said back to her, I am fine, how are you? And she said, You speak excellent English. He said, I have been practicing in school.

We met shopkeepers, an elderly gentleman who was pounding the copper, making pots, who looked up and said, We are glad to have you in our country. We hope it is a new beginning. Everyone we met on the streets of Tripoli, Mr. Speaker, were positive toward America. It overwhelmed us. It was not what we expected, it was not what we were told to expect by our own government back here in our country.

In fact, Mr. Speaker, Members sitting around the table at the university with the President of the Al Fateh University and about 25 of his department heads; and remember, this is a 75,000 student university, they have major programs in medicine, in law, in health care, in science, in technology, in education, in environment and agriculture. As he went around the room, each of these department heads, all of whom spoke excellent English, give us their background and what department they headed. It was unbelievable, Mr. Speaker. All but two of them were educated here in America. They told us what schools they attended: UCLA, Princeton, Colorado, Michigan, University of Pennsylvania, Louisiana, Georgia, all the major schools of our country.

□ 2100

And they told us of their longing to once again reestablish ties with the American educational system and with the American people. In fact, one of the professors at the University, professor of English, Dr. T. T. Tarhuui, wrote a poem entitled "Members of Congress," which I will enter into the RECORD when I place our trip report in at the end so the American people and our colleagues can read the poem he wrote for our visit.

So the response by the people and the leaders of Libya was unbelievably and overwhelmingly positive. In fact, we asked to see a weapons of mass destruction site. Not only did they take us to their nuclear complex but we had full access to their 10 megawatt research reactor which they opened to look into and to understand what they were doing with radio isotopes and discuss with them their nuclear program; but before we went to that site, they had us sit down with the minister who was in charge of the entire program to allow the IAEA and the U.S. and Great Britain to remove the weapons of mass destruction from that nuclear site and from Libya. In fact, much of that removal took place the same week that we were in Libya on a separate military aircraft.

But perhaps the most interesting meeting in Libya was with Colonel Qadafi. We did not know what to expect. We were taken to his residence that we had bombed in 1986. We saw the devastation still evident. We saw the lessons and the stories about his daughter who was killed. And we were then brought to another part of the complex where there was a large outdoor tent. We were led in and sat down on the sofas arranged in a semi-circle manner and awaited the arrival of Colonel Qadafi. About 5 minutes later, he came into the tent in his glowing purple robed outfit with his hat on, shook our hands, smiled and sat down. And for 2 hours we had a discussion among the group. And then I had a private session with him for 30 minutes.

In the trip report, Mr. Speaker, are the very quotes that Colonel Qadafi made to our group as transcribed by both our staff director, Doug Roach, and our military escort. We had two separate note takers in that meeting.

It was a very solemn meeting with Qadafi. For the first 25 or 30 minutes he talked to us in a very low tone, a very deliberate tone. And he said, You know, I am so happy that you are here, he said, but my question is why has it taken over 30 years for someone from your country to sit down with me and talk to me? I could understand if you met with me and you had problems because I had done something wrong, some terrible act, but if you would have met with me and talked with me and then felt that I was lying, you would have been justified in bombing me. But you did not talk to me for over 30 years.

He said, You do not understand the Libyan people. We understand America. We studied all about it. And I would ask you to help me in my effort to reestablish that relationship with your country.

Now, Mr. Speaker, we made no apologies to Colonel Qadafi. We let him and his leaders know that the past actions of his government and some of his people were outrageous and will never be forgiven nor forgotten. But we also said it is time to move into a new direction.

We praised him personally for the public statements that he has made about his willingness to remove his weapons of mass destruction and about his willingness to turn over a new page in a relationship with the West.

He talked about his country's coming into the arms control regimes that for decades they have not been a part of. And for that we thanked him. And we said to Colonel Qadafi, Your words are important and we praise them, but words will not carry the day. You must show us with your actions that you truly are serious with removing the weapons of mass destruction, about changing the ways of the past, about working with us on the problem of terrorism, about rooting out those cells that exist in your country, and about laying down a new foundation for the future.

We told him that we would judge Libya and their colonel's comments based on substance as opposed to words and dialogue. But we also told him that if that process continued that we were sure that one day a normalization of relations would occur. And when that day came, we in the Congress, Democrats and Republicans, were prepared to help our President establish a new relationship with the people and the institutions of Libya.

Our meetings with Qadafi were productive, were candid, and were designed to convey a positive message of support for the leadership of our President in stating that Libya has become a model of moving in the right direction away from terrorism.

One of the things that Colonel Qadafi said to us was that he was taking tremendous heat from the other Arab leaders in the region who were making fun of him, who were criticizing him and calling him because of his decision to renounce weapons of mass destruction. And his concern was that America not abandon him if, in fact, he continues to do the kinds of things that have happened over the past several weeks with both the IAEA, Great Britain, and the United States.

So, Mr. Speaker, I think our trip to Libya was extremely positive. We were not there to become a patsy for anyone. We were not there to try to brush over what has happened in the past. We were there to do what I said earlier is my top job as the vice chairman of the Committee on Armed Services, to avoid another war, to find a way not to appease anyone, but to continue on the path that our President has laid down, to turn a former terrorist nation, a nation that has been involved in state-sponsored activity in a new direction to becoming friends with the U.S.

The second part of our trip moved us to Iraq. We had amazing meetings with the troops. We had time with Ambassador Bremer, with General Sanchez. We asked them to give us updates on the troops' activities, on the stability inside of that country.

We had a meeting with Dr. Pachachi, who is the leader of the governing council. We had several of his colleagues there with us as we talked about the plan to hand Iraq over to his people. And he thanked us for that support. We assured him that America was there for the long haul; and that even though the political rhetoric of this election year will cause Democrats and Republicans to criticize each other, that we were not going to as Americans abandon what we had started in Iraq.

We then went out with the troops, Mr. Speaker. I mentioned we talked at length with the Iraq survey team. I will not review that because I did it at the beginning of my Special Order. But we went out and had other meetings as well in Iraq. In fact, we traveled up to Tikrit. We went in a C–130, and we saw the terrible trauma that our C–130 pilots are under as they have to evasively fly into airports to do unbelievable maneuvers so they can avoid the surface-to-air missiles that still exist in Iraq.

On the ground up in the Tikrit area, we were able to take Blackhawk helicopters out into the troop areas to meet with troops, to go to the spider hole where Saddam had been holed up, to visit with our Special Forces. In fact, we were able to be a part of a ceremony as one of our young Special Forces, Mr. Reyes, Sergeant Reyes, reenlisted. We became a part of that ceremony to honor him for his commitment to our country.

We had a tremendous interaction with the general in charge of the 4th Infantry Division, General Odierno, who gave us a personal update as to the encounters that were taking place on a daily basis. In fact, I had a very moving experience there with General Odierno because one of my constituents, a 24-year-old young man who I had nominated to West Point, was killed in an attack back in the latter part of 2003.

As General Odierno was describing to us some of the attacks on his troops, he talked about a young 24-year-old that he had come to know, an outstanding leader whose convoy was attacked, whose troops came under heavy fire, who himself was hit, and in spite of his own injuries, continued to protect and save the lives of at least one and possibly two other soldiers before his life was snuffed out.

As the general talked, and as I described to him the 24-year-old that I had nominated to West Point, the general asked me his name. And I said Bernstein. He said Congressman, that is who I was talking about. He went to school with my son at West Point. I happen to have a 3-page letter with me from Lieutenant Bernstein's parents thanking me for the praise we had acknowledged for him to his family, including comments from those who knew the lieutenant, who had been touched by him during his brief life. I gave a copy of that letter to the general. He was very moved and presented me with the unit coin which I will present to the Bernstein family in remembrance of their son, a brave American hero.

Our visit with the troops in both Iraq and Afghanistan, Uzbekistan was to assess what they needed. We came back with the idea that they need more linguistic support, they need more UAVs, and we need better benefits and support for our Guard and Reservists who are serving so well. And that message was conveyed throughout the trip.

In leaving Iraq, we went to Islamabad and then flew into Afghanistan into the capital city of Kabul where we met with King Zahir Shah to assess his continuing role as the leader of that country, someone who helped us get the Afghanis to convene Aloya Jirga to bring together the leaders to establish a constitutional government.

In following the meeting with King Zahir Shah, we met with the leader of the government of Afghanistan, Hamid Karzai. He talked to the success only made possible by the leadership of the United States. In between we met with more of our troops.

Then we flew from Kabul up to our K2 base in Uzbekistan, a former Soviet military site where we spent a day and a half with the troops. Each member of our delegation walked through the wards. We went to the bedsides of those soldiers, some who had shrapnel wounds, some who had been shot in the leg, some who had piercings of the eyes, some who had skin diseases. And we told them that they were our heroes.

We met with those that were on the way out in transition, that were coming back to the States. In fact, we offered seats to 12 of those young soldiers who came back with us to America and then were taken to the Army medical facility here in Washington, D.C. for further treatment and eventual transport back to their districts.

We had two town meetings in the military base in K2. As we stayed overnight, we had dinner one night and breakfast the next morning with the troops. And during the evening and the morning, we had town meetings to allow the troops to tell us what was on their minds. They told us the good things and bad things; but without any question, Mr. Speaker, the morale of our troops in every visit we made was overwhelmingly positive. They knew why they were there. They were positive for being there. And they were happy that we came.

We delivered 10,000 Valentine's cards, made by schoolchildren all over America. We delivered 25 cases of Tasty Cakes so the troops could get a fresh taste of America and the treats that come from my hometown city of Philadelphia. We even brought over shirts from the Philadelphia Eagles. Unfortunately, not many wanted them because the Eagles had lost a terribly embarrassing game before in the playoffs, but we gave them out anyway.

Mr. Speaker, our trip was an overwhelming success. I am proud of those Members of Congress that went on this journey to try to improve relations with these nations, with these emerging democracies, and the conversion of this former arch enemy of ours.

Now, Mr. Speaker, I would like to yield to the gentleman from Indiana (Mr. SOUDER) for whatever time he would like to consume, one of the stars on this trip. He was the only member of the delegation not on the Committee on Armed Services, the other five were; but he is a strong supporter of our military and, more importantly, he is the chairman of the oversight committee that oversees all of our antinarcotics and abuse efforts worldwide. He has been a leader in helping the President and the administration deal with the problems of narcoterrorism, and he and his staff were there to specifically focus on that issue, and he did it extremely well at every stop. But it was a pleasure to have him with us. He has traveled in the past with me to Russia. And I was proud to have him as a colleague on this trip.

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Mr. SOUDER. Mr. Speaker, I first want to praise the gentleman for his continuing efforts in this often, and previously, ignored region of the world. He has been an expert in Russia for a long time. I believe he said 33 different trips to Russia, someone who is a familiar face there, who will go nose to nose with the Russians, and at the same time the Russians know he will be back again and again and again. He is our friend while he is also arguing with us.

I have watched the gentleman practice that in tough negotiations with Russia and prepare himself for the other types of things that he has been working with in this troubled region of the world.

He has spent time in the Ukraine, in Georgia. His commitment to Uzbekistan and Kazakhstan and the so-called "Stans" was there long before we had the focus in the recent post-9/11 issues. The gentleman was interested in this for a long time since the Republicans came into control in Congress and even before that in his career.

His efforts in North Korea. He has been in the world hot spots before they were known as the world hot spots; therefore, the particular trip that we were able to do, as the gentleman has explained tonight, we cannot overstate the gentleman's role and the connections and how these things are connected.

Because the gentleman is involved in the energy, he got to know Mohammar Khadafi's son, who would enable us to get into places we were never able to get in and help facilitate the breakthrough that we are having in Libya. The gentleman deserves that credit. No matter how many times it is said, the fact remains that we were able to get into places that we were not able to get into, that Americans would not have been able to get into had the gentleman not been spending a lot longer than just the most recent time, but time way before that. I thank the gentleman very much for that.

Let me kind of reinforce a couple of things that the gentleman said. First, I would like to start with Libya because there were many of us, and let me just in my little piece that I got to say to the leader, Mr. Khadaffi, it was very clear. I said, look, I am a fundamentalist Christian. I am a strong supporter of Israel. I am one of your critics. But at the same time, and I did not particularly like some of the things he was claiming to be, this great democracy and how great socialism was working. We did not agree. But he said it in a debating type of way, probably a little nicer than some of the debate we had here earlier this evening. It was a good discussion. He seems to want to start to communicate.

While I found some of the things he said offensive or in disagreement, the bottom line is he took a huge step to open up a country that was previously and still is on our terrorist list, that may be networking; and those of us who have seen all sorts of classified things know we have Libyan suspects all over the world for potential networks suspects. If he shuts this down, if he shuts this nuclear development down, look, I am willing to sit through a few lectures. I am willing to talk. If somebody can be moved off the terrorist list, if somebody can be moved off the nuclear list, we can sit down and talk. It does not mean that we are apologizing or that we are agreeing with past things. Okay. What is done is done.

If we have a chance at a time when we are under assault all over the world to find a friend who wants to fight al Qaeda, who wants to take on bin Laden, who wants to dismantle, and on the whole I would just as soon they did health research and tried to figure out how to put their nuclear research into desalinization of water. They want our help to try to figure out how to get more water in Libya so they can irrigate. And that is a lot better than developing bombs to blow up our people.

His comment that you referred to where he said, we do not know much about Libya, partly we will never know that much about Libya. And some of it was rhetoric and frustration we hear all around the world. But you know what, we did just not know much about Libya. I love to study history. We did not know hardly anything about Libya. Apparently, our government does not either.

They were telling the gentleman from Pennsylvania (Mr. WELDON) that we cannot land there. We do not know how we will be received. They will be hostile. There will be no press coverage. And we landed, and there is not any other way to state this, it was the friendliest place I've even been on a CODEL.

Everybody was so excited to see us. Once the leader said, this is okay, all this Americanism is pouring out. The gentleman mentioned the university. They want to get our education. The 38 of the top 40 people have been educated in America. The U.S.-Libyan Friendship Society, there is hundreds of people waiting 3 hours to have lunch with a few Congressmen.

The excitement of the whole trip there, you go, something is a disconnect. We do not understand. And at one of the dinners where the Libyan husband of an American citizen asked me, Are you guys over here just to tick off the French? And I said, What? I said, I hate to be an ignorant American here, but why would we be ticking off the French? He said, You do not understand. In North Africa, Libya, Tunisia, Algeria, the French and the Italians are viewed as the occupiers. The Americans came in in World War II and liberated us. We like America. And I am thinking, no, no, these are the guys that hate us.

It is not that we just do not know much about Libya; we do not know anything. We had it backwards. If they are willing to work with us, hey, look, it is trust but verify. They could have taken us into a nuclear facility.

The gentleman from Pennsylvania (Mr. WELDON) knew more than I did because he has been to Russia so many times, he goes, oh, that is a Russian system. Were you working with this university? Were you working with that university? It is clear that the pressure that President Reagan put on communism to get the fall of the Berlin Wall and the change in Russia meant that it also dried up a lot of the assistance they were getting in Libya. And then they had to go into the market to pick up a few things. That knowledge, while the gentleman knows a lot, quite frankly, he said repeatedly, look, there is only so much we can do. The President makes these decisions. We can input. We can help once it goes through, how to put these plans together, but the bottom line is we want nuclear scientists to look at their nuclear facilities. We want experts to verify what we have heard.

What we see is they need it economically. His son, who is the next potential leader, wants to change the country. He is being schooled at the London School of Economics. When you go into Tunisia, you can see the differences between there and Libya. So can all their people next door. They have reasons to want to change. He does not want to be caught in a spider hole like Saddam was.

All the evidence suggests that this is real. What the chairman said, to go up to Libya, was a huge breakthrough. The administration is moving rapidly and this may be one of the biggest things in our life time that saves lots. And it is much to the gentleman's credit, and it was a great stop in Libya.

I only want to mention one thing about Iraq because I agree with everything the gentleman has stated about that, from everything to morale to others; but I supported and the gentleman mentioned about getting General Dayton in here and the weapons of mass destruction, trying to understand that the consultants somehow got more high profile than the people that are actually running the weapons of mass destruction program, that there are multiple directions here; but what I wanted to comment on particularly was the spider hole itself.

It taught me something else with this that I have been trying to communicate back home as well. That hole was not very big. I am not a particularly big person, maybe a little overweight but not that much, but I did not fit into the hole very well. The bigger you were, the tighter it was. The taller you were, the tighter it was. It was a very small hole.

What we heard was that there was inside information, we had already been to that farm twice looking for it, looking for him. Saw nothing. Then inside information, not voluntarily given, told them where it was. They went in with Special Forces and still did not find it. Found a different hole. Then they had to go back and get a drawn map to go.

First off, if you think of the hole as very small and the part where he would go down into basically like a casket with a higher ceiling, there was not much room when you got down in there. You could not move barely at all.

No wonder he was disoriented. If he had American troops tromping around above him while they are making several visits with a little tube going down, he was probably getting very little oxygen, it was dark, there was no food, it is not like it is a lighted well-structured cell. It was a little dirt box that he was in. And if it is that hard by the time they put the grass over the top of it and something over the top of that, there was no way even Special Forces with a map could find it. Put this in the context of weapons of mass destruction.

If you cannot find Saddam when you have a map from his top staffers, and you have your top forces searching for it with a map and it takes you two runs, we may never find some of this stuff. Just because we do not find it does not mean it does not exist. We have already proven it was worthwhile to go in there because they were clearly developing.

The other thing was in going down to the Believer's Palace at the bottom, when we went down and saw the supposed place where he would feed back all this stuff to us and we were one of the first groups, I believe they had just opened up the basement there, and you saw the ability to put 200 of his special guards and his cabinet and himself in there. What we saw was not only the masks that you always hear about, chemical and biological masks, but they had controls on the wall for different types of chemical and biological weapons to control the air systems and other things. This guy was not preparing for conventional war.

Whether he was preparing now or a year from now or 2 years from now may be debated, but he was getting ready to fight an unconventional war.

In Afghanistan, which was one of my primary goals to talk again to President Karzai, who I met here as well as the former King, about narcotics. Afghan heroin is again flooding the market. We have major obligations here with Afghanistan. As the King said in Rome, the gentleman from Pennsylvania (Mr. WELDON) took the first delegation in. We followed shortly after that, and the King told me at that time, we used to grow all sorts of crops where they now do poppy, and Afghanistan is often remembered when there is trouble, but then you forget us because we are a poor country that gets run over by all the major powers. My people are hungry.

I have never seen a country without a middle class or even nice hotels. It was a suburb of hell, quite frankly, in Kabul. They need help. Yet at the same time, I think 85 percent of the people turned out in a recent election even though al Qaeda was threatening to kill them. They are excited. They have a multiparty system, multicandidates running.

We have to figure out how to get them off the heroin because their farmers are not making that much from heroin. It is going to middle men. And these middle men that are making the money are often tied to the terrorist networks. They use narcotics, human trafficking and other illegal substances to fund it. So what I was trying to explain and President Karzai has been helpful, the general, the nephew I think of the King, said that we need Special Forces, Afghani Special Forces to go in after the heroin because the RPGs and the bombs and the suicide bombers are getting funded in Afghanistan largely by the fact that when the heroin poppy goes into market, that money then gets to middle men who take that money to buy armaments and to build al Qaeda and other terrorist networks around the world.

It is a very close link between drugs and terrorism, a very close link to reestablishing the control in Afghanistan. They have the will. They are turning out to vote at greater rates than we are. They are excited about the freedom. Women have their first freedom. We have an American-educated leader who really is dynamic in what he wants to do in Afghanistan, a King who has shown his commitment for 40 years and then transferring it to democratic power there.

I was hopeful for Afghanistan even though it is a very tough country that has been abused by every major power through world history for hundreds and hundreds of years. This was an eye-opening trip. It was a tremendous privilege to be allowed on it.

I commend the gentleman for leading a breakthrough in Libya, major steps in Iraq, and showing the courage to go into Afghanistan even when people were telling us, the day we were still going in, do not go in there. It is not safe right now; we went in. President Karzai was able to go in front of his media and say, look, the Americans are here. They are backing us up. They are not bailing out just because two suicide bombers hit us in the last few days and somebody hit an ammunition dump. We are not retreating. This is real. It is not just the President; it is the Congress that is behind you.

I thank the gentleman for his leadership.

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to add a comment about the role of this body and members of foreign policy.

There are some who say that Members of Congress should not travel overseas or travel to countries that we are having problems with.

I will say that is absolutely, totally wrong. There are some within the State Department who take offense to the fact that Members of Congress will travel to countries like this. Let me say to my colleagues in this body, many of you will be here for 10 years or 20 years. If you focus on one country or a group of countries, you will have far more opportunities to specialize in that country than a State Department official who spends 3 years in one post and moves on someplace else.

There is a very real and substantive role for Members of Congress to play, and we must play it. This is not a case where the executive branch controls everything and we are just subservient to them. We are an equal part of the Federal Government, and we have the responsibility because we appropriate the dollars, we levy the taxes, and we oversee the way the money is spent, to travel to these countries, to open doors, to look for new ways to establish relationships, and to support the administration, which we did on this trip as we have on every major trip. But there is a role for the Congress to play.

I am convinced that Members of Congress can play an extremely constructive role because we do not have to act as diplomats. We do not have to watch how we sit, how we sip our tea, what words did we use, because we are not representing the President. We are not representing the Secretary of State. We are representing ourselves. The members of Congress on this CODEL, as it has been on every CODEL that I have been a part of, did a fantastic job on behalf of America.

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Mr. Speaker, I would like to at this point in time place the trip report in the RECORD, filed as a part of our process as we do for every trip that gives the American people and our colleagues a complete, factual understanding of what we did, where we went and how we represented our country.

I am proud of this delegation, Democrats and Republicans alike, opening new doors to help in the security of not just America but of all those countries that want peace around the world.

## CONGRESSIONAL DELEGATION (CODEL) WELDON TO LIBYA, TUNISIA, KUWAIT, IRAQ, PAKISTAN, AFGHANISTAN, UZBEKISTAN, AND GERMANY—JANUARY 25-31, 2004

### SUMMARY

A bipartisan congressional delegation (CODEL) led by Representative Curt Weldon (R-PA), traveled to Tripoli, Libya; Tunis, Tunisia; Kuwait City, Kuwait; Baghdad, Balad Air Base, and Ad Dawr, Iraq; Islamabad, Pakistan; Kabul, Afghanistan; Karshi Kharnabad ("K2"), Uzbekistan; and Ramstein Air Base and Landstuhl Regional Medical Center, Germany January 25-31, 2004. The delegation met with the leadership of Libya, Afghanistan, and Iraqi Governing Council representatives, the former Kuwaiti Ambassador to the United States, reviewed U.S. military operations and visited personnel supporting Operation Iraqi Freedom (OIF) in Kuwait and Iraq and Operation Enduring Freedom (OEF) in Pakistan, Afghanistan and Uzbekistan. The delegation included:

Representative Curt Weldon (R-PA)
Representative Solomon Ortiz (D-TX)
Representative Steve Israel (D-NY)
Representative Rodney Alexander (D-LA)
Representative Candice Miller (R-MI)
Representative Elton Gallegly (R-CA)
Representative Mark Souder (R-IN)
Representative Darrell Issa (R-CA)

A listing of the complete delegation and key personnel contacted at each location is provided at attachments 1 and 2, respectively.

*Libya, January 25-26*

The delegation was the first bipartisan congressional delegation to meet with Colonel Moammar Gaddafi in 35 years. Fourteen other meetings were held with senior ministry, legislative, educational, and charitable foundation officials. The discussions with Colonel Gaddafi and all other senior leaders were extraordinarily positive regarding the potential for normalized relations between Libya and the U.S. The delegation encouraged the Libyan leader to follow through on his encouraging public statements regarding elimination of Libyan weapons of mass destruction (WMD) programs, with swift, verifiable elimination of those programs. Further, the delegation spoke with Libyan leaders regarding numerous public and private cooperative science, technology, environmental, health care, economic development, and energy-related programs that could be developed and instituted immediately upon normalization of relations. The delegation also delivered introductory letters from American University students to students of Al Fateh University in Tripoli.

Colonel Gaddafi thanked Chairman Weldon for making the visit possible: "coming at a very critical time"—observing that he wished that "such a meeting could have taken place thirty years ago" and stating his hope "to be able to compensate for what we missed." He commented at length on the need for countries to communicate and engage in dialogue before taking up arms against one another. He denied any responsibility for the night club bombing in 1986 that led to the U.S. bombing of Libya and the death of his step daughter:

"For 30 years we haven't discussed anything with each other . . . taking the wrong approach right from the beginning, with wars, losses, damage, loss of valuable time, without a good, specific reason for doing so . . . The picture of Gaddafi (in the U.S.) is not a real one. When I took the decision on elimination of weapons of mass destruction, I did it for my people, out of conviction . . . If I had the atomic bomb I would put it on the table. There is no reason for Libya and the United States not to have good relations. The right course is the one you have taken: to come here and meet . . . the policies were wrong in the past. We can't rectify such wrongs . . . We have to compensate for what we have missed. . . I highly value your visit because it is necessary that you know us very well. Because once you know us well, then you will take the appropriate policy decisions."

He further commented regarding what he believed to be a lack of knowledge in the U.S. about Libya's government:

"Americans don't even know the governing system in Libya. We know the governing system in the U.S.: the White House, the NSC (National Security Council), Congress . . . We know about the Pentagon. We know about the newspapers, one by one. We even know the writers. We know names of companies and specializations. Nevertheless, Americans don't know anything about our congresses, peoples' committees, revolutionary committees, social structure, leadership, or anything about the Green Book."

Colonel Gaddafi also mentioned criticism from Arab countries he said was aimed at Libya for deciding to eliminate its WMD programs:

"In the past year there have been bad mediators. Tunisia, Egypt and other Arab countries see it as not in their best interest for Libya and the United States to have good relations. These countries are benefiting from the embargo and seek a continuation of the embargo for their own interests. How would you expect them to work for good relations between Libya and America? The Arabs are waging a fierce campaign against us for deciding to get rid of WMD. I hope they are not successful in taking revenge against us. I hope that even Libyans are not sorry for taking such a step. It all depends on your supporting us. It does deserve support and encouragement so that Libyans won't be disappointed."

Chairman Weldon stated that before coming to Libya the delegation had been told by U.S. officials of the positive attitude taken by Libyans in cooperating with the survey of Libyan WMD programs and initial steps to eliminate WMD programs:

"There is no doubt in my mind that your policies and leadership will lead to normalized relations between our countries. Even President Bush, in his recent State of the Union message, mentioned Libya as a model for other countries. You have to understand that President Bush has been criticized by elements of our society for calling Libya a model, just as you have been criticized by Arab leaders who want to see Libya and America stay apart."

Chairman Weldon indicated that normalization of relations between the two countries would permit initiatives to be undertaken between the Libyan General Peoples' Congress and the U.S. Congress, much like has been done with the Russian Duma and other parliaments, to further governmental and non-governmental cooperation between peoples of the two countries, leading to better understanding, peaceful cooperation, and providing for a better quality of life for all peoples: "The path forward will not be easy, good things have to be worked for . . . I am convinced that if we work as hard on our side as you have on your side, we can start a new chapter in our relationship, without make judgments about your country or your culture, but to work together, as partners."

*Kuwait-Iraq, January 26-28*

The delegation traveled to Baghdad to meet with and receive updates from L. Paul Bremer, Administrator of the Coalition Provisional Authority; General Sanchez, Commander, Joint Task Force Seven; the Iraq Survey Group, responsible for the search for weapons of mass destruction; representatives of the primary factions of the Iraqi Governing Council; and the Deputy Commanding General, 1st Armored Division, responsible for the security of Baghdad.

Four members of the delegation met with Sheik Saud al Sabah, former Kuwaiti Ambassador to the United States, to renew acquaintances and discuss the general political, economic, and military situation in the region. Sheik Sabah has personally established a fund for families of U.S. military personnel killed in the 1991 Gulf War.

### *Coalition Provisional Authority*

Ambassador Bremer indicated that work continues on formulating the strategic framework for Iraqi security, its economy, and political transition. He noted that while the security situation had improved, there still exists a major terrorist threat. He further stated that the "consumption economy" is working well, but structural problems exist, largely due to the distorting economic effects of five cents a gallon gasoline. The focus is in getting capital into the economy. Work continues, as well, on the transition to a National Assembly by July 1, 2004. Differences within the Governing Council and among the general populace on the selection of delegates by caucus or direct election continue to cause significant debate and public demonstrations. Ambassador Bremer noted that an announcement is due in the near future from the United Nations on its recommendations on elections in Iraq based on the results of a study completed by a visiting United Nations team.

### *CJTF-7*

General Sanchez indicated that the number of attacks by former regime elements, foreign terrorists, and others had continued to decline since the capture of Hussein, now averaging less than 20 per day, down from a high of 50 per day.

### *Iraqi Governing Council*

The delegation met with four members of the Iraqi Governing Council (IGC), representing the primary political and religious factions within Iraq. The President of the IGC, Dr. Adrian Pachachi, a secularist, indicated the Council was in the final phase of establishing basic laws, establishing the details of a provisional government, and completing the constitution. Dr. Pachachi further indicated his belief that the draft constitution covers every conceivable right: freedom of speech, freedom of assembly, the rule of law, etc. Three of the four council members—Dr. Pachachi, the Sunni, and Shia IGC Members—were unanimous in stating their views that it is an oversimplification to conclude that individual Iraqi religious affiliation dictates the views of the Iraqi people on various policy issues: "the reality is that the fanatics are a tiny minority, but very vocal and very well organized." The Sunni IGC member indicated that Sunni and Shia will vote on the issues, not on the basis of religion, but on the substance of the issues under consideration—"the educated middle class in Iraq is much more open minded."

The Kurdish member stated that the Kurds live under a different system and different culture, observing that they have suffered under Iraqi rule, and "have the right to establish their own way." Dr. Pachachi, acknowledged that "from the beginning we have recognized that the Kurds are distinct, that their special status will be maintained. We are in the process of agreeing to that arrangement." Dr. Pachachi further indicated that the problem at hand is deciding the best way to select members of the legislature: "The problem is that it will be difficult to have credible elections in such a short period . . . If the UN doesn't believe elections are possible, they will likely propose other possibilities."

### *Iraq Survey Group*

Major General Keith Dayton, Director of the Iraqi Survey Group, provided a classified update on the search for weapons of mass destruction and counter terrorism programs. A common misperception is that Dr. Kay headed the hunt for WMD. While Dr. Kay has been a very valuable advisor in the hunt for WMD, General Dayton has headed the group responsible for the hunt for WMD since its inception in June 2003, and with Dr. Kay's departure, will continue to head the group.

What can be said about the delegations' discussions is that there, the people in the trenches actually doing the day-to-day searches, collecting, and analyzing the data and material, expressed a sense of "frustration and dismay" over "what Dr Kay is doing"—or at least some of the media's characterizations of "what Dr. Kay is doing," as he exits from his high visibility role in the hunt for WMD.

The ISG has responsibilities beyond the sole search for WMD. Although not the Commander of the ISG, but responsible as the special advisor for WMD, apparently Dr. Kay sought total control of all the assets under the ISG for the sole purpose of the hunt for WMD. It was a matter of "all or nothing." And when he didn't get all of the assets—even when those assets were increased to provide additional funds for areas other than the search for WMD, Dr. Kay objected, ultimately being a factor in his departure.

Those responsible for the search for WMD in Iraq believe that while no large stockpiles of WMD have yet to be uncovered, no shortage of leads exist—with literally tens-of-millions of documents remaining to be fully examined and considerable leads and circumstantial evidence to be pursued—"with much remaining to be done."

General Dayton believes the declared failure by some to yet find large stockpiles of nuclear, chemical, or biological weapons is premature and ignores the significance of the evidence that has been found about the undisputed activities in each of these areas providing evidence of future intentions and breakout capabilities being pursued and proven to have existed. In the nuclear area, Dr. Kay said as recently as January 28 that, "Look, the man had the intent to acquire these weapons, he invested huge amounts of money in them. The fact is he wasn't successful."

In the end, Dr. Kay's judgment, regardless of the disappointment resident in the ISG, came down on the side of the continued search. In an interview on NBC in which he was asked to comment on whether it was prudent to go to war, Dr. Kay said "I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than we even thought it was before the war . . ."

### *Balad Air Base-Ad Dawr*

At Balad Air Base, the delegation met with the Commanding General of the 4th Infantry Division, Major General Mike Odierno and the Commander, Third Brigade, 4th ID, Colonel Fred Rudesheim. The delegation also visited the capture site of Saddam Hussein at Ad Dawr. At each stop the Members had an opportunity to meet with military personnel from their home states and districts.

## *Afghanistan, January 29*

The delegation met with President Hamid Karzai and the former King of Afghanistan, Zahir Shah. President Karzai expressed his appreciation to the delegation for the many sacrifices made by America to further political stability, economic progress, and increased employment in Afghanistan and for America's continued war on terrorism . . . "Our people know what America has done." He described the Loya Jirga process, the adoption of the Afghan Constitution, patterned after the U.S. Constitution, and the anticipated general elections.

### *President Hamid Karzai*

President Karzai cited the key importance of Pakistan to stability in Afghanistan, by not interfering in Afghan affairs, yet assisting in elimination of the Taliban threat. The President and the delegation discussed the significant problem of continued high levels of poppy cultivation in Afghanistan. President Karzai acknowledged. Afghanistan's failed efforts to eliminate poppy cultivation and described the government's plan to destroy poppy fields, while assisting farmers in alternative crop cultivation, interdiction of drug routes, and destruction of heroin production labs. The President concluded that for Afghanistan to emerge as a nation-state it has to destroy the poppy crop: "to destroy terrorism, we must destroy poppies." The delegation cited its support and commitment to Afghanistan, "for the long haul."

### *His Highness, Zahir Shah*

The former King, Zahir Shah, thanked the delegation for U.S. assistance in establishing peace and security in Afghanistan. He observed that the political process in Afghanistan is based on a tribal structure—a democracy that functions within a tribal structure—with the same goals as the people in America.

## *Uzbekistan, January 29–30*

Following meetings in Kabul, the delegation traveled to Karshi-Kharnabad ("K2"), Uzbekistan, to visit U.S. military personnel supporting OEF. In addition to being able to speak informally at the evening and breakfast meals with personnel from their districts, the delegation received mission orientated briefings, toured a mission aircraft, and viewed a static display of a Uzbek Air Force SU-27.

## *Germany, January 30–31*

### *Commander, USAF Europe and U.S. Consul General*

General "Doc" Foglesong and Consul General (CG) Peter Bodde discussed NATO-related military and regional political issues. General Foglesong described the challenges posed by making the NATO Response Force (NRF) viable given the current limited expeditionary capabilities of the NRF. He also described the efforts at re-sizing NATO and U.S. operations—"mining manpower positions"—and the use of "reach back capabilities" to allow functions in the U.S. such as intelligence to support the European theater instead of having to have the capability resident in Europe. General Foglesong further described efforts to develop niche capabilities among NATO partners to preclude all nations from having to have all military capabilities with some developing expeditionary capabilities for billeting, some with medical, others with civil engineering, etc.

Representative Souder expressed his deep concern regarding Austria's, France's, Turkey's and Germany's various degrees of lack of support for U.S. operations in Iraq. He also commented on the cumbersome rules of engagement within NATO in the war in Kosovo. General Foglesong indicated his "cautious optimism" about relations and support in dealing with the countries within NATO: "They recognize that terrorists don't recognize borders."

Representative Ortiz, expressing frustration, observed that "it would be nice if the State Department would consider us (Congress) equal players," indicating the both

State and Defense Departments frequently take action without consultation or regard for the views of Congress.

Chairman Weldon concluded that regardless of the some troubling aspects in the execution of foreign policy and some military operations, "the American peoples' support and the support of Congress for the troops are solid and unequivocal—and the troops need to know that."

### *Contingency Aero-medical Staging Facility & Lanstuhl Regional Medical Center*

The delegation visited with injured military personnel from Afghanistan and Iraq at the Landstuhl Regional Medical Center and Aero-medical Staging Facility at Ramstein Air Base. The delegation was pleased to provide transportation for ten soldiers, awaiting transportation to the U.S. to continue their treatment at Walter Reed Army Medical Center for injuries suffered in Iraq.

### Political, Economic, and Security Environment

The CODEL visit to Libya came shortly after Libyan leader Moammar Gaddafi's pledge to rid his country of weapons of mass destruction.

The Iraq visit took place six weeks after the capture of Saddam Hussein near Ad Dawr and nine months after the declared end to major combat operations in Iraq. In October 2003, Congress had approved President Bush's $87 billion fiscal year 2004 supplemental request for military, intelligence, and reconstruction costs in Iraq and Afghanistan. Acts of terrorism being conducted by former regime elements, fundamentalist extremists, foreign terrorists, and common criminals against coalition forces and Iraqi civilians continued to cause casualties, although at a reduced rate since Hussein's capture and the end of Ramadan. The Iraqi people, particularly the police, have increasingly become the target of the random terrorist attacks.

The Afghanistan visit came shortly after the adoption of the Afghanistan constitution by the "Loya Jirga." Lingering Taliban elements and Al Qaeda continued efforts to threaten the evolution of democratic Afghanistan through intimidation and sporadic terrorist attacks against coalition forces, non-governmental international aid organizations and Afghans.

### OVERVIEW

A bipartisan congressional delegation (CODEL) comprised of eight Members of Congress, led by Representative Curt Weidon (R-PA), traveled to Tripoli, Libya; Tunis, Tunisia; Kuwait City, Kuwait; Baghdad, Balad Air Base, and Ad Dawr, Iraq; Islamabad, Pakistan; Kabul, Afghanistan; Karshi Kharnabad ("K2"), Uzbekistan; and Ramstein Air Base and Landstuhl Regional Medical Center, Germany January 25-31, 2004. The delegation met with the leadership of Libya and Afghanistan, representatives of the Iraqi governing Council (IGC), the former Kuwaiti Ambassador to the U.S., reviewed U.S. military operations and visited personnel supporting Operation Iraqi Freedom (OIF) in Kuwait and Iraq and Operation Enduring Freedom (OEF) in Pakistan, Afghanistan and Uzbekistan. In addition, thousands of Valentines Day cards from U.S. school children as well as other gifts were presented to U.S. troops serving in OIF and OEF in Iraq, Afghanistan, and Uzbekistan in the war against terrorism.

### *Tripoli, Libya, January 25–26*

The delegation was the first bipartisan congressional delegation to visit Libya and meet with Colonel Moammar Gaddafi in 35 years.

### *Arrival Meeting*

The delegation was met by a delegation led by Abdullatife Aldali, Chairman of the Tripoli Conference, who welcomed the delegation: "We look forward to a new relationship between Libya and America."

Following an introduction of the delegation, Chairman Weldon indicated the delegation was in Libya to open a new chapter in U.S.-Libyan relations, to listen and learn from its Libyan counterparts: "There are strong U.S. interests in both political parties to be friends with Libya, to work to resolve common concerns. We don't come here to represent the Secretary of State or the President, but as representatives of a co-equal branch of the United States Government, looking forward to normalized relations between our countries." Chairman Weldon described many of the inter-parliamentary relationships Congress has with the parliaments in Russia, Ukraine, Uzbekistan, Azerbaijan, and the European Parliament and indicated his hope that there would one day be a similar relationship with the General Peoples' Congress Great Jamahiriya of Libya.

Representative Ortiz indicated that there is much to be gained by both countries by being friends and thanked the hosts for their warm welcome.

### *Overview of Ministry, Legislative, Educational, & Foundation Meetings*

The delegation met with Colonel Gaddafi for two hours and had fourteen other meetings with senior ministry, legislative, educational, and charitable foundations. The delegation spoke with the Libyan leaders about cooperative governmental and non-governmental programs that could be developed and instituted, much like has been done with the parliaments of other countries. Chairman Weldon noted that discussions regarding such programs could be started immediately upon normalization of relations.

Chairman Weldon prefaced each of the discussions with Libyan leaders with an explanation of the congressional role in the U.S. federal system of separate, but equal branches of government: "We are not here to negotiate, that is the responsibility of the executive branch of our government. But after you take the necessary steps to follow through on your stated intention to eliminate your WMD programs, Congress can encourage our President and Secretary of State to expedite normalization of relations with your country. Following that, we can work with you, like we have with a number of other parliaments around the world, to establish governmental and non-governmental programs to bring our two countries closer together and improve the welfare of both our peoples." The discussions with Colonel Gaddafi and all other senior leaders with whom the delegation met were extraordinarily positive regarding the potential for normalized relations between Libya and the U.S.

### *Colonel Gaddafi*

Colonel Gaddafi thanked Chairman Weldon for making the visit possible: "coming at a very critical time," observing that he wished that "such a meeting could have taken place thirty years ago" and stating his "hope to be able to compensate for what we missed." He commented at length on the need for countries to communicate and engage in dialogue before taking up arms against one another. He denied any responsibility for the night club bombing in 1986 that led to the U.S. bombing of Libya and the death of his step daughter:

"For 30 years we haven't discussed anything with each other . . . taking the wrong approach, right from the beginning, with wars, losses, damage, loss of valuable time, without a good, specific reason for doing so . . . The picture of Gaddafi in the U.S. is not a real one. When I took the decision on elimination of weapons of mass destruction, I did it for my people, out of conviction . . . If I had the atomic bomb I would put it on the table. There is no reason for Libya and the United States not to have good relations. The right course is the one you have taken: to come here and meet . . . the policies were wrong in the past. We can't rectify such wrongs . . . We have to compensate for what we have missed. . . .I highly value your visit because it is necessary that you know us very well. Because once you know us well, then you will take the appropriate policy decision."

He further commented at length at what he believed to be a lack of knowledge in the U.S. about Libya's government:

"You don't even know the governing system in Libya. We know the governing system in the U.S.: the White House, the NSC (national security council), Congress. We know about the Pentagon. We know about the newspapers, one by one. We even know the writers. We know names of companies and specializations. Nevertheless, Americans don't know anything about our congresses, peoples' committees, revolutionary committees, social structure, leadership, or anything about the Green Book."

Colonel Gaddafi commented on the criticism he said was aimed at Libya for deciding to eliminate its WMD programs:

"In the past there have been bad mediators. Tunisia, Egypt and other Arab countries see it as not in their best interests for Libya and the United States to have good relations. They are benefiting from the embargo and seek a continuation for their own interests. How would you expect them to work for good relations between Libya and America? The Arabs are waging a fierce campaign against us for deciding to get rid of WMD. I hope they are not successful in taking revenge against us. I hope that even Libyans are not sorry for taking such a step. It all depends on your supporting us. It does deserve support and encouragement so that Libyans won't be disappointed."

Chairman Weldon stated that before coming to Libya the delegation had been told by U.S. officials of the positive attitude taken by Libyans in cooperating with the survey of Libyan WMD programs and initial steps to implement the WMD program elimination.

"There is no doubt in my mind that your policies and leadership will lead to normalized relations between our countries. Even President Bush, in his recent State of the Union message, mentioned Libya as a model for other countries. You have to understand that President Bush has been criticized by elements of our society for calling Libya a model, just as you have been criticized by Arab leaders who want to see Libya and America stay apart."

Chairman Weldon indicated that normalization of relations between the two countries would permit initiatives to be undertaken between the Libyan General Peoples' Congress and the U.S. Congress, much like has been done with the Russian Duma and other parliaments, to further government and non-governmental cooperation between peoples of the two countries, leading to better understanding, peaceful cooperation, and providing for a better quality of life for all people: "The path forward will not be easy, but most good things you have to work hard for . . . I am convinced that if we work hard on our side as you have on your side, we can start a new chapter in our relationship, not to judge your country, your culture, but to work together, as partners.”

The delegation encouraged the Libyan leader to follow through on his encouraging public statements regarding elimination of Libyan weapons of mass destruction (WMD) programs, with swift, verifiable elimination of WMD programs.

### *General Peoples' Congress Great Jamahiriya*

Zinati Zinati, Speaker of the General Peoples' Congress Great Jamahiriya, welcomed the delegation and expressed his appreciation for the “extraordinary effort” the delegation took to be in Libya: “ This is evidence of the great will on your part to develop, promote and enhance relations between our two countries.” The Speaker provided the delegation with a general overview of the structure of the “basic congresses” and the General People's Congress, the annual legislative agenda, and the Libya legislative procedures.

Chairman Weldon noted that the delegation was the first U.S. bipartisan delegation to visit Libya in over 35 years. He expressed his appreciation for the warm reception and how this portended very productive discussions. The Chairman also cited the gratifying experience of the delegation shortly after the official arrival when the delegation had been able to take advantage of a short period before the beginning of the official itinerary to visit the nearby souq (market). There, the delegation had an opportunity to meet several Libyans, including small children, shopping and tending their stores, who in each and every case warmly greeted the members of the delegation, often in English.

Chairman Weldon indicated that the delegation had come to Libya to praise Col Gaddafi for the “bold steps he had taken to begin to bring our countries back together.”

“The positive steps Libya has taken in settling international claims against Libya; agreeing to rejoin international non-proliferation organizations and treaties; and declared intentions to deal with weapons of mass destruction have been very well received around the world. In fact the focus of the world is on Libya. It is a positive focus, that can lead to normalized relations between our countries. We came to let your Congress know that once normalized relations can be established, that our Congress can work with you, like we have done with the parliaments of Ukraine, Russia, Europe, and other parliaments to establish cooperative programs for the benefit of both our peoples.”

Chairman Weldon further described the detailed program established with the Russian Duma outlined in A New Time, A New Beginning, as described in attachment 3, prepared by members of the U.S. Congress, that was promulgated for the purpose of providing a catalyst for Russia and the U.S. to work together to benefit the peoples of both countries. He explained that a similar program and process for implementation could be established between Libya and the U.S. once normalized relations could be achieved. He further states “that, something more fundamentally important that can occur is to change the image of Libya in America, and the world. The American people have a limited knowledge of Libya. By enhancing our formal relationship between our parliaments we would have an opportunity to further understanding between our peoples.”

Representative Ortiz commented that “someone has a vision to get us together and I want to thank my Chairman for his vision.” Mr. Ortiz quoted LBJ (Lyndon Baines Johnson):

“Let's sit down and reason together.” Adding, “that is what we are here to do today. There have been incidents that have caused us to drift apart. We can't change history, but we don't want to repeat it . . . We have taken the first step. I come from Texas and we have had a great relationship with Libya in the past. We have only been here a few hours, but I like what I see and I like what I hear. For the sake of the future generations, we need to give them a chance to hope, to dream, and to plan. We pledge we will do everything to strengthen the bonds between our two countries.”

Chairman Weldon thanked the Speaker for the efforts of Saif al Saleem al Gaddafi, Colonel Gaddafi's son, and Abdulmagid Mansouri, a member of the International Energy Advisory Council for their efforts in facilitating the visit of the delegation. Chairman Weldon further stated that: “I am happy we are opening a new door between our countries and I want to keep that door open and not repeat the tragedies of the past.”

Suleiman Al Shahoumi, Secretary of Foreign Affairs of the General Peoples' Congress, observed that:

“Libya is a small country that inherited an ancient system with people living in poverty and experiencing starvation. The revolution in 1969 sought to bring up the level of life for the Libyan people. The Libyan people have chosen a political system—a direct democracy—in harmony with Libya's culture and principles in life . . . A system based on placing all authority in the hands of the people, distributed through 450 Peoples' Basic Congresses. This system is independent and balanced . . . The policies of these congresses support national liberation for states and nations and call for the respect of human rights and condemns all forms of terrorism. This policy also believes that the only way to resolve conflicts is through dialogue, calling for peace, stability, and order and cooperation between peoples and states. This policy believes that prosperity is achieved through democracy and development. Therefore Libya, thanks to the revolution, has been able to provide all types of rights to the people: utilities, education, human resources, housing, fresh water—all related to mankind. In spite of the term human rights not being precisely defined, my country has signed onto all treaties related to human rights.”

Secretary Shahoumi, commenting on terrorism, cited the difficulty in “differentiating between terrorism and the legitimate right of nations and peoples to fight for their freedom and human rights.” He added that, “we deny and refuse the ways of connecting terrorism and Islam because we believe terrorism has no religion, has no state or country or home, and has no nationality.”

In commenting on weapons of mass destruction, the Secretary noted that ever since the 1969 Revolution, Libya has been calling for making the Middle East a region free of weapons of mass destruction, including nuclear weapons:

“But nobody has ever responded to this initiative. Therefore because of no response to our initiative, we thought as a small country, a modest way to protect ourselves was to establish WMD as part of our defense policy. However, after breakthroughs in resolving conflicts like UTA and Lockerbie and because of serious thoughts of the international community to get rid of WMD, Libya decided to formally announce its decision to dismantle its WMD programs. In this regard, we wish to express our deep appreciation for the positive international response to our initiative and we again call for making the region a WMD-free zone. As a step to that end, Libya has signed all relevant treaties and conventions related to this topic, including treaties banning all types of experiments related to WMD . . . And we call on your support to make the Middle East a WMD-free zone.”

The Secretary further provided his view that the people of Libya believe and have in fact published a White Book on the topic of peace in the Middle East. He indicated the White Book makes a “practical and persuasive case” for making Israel and Palestine a “bi-state country,” modeled after South Africa, with Muslims, Jews, and Christians all living together with “all rights and duties.”

Representative Issa observed that Libya's stated intent to eliminate its WMD programs represents a “huge step” toward the goal of a WMD-free Middle East: “Your offer made in Beirut two years ago to normalize relations with Israel was also a huge step . . . I will have to admit that I am a little cynical that Palestinians and Jews should join into one country so readily. Your dream is still a good one. Either option is acceptable to me. I hope you will join us in seeking either option as an acceptable approach to achieving peace in the Middle East.”

### *Prime Minister*

Prime Minister Shokri Ghanem observed that strained relations between Libya and the U.S. existed due to “misunderstandings or misfortunes,” and Libya wishes to change that.

Representative Issa stated that it is important to sustain the momentum that has developed in normalizing relations: “Momentum is like magic when it works . . . it is about expectations. Colonel Gaddafi turned on a dime in an amazing way. With no missteps, the U.S. could have an Embassy here in 300 days.”

Prime Minister Ghanem stated that “with good intentions, with each party trying to understand one another,” differences can be worked out: “When we talk we understand one another. You are a big country—a super power—we are a small country, yet neither of us has a monopoly on wisdom. We have a duty to one another, and should not listen to a third party. We are very interested in going the whole way. We suffered from terrorism more than you. We failed to communicate. We need to talk.” Chairman Weldon added: “Honesty and candor are critical.”

Representative Gallegly mentioned the change that has taken place in American attitudes and the high level of apprehension that exists since 9/11. He further commented on the “extremely warm welcome” the delegation had received. He added that “the press can often become the wedge, frequently seeing the glass as half empty. We can't let the press control the debate on this issue.” Prime Minister responded that: “the people are open and warm and have no grudges whatsoever.”

Prime Minister Ghanem concluded that after 9/11 the whole world is different: “We can work together. Libya is a small country. When we talk and listen you can find wisdom in a small country. You will find us a good ally. The United States was the number one place we sent our students. We would like to do that again.”

### *Foreign Minister*

Foreign Minister Abdulrakman Shalgam stated: “it is an honor for us to start a new era of relations with the U.S. . . . I believe this is a chance for you to learn about our people. Our expectation, our ideas and thoughts can benefit from international peace . . . In the past there was a joint misunderstanding. It is the mission for both of us to clear up that misunderstanding . . . Certain circumstances caused a misunderstanding. We started a bit late, but better late than never. It is an honor to be receiving the first delegation from America."

Chairman Weldon stated that the delegation didn't know what to expect in coming to Libya: "Your people have overwhelmed us with their warm greetings—in your markets and in all of our meetings . . . The eyes of the world are on Libya because of what you have done. Your decision to rid your country of WMD and rejoin related treaties has caused Libya to become the centerpiece for discussion all over our country. The highest respect we can give is coming here personally . . . As you know, we are not here to negotiate, that is not our job. But if you continue the path you have chosen, as an equal branch of our government, we believe we can institute a process that will benefit both of our peoples. We have spoken with your Congress about that day and talked to them about the work we have done with other parliaments. We are excited, optimistic, and with your leadership, we believe normalized relations can be established."

Representative Ortiz observed that he never believed that one day he would be in Tripoli. He also spoke of the warm greetings extended to the delegation.

### *Gaddafi International Foundation for Charitable Associations the Gaddafi Human Rights Foundation & The Libyan Red Crescent*

The delegation visited with officials of the Gaddafi International Foundation for Charitable Associations, the Gaddafi Human Rights Foundation, and the Libyan Red Crescent to discuss their programs.

### *Al Fateh University*

The delegation met with the President of Al Fateh University, department heads, and delivered introductory letters from American University students to students of the University. Professor Tarhuui read a poem that he had prepared to celebrate the delegation's visit, attachment 4.

### *Baghdad, Iraq, January 27*

The delegation traveled to Baghdad to meet with and receive updates from L. Paul Bremer, Administrator of the Coalition Provisional Authority; General Sanchez, Commander, Joint Task Force Seven; the Iraq Survey Group, responsible for the search for weapons of mass destruction; representatives of the primary factions of the Iraqi Governing Council; and the Deputy Commanding General, 1st Armored Division, responsible for the security of Baghdad.

### *Coalition Provisional Authority*

Ambassador Bremer indicated that work continues on formulating the strategic framework for Iraqi security, its economy, and political transition. He indicated that while the security situation had improved, there still exists a major terrorist threat. He further indicated that the "consumption economy" is working well, but structural problems exist, largely due to the distorting effects of five cents a gallon gasoline. The focus is in getting capital into the economy. Work continues, as well, on the transition to a National Assembly by July 1, 2004. Differences within the Governing Council and among the general populace on the selection of delegates by caucus or direct election continue to cause significant debate and public demonstrations. An announcement is due in the near future from the United Nations on its recommendations on elections in Iraq based on the results of a study completed by a visiting United Nations team.

### *CJTF-7*

Lieutenant General (LTG) Ricardo Sanchez, the senior U.S. military officer in Iraq (Commending General V Corps and Coalition Joint Task Force 7), provided an update on combat, security, and U.S. military personnel issues. General Sanchez indicated that the number of attacks by former regime elements, foreign terrorists, and others had continued to decline since the capture of Hussein, averaging less than 20 per day, down from a high of 50 per day.

### *Iraqi Governing Council*

The delegation met with four members of the Iraqi Governing Council (IGC), representing the primary political and religious factions within Iraq. The President of the IGC, Dr. Adnan Pachachi, a secularist, indicated the council was in the final phase of establishing basic laws, establishing the details of a provisional government, and completing the constitution. Dr. Pachachi indicated his belief that the draft constitution covers every conceivable right: freedom of speech, freedom of assembly, the rule of law, etc. Three of the four members—Dr. Pachachi, the Sunni, and Shia IGC Members were unanimous in stating their views that it is an oversimplification to conclude that religious affiliation dictates the views of the Iraqi people: "the reality is that the fanatics are a tiny minority, but very vocal and very well organized." The Sunni IGC member indicated that Sunni and Shia will vote on the issues, not on the basis of religion, but on the substance of the issues under consideration—"the educated middle class in Iraq is much more open minded."

The Kurdish member stated that the Kurds live under a different system and culture, that they have suffered under Iraqi rule, and "have the right to establish their own way." Dr. Pachachi acknowledged that "from the beginning we have recognized that the Kurds are distinct, that their special status will be maintained. We are in the process of agreeing to that arrangement." Dr. Pachachi further indicated that the problem at hand is deciding the best way to select members of the legislature: "The problem is that it will be difficult to have credible elections in such a short period . . . If the U.N. doesn't believe elections are possible, they will likely propose other possibilities."

### *Iraq Survey Group*

Major General Keith Dayton, Director of the Iraqi Survey Group, provided a classified update on the search for weapons of mass destruction and counterterrorism programs. A common misperception is that Dr. Kay headed the hunt for WMD. While Dr. Kay has been a very valuable advisor in the hunt for WMD, General Dayton has headed the group responsible for the hunt for WMD since its inception in June 2003, and with Dr. Kay's departure will continue to head the group.

What can be said about the delegation's discussions is that there, the people in the trenches actually doing the day-to-day searches, collecting, and analyzing the data and material, expressed a sense of "frustration and dismay" over "what Dr. Kay is doing"—or at least some of the media's characterization of "what Dr. Kay is doing," as he exits from his high visibility role in the hunt for WMD.

The ISG has responsibilities beyond the sole search for WMD. Although not the Commander of the ISG, but responsible as the special advisor for WMD, apparently Dr. Kay sought total control of all the assets under the ISG for the sole purpose of the hunt for WMD. It was a matter of "all or nothing." And when he didn't get all of the assets—even when those assets were increased to provide additional funds for areas other than the search for WMD, Dr. Kay objected, ultimately being a factor in his departure.

Those responsible for the search for WMD in Iraq believe that while no large stockpiles of WMD have yet to be uncovered, no shortage of leads exist—with literally tens-of-millions of documents remaining to be fully examined and considerable leads and circumstantial evidence to be pursued—"with much remaining to be done."

General Dayton believes the declared failure by some to yet find large stockpiles of nuclear, chemical, or biological weapons is premature and ignores the significance of the evidence that has been found about the undisputed activities in each of these areas providing evidence of future intentions and breakout capabilities being pursued and proven to have existed. In the nuclear area, Dr. Kay said as recently as January 28 that, "Look, the man had the intent to acquire these weapons, he invested huge amounts of money in them. The fact is he wasn't successful."

In the end, Dr. Kay's judgment, regardless of the disappointment resident in the ISG, came down on the side of the continued search. In an interview on NBC in which he was asked to comment on whether it was prudent to go to war, Dr. Kay said "I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than we even thought it was before the war . . .".

### *1st Armored Division*

Brigadier General Mark Hertling, Deputy Commanding General, 1st Armored Division, provided an update on security and Iraqi police training programs within Baghdad.

### *Kuwait, January 27*

Four members of the delegation met with Sheik Saud al Sabah, former Kuwaiti Ambassador to the United States, to renew acquaintances and discuss the general political, economic, and military situation in the region. Sheik Sabah has personally established a fund for families of U.S. military personnel killed in the 1991 Gulf War.

### *Balad Air Base & Ad Dawr, January 28*

Major General Ray Odierno, Commanding General, 4th Infantry Division, and Colonel Frederick Rudesheim, Commander, 3rd Brigade Combat Team, 4th ID, escorted the delegation to the site of Saddam Hussein's capture near Ad Dawr and briefed the delegation on operations and reconstruction efforts in his area of responsibility.

### *Islamabad, Pakistan January 29*

AMB Nancy J. Powell briefed the delegation on issues relating to the bilateral relationship between the United States and Pakistan, and responded to members' questions.

Chairman Weldon asked if Usama Bin Ladin were in Baluchistan (the southern tribal area bordering Afghanistan), and if he were being protected by Pakistani government officials. AMB Powell responded that she does not believe there are Al Qaeda sympathizers among the Pakistani leadership, but the question of Taliban supporters is "trickier." She noted that in general, Pakistani cooperation has been excellent: Khalid

Sheikh Mohammed was taken down by Pakistani elements, and that another high value target was captured within 90 minutes of transmitting U.S. intelligence to Pakistani forces.

Chairman Weldon followed up with a question concerning the likelihood of assassination of President Musharraf AMB Powell responded that it is always a danger—he recently survived two attempts on his life, which Musharraf blames on Al-Qaeda. AMB Powell pointed out that the 1988 plane crash that claimed the life of President Zia is still surrounded by questions.

Chairman Weldon asked how extensive our contacts with Pakistani officials were. AMB Powell responded that we lost contact with an entire generation of Pakistani officers when Pakistan was under sanctions between 1990–2001, but just this last year we brought 75 junior officers into our training programs. Chairman Weldon also asked about the F–16s that Pakistan bought but were denied under sanctions, and AMB Powell replied that they had been paid back.

Chairman Weldon suggested that Chairman Souder lead an effort to create a tripartite interparliamentary exchanges with Pakistani, Indian, and U.S. legislators. AMB Powell remarked that this would be particularly helpful to Pakistani parliamentarians: they passively await legislation drafted by the government; they have no staff; no working committee system.

### *Kabul, Afghanistan January 29*

The delegation met with President Hamid Karzai and the former King of Afghanistan Zahir Shah. President Karzai expressed his appreciation to the delegation for the many sacrifices made by America to further political stability, economic progress, and increase employment in Afghanistan and for America's continued war on terrorism . . . "Our people know what America has done." He described the Loya Jirga process, the adoption of the Afghan Constitution, patterned after the U.S. Constitution, and the anticipated general elections.

### *President Hamid Karzai*

President Karzai cited the key importance of Pakistan to stability in Afghanistan by not interfering in Afghan affairs, yet assisting in elimination of the Taliban threat. The President and the delegation discussed the significant problem of continued high levels of poppy cultivation in Afghanistan. President Karzai acknowledged Afghanistan's failed efforts to eliminate poppy cultivation and described the government's plan to destroy poppy fields, while assisting farmers in alternative crop cultivation, interdiction of drug routes, and destruction of heroin production labs. The President concluded that for Afghanistan to emerge as a nation-state it has to destroy the poppy crop: "to destroy terrorism, we must destroy poppies." The delegation cited its support and commitment to Afghanistan, "for the long haul."

### *His Highness, Zahir Shah*

The former King, Zahir Shah, thanked the delegation for U.S. assistance in establishing peace and security in Afghanistan. He observed that the political process in Afghanistan is based on a tribal structure—a democracy that functions within a tribal structure—with the same goals as the people in America.

### *Karshi-Kharnabad, Uzbekistan, January 29–30*

The delegation remained overnight at Karshi-Kharnabad ("K–2"), Uzbekistan following meetings in Kabul to visit U.S. military personnel supporting OEF. In addition to being able to speak informally at the evening and breakfast meals with personnel from their districts, the delegation received mission orientation briefings and visited unit assigned aircraft and a static display of a Uzbek SU–27 provided by the Uzbek Air Force.

### *Ramstein and Lanstuhl Medical Center Germany, January 30–31*

### *General "Doc" Foglesong and Consul General Bodde*

General "Doc" Foglesong and Consul General (CG) Peter Bodde discussed NATO-related military and regional political issues. General Foglesong described the challenges posed by making the NATO Response Force (NRF) viable given the current limited expeditionary capabilities of the NRF. He also described the efforts at re-sizing NATO and U.S. operations—"mining manpower positions"—and the use of "reach back capabilities" to allow functions in the U.S. such as intelligence to support the European theater instead of having to have the capability resident in Europe. General Foglesong further described efforts to develop niche capabilities among NATO partners to preclude all nations from having to have all military capabilities with some developing expeditionary capabilities for billeting, some with medical, others with civil engineering, etc.

Representative Souder expressed his deep concern regarding Austria's, France's, Turkey's and Germany's various degrees of lack of support for U.S. operations in Iraq. He also commented on the cumbersome rules of engagement within NATO in the war in Kosovo, "when eight foreign ministers were involved in approving target lists." General Foglesong cited need for "balance" in each of these relations and for future planning, the need to assess our abilities to deploy into and out of various countries and determine which countries will allow the U.S. to "kinematically execute" from their bases.

The delegation also discussed the status of relationships with the French and German governments. General Foglesong and CG Bodde highlighted a number of efforts by Germany to assist the U.S., e.g., providing air base security to permit U.S. security personnel to be deployed to support operations like OIF and OEF. General Foglesong indicated his optimism in dealing with the countries within NATO: "They recognize that terrorists don't recognize borders."

Representative Ortiz, expressing frustration, observed that "it would be nice if the State Department would consider us (Congress) equal players," indicating that both DOD and DOS frequently take action without consultation or regard for the views of Congress. Chairman Weldon also noted what seems to be apparent "disconnects" between the State Department, DOD, and NSC on foreign policy issues.

Chairman Weldon concluded that regardless of the many troubling aspects in the execution of foreign policy and some military operations, support for the troops is solid and unequivocal and the troops need to know that.

### *Contingency Aero-medical Staging Facility & Lanstuhl Regional Medical Center*

Colonel Brenda McEleney provided the delegation a tour of the Contingency Aero-medical Staging Facility where they were able to visit with a number of troops awaiting transportation to Walter Reed Medical Center.

Colonel Steven Older and Colonel Carol Gilmore provided the delegation a tour of the Landstuhl Regional Medical Center where the delegation was able to meet with a number of military personnel recovering from injuries sustained in Iraq.

The delegation provided transportation from Ramstein Air Base to Andrews Air Force Base for ten soldiers en route to Walter Reed Army Medical Center where they were to receive further treatment for injuries sustained in Iraq.

## DELEGATION

### MEMBERS

Representative Curt Weldon (R–PA), Representative Solomon Ortiz (D–TX), Representative Steve Israel (D–NY)*, Representative Candice Miller (R–MI), Representative Rodney Alexander (D–LA), Representative Elton Gallegly (R–CA)**, Representative Mark Souder (R–IN), Representative Darrell Issa (R–CA)**.

### PROFESSIONAL STAFF

Doug Roach, Harald Stavenas, Richard Mereu**, Marc Wheat***.

### U.S. ARMY ESCORTS

Lt Colonel Craig Collier, Lt Colonel Gregg Blanchard, Sgt Thai Kov, Sgt Hugh Griffin.

*Kuwait-Iraq only.
**Libya only.
***29–31 Jan.

## KEY PERSONNEL

### LIBYA

Colonel Moammar Gaddafi
Shokri Ghanem, Prime Minister
Abdulrakman Shalgam, Foreign Minister
Zinati Mohammad Zinati, Speaker of the General Peoples' Congress
Matoug M. Matoug, Deputy Prime Minister for Service Affairs (weapons of mass destruction)
Honorable Suleiman Al Shahoumi, Secretary of Foreign Affairs at the General Peoples' Congress
Dr. Abdulhafed M. Jaber, Director, Technical Cooperation Office, Ministry of Service Affairs (weapons of mass destruction)
Abdulatife Aldali, Chairman of Tripoli Conference (Mayor of Tripoli)
Abdulmagid Mansuri, Member, International Energy Advisory Council
Tajura Nuclear Research Center
Professor E.F. Ehtuish, Chairman, Board on the Environment
Saleh Saleh, General Manager, Gaddafi International Foundation for Charity Associations
Dr. Giuma Atigha, Gaddafi Human Rights Foundation
Dr. Mohamed Lutf Farhat, President, Al-Fateh University
Dr. Muftah M. Etwilb, Director of International Relations, Libyan Red Crescent
Libyan-American Friendship Association

### BAGHDAD

Ambassador L. Paul Bremer, Administrator of the Coalition Provisional Authority (CPA) (c/o CPA Legislative Affairs, 1401 Wilson Blvd, Floor 5, Arlington, VA 22209–2306)
Dr. Adnan Pachachi, President, Iraqi Governing Council (secularist)
Dr. Roj Schaways, Iraqi Governing Council Member (Kurd)
Dr. Muwaffak Al Rubuic, Iraqi Governing Council Member (Shiia religious leader)
Samir Sumaidaie, Iraqi Governing Council Member (Sunni)
Ambassador Richmond, UK Special Representative to Iraq
Lieutenant General (LTG) Ricardo Sanchez, the senior U.S. military official in Iraq (Commanding General V Corps and Coalition Joint Task Force 7) (HQ CJTF–7 CPA Command Group, Unit 91400, APO AE 09342–1400)

Major General Keith Dayton, Commander, Iraqi Survey Group (c/o CPA Legislative Affairs, 1401 Wilson Blvd, Floor 5, Arlington, VA 22209-2306)

Brigadier General Mark Hertling, Deputy Commanding General, 1st Armored Division (Unit 93054 APO AE 09324-3053)

Robert Kelley, Legislative Counselor to Ambassador Bremer (c/o CPA Legislative Affairs, 1401 Wilson Blvd, Floor 5, Arlington, VA 22209-2306)

Lt Colonel Richardson, Distinguished Visitors Bureau (Security detail) (c/o CPA Legislative Affairs, 1401 Wilson Blvd, Floor 5, Arlington, VA 22209–2306)

### KUWAIT

Sheik Saud al Sabah, former Kuwaiti Ambassador to the United States

Joe Porto, U.S. Embassy Control Officer (US Embassy, Unit 69000, APO AE 098809000)

### BALAD AIR BASE

Major General Ray Odierno, Commanding General, 4th Infantry Division (ID) (APO AE 92628)

Colonel Frederick Rudesheim, Commander, Third Brigade, 4th ID, APO AE 09323

### ISLAMABAD, PAKISTAN

Nancy Powell, U.S. Ambassador to Pakistan, (Unit 62200, APO AE 09812-2200)

Joel Reifman, economic section/control officer, U.S. Embassy

### KABUL, AFGHANISTAN

Hamid Karzai, President of Afghanistan

Zahir Shah, former King of Afghanistan

Sardar Abdulwalij, General, retired (nephew and associate of H.E. Zahir Shah)

Zalmay Khalilzad, U.S. Ambassador to Afghanistan

Hank Tucker, political-military section/control officer, U.S. Embassy

### KARSHI-KHARNABAD, UZBEKISTAN

Jon R. Purnell, U.S. Ambassador to Uzbekistan (pouch address: 7110 Tashkent Place, Dulles, VA 20189-7110)

Colonel Scott Wagner, Installation Commander (Unit HHC 213 ASG APO AE 09311)

Lt. Colonel Hosil Mirzaev, Uzbekistan Air Force, (SU-27 display)

### RAMSTEIN AIR BASE AND LANDSTUHL REGIONAL MEDICAL CENTER, GERMANY

General Robert (Doc) H. Foglesong, Commander, U.S. Air Forces Europe

Lt General Arthur J. Lichte, Vice Commander, U.S. Air Forces Europe

Peter W. Bodde, Consul General, U.S. Embassy, Frankfurt (American Consulate General, Siesmayerstrasse 21, 60323 Frankfurt, Germany)

Brigadier General Rosanne Bailey, Commander, 435th Air Base Wing

Colonel Philip Lakier, Deputy Surgeon General, USAF, Europe

Colonel Brenda McEleney, Deputy Commander, 435th Medical Group

Colonel Steven Older, Acting Commander, Landstuhl Regional Medical Center

Colonel Carol Gilmore, Landstuhl Regional Medical Center

Larry Wright, Vice Consul, U.S. Consulate, Frankfurt

### C-40 AIRCRAFT CREW (FLEET LOGISTICS SUPPORT SQUADRON-VR 59, 1050 BOYINGTON DR. FT WORTH, TEXAS 76127–5000)

Commander Bill Snyder, Aircraft Commander

Lt. Commander Benjamin White, Copilot

AE2 Michael Marr, crew chief

AK2 Lyndal Crow, Loadmaster

AD1 James Davis, flight attendant

HM2 Letty Owour, flight attendant

AM2 Shawn Smith, maintenance technician

MAI Daniel Topper, security

MA2 John Eagles, security

MA2 Jason Stafford, security

MA3 Daniel Veccholla, security

### A New Time; A New Beginning

A New Time, A New Beginning was published in 2001 under the leadership of Representative Curt Weldon (PA–7), co-chairman of the Duma-Congress Study Group, to provide a comprehensive bipartisan program for cooperation between the United States and Russia. It was endorsed by nearly one-third of the members of Congress and provides 108 recommendations for U.S.-Russia cooperation in the following 11 major subject areas: Agricultural Development, Cultural/Education Development, Defense and Security, Economic Development, Energy/Natural Resources, Environmental Cooperation, Health Care, Judicial/Legal Systems, Local Governments, Science and Technology, and Space and Aeronautics.

### MEMBERS OF CONGRESS

Welcome, men of Congress.
To the land of bless.
Here, peace is the belief.
And love is man's relief.
We are a nation of norms.
Disbelievers in terror of all forms.
Destructive arms is not our goal.
We are for peace, body and soul.
Our guide is sweetness and light,
First in beauty, first in might.
Think not of terror
Man's imposed horror.
Such sickly deeds
Are but evil seeds
That cause man to fall
And end the universe for all.

Dr. T.T. Tarhuni
Professor of English,
Al Fateh University
Tripoli Libya

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUTIERREZ (at the request of Ms. PELOSI) for today on account of illness.

Mr. CULBERSON (at the request of Mr. DELAY) for February 3 and today on account of attending to official business in his district.

Mr. LUCAS of Oklahoma (at the request of Mr. DELAY) for February 3 and today on account of illness in the family.

Mr. MCHUGH (at the request of Mr. DELAY) for today beginning at 5:30 p.m. on account of official committee business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HONDA) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

## ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found a truly enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2264. An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

## BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on February 4, 2004 he presented to the President of the United States, for his approval, the following bill.

H.R. 2264. An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

## ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Friday, February 6, 2004, at noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6618. A letter from the Under Secretary, Comptroller, Department of Defense, transmitting the Secretary's certification that the current Future Years Defense Program (FYDP) fully funds the support costs associated with the Virginia Class submarine multiyear FY 2004 through FY 2008 program, pursuant to 10 U.S.C. 2306b(i)(1)(A); to the Committee on Armed Services.

6619. A letter from the Acting Under Secretary, Acquisition, Technology, and Logistics, Department of Defense, transmitting notification regarding the Department's report for purchases from foreign entities for Fiscal Year 2003, pursuant to Public Law 104—201, section 827 (110 Stat. 2611); to the Committee on Armed Services.

6620. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Mexico, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

6621. A letter from the Chairman and President, Export-Import Bank of the United States, transmitting the Bank's FY 2003 annual report for the Sub-Saharan Africa Initiative; to the Committee on Financial Services.

6622. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting reports containing the 30 September 2003 status of loans and guarantees issued under the Arms Export Control Act, pursuant to 22 U.S.C. 2765(a); to the Committee on International Relations.

6623. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Mexico (Transmittal No. DTC 127-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6624. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Jordan (Transmittal No. DDTC 128-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6625. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Japan (Transmittal No. DDTC 129-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6626. A letter from the Under Secretary, Personnel and Readiness, Department of Defense, transmitting a report on the audit of the American Red Cross for the financial year ending June 30, 2003, pursuant to 36 U.S.C. 6; to the Committee on International Relations.

6627. A letter from the General Counsel, General Accounting Office, transmitting a copy of the report on each instance a Federal agency did not fully implement recommendations made by the GAO in connection with a bid protest decided during fiscal year 2003, pursuant to 31 U.S.C. 3554(e)(2); to the Committee on Government Reform.

6628. A letter from the Secretary, Department of Agriculture, transmitting the Department's Annual Performance and Accountability Report for FY 2003; to the Committee on Government Reform.

6629. A letter from the Chairman, Federal Communications Commission, transmitting the Commission's FY 2003 Annual Financial Report where the Commission received for the second year in a row an "Unqualified Opinion"; to the Committee on Government Reform.

6630. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the Commission's report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6631. A letter from the Board Members, Railroad Retirement Board, transmitting a copy of the Board's Performance and Accountability Report for Fiscal Year 2003, including the Office of Inspector General's Auditor's Report, Report on Internal Control, and Report on Compliance with Laws and Regulations; to the Committee on Government Reform.

6632. A letter from the Director, Trade and Development Agency, transmitting the Agency's annual financial audit for FY 2003, pursuant to 22 U.S.C. 2421(e)(2); to the Committee on Government Reform.

6633. A letter from the Acting Chief, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D — 2004-05 Subsistence Taking of Fish and Shellfish Regulations (RIN: 1018-AI89) received January 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6634. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Endangered Status for the Rota Bridled White-Eyed (Zosterops rotensis) from the Commonwealth of the Northern Mariana Islands (RIN: 1018-AI16) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6635. A letter from the Deputy Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Revision to the Management of "Other Species" Community Development Quota [Docket No. 031009255-3302-02; I.D. 092503A] (RIN: 0648-AQ88) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6636. A letter from the Deputy Assistant Administrator for Reguatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Halibut Fisheries in U.S. Convention Waters Off Alaska; Management Measures to Reduce Seabird Incidental Take in the Hook-and-Line Halibut and Groundfish Fisheries [Docket 030130026-3323; I.D. 121202B] (RIN: 0648-AM30) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6637. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher/Processor Vessels Using Hook-and-line Gear in the Bering Sea and Aleutian Islands [Docket No.021212307-3037-02; I.D. 120403B] received December 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6638. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackeral in the Bering Sea and Aleutian Islands [Docket No. 031126295-3295-01; I.D. 011304A] received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6639. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackeral Lottery in Areas 542 and 543 [Docket No. 031126295-3295-01; I.D. 011304B] received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6640. A letter from the General Counsel, National Science Foundation, transmitting the Foundation's final rule — Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) — received January 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

6641. A letter from the American Legion, transmitting the financial statement and independent audit of The American Legion proceedings of the 85th annual National Convention of the American Legion, held in St. Louis, Missouri from August 26, 27, and 28, 2003 and a report on the Organization's activities for the year preceding the Convention, pursuant to 36 U.S.C. 49; (H. Doc. No. 108—157); to the Committee on Veterans' Affairs and ordered to be printed.

6642. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Gains and Losses from Short Sales (Rev. Rul. 2004-15) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6643. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Restriction and valuation of distributions. (Rev. Rul. 2004-10) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6644. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Minimum covergage requirements (after 1993) (Rev. Rul. 2004-11) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6645. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Special Rules for Top-Heavy Plans (Rev. Rul. 2004-13) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6646. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters. (Rev. Proc. 2004-15) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6647. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-Sharing, and Stock Bonus Plans (Rev. Rul. 2004-12) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6648. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Income affected by treaty (Rev. Rul. 2004-03) received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MILLER of Florida (for himself, Mr. BILIRAKIS, Mr. TURNER of Ohio, Mr. SNYDER, Mr. RODRIGUEZ, Mr. BACHUS, Mr. BERRY, Mr. DEFAZIO, Mr. HOLDEN, Mr. ISAKSON, Ms. KILPATRICK, Mr. BARTLETT of Maryland, Mr. ACEVEDO-VILÁ, Mr. HINCHEY, Mr. LAMPSON, Mr. BISHOP of Georgia, Mr. WILSON of South Carolina, Mr. BOYD, Mr. QUINN, Mrs. MCCARTHY of New York, Mr. EVANS, Mr. MICA, Mr. KING of Iowa, Mr. MCGOVERN, Mr. LAHOOD, Mr. SIMMONS, Mr. VITTER, Mr. GRIJALVA, Mr. EDWARDS, Ms. GINNY BROWN-WAITE of Florida, Mr. RUPPERSBERGER, Mr. FATTAH, Mr. SCOTT of Georgia, Mr. SMITH of New Jersey, Mr. FOLEY, Mr. VAN HOLLEN, Mr. Crane, Mr. Goss, Mr. LaTourette, Mr. Paul, Mr. Neal of Massachusetts, Mr. Baker, Mr. Duncan, Mr. Istook, Mr. Jones of North Carolina, Mr. Brown of South Carolina, Mr. Norwood, Mr. Schrock, Mr. Franks of Arizona, Mr. Allen, Mr. Collins, Mr. Lincoln Diaz-Balart of Florida, Mr. Goode, Mr. Murtha, Mr. Matheson, Mr. Michaud, Mr. Strickland, Mr. McIntyre, Mr. Reyes, Mr. Filner, Mr. Meeks of New York, Mr. Pearce, Ms. Hart, Mr. Putnam, Mr. Ney, Mr. Forbes, Mr. King of New York, Mrs. Myrick, Mr. Burgess, Mr. Hayes, Mr. Calvert, Mrs. Jo Ann Davis of Virginia, Mr. Cooper, Mr. Ballance, Mr. Ford, Mr. Rogers of Michigan, Mr. Smith of Washington, Mr. Frost, Mr. Jenkins, Mr. Gutierrez, Mr. Taylor of Mississippi, Mr. Turner of Texas, Mr. Pallone, Mr. Meehan, Mr. Sandlin, Mr. Gillmor, Mr. Sanders, Mr. Menendez, Mr. Wicker, Mr. Owens, Mr. Alexander, Ms. Bordallo, Ms. Hooley of Oregon, Mr. Burton of Indiana, Mr. Whitfield, Mr. English, Mr. Burr, Mr. Brown of Ohio, Mr. Miller of North Carolina, Ms. DeLauro, Mr. Cunningham, Mr. Crowley, Mr. Keller, Mr. Hoeffel, Mr. Gibbons, Mr. Sherman, Mr. Kucinich, Mr. Spratt, Mr. Thompson of California, Mr. Stenholm, Mr. Kennedy of Rhode Island, Mr. Otter, Ms. Harman, Mrs. Musgrave, Mr. John, Mr. Moore, Mr. Peterson of Minnesota, Mr. Lynch, Ms. Norton, Mr. Israel, Mr. Markey, Mr. Kildee, Mr. Udall of New Mexico, Mr. Bishop of New York, Mr. Meek of Florida, Mr. Johnson of Illinois, Mrs. Napolitano, Mr. Ross, Mr. Ortiz, Mr. Kind, Ms. Lee, Mr. Bonner, Mr. Terry, Mr. McInnis, Mr. Udall of Colorado, Mrs. Blackburn, Mr. Engel, Mr. Olver, Ms. Majette, Mr. Hostettler, Mr. Dicks, Mr. McDermott, Ms. Corrine Brown of Florida, Mr. Hastings of Florida, Mr. Pickering, Ms. Millender-McDonald, Mr. Boswell, Mrs. Bono, Mr. Moran of Virginia, Mr. Jefferson, Ms. Waters, Mr. Murphy, Mr. Andrews, Ms. Carson of Indiana, Mr. Cardoza, Mr. Rothman, Mr. Boucher, Mr. Langevin, Mr. Deutsch, Mr. Tanner, Mr. Larson of Connecticut, Mr. Cramer, Ms. Jackson-Lee of Texas, Mr. Boozman, Mr. Weldon of Pennsylvania, Mr. Baird, Mr. LoBiondo, Ms. Berkley, Mr. Souder, Mrs. Miller of Michigan, Mr. Lewis of Georgia, Mr. Porter, Mr. Honda, Mr. Gerlach, Mr. Costello, Mr. Kirk, Mr. Doyle, Mrs. Capito, Mr. Manzullo, Mrs. Davis of California, Mr. Bradley of New Hampshire, Mr. Larsen of Washington, Mrs. Lowey, Mr. Berman, Mr. Lipinski, Mr. Rogers of Alabama, Mr. Tiberi, Mr. Conyers, Mr. Peterson of Pennsylvania, Mr. Oberstar, Mr. Hayworth, Ms. Slaughter, Mr. Serrano, Mr. Jackson of Illinois, Mr. Doggett, Mr. Barrett of South Carolina, Mr. Towns, Mr. Clyburn, Mr. Everett, Mr. Ryan of Ohio, Mr. Gallegly, Ms. Woolsey, Mr. Hall, Mr. Sessions, Mr. McCotter, Mr. Bell, Mr. DeMint, Mr. Kanjorski, Mr. Case, Mr. Shuster, Mr. Ose, Mr. Kingston, Mr. George Miller of California, Mr. Davis of Tennessee, Mr. Inslee, Mr. Neugebauer, Mr. Baca, Mr. Marshall, Mr. Saxton, Mrs. Capps, Mr. Delahunt, Mr. Weiner, Mr. Royce, Mr. Shaw, Mr. Schiff, Mr. Stupak, Mr. Green of Wisconsin, and Mr. Sullivan):

H.R. 3763. A bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Armed Services.

By Ms. HART (for herself and Ms. Millender-McDonald):

H.R. 3764. A bill to provide effective training and education programs for displaced homemakers, single parents, and individuals entering nontraditional employment; to the Committee on Education and the Workforce.

By Mr. CALVERT:

H.R. 3765. A bill to require the Secretary of the Treasury to mint coins in commemoration of the recipients of the Congressional Medal of Honor; to the Committee on Financial Services.

By Mr. HOUGHTON (for himself and Mr. Payne):

H.R. 3766. A bill to provide for tax-exempt financing for United Nations facilities; to the Committee on Ways and Means.

By Mr. BERRY (for himself, Ms. Schakowsky, Mr. Allen, Mr. Pallone, Mr. Hinchey, Mrs. McCarthy of New York, Ms. Solis, Mrs. Christensen, Mr. Grijalva, Mr. Boucher, Mrs. Tauscher, Mr. Ross, Mr. Taylor of Mississippi, Ms. Roybal-Allard, Ms. Lee, Mr. Serrano, Mr. Stark, Mr. Meehan, Mr. Cummings, Mr. Waxman, Mr. Conyers, Mr. Bishop of New York, and Ms. DeLauro):

H.R. 3767. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRENSHAW (for himself and Ms. Corrine Brown of Florida):

H.R. 3768. A bill to expand the Timucuan Ecological and Historic Preserve, Florida; to the Committee on Resources.

By Mr. DUNCAN (for himself, Mr. Jenkins, Mr. Wamp, Mr. Davis of Tennessee, Mr. Cooper, Mr. Gordon, Mrs. Blackburn, Mr. Tanner, and Mr. Ford):

H.R. 3769. A bill to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building"; to the Committee on Government Reform.

By Ms. DUNN:

H.R. 3770. A bill to amend the Internal Revenue Code of 1986 to exempt certain transportation provided by seaplanes from the excise tax imposed on the transportation of persons by air; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself, Mr. Shays, Mr. Hinchey, Mr. Emanuel, Mr. Tancredo, Mr. Smith of New Jersey, Mr. Cooper, and Mrs. Maloney):

H.R. 3771. A bill to extend the date for the submittal of the final report of the National Commission on Terrorist Attacks on the United States, to provide additional funding for the Commission, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. GOODE:

H.R. 3772. A bill to include Nelson County and Franklin County, Virginia, in the Appalachian region for purposes of the programs of the Appalachian Regional Commission; to the Committee on Transportation and Infrastructure.

By Mr. HULSHOF (for himself and Mr. Ryan of Wisconsin):

H.R. 3773. A bill to amend the Internal Revenue Code of 1986 to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 and to repeal scheduled reductions in tax benefits provided by the Jobs and Growth Tax Relief Reconciliation Act of 2003; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Weldon of Pennsylvania, Mr. Turner of Texas, Mr. Smith of New Jersey, Mr. Frost, and Mr. Thompson of Mississippi):

H.R. 3774. A bill to improve homeland security by providing for national resilience in preparation for, and in the event of, a terrorist attack, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM:

H.R. 3775. A bill to impose a ban on the importation of soybeans and soybean meal that are products of Argentina or Brazil; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky (for himself, Mrs. Blackburn, Mr. Tanner, Mr. Foley, Mr. McInnis, Mrs. Bono, Mr. Conyers, Mr. Ford, Mr. Jenkins, Mr. Duncan, Mr. Wamp, Mr. Cooper, Mr. Gordon, Mr. Davis of Tennessee, Mr. Rogers of Kentucky, and Mr. Whitfield):

H.R. 3776. A bill to amend the Internal Revenue Code of 1986 to provide capital gains tax treatment for certain self-created musical works; to the Committee on Ways and Means.

By Mr. McINNIS (for himself, Mr. Walden of Oregon, Mr. Peterson of Pennsylvania, Mr. Pickering, Mr. Istook, Mr. Isakson, Mr. Frost, Mr. Case, Mr. Goode, Mr. Simpson, Mr. Sandlin, Mr. Hastings of Washington, Mr. Green of Wisconsin, Mr. Peterson of Minnesota, Mrs. Capito, Mr. King of Iowa, Mr. Pearce, Mr. Filner, Mrs. Musgrave, Mr. Boucher, Mr. Paul, and Mr. Marshall):

H.R. 3777. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to enter into contracts with community health care providers to improve access to health care for veterans in highly rural areas, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PETERSON of Pennsylvania (for himself and Mr. Sherwood):

H.R. 3778. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Resources.

By Ms. SLAUGHTER (for herself and Ms. Ginny Brown-Waite of Florida):

H.R. 3779. A bill to amend the Servicemembers Civil Relief Act to prevent the disruption of the education of children who change residence based on the military service of their parents; to the Committee on Veterans' Affairs.

By Ms. WOOLSEY (for herself, Mrs. JONES of Ohio, Ms. DELAURO, Mr. KUCINICH, Ms. MILLENDER-MCDONALD, Mr. SERRANO, Ms. LEE, Mr. CONYERS, Mr. FRANK of Massachusetts, Mrs. NAPOLITANO, Mr. LAMPSON, Mr. TOWNS, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Mr. GEORGE MILLER of California, Mr. LANTOS, Ms. KILPATRICK, Mr. PAYNE, Ms. CARSON of Indiana, Mr. OWENS, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 3780. A bill to improve the lives of working families by providing family and medical need assistance, child care assistance, in-school and afterschool assistance, family care assistance, and encouraging the establishment of family-friendly workplaces; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATSON:

H. Con. Res. 357. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height; to the Committee on House Administration.

By Mr. LARSON of Connecticut (for himself and Mr. NEY):

H. Con. Res. 358. Concurrent resolution authorizing the printing of "History of the United States Capitol" as a House document; to the Committee on House Administration.

By Mr. LATOURETTE (for himself, Mr. LARSON of Connecticut, Mr. CANNON, Mr. CANTOR, and Mr. LANTOS):

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on House Administration.

By Mr. BELL:

H. Res. 515. A resolution expressing the sense of the House of Representatives that Congress and the States should act to end racial profiling; to the Committee on the Judiciary.

By Mr. GILLMOR (for himself, Mr. BURNS, Mr. ROGERS of Michigan, Mr. MANZULLO, and Mr. DINGELL):

H. Res. 516. A resolution supporting the goals of National Manufacturing Week, congratulating manufacturers and their employees for their contributions to growth and innovation, and recognizing the challenges facing the manufacturing sector; to the Committee on Energy and Commerce.

By Mr. MCINTYRE (for himself, Mr. HAYES, and Mr. ETHERIDGE):

H. Res. 517. A resolution honoring the County of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County; to the Committee on Government Reform.

By Mr. RANGEL:

H. Res. 518. A resolution recognizing the efforts of the American Dental Association and the Nation's dentists, dental hygienists, dental assistants, and thousands of volunteers to improve the dental health of disadvantaged children; to the Committee on Energy and Commerce.

By Mr. THOMAS (for himself, Mrs. CAPPS, and Mr. GALLEGLY):

H. Res. 519. A resolution expressing the sense of the House of Representatives with respect to the earthquake that occurred in San Luis Obispo County, California, on December 22, 2003; to the Committee on Government Reform.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. KUCINICH.

H.R. 173: Ms. LEE, Mr. FATTAH, Mr. JACKSON of Illinois, Mr. TOWNS, Mr. MICHAUD, Mr. KIND, Mr. ISTOOK, Mr. FEENEY, Mr. MCDERMOTT, Mr. TANCREDO, Ms. ROS-LEHTINEN, Mr. CARDOZA, Mr. BARTLETT of Maryland, Mr. BRADLEY of New Hampshire, Mr. MOORE, Mr. COSTELLO, and Mr. KING of Iowa.

H.R. 284: Mr. CARSON of Oklahoma and Mr. FILNER.

H.R. 466: Ms. KAPTUR.

H.R. 490: Mr. VITTER.

H.R. 584: Mr. NEUGEBAUER.

H.R. 645: Mr. KOLBE.

H.R. 687: Mr. CAMP.

H.R. 785: Mrs. BIGGERT.

H.R. 806: Mr. SABO, Mr. BASS, and Ms. DUNN.

H.R. 814: Mr. BROWN of Ohio.

H.R. 839: Mr. HINOJOSA and Mr. GOODE.

H.R. 857: Mrs. NORTHUP.

H.R. 870: Mr. CULBERSON and Mr. LARSEN of Washington.

H.R. 871: Mr. STENHOLM.

H.R. 876: Ms. WOOLSEY and Mr. KIRK.

H.R. 879: Mr. ISAKSON, Mr. BAIRD, and Mr. BRADLEY of New Hampshire.

H.R. 882: Mr. BERRY.

H.R. 962: Mr. GILCHREST.

H.R. 968: Mr. RANGEL and Mr. OWENS.

H.R. 1061: Mr. CALVERT.

H.R. 1227: Mr. STEARNS, Mr. MOORE, and Mr. KENNEDY of Minnesota.

H.R. 1231: Mr. PETERSON of Pennsylvania.

H.R. 1267: Mr. PLATTS.

H.R. 1285: Ms. ROYBAL-ALLARD, Ms. SOLIS, and Mrs. LOWEY.

H.R. 1292: Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, and Mr. WELDON of Pennsylvania.

H.R. 1345: Mr. MCDERMOTT.

H.R. 1421: Mr. WEXLER.

H.R. 1426: Mr. MEEKS of New York.

H.R. 1470: Mr. ACEVEDO-VILÁ.

H.R. 1480: Mr. MILLER of North Carolina.

H.R. 1513: Mr. LARSEN of Washington and Mr. GREENWOOD.

H.R. 1563: Mr. UPTON and Mr. PAYNE.

H.R. 1608: Mr. GOODLATTE, Ms. LORETTA SANCHEZ of California, and Mr. BISHOP of Georgia.

H.R. 1633: Mr. WYNN and Mr. OWENS.

H.R. 1639: Mr. JACKSON of Illinois and Mr. GUTIERREZ.

H.R. 1717: Ms. LORETTA SANCHEZ of California.

H.R. 1726: Mr. BRADLEY of New Hampshire.

H.R. 1731: Mr. NEUGEBAUER, Mr. OWENS, Mr. NUNES, Mr. SHERMAN, and Mr. GREEN of Texas.

H.R. 1746: Mr. DELAHUNT and Ms. WATSON.

H.R. 1769: Mr. SCOTT of Georgia, Mr. EVANS, Mr. FILNER, Ms. MAJETTE, Mr. KIND, and Mrs. NAPOLITANO.

H.R. 1782: Mr. EMANUEL.

H.R. 1824: Mr. HOLT, Mr. EVANS, Mr. ACEVEDO-VILÁ, and Mr. MCCOTTER.

H.R. 1886: Mr. STUPAK.

H.R. 1914: Mr. MCGOVERN.

H.R. 1933: Mr. CUMMINGS.

H.R. 2103: Mr. MEEHAN.

H.R. 2131: Mrs. MYRICK, Mr. FALEOMAVAEGA, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURR, Mr. BUYER, Mr. CAMP, Mr. CANTOR, Mr. CHABOT, Mr. COX, Mrs. JO ANN DAVIS of Virginia, Ms. DELAURO, Mr. DEMINT, Mr. GERLACH, Mr. HOSTETTLER, Mr. ISTOOK, Mr. JEFFERSON, Mr. KENNEDY of Rhode Island, Mr. LINDER, Mr. MCINNIS, Mr. MILLER of Florida, Mrs. NORTHUP, Mr. OXLEY, Mr. PICKERING, Mr. PORTMAN, Mr. RYAN of Wisconsin, Mr. SESSIONS, Mr. SMITH of Washington, Mr. TAYLOR of North Carolina, Mr. THOMAS, Mr. UPTON, Mr. VITTER, Mr. WHITFIELD, Mr. WOLF, and Mr. LEWIS of California.

H.R. 2227: Mr. EHLERS, Mr. FROST, and Mr. OWENS.

H.R. 2239: Mrs. NAPOLITANO, Mr. ISSA, and Mrs. LOWEY.

H.R. 2256: Mr. SANDERS and Mr. EHLERS.

H.R. 2283: Mr. BARTLETT of Maryland.

H.R. 2323: Mr. RODRIGUEZ.

H.R. 2366: Mr. BERRY, Mr. FILNER, Ms. MILLENDER-MCDONALD, Mr. PALLONE, and Mr. TAYLOR of Mississippi.

H.R. 2404: Ms. SLAUGHTER.

H.R. 2505: Mr. HILL.

H.R. 2527: Mr. MILLER of North Carolina.

H.R. 2566: Mr. SANDERS.

H.R. 2582. Ms. SLAUGHTER.

H.R. 2625: Mr. LIPINSKI.

H.R. 2662: Mr. PAUL.

H.R. 2719: Mr. BLUMENAUER.

H.R. 2735: Mr. BURNS, Mr. LOBIONDO, and Mrs. KELLY.

H.R. 2743: Mr. KOLBE.

H.R. 2768: Mr. FRANKS of Arizona, Mrs. EMERSON, Mr. GILCHREST, Mr. MEEK of Florida, Mr. JOHN, Mr. BOSWELL, Mr. TIERNEY, Mr. THOMPSON of Mississippi, Mr. BRADY of Texas, Ms. ESHOO, Mr. SENSENBRENNER, and Ms. SOLIS.

H.R. 2816: Mrs. TAUSCHER.

H.R. 2818: Mr. EMANUEL.

H.R. 2821: Mr. LEWIS of Georgia, Mr. SABO, and Mr. SHUSTER.

H.R. 2824: Mr. VISCLOSKY.

H.R. 2891: Mr. UDALL of Colorado.

H.R. 2900: Mr. FORBES.

H.R. 2916: Mr. SHAYS.

H.R. 2950: Mr. TERRY.

H.R. 2967: Mr. CUNNINGHAM.

H.R. 2968: Mr. CAMP.

H.R. 3039: Mr. SULLIVAN.

H.R. 3063: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. STRICKLAND.

H.R. 3069: Mr. EHLERS.

H.R. 3103: Mr. FROST, Mr. PAUL, and Mr. VAN HOLLEN.

H.R. 3119: Mr. WICKER.

H.R. 3191: Mr. PLATTS and Mr. DEMINT.

H.R. 3213: Mrs. JO ANN DAVIS of Virginia, Mr. GOODE, Mr. BAKER, and Mr. CASE.

H.R. 3238: Ms. NORTON and Mr. CLYBURN.

H.R. 3243: Mr. WALSH, Mr. BISHOP of New York, Mr. QUINN, and Mr. SERRANO.

H.R. 3285: Mr. SCOTT of Georgia.

H.R. 3361: Mr. UDALL of Colorado and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 3371: Mr. WAXMAN.

H.R. 3412: Mr. GILLMOR.

H.R. 3429: Mr. LOBIONDO.

H.R. 3446: Mr. UDALL of Colorado, Ms. KILPATRICK, Mr. HONDA, Mr. SMITH of New Jersey, Mr. GREEN of Wisconsin, Ms. BERKLEY, Mr. KIND, and Mr. MILLER of North Carolina.

H.R. 3458: Mr. RANGEL and Mr. HALL.

H.R. 3474: Mr. JOHNSON of Illinois and Mr. WELDON of Florida.

H.R. 3522: Mr. DEAL of Georgia.

H.R. 3527: Mr. STARK, Mr. ENGLISH, Mr. WALSH, Mr. TOOMEY, Mr. FROST, and Ms. SLAUGHTER.

H.R. 3546: Mr. STUPAK and Ms. MCCOLLUM.

H.R. 3550: Mr. GREEN of Texas, Mr. KANJORSKI, and Mr. OWENS.

H.R. 3569: Ms. LEE and Mr. FROST.

H.R. 3574: Mr. CARTER, Mr. SOUDER, Mr. MCINTYRE, Mr. CAPUANO, and Mr. FLAKE.

H.R. 3605: Mr. PASTOR, Mr. TOWNS, Mr. GRIJALVA, Mr. INSLEE, Mr. FILNER, Mr. PALLONE, Mr. RANGEL, Mr. FROST, and Mrs. MALONEY.

H.R. 3674: Mr. GOODE, Mr. SMITH of New Jersey, Mr. GALLEGLY, and Mr. SMITH of Texas.

H.R. 3676: Mr. ISRAEL.

H.R. 3678: Mr. RANGEL, Mr. GILLMOR, Ms. MILLENDER-MCDONALD, Mr. EHLERS, and Mr. GREEN of Texas.

H.R. 3684: Mr. VAN HOLLEN, Ms. LEE, Mr. PRICE of North Carolina, Mr. EMANUEL, and Mr. SNYDER.

H.R. 3695: Mr. PALLONE.

H.R. 3704: Mr. ENGLISH and Mr. DOOLITTLE.

H.R. 3707: Mr. HOLDEN, Mr. MANZULLO, Mr. KLECZKA, Mr. BOEHLERT, Mr. RANGEL, Mr. SMITH of Michigan, Ms. SOLIS, Mr. BEREUTER, Mr. MICHAUD, Mr. SIMPSON, Mr. BISHOP of New York, Mr. BERRY, Mrs. CHRISTENSEN, Mr. SCOTT of Virginia, Ms. DELAURO, Mr. ALLEN, Mr. PRICE of North Carolina, Mr. CASE, Mr. PALLONE, Mr. BOYD, Mr. FRANK of Massachusetts, Mr. LAMPSON, Mr. GALLEGLY, Mr. GONZALEZ, Mr. ACKERMAN, Mr. HILL, Ms. HOOLEY of Oregon, Mr. OLVER, Mrs. DAVIS of California, Mr. BAIRD, Mr. LARSON of Connecticut, Ms. BERKLEY, Ms. ESHOO, Mr. MCNULTY, Ms. NORTON, Ms. JACKSON-LEE of Texas, Mr. MORAN of Virginia, Mrs. MALONEY, Mr. MCDERMOTT, Ms. HARMAN, Mrs. MCCARTHY of New York, Ms. VELAZQUEZ, Mr. CUMMINGS, Mr. KANJORSKI, Mr. COSTELLO, Mr. SANDERS, Mr. SCHIFF, Mr. WYNN, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GORDON.

H.R. 3708: Mr. SOUDER.

H.R. 3711: Mrs. NAPOLITANO, Mr. KUCINICH, and Mr. SANDERS.

H.R. 3714: Ms. SLAUGHTER and Mr. GEORGE MILLER of California.

H.R. 3716: Mr. MCHUGH.

H.R. 3717: Mr. GARY G. MILLER of California, Mr. CAMP, Mr. MCINTYRE, Mr. HOEKSTRA, Mr. TAYLOR of North Carolina, Mr. BURGESS, Mr. OLVER, Mr. KNOLLENBERG, Mr. LATHAM, Ms. ESHOO, Mr. NEY, and Mr. BOEHLERT.

H.R. 3728: Mr. SIMPSON.

H.R. 3743: Mr. DUNCAN.

H.J. Res. 87: Mr. OLVER, Mr. LANGEVIN, Mr. STARK, Mr. BERMAN, Mr. MCDERMOTT, Mr. DAVIS of Illinois, Mrs. TAUSCHER, Mr. MCNULTY, Mr. MOORE, Mr. EVANS, Mr. SNYDER, and Mr. PRICE of North Carolina.

H. Con. Res. 3: Mr. WATT.

H. Con. Res. 218: Mr. LOBIONDO.

H. Con. Res. 247: Mr. HOLDEN.

H. Con. Res. 312: Mr. WAXMAN.

H. Con. Res. 332: Mr. POMBO, Mr. SHADEGG, Mrs. MUSGRAVE, Mr. GREEN of Texas, and Mr. CARSON of Oklahoma.

H. Con. Res. 348: Mr. MCCOTTER, Mr. EMANUEL, Mr. MCHUGH, and Mr. HALL.

H. Res. 101: Mr. FRANK of Massachusetts, Ms. NORTON, Mr. OWENS, Mr. FROST, Mr. BROWN of Ohio, Mr. MCDERMOTT, Mr. BERMAN, and Mr. CLYBURN.

H. Res. 381: Mr. COOPER, Ms. NORTON, Mr. OWENS, Mr. FROST, Mr. WYNN, Mr. MCDERMOTT, Mr. GREEN of Texas, Mr. SCOTT of Virginia, Mrs. CHRISTENSEN, Mr. JEFFERSON, Mr. WATT, Mr. CLYBURN, and Mr. MEEKS of New York.

H. Res. 446: Mrs. BLACKBURN and Mr. JOHNSON of Illinois.

H. Res. 466: Mr. LUCAS of Kentucky, Mr. BECERRA, Mr. FROST, Mr. UDALL of New Mexico, Mr. HONDA, Mr. BOEHLERT, Mr. DEFAZIO, Ms. WATERS, Mr. BACA, Mr. OLVER, Mr. HASTINGS of Florida, Mrs. LOWEY, Mr. LANTOS, Ms. MCCOLLUM, and Mrs. JOHNSON of Connecticut.

H. Res. 499: Mr PRICE of North Carolina, Mr. GONZALEZ, Mr. INSLEE, Mrs. CHRISTENSEN, Mr. JACKSON of Illinois, Mr. PASTOR, Mr. DEFAZIO, Mr. DAVIS of Florida, Mr. OWENS, Mr. ACKERMAN, Ms. WATSON, Ms. WATERS, Mr. BACA, Ms. JACKSON-LEE of Texas, Ms. CARSON of Indiana, Mr. WEXLER, Mr. EMANUEL, Mr. PALLONE, Mrs. CAPPS, Mr. PAYNE, and Mr. FROST.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2169: Mr. SANDERS.

# EXTENSIONS OF REMARKS

## TRIBUTE TO DEERE & COMPANY IN RECOGNITION OF THE 200TH BIRTHDAY OF JOHN DEERE

### HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HASTERT. Mr. Speaker, I rise today to pay tribute to Deere & Company on the 200th anniversary of founder John Deere's birth.

John Deere, who developed the world's first commercially successful, self-scouring steel plow, thereby opening the West to farming, was born on February 7, 1804. John Deere emigrated to the western Illinois settlement of Grand Detour in 1837 and set up a blacksmith shop near the Rock River. After fashioning the first self-scouring steel plow, John Deere moved to a water-powered factory along the Mississippi River in Moline, Illinois—a town of roughly 55,000 people just outside my district.

In 1868, John Deere incorporated his business under the name Deere & Company and established enduring values that have sustained his company for over 165 years—quality, integrity, innovation and commitment. Today, Deere & Company does business in more than 160 countries and employs roughly 43,000 employees worldwide, many of whom reside in my Congressional district. They are the world's leading manufacturer of agricultural and forest equipment, a major manufacturer of construction equipment, and a leading supplier of equipment used in lawn, grounds and turf care.

Today, I wish to recognize Deere & Company on the achievements of pioneer blacksmith John Deere and congratulate the company he founded on the 200th anniversary of his birth.

## PERSONAL EXPLANATION

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HONDA. Mr. Speaker, on Tuesday January 27th, Wednesday January 28th, and on Tuesday February 3rd, I was unavoidably detained due to family matters I had to take care of in California and was not present for rollcall votes on those days.

Had I been present I would have voted the following:

Rollcall No. 6, to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research, I would have voted "yea."

Rollcall No. 7, the Medical Devices Technical Corrections Act, I would have voted "yea."

Rollcall No. 8, on the Baldwin Substitute Amendment, I would have voted "yea."

Rollcall No. 9, on the motion to recommit with instructions, I would have voted "yea."

Rollcall No. 10, on final passage of S. 1920, a bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, I would have voted "nay."

Rollcall No. 13, on the motion to instruct conferees, I would have voted "yea."

Rollcall No. 14, expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the crew of the Space Shuttle *Columbia* their lives, and extending heartfelt sympathy to their families, I would have voted "yea."

Rollcall No. 15, expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet, I would have voted "yea."

Rollcall No. 16, recognizing the 93rd birthday of Ronald Reagan, I would have voted "yea."

## EXPRESSING SENSE OF HOUSE REGARDING PRISONERS OF CONSCIENCE BY CHINESE GOVERNMENT FOR THEIR INVOLVEMENT IN EFFORTS TO END CHINESE OCCUPATION OF TIBET

SPEECH OF

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. WOLF. Mr. Speaker, I strongly support H. Res. 157 and strongly condemn the Chinese government for the continued detainment and torture of Tibetan political prisoners. I remain extremely concerned that men and women in China are routinely persecuted by the Chinese government. China has for too long been at liberty to detain, torture, intimidate and oppress its people.

The Tibetan people are denied basic human rights guaranteed in the Universal Declaration of Human Rights, including the right to self-determination, freedom of speech, assembly, movement, expression and religious belief. Hundreds of Tibetans are currently in prison for peaceful expressions of political or religious belief. The majority of Tibetan political prisoners are Buddhist monks and nuns.

Each year the situation in Tibet worsens. The unchecked migration of Chinese into Tibetan areas is resulting in social, economic and cultural destruction of Tibetans. His Holiness the Dalai Lama considers this demographic strategy the greatest threat to the survival of the Tibetan culture and identity. More than 6,000 monasteries and nunneries and their contents—irreplaceable jewels of Tibetan culture—have been destroyed since the Chinese occupation and thousands of monks and nuns have been kicked out of their monasteries for refusing to renounce the Dalai Lama.

The Chinese government routinely refuses to allow independent international human rights monitors, including U.N. human rights representatives, to conduct unhindered investigations into the human rights situation in Tibet. Religious freedom in Tibet is non-existent.

Tibetans are routinely imprisoned for participation in-non-violent political activities, such as hanging flags or promoting independence. Prisoners serve lengthy sentences and are routinely mistreated and tortured while in prison. I visited Tibet in 1997 and was able to witness first hand the conditions there and the continued repression of the Tibetan people. I met with monks, nuns and Tibetans on the street who revealed to me how bad the conditions are in Tibet. I visited the prisons and heard first hand accounts of the brutality taking place deep in the shadows.

The following is a firsthand account of the arrest of Phuntsog Nyidron, a 20-year-old nun arrested in 1989 for peaceful demonstration in Lhasa. "During arrests nuns are kicked, beaten and given electric shocks on their hands, shoulders, breasts, tongue and face. During the interrogation, they are suspended by their hands, which are shackled behind their backs, for prolonged periods and beaten with iron rods."

As I close, 10 Catholic bishops are in China today under house arrest. The Protestant Church is being abused and beaten in China. The Falun Gong are being persecuted on a daily basis. The Chinese have plundered Tibet. America must do more to force China to adhere to fundamental human rights and religious freedom.

The clock is ticking for Tibet. If nothing is done, a country, its people, religion and culture will one day be lost.

## PERSONAL EXPLANATION

### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes on February 3, 2004. If I had been present, I would have voted as follows:

Rollcall vote No. 12, on H. Res. 507, expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the crew of the Space Shuttle *Columbia* their lives, and extending heartfelt sympathy to their families, I would have voted "yes."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Rollcall vote No. 13, on H. Res. 157, expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet, I would have voted "yes."

Rollcall vote No. 14, on H.J. Res. 84, recognizing the 93rd birthday of Ronald Reagan, I would have voted "yes."

## IN SUPPORT OF ISRAEL'S SECURITY FENCE

### HON. TOM FEENEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. FEENEY. Mr. Speaker, I rise today in support of Israel's security fence.

In yet another example of political manipulation of a U.N. body, Palestinians and their supporters have convinced the International Court of Justice to take up the issue of Israel's security fence.

On December 8, 2003, the General Assembly of the United Nations, sitting as an Emergency Special Session, adopted resolution ES 10/14 requesting the ICJ to render an advisory opinion on the legal consequences of Israel's security fence. This recent action by the Arab nations is an indignation both in relation to the jurisdiction of the Court to address such an issue, and the propriety of such a proceeding.

The International Court of Justice was set up in 1945 under the Charter of the United Nations to be the principal judicial organ of the Organization. The blatant use of the ICJ to further a political agenda is not only an outrage but an obvious conflict with the original purpose of the Court.

Article 36 of the Court's Statute states that contentious issues may only be brought before the Court with the consent of all parties. In this case, not only is the issue at hand clearly contentious, but the parties have already agreed on appropriate mechanisms for resolving such issues between themselves. Israel has voiced their deep reservations about the Arab initiative to involve the ICJ in complex political issues that should be resolved through negotiation and the abuse of the U.N. and the ICJ as part of a narrow political campaign.

A significant group of states, including the United States, Switzerland, Uganda and Italy stated in the General Assembly that they oppose the request for an advisory opinion because it goes directly against the Road Map and the wishes of the Security Council, which unanimously endorsed the Road Map in Resolution 1515 of November 19, 2003 and which has repeatedly called for resolution of the conflict via direct negotiations in accordance with Resolutions 242 (1967) and 338 (1973).

The Government of Israel has recently reiterated its commitment to the Road Map. It believes that those who support the efforts of the Quartet and the international community in bringing the sides together should stress to the ICJ the importance of not prejudicing that process and emphasize that the Court should refuse to respond to the question at hand.

The U.N. General Assembly has been a hotbed of anti-Israel activity, passing more resolutions against Israel than on any other subject—more than 400 since 1964. In contrast, the body has never investigated the Palestinian terror campaign against Israel, nor has it investigated abuse, torture and other human rights violations by non-democratic states in the Arab world.

On a host of issues, the U.N. and its agents, in this case the ICJ, have become not only irrelevant to the cause of furthering classically liberal democracies and peace, but actually hostile to our efforts to promote basic freedoms.

I urge the International Court of Justice to uphold the integrity of it's Statute and recognize Israel's security fence as a necessary measure to protect their people from those who believe that the path to salvation is paved by killing Jewish women and children. Otherwise, once again a U.N. entity will end up on the wrong side of peace, security, freedom and democracy.

## COMMEMORATING LOYD E. WILLIAMS

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HONDA. Mr. Speaker, I, Ms. LOFGREN, and Ms. ESHOO rise today to commemorate the life and many accomplishments of Mr. Loyd Williams, who passed away on Sunday, December 28, 2003. Mr. Williams will long be remembered for his integrity and dedication to the welfare of all people in his community, and for his advocacy and hard work on behalf of the members of the United Association (UA) of Plumbers, Steamfitters, and Refrigeration Fitters Local 393 and the entire labor movement.

Loyd Williams was born in El Morro, NM on April 15, 1941. At the age of 2, he and his family moved to San Jose, CA, where he attended Cambrian Elementary School and then Camden High School. Mr. Williams had his first experiences with the labor movement and its concerns while in his early school years, working as a prune harvester and later becoming a harvest contractor. During which, Loyd fired his own brother for poor job performance. Consequently, he learned a valuable lifelong lesson when Loyd's father later advised him that his brother was not properly trained. Instilled with his father's wisdom and insight, Loyd became one of the most respected labor leaders by modeling and teaching what he expected of others. After graduating from high school in 1959, Mr. Williams became an apprentice plumber and was elected president of his apprenticeship class. In 1964, he became a journeyman plumber and was active for 8 years in UA Local 393. Loyd Williams was elected business agent in 1973 and served continuously until he became business manager in 1992.

Loyd's 43-year dedication to UA Local 393 was not merely confined to his role as a business manager. He gladly took on many other responsibilities within the union and the community. Recently, Loyd Williams chaired the UA Local 393's Centennial Committee, organizing the Union's 100th Anniversary Celebration on January 24, 2004. He also chaired the Board of Trustees for the UA Local 393 Pension Fund, served as Secretary-Treasurer of the Western States Pipe Council, and acted as delegate to the Santa Clara/San Benito Trades Council, the South Bay Labor Council, the California State Pipe Trade Council, and the UA National Convention. Mr. William's coworkers fondly remember his outspokenness and willingness to fight for labor rights. Members of the community recall his many other contributions that included helping to establish the South Bay Children's Urgent Care Center and participating in the Christmas in April program.

Loyd Williams was characterized by his fervent advocacy on behalf of laborers and his continuous belief in the inherent goodness of people. His own life not only had taught him the values of hard work and perseverance, but also the need for cooperation in order to achieve common goals. Mr. Williams will always be remembered as one of the most dedicated and successful business managers of the UA Local 393. His life constitutes a wonderful example for many young people today who wish to engage in the labor rights movement and who want to actively support their communities.

Mr. Williams is survived by his wife, Carolyn, of 37 years and his son, Jonathan. Also, he is fondly remembered by his siblings Oren, Bill, and Linda Fanelli. The entire community of Santa Clara County gives thanks and commemorates the life and many accomplishments of Mr. Loyd Williams.

Mr. Speaker, we extend our deepest condolences to Mr. Williams' family and friends. Please join us in honoring Mr. Loyd Williams, a truly exceptional individual who dedicated his life to the service of others.

## RECOGNIZING THE RETIREMENT OF VAN MILLER, THE VOICE OF THE BUFFALO BILLS

### HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. QUINN. Mr. Speaker, all good things must come to an end, and it is with both sadness and great respect that we acknowledge the end of Van Miller's remarkable career as the announcer for the Buffalo Bills. At 76 years of age, Mr. Miller has been the most devoted and longest-tenured broadcaster in the history of the National Football League. He began his distinguished career with the Bills on July 30, 1960, commenting for an exhibition game against the Boston Patriots. For the following 37 years, Mr. Miller lent his voice to the Buffalo Bills and their loyal fans, creating a steadfast following with the phenomenon known as Vandemonium.

As the play-by-play announcer for the Bills, Mr. Miller articulated their decades of both triumphs and defeats, displaying his love for the game and the team through good times and bad. He is renowned not only for his professionalism in the booth, but also for his enthusiastic announcing. The excitement of the fans matched his own exhilaration at watching his favorite team play.

The lead commentator for Super Bowl XXV between the Bills and the New York Giants, Mr. Miller was the voice of professionalism in announcing the Giants' victory over his beloved Bills. Though a devastating moment for the team, Mr. Miller made the call with poise and calm, ably performing his announcing duties while displaying the utmost respect for both teams. It is this dedication to his job and team that explains why Buffalo may be the only city in the world where football fans turn down the volume on their televisions and turn up their radios when a Bills game is on.

Van Miller is more than a voice, however. As beloved as he is for his football commentary, his friendly presence and genuine care for the team and fans touches the entire Buffalo community. When Bills fans tuned in to Mr. Miller, they felt as though they were listening to a good friend. As John Murphy says of his colleague, "It's like Van's a member of every fan's family." His name and voice have become intertwined with the world of Buffalo Bills football, and it is no surprise that Mr. Miller was inducted into the Buffalo Broadcasting Hall of Fame in 1999. In fact, after his 752nd and final Bills broadcast, Mr. Miller's equipment was sent to the Pro Football Hall of Fame in Ohio, commemorating both the field of play-by-play broadcasting and the man who left an invaluable and indelible mark upon it. We will surely miss his presence on the field and on the air this coming season, but we know his contributions to Buffalo will continue for years to come.

## TAIWAN

## HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. BELL. Mr. Speaker, I rise today to voice my support of efforts by the Taiwanese President and people to facilitate a peaceful, stable, and democratic environment in East Asia. Despite continued aggression by the People's Republic of China, Taiwan has maintained grace and sensibility. For this, I ask my colleagues to join me in support of President Chen Shui-bian and the Taiwanese people.

On March 20, 2004, the Taiwanese people will vote on a referendum for peace, which will consist of two questions. One is:

> Would you agree that our Government should engage in negotiations with Mainland China on the establishment of a "peace and stability" framework for cross-strait interactions in order to build consensus and for the welfare of the people on both sides?

This would be the first official communication between Taiwan and China since 1949, a historic attempt at conciliation between two sparring nations. I would remind my colleagues of the Taiwan Relations Act of 1979, in which we put forth the expectation that "the future of Taiwan will be determined by peaceful means" and state that "any effort to determine the future of Taiwan by other than peaceful means . . . is of grave concern to the United States." As Taiwan makes a sincere effort to improve relations with Mainland China and support a peaceful continuation of the status quo, we must applaud and support them.

The other referendum question is:

> The people of Taiwan demand that the Taiwan Strait issue be resolved through peaceful means. Should Mainland China refuse to withdraw the missiles it has targeted at Taiwan and to openly renounce the use of force against us, would you agree that the Government should acquire more advanced anti-missile weapons to strengthen Taiwan's self-defense capabilities?

This referendum is neither provocative nor a move toward Taiwanese independence. It constitutes an effort to prevent Mainland China from using force and unilaterally changing the status quo. China has never renounced the use of force in the Taiwan Straits and has 496 missiles targeting Taiwan. I urge China to withdraw those missiles, which upset the military balance in the Taiwan Straits and whose continued presence demonstrates China's hostile approach to cross-straits relations.

Article 3 of the Universal Declaration of Human Rights states: "Everyone has the right to life, liberty and security of person." Taiwan has the right to voice its concerns and to protect itself from harm. A nonviolent resolution of the Taiwan Straits issue is Taiwan's ultimate goal. This peace referendum is the first step in that process and the right of the Taiwanese people.

In the Taiwan Relations Act, we reaffirmed our nation's commitment to "the preservation of human rights of the Taiwanese people." Now is the time to stand behind that statement. For President Chen Shui-bian's work to create a stable, peaceful, and democratic environment in the region, he deserves our recognition and support.

## TRIBUTE TO SHIRLEY BELL

## HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. McCOLLUM. Mr. Speaker, I rise today in tribute to Shirley Bell, a dear friend of Minnesota veterans and a great mentor, leader and activist in my community.

Shirley Bell was an active member of the United Veterans Legislative Council since its inception and volunteered as its Secretary for many years. She was also a member of the Gold Star Wives, an association of survivors of brave men and women who gave their lives in battle or as a result of their service. Everyone who knew her loved and admired her.

Along with Shirley Bell's service to our veterans, she was also deeply involved in the well-being and education of others as the coprogram director of The School of Anesthesia at Northwestern Hospital of Minneapolis. She went on to develop the Baccalaureate Completion program for CRNA's as an Associate Professor of Nursing Anesthesia in the School of Medicine at the University of Minnesota—a position created especially for Shirley to enable her to use her creativity and exceptional mentoring skill to promote and encourage students. As recognition for her accomplishments in Anesthesia Education, Shirley received the Helen Lamb Outstanding Education Award from the American Association of Nurse Anesthetists in 1994.

Shirley Bell's work and selfless dedication to helping others in our community was tremendous. Her leadership, commitment and tireless efforts will be greatly missed.

## TRIBUTE TO MR. BRIAN L. POTTS

## HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. KNOLLENBERG. Mr. Speaker, I know that you and my distinguished colleagues are aware that we usually appear before the House of Representatives to voice the concerns of our constituents on matters related to the legislative process and about particular issues associated with bills that warrant our attention. Yet, while debating the issues of the day, we often take for granted the hard work and dedication required to transform an idea into a bill, and a bill into a law. It is with these thoughts in mind that I am here today to pay tribute to Mr. Brian L. Potts, a dedicated staff member of the House Committee on Appropriations, Subcommittee on Military Construction.

Brian is departing the House Appropriations Committee at the end of this week to begin a new position with the Senate Appropriations Committee. His departure is a loss that will be felt for quite some time, yet it is good to know that we have another friend working in the Senate.

Brian came to the Committee from the Naval Audit Service as a Detailee in 1997 and joined the Committee staff in January 1999, and his contributions to the Committee are many. He has always been a focused and hard working individual who conducts himself with the utmost professionalism, and his strengths and accomplishments are many. As a Certified Public Accountant Brian has a keen ability to cut to the heart of a Department of Defense audit report and find savings that have offset the costs of the Military Construction bill. Simply put, Mr. Speaker, Brian is a wizard with spreadsheets and tables, and an invaluable support to the Subcommittee clerk.

During my tenure as the Chairman of the Military Construction Appropriations Subcommittee, I have found Brian to be a quietly powerful and effective staff member, possessing the unique ability to impart a sense of calmness to emotionally charged situations. One of his finest characteristics is his ability to treat others with kindness and respect. Brian views his job as a privilege and feels fortunate to contribute. These are rare qualities that enable him to effectively carry out his duties and have opened the door to new opportunities for him in the Senate.

Mr. Speaker, I want to congratulate Mr. Brian Potts on his career, his time spent doing invaluable work for the House Committee on Appropriations, Subcommittee on Military Construction, and to thank him for his outstanding service to this great legislative body. Finally, I ask for God's Blessings as Brian embarks on this phase of his career with the Senate Appropriations Committee, which is very lucky to have him.

## INTRODUCTION OF THE TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE BOUNDARY REVISION ACT OF 2004

### HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. CRENSHAW. Mr. Speaker, I rise today to introduce legislation that provides needed protection to an historic area of Florida with great national significance known as American Beach. This bill will expand the current boundaries of the Timucuan Ecological and Historic Preserve to include approximately 12.5 acres of land in American Beach, Amelia Island.

The Timucuan Ecological and Historic Preserve currently provides protection to an important ecological treasure and the addition of American Beach will serve to enhance its national significance.

This beautiful stretch of shoreline provides a great history and a great story. Founded in the 1930s by A.L. Lewis, American Beach provided a sunny paradise for those Americans who, because of segregation, were not able to enjoy most of America's beaches. This area of Florida's northeastern shore attracted African Americans from all over the country. While this nation struggled to find equality within its shores, American Beach provided a relaxing, culturally unique vacation spot for African Americans along the ocean's edge.

The significance of this site was recognized when the beach and 120 residential homes in the area were added to the National Register of Historic Places. Additionally, in 1992, the Florida Legislature named American Beach the first site on the Florida Black Heritage Trail.

In his recently released budget, President Bush provides resources for a new "Preserve America" program through the National Park Service. This initiative is designed to encourage heritage tourism throughout the country. Today, this legislation answers the President's call without spending a single dime of taxpayer's money.

Last year, American Beach's neighbor, Amelia Island Plantation made arrangements to donate these 12.5 acres to the National Park Service. Unfortunately, the Timucuan Ecological and Historic Preserve is not able to accept this generous gift because the acreage rests outside the boundaries of the Preserve.

This legislation allows the National Park Service to accept this historic site by simply modifying the boundaries of the Timucuan. I support this addition to the Timucuan—and others like it—where willing property owners and the National Park Service can work cooperatively as stewards of our national treasures.

Mr. Speaker, it is especially fitting this legislation comes to the floor of this House as we celebrate Black History Month to honor those individuals who worked to bring equality to all Americans.

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## THANKING COURTNEY AND CHLOE SMITH FOR REPRESENTING LOUISIANA DURING THE CHILDREN'S MIRACLE NETWORK CELEBRATION

### HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. VITTER. Mr. Speaker, I rise today to recognize 3-year-old twins, Courtney and Chloe Smith, of Alexandria, Louisiana. Courtney and Chloe have been selected to serve as ambassadors for the millions of kids treated this year at children's hospitals across the United States.

Born in March 2000, Courtney and Chloe are the smallest twins at birth ever to survive in the U.S. For over 3 months, they fought for their lives in the Neonatal Intensive Care Unit at CHRISTUS St. Francis Cabrini Hospital. Due to their miraculous show of strength, they will serve as representatives for Foresters Champions Across America, a national Children's Miracle Network program.

As representatives of Louisiana, Courtney and Chloe will visit Capitol Hill and the White House to meet with some of our Nation's leaders. They will also travel to Walt Disney World in Orlando, Florida to participate in the taping of the Children's Miracle Network celebration.

As the father of twin girls, I am able to comprehend the magnitude of such a situation. Children are a gift, and any parent is twice as happy when two special children are brought into the world at one time.

I come to the floor of the House of Representatives today to personally commend, honor and thank Courtney and Chloe Smith for taking on the responsibility of representing Louisiana during such an important and meaningful event. It is rare that we as Members of the U.S. Congress are able to recognize people that are so young and yet so fierce in their fight for life. Courtney and Chloe can truly attest to the life-saving abilities and importance of the Children's Miracle Network. This nationwide system of hospitals deserves tremendous acknowledgement and appreciation for all the assistance they bring to families such as the Smiths.

Again, thank you to Courtney and Chloe Smith for so honorably representing the state of Louisiana.

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## HONORING GEORGE M. MOORE, JR.

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mrs. CAPITO. Mr. Speaker, I rise today to honor George M. Moore, Jr., a resident of my district, for his service and commitment to America's veterans. Mr. Moore has served as Director of the Veterans Administration Hospital in Martinsburg since 1998. In 1999, Moore became the Prosthetic and Sensory Aids Service Line Director, making him responsible for the management of all prosthetic operations in Martinsburg, WV, Baltimore, Maryland, and Washington, DC. Previously he has worked with the VA in Pittsburgh, Cleveland, and Jackson, MS.

Moore served our country on active duty as an Air Force fighter pilot in Vietnam. Recently, the Disabled Veterans of America recognized him as their 2003 Outstanding Disabled Veteran of the Year.

All of us in West Virginia and in Congress are proud of the service George Moore has given to our Nation. Both as a soldier himself, and later as a worker for disabled veterans, Moore has distinguished himself as a leader in our Nation's fight for freedom.

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## PERSONAL EXPLANATION

### HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. POMBO. Mr. Speaker, I would like to apologize for my absence from the House floor this past week. My father, Ralph Pombo, Sr., underwent heart surgery last week and it was important that I be with him and my family in California during this trying time. As such, I was unable to attend votes last week. We all pray for his swift and full recovery.

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## HONORING ED CASEY, RECIPIENT OF THE "HEART O'GOLD AWARD"

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. NEAL of Massachusetts. Mr. Speaker, it is with great pleasure today that I honor Ed Casey, an outstanding American who has dedicated himself to cultural exploration and community service, as the "Heart O'Gold Award" is bestowed upon him by the Quaboag Highlander Pipe Band of Monson, Massachusetts.

Ed Casey is an icon in the Pioneer Valley and western Massachusetts and is well known throughout the community for his commitment to bagpipes and Celtic culture. As a resident of Springfield and Belchertown, MA, Ed has played his pipes at parades, inaugurations, celebrations, and internments. He is loved by so many in our area.

Mr. Casey, who spent years as a public school teacher in Holyoke, MA, has taught the craft of playing the bagpipes to many others interested in learning to play. Yet, unlike most music teachers, Ed did not learn to play music through the traditional route of lessons and formal training. He learned to play the bagpipes, as he would say, "by ear" and "by heart."

Mr. Speaker, there are many families in western Massachusetts who have never met Ed Casey, but perhaps it is their lives that have been most directly impacted by his generosity. For years, in lieu of accepting any fee for performing at internments, Ed Casey has directed families to instead make donations to the Open Pantry, a food collection and distribution center in Springfield that feeds the hungry in western Massachusetts. In doing so, thousands of dollars have been collected to provide food for the poor and the needy.

It is my pleasure to honor Ed Casey today in the CONGRESSIONAL RECORD as someone whose selflessness and talent should be recognized and emulated by those around him. Congratulations Ed upon receiving this honor. Your good work has not gone unnoticed.

## HONORING BENSON'S BATTALION

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. HART. Mr. Speaker, I would like to take this opportunity to praise a valuable organization based within the Fourth Congressional District of Pennsylvania which has made a significant improvement in the lives of western Pennsylvanians. I am proud to represent the congressional district which is the headquarters for Benson's Battalion, a charitable organization created to fight terror and provide financial support to Pennsylvania police, fire and other related public safety groups.

Kris Benson, a pitcher for the Pittsburgh Pirates, along with his wife Anna founded Benson's Battalion in October 2001 following the tragic events of September 11, 2001. Since the creation of the organization, Kris and his wife have donated a significant amount of time and money to benefit local firefighters and police agencies. Benson's Battalion has provided local police stations with over $3,000 in funds matched by the government for new equipment and over $5,000 in grants for local firefighters to assist in the purchase of new equipment as well. This is truly an organization that makes the lives of Western Pennsylvanians better every day.

I ask my colleagues in the House of Representatives to join me in honoring this fine organization and the volunteers who support it. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to recognize Benson's Battalion for its efforts to improve the safety of western Pennsylvanians.

## SUPPORTING VIRGINIA'S WHITE COAT DAY

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. CANTOR. Mr. Speaker, I rise today in support of Virginia's White Coat Day. As many as 1,500 physicians from all over the State marched on the Virginia Capitol today to make the case for common-sense medical liability reform in the state legislature.

Led by the Medical Society of Virginia, today's White Coat Day march on Richmond is designed to educate State lawmakers on how doctors' skyrocketing malpractice insurance is limiting patients' access to medical care. Outrageous runaway jury awards are causing malpractice premiums to rise uncontrollably, and many doctors are being forced to shut their doors.

The doctors' offices across the Commonwealth that are closed today for the march are symbolic of what out-of-control insurance premiums are doing to our medical system. Doctors being forced to close their doors because they can no longer afford insurance directly affects rural, low-income and senior health care in my district and State.

Mr. Speaker, the pattern of doctors nationwide protesting high medical insurance premiums is a clear sign that the entire system is broken. Not only should the Virginia Legislature address this issue, but we as a Congress need to do the same. We need to take President Bush's lead in ending the jackpot payouts that our legal system encourages. While the House has passed legislation to reform the medical liability system, it is now time to enact common sense reforms into law.

Mr. Speaker, I applaud the doctors in Virginia for taking a stand today. I know they do it for their patients.

## SAFEGUARDING SCHOOLCHILDREN OF DEPLOYED SOLDIERS ACT

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. SLAUGHTER. Mr. Speaker, I rise today to announce the introduction of the Safeguarding Schoolchildren of Deployed Soldiers Act of 2004.

Today there are 129,000 United States troops serving in Iraq alone, including nearly 80,000 reservists and members of the National Guard. As the Congressional Representative for the Niagara Falls Air Reserve Station, I recognize the enormous disruption of deployment on their families.

When soldiers are deployed, many arrangements must be made. Many men and women are leaving a job, a family, or even children behind.

We have long recognized the need to minimize the hardships to these men and women, as demonstrated in the comprehensive Servicemember's Civil Relief Act. Originally enacted in 1940, this law provides relief to military personnel from many of the economic and legal burdens they have incurred because of their deployments. This law never anticipated lengthy deployments by mothers and fathers who may not have any choice but to send their children to live with another parent, sister, or grandfather one or two towns away.

I learned firsthand how deployments can cause significant upheaval in a child's life when the brother of a deployed soldier recently contacted my office. He explained that his niece had moved to live with her mother while her father was away fighting in Iraq. As a result, she was prevented from attending her normal high school because she no longer resided within the school district.

According to the Department of Defense, there are currently 1.2 million children with military parents in the United States. This number is only slightly less than the total number of adults currently serving in the Armed Forces.

I am proud to introduce, along with my colleague Representative BROWN-WAITE, the Safeguarding Schoolchildren of Deployed Soldiers Act. This bipartisan legislation would ensure some measure of continuity for children who change residence as a result of their parent's military service by allowing them to continue to receive an education at their schools, even if they are temporarily residing outside the school district.

As our men and women in uniform continue to be deployed in support of military operations around the world, it is vital that we do our best to minimize the disturbance to their lives and that of their families.

I urge my colleagues to join me in supporting the Safeguarding Schoolchildren of Deployed Soldiers Act. We owe this protection to the education of our children and to the peace of mind of our soldiers.

## TRIBUTE TO DR. FRANK GULIUZZA III

### HON. ROB BISHOP

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. BISHOP of Utah. Mr. Speaker, it is my pleasure to congratulate Dr. Frank Guliuzza III, a resident of Ogden, Utah, and a professor of political science at Weber State University, on his reception of the CASE (Council for Advancement and Support of Education) Award for Teacher of the Year. I am pleased that the CASE organization recognized the caliber of Dr. Guliuzza as a professor and as a citizen.

Dr. Guliuzza has an impressive record: he has published two books (American Government, American Ideals and Over the Wall: Protecting Religious Expression in the Public Square) and three more will be completed by 2005. He has served as the Chairman of the Department of Political Science and Philosophy at Weber State University since 2002 and has taught courses including Constitutional Law, The Modern Presidency, and Constitutional Rights and Liberties. Earlier this year, Dr. Guliuzza was presented with Weber State University's most prestigious faculty honor: the John S. Hinckley Fellow award for excellence in teaching, service, and scholarship.

Dr. Guliuzza is an asset to his university and community. He founded the Weber State university mock trial team in 1996 and, under his direction, Weber State has earned several top-ten finishes at national tournaments. Dr. Guliuzza ran for the United States Senate in 2000 and has served as a Chair of the Weber County Republican Party and Vice Chair of the Utah Republican Party. A licensed minister, Dr. Guliuzza has served in ecclesiastical positions at Calvary Baptist Church in Ogden, First Baptist Church in Brigham City, and Mountain View Baptist Church in Layton. He has served his fellow men at the most basic and important level. Dr. Guliuzza and his wife of 21 years, the former Kathy Spaulding, are the foster parents of two children, Matthew Williamson and Timothy Stoddard.

Despite all of these awards, accomplishments and interests, Frank's true passion lies with teaching. As a former high school history teacher, I understand this purpose. And he is an excellent teacher, in the truest sense of the word. As Dr. Guliuzza said, "One need not be prominent to be a great woman or man." Frank is a great teacher, one who guides his students, who enlightens, shapes and challenges them. He is also a great American, and I am pleased to recognize him on this occasion.

## TRIBUTE TO THE LIFE OF ROSE KENNEDY

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. KAPTUR. Mr. Speaker, the holiday season 2003 marks the passing of a loved and beloved member of our community of Toledo, Ohio. Rose Kennedy, a mother for our community and a pioneering activist of her North Toledo neighborhood, passed from this life on December 26, 2003 at age 76.

I came to know Rose and her husband Bob nearly three decades ago as she vigorously pursued improvements in her neighborhood, Toledo's oldest. Small in stature, unassuming by nature, she worked on larger-than-life projects side-by-side with community leaders on the revitalization of the heart of our city, starting in North Toledo with beautification initiatives. Most notably, North Toledo's signature effort, the Buckeye Basin Greenbelt Parkway, has Rose's imprimatur. Without Rose Kennedy's personal tireless efforts, this major parkway construction which diverted traffic from North Toledo streets and upgraded the entire region with a linear greenbelt in the heart of our city would not have been realized. She pursued this goal for nearly a quarter century, and proudly stood by as the dream was finally brought to fruition and ribbons cut.

In addition to her community activism, Rose Kennedy, together with her husband Robert, brought a sense of family to eighteen children: four adopted and fourteen fostered. She explained, "These kids needed love and that was about all we had to give them."

The oldest of six children, Rosalie Kennedy spent her entire life in her North Toledo neighborhood. After marriage, she and her husband were involved in veterans' organizations-heading up the Toledo chapter of the DAV in the 1950's—in addition to neighborhood groups. She worked with the Northriver Development Corporation and the Economic Opportunity and Planning Association. Civic-minded as well, Rose served for many years as her precinct's Democratic committeewoman. Rounding out her community and civic responsibilities, she also served her faith as Secretary to her church, Salem Lutheran Church.

In spite of her family and community demands, Rose found time to enjoy her hobbies of crochet and crossword puzzles and reading. She was an ordinary woman who accomplished extraordinary feats. To her husband, children, grandchildren and great grandchildren, we extend our heartfelt sympathy. Rose Kennedy lived life large, and her actions left a lasting legacy. We will miss her earnest resolve, her unrelenting dedication, and the loving gift she gave of herself.

## PERSONAL EXPLANATION

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. ESHOO. Mr. Speaker, because my flight, United Airlines #950 was cancelled due to mechanical problems, I was absent from votes on February 3rd. Had I been present, I would have voted "Yea" on rollcall vote Nos. 12, 13 and 14.

## HONORING THE NORTHERN CIRCLE INDIAN HOUSING AUTHORITY

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the Northern Circle Indian Housing Authority (NCIHA) as it celebrates its 25th Anniversary.

The NCIHA is the Tribally Designated Housing Entity (TDHE) for eight federally recognized Indian Tribes in Northern California. Originally created in 1980, the NCIHA is a valuable asset to Butte, Colusa, Lake, Mendocino and Sonoma Counties, providing safe and sanitary housing for low and moderate-income Native American families. The NCIHA is governed by a twenty member Board of Commissioners and staffed by 17 dedicated employees.

Over its 25-year history, the NCIHA has built 324 housing units in nine locations, directing $60 million in construction planning and development programs. The organization manages an additional 232 housing units located in seven reservation communities. The NCIHA also administers a down payment assistance home ownership program, rental subsidy programs, housing rehabilitation and replacement services for member tribes.

In addition to these services, the NCIHA has worked to develop a Community Housing Development Organization to access state funding and increase housing opportunities for Native Americans. The NCIHA is sharing valuable resources and providing technical support with the newly formed United Native Housing Development Corporation to help assure its success.

Mr. Speaker, the accomplishments of the NCIHA are recognized by many, most notably by the Office of Native American Programs, who awarded the NCIHA a Certificate of Excellence in 2000 and declared the organization one of the best of its kind. With the support of both the federal government and private foundations, the NCIHA is committed to the establishment of healthy communities for the Native Americans it serves. In addition to constructing and managing sufficient housing, NCIHA builds infrastructure including roads, water and sanitation facilities, and electric services.

Mr. Speaker, for its commitment to serving the Native American population of Northern California, it is appropriate that we honor the employees and board of the Northern Circle Indian Housing Authority as they recognize their 25th anniversary.

## IN MEMORY OF JUDGE ELMO B. HUNTER

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of the Honorable Elmo B. Hunter of Kansas City, MO.

Judge Hunter earned his law degree from the University of Missouri in 1938. He went on to post-graduate work at the University of Michigan. Judge Hunter served his country in World War II with the United States Army, working in military intelligence. When he came home he joined the law firm of Sabree, Shook, Hardy & Hunter in Kansas City.

Judge Hunter served on the bench as a state circuit judge from 1951 to 1957 and moved on to serve as a state appeals judge in that year. He remained in this post until 1965, when President Lyndon Johnson appointed him to the federal bench.

In recognition for his service, Judge Hunter was awarded the Edward J. Devitt Distinguished Service to Justice Award in 1987. He was also the recipient of the American Judicature Society's Distinguished Service Award and served as the society's chairman and president. In 1991, the American Judicature Society saw fit to found the Elmo B. Hunter Citizens Center for Judicial Selection. The center researches nonpartisan, merit-based judicial selections, sponsors national forums, monitors state judicial reform projects and educates international visitors on the U.S. judicial selection process.

Mr. Speaker, Elmo Hunter was a valuable member of the judiciary and a credit to his profession. I know the Members of the House will join me in extending heartfelt condolences to his family: his wife, Shirley; his daughter Nancy; and all of his grandchildren and great-grandchildren.

## RECOGNIZING THE PUBLIC SERVICE OF SAM MAMULA

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Mr. Sam Mamula of Breckenridge, Colorado for his exemplary public service.

Mr. Mamula has proven his dedication to Breckenridge. He has held a variety of local government positions during his residency, including 8 years on the town planning commission and 8 years on the town council before becoming Breckenridge's mayor.

The citizens of Breckenridge have benefited greatly from Mr. Mamula's dedicated leadership. Specifically, Mr. Mamula has taken leadership roles in Breckenridge's use of biodiesel in its diesel municipal vehicles which is reducing pollution in Colorado.

Mr. Mamula has also been a tireless advocate for affordable housing in Summit County and was recognized nationally when Breckenridge won an Environmental Protection Agency (EPA) National Award for Smart Growth Achievement in the built projects category for the Wellington Neighborhood affordable housing project. This project included a cooperative partnership among the town of Breckenridge, Summit County, the Environmental Protection Agency, Colorado Department of Public Health and Environment and a private developer.

The dedication, enthusiasm and activism with which Mr. Mamula has pursued his work deserves our most sincere thanks. Thus, I ask my colleagues to join me in thanking Mr. Sam Mamula for his service and many contributions to his community. He is much appreciated

For the benefit of our colleagues, I am attaching a copy of a recent story about Mr. Mamula that appeared in the Summit Daily News.

[From the Summit Daily News, Jan. 28, 2004]

MAMULA TO END A POLITICAL ERA

We have to admit it. We are big Sam Mamula fans. Nobody is sorrier than we are that the Breckenridge mayor is stepping down after one term as hizzoner.

Mamula is a quote machine without peer, except for County Commissioner Tom Long. In this business, we like that.

The thing about Mamula is that he always makes a point. We like that even better.

Usually, his point is about the quality of life in the greater Breckenridge area. With Mamula at the top spot in town, locals knew they had somebody battling for the soul of the Summit.

We say that with due apologies to The Summit Foundation, which considers itself the "Soul of the Summit," and with good reason.

But the battle for soul—quality of life—is really fought in the trenches of planning commissions and town councils where hundreds of small decisions add up to something ugly if somebody isn't on guard.

Ironically, one of Mamula's biggest achievements on behalf of the town and taxpayers will occur after he's left office—the huge open space purchase of the B&B Mines property in the Golden Horseshoe.

The deal is scheduled to close in June.

Mamula spent eight years on the town planning commission and eight years on the town council before ascending to mayor. It was a good run.

"It was a tough decision. I stalled to the last minute," said the reluctant retiree who needs to spend more time with his convalescing wife.

"I really like being mayor. I liked being on the town council and I liked being on the planning commission. It really has been a labor of love for me rather than a carrying out of duties," he added.

Mamula called it "fulfilling" to work with a "great town council and staff."

"With a town manager like Tim Gagen, being mayor is 'relatively simple, frankly,'" Mamula said.

Mamula vows to stay involved in the town but promised not to become a "town council observer."

"There has got to be something I can cut out of this whole thing that someone is going to let me do," he added.

We hope so, too.

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## RECOGNIZING THE 93D BIRTHDAY OF RONALD REAGAN

SPEECH OF

### HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 3, 2004*

Mr. LINDER. Mr. Speaker, on Friday we celebrate the 93d birthday of Ronald Reagan and I rise again to recognize his efforts to renew the American spirit and to spread freedom around the world. Ronald Reagan once stated that, "The leadership of the free world was thrust upon us two centuries ago in that little hall of Philadelphia. In the days following World War II, when the economic strength and power of America was all that stood between the world and the return to the dark ages, Pope Pius XII said, 'The American people have a great genius for splendid and unselfish actions. Into the hands of America God has placed the destinies of an afflicted mankind.'" Reagan further stated that, "We are indeed, and we are today, the last best hope of man on earth." As we face many challenges today, the words of our 40th President still ring true. As we mark his birthday, we should remember his dream of creating a better, safer world and reaffirm that this Nation must continue to show the courage and persistence to turn that dream into a reality and provide hope for all those who do not have freedom.

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## HAPPY 109TH BIRTHDAY, ARMINTA LESTARJETTE ULRICH

### HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of a very special woman, Arminta Lestarjette Ulrich, known simply by the name "Mint" to her friends. Mint will be celebrating her 109th birthday on February 21. I would like to take this opportunity to acknowledge this important milestone in her long and fruitful life.

Mint has had the gift of living through three centuries in this great Nation—one can only imagine the many changes she has witnessed. She is a living time capsule, a treasure to us. By sharing her memories and experiences with us, we can learn more about ourselves and our Nation. Mint gives us strength in knowing where we came from and hope of who we can become.

Her full, rich life began in Cotulla, Texas in 1895. She was one of eleven children: five sisters and five brothers. The stories she tells of her youth allow us to vicariously experience life in the foreign land of South Texas as it was during the early part of the 20th century. For instance, Mint is often heard recounting how she used to ride atop a horse as it swam across the Nueces River. Or, how she used to travel by wagon to Kerrville, Texas, a journey that lasted two to three days. Today, this trip would take roughly three hours by car to complete.

Mint moved to San Antonio in 1915 where she began work as a switchboard operator for the Missouri Pacific Railroad. She worked with Missouri Pacific until her retirement. During her career, Arminta developed lasting friendships with workers all over the switchboard system.

One of the most enduring relationships she developed was with a young man who worked for the Southern Pacific Railroad—his name was Arthur Frederick Ulrich. Arthur grew to love Mint, but she was already engaged. However, like most young men suffering the pangs of love, Arthur was not dissuaded. He called her everyday and told her, "I'll get you yet". This persistence, coupled with her interest in his striking good looks and unquenchable high-spiritedness, made Arthur's prediction come true.

Mr. and Mrs. Ulrich were married on April 11, 1929 and did not have any children. Sadly, Arthur passed away in 1983, just six days before what would have been their 54th wedding anniversary. Their relationship was strong and serves as an example of the joy that a marriage can be if it is full of true friendship and love.

Mint has attributed her longevity to the use of "One-A-Day" vitamins and her lasting good looks to daily use of "Oil of Olay". I am suspicious, though, that her secret to long life and happiness also involves her sense of humor, positive attitude, and commitment to friends and family.

I am proud to count myself among those who have had the opportunity to know and learn from Mint. Her joy of living and her humanity have helped her to become an enduring spirit that continues to spread joy to those who know her. I wish her many blessings and the very best for her 109th birthday.

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## CONGRATULATING STEARNS COUNTY SOIL AND WATER CONSERVATION DISTRICT AS MINNESOTA'S OUTSTANDING SOIL AND WATER CONSERVATION DISTRICT OF THE YEAR

### HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to congratulate Administrator Dennis Fuchs, the staff and board of supervisors, and all the residents of Stearns County, Minnesota, on Stearns County's recognition as Minnesota's Outstanding Soil and Water Conservation District of the Year.

Stearns County Soil and Water Conservation District has been very active in protecting natural resources for all to enjoy. The District has been successful in developing programs to assist landowners with such conservation practices as soil erosion prevention, animal waste storage, wildlife habitat preservation, and lakeshed management.

This award is based on a number of factors including program participation, training for staff and supervisors, and increased involvement in Minnesota's Association of Soil and Water Conservation Districts work to better manage our precious natural resources.

Mr. Speaker, on behalf of all Minnesotans I would like to congratulate Stearns County Soil and Water Conservation District on receiving this recognition and thank them for their commitment to conservation.

## HONORING OBIE SNIDER

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. SHUSTER. Mr. Speaker, I rise today to honor Obie Snider, an extraordinary man who passed away on the night of December 18, 2003. After enlightening the lives of those around him for seventy-seven years, the memories of his generosity and genuine care for others have served to comfort those who knew him best, as well as the community which benefitted tremendously from his numerous contributions.

As a pillar of strength within his community of Bedford County, Pennsylvania, Mr. Snider was a role model and leader who was admired for his loyalty to God, his family, and his comrades. With the help of his vision and guidance the East Freedom Chapel was founded, and it was under that roof that he became director of Young Life in the 1950s. Mr. Snider remained a devoted Christian throughout his life, and that piety translated into his every action. In addition to being a Sunday school teacher, he was the chairman of Truth and Praise, a publisher of hymnals, and the chairman of the Christian Workers Fellowship Fund of Kansas, among other things.

After graduating from Replogle High School in 1943, Mr. Snider's experiences in college prepared him for the enriched life he would lead. Two years after marrying Mary Ann Gilbert on June 1, 1948, he graduated from Penn State University. Grounded by a strong marriage and a solid education, Mr. Snider established Singing Brook Farms and eventually became a trustee of his alma mater, a position that lasted 21 years. His appointment to Trustee Chairman in 1985 marked the first time that an agriculturalist filled the role, and in the years following he was named a distinguished alumnus and received the status of trustee emeritus in July of 2000. Mr. Snider dedicated a large portion of his time to the improvement of the university and succeeded in administering numerous changes throughout the system. Without Obie Snider's influence and vision, Penn State University would not be the renowned institution of higher learning that it is today.

Mr. Snider's commitment to agriculture and education has proved to affect and benefit not only the state of Pennsylvania, but the entire nation. The numerous organizations and boards that he selflessly served were all positively changed by his presence, and they will undoubtedly miss his spirit and direction. Obie Snider has left behind a legacy of dignity and merit that will not be forgotten.

## FORMER BUSH INSIDERS NOW FREE TO TELL THE TRUTH

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. FRANK of Massachusetts. Mr. Speaker, there has been a very interesting phenomenon in recent months that demands attention. A steady stream of former high-ranking Bush administration officials have conscientiously pointed out the inaccuracy of many of the claims the administration has made and continues to make about its policies.

In December, last year, I inserted into these pages a very interesting article by Richard Haass, former chief of the policy planning staff of the State Department, who confirmed what many of us have long argued—namely, that the war in Iraq was a war of choice and not of necessity. That is, Mr. Haass made it clear that the decision to go to war with Iraq was not driven by a fear that Iraq was any serious threat to the United States of a physical sort, but rather was part of an administration policy about how the world ought to be structured.

Most dramatically, former Treasury Secretary Paul O'Neill has been widely quoted as a result of the book by Ron Suskind not only essentially agreeing with Mr. Haass about the genesis of the Iraq war, but making clear the great gap that exists between the reality of Bush administration economic policies and the rhetoric they have used to describe them.

Recently, a third high-ranking Bush official has rebutted the administration's claims, and buttressed this with reference to actual events in which he participated as a member of the administration.

Flynt Leverett was a high-ranking official at the National Security Council from 2002 until 2003, serving as Senior Director for Middle Eastern Affairs. In a recent article published in the New York Times, he refutes the administration's argument that the decision by Libya to renounce nuclear weapons was a direct result of the administration's war in Iraq. His argument is a compelling one, combining very thoughtful analysis with a good history of the events that led up to this. It is impossible to do justice to this thoughtful essay by compressing it, so I ask that it be inserted here so that Members and others may read it and draw their own conclusions.

But I do believe that the conclusion of Mr. Leverett's article—remember he was a high-ranking National Security Council official appointed by the Bush administration—is worth underlining:

> Until the Bush administration learns the real lessons of the Libyan precedent, policy toward other rogue regimes is likely to remain stuck in the mud of ideology.

[From the New York Times]

A LESSON IN DIPLOMACY

MORE THAN THREATS LED TO QADDAFI'S REVERSAL

(By Flynt Leverett)

WASHINGTON.—As President George W. Bush made clear in his State of the Union address, he sees the striking developments in relations with Libya as the fruit of his strategy in the war on terrorism.

The idea is that Colonel Muammar el-Qaddafi's apparent decision to renounce weapons of mass destruction was largely a result of the overthrow of Saddam Hussein, which thus retroactively justifies the war in Iraq and holds out the prospect of similar progress with other states that support terrorists, seek weapons of mass destruction and brutalize their own people.

However, by linking shifts in Libya's behavior to the Iraq war, the president misrepresents the real lesson of the Libyan case. This confusion undermines America's chances of getting countries like Iran and Syria to follow Libya's lead.

The roots of the recent progress with Libya go back not to the eve of the Iraq war, but to the Bush administration's first year in office. Indeed, some credit should even be given to the second Clinton administration.

Tired of international isolation and economic sanctions, the Libyans decided in the late 1990's to seek normalized relations with the United States, and held secret discussions with Clinton administration officials to convey that message. The Clinton White House made clear that no movement toward better relations was possible until Libya met its responsibilities stemming from the downing of Pan Am Flight 103 over Lockerbie, Scotland, in 1988.

These discussions, along with mediation by the Saudi ambassador to the United States, Prince Bandar ibn Sultan, produced a breakthrough: Libya turned over two intelligence officers implicated in the Pan Am 103 attack to the Netherlands for trial by a Scottish court, and in 1999 Washington acquiesced to the suspension of UN sanctions against Libya.

Then, in the spring of 2001, when I was a member of the State Department's policy planning staff, the Bush administration picked up on those discussions and induced the Libyans to meet their remaining Lockerbie obligations.

With our British colleagues, we presented the Libyans with a "script" indicating what they needed to do and say to satisfy our requirements on compensating the families of Pan Am 103 victims and accepting responsibility for the actions of the Libyan intelligence officers implicated in the case.

We also put an explicit quid pro quo on the table: If Libya met the conditions we laid out, the United States and Britain would allow UN sanctions to be lifted permanently. This script became the basis for three-party negotiations to resolve the Lockerbie issue.

By early 2003, after a Scottish appeals court upheld the conviction of one of the Libyan intelligence officers, it was evident that our approach would bear fruit. Indeed, Washington allowed the UN sanctions against Libya to be removed last summer after Libya reached a compensation agreement with the Pan Am 103 families and accepted responsibility for its officials' actions.

But during these two years of talks, American negotiators consistently told the Libyans that resolving the Lockerbie situation would lead to no more than elimination of UN sanctions. To get out from under the separate U.S. sanctions, Libya would have to address other concerns, particularly regarding its programs in weapons of mass destruction.

This is the context in which Libyan officials approached the United States and Britain last spring to discuss dismantling Libya's, weapons program. The Iraq war, which had not yet started, was not the driving force behind Libya's move. Rather, Libya was willing to deal because of credible diplomatic representations by the United States over the years, which convinced the Libyans that doing so was critical to achieving their strategic and domestic goals.

Just as with Lockerbie, an explicit quid pro quo was offered: American officials indicated that a verifiable dismantling of Libya's weapons projects would lead to the removal of American sanctions, perhaps by the end of this year.

The lesson is incontrovertible: To persuade a rogue regime to get out of the terrorism business and give up its weapons of mass destruction, the United States must not only apply pressure but also make clear the potential benefits of cooperation.

Unfortunately, the Bush administration has refused to take this approach with other rogue regimes, notably Iran and Syria. Until the president is willing to employ carrots as well as sticks, he will make little headway in changing Iranian or Syrian behavior.

The President's lack of initiative on this point is especially disappointing because, in the diplomatic aftermath of the Sept. 11 attacks, the administration had a singular opportunity to effect strategic realignments by both Iran and Syria.

Well-placed Iranians, including more pragmatic elements of Iran's conservative camp, have indicated through diplomatic channels and to former officials (including myself) their interest in a "grand bargain" with the United States. Basically, Tehran would trade off its ties to terrorist groups and pursuit of nuclear weapons for security guarantees, a lifting of sanctions and normalized relations with Washington.

Likewise, senior Syrian officials—including President Bashar Assad himself, in a conversation in Damascus last week—have told me that they want a better strategic understanding with the United States. To achieve this, however, Washington needs to be willing to spell out what Syria would get in return for giving up its ties to terrorists and its chemical weapons and ballistic missiles. As Assad told me, Syria is "a state, not a charity"—if it gives up something, it must know what it will gain in return.

One reason the Bush administration was able to take a more constructive course with Libya was that the White House, uncharacteristically, sidelined the administration's neoconservative wing—which strongly opposes any offer of carrots to state sponsors of terrorism, even when carrots could help end such problematic behavior—when crucial decisions were made.

The initial approach on the Lockerbie case was approved by an informal coalition made up of Condoleezza Rice, the national security adviser, and Secretary of State Colin Powell. Likewise, in the lead up to the negotiations involving Libyan weapons of mass destruction, the neoconservatives at the Pentagon and in the shop of Under Secretary of State John Bolton were left out of the loop.

Perhaps a coalition among members of the State Department's bureau of Near Eastern affairs and the National Security Council's more pragmatic elements can chart a similar course involving Iran and Syria.

However, until the Bush administration learns the real lessons of the Libyan precedent, policy toward other rogue regimes is likely to remain stuck in the mud of ideology.

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## HONORING COLORADO NONPROFIT WEEK

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to inform our colleagues that the week of March 1 to March 5, 2004 will be Colorado Nonprofit Week and to express my gratitude for nonprofit organizations in Colorado.

Mr. Speaker, we in Congress have dedicated our energy to help solve the problems which persist in America. However, in a country as large and diverse as ours, there are many problems that cannot be addressed by government alone. Nonprofit organizations throughout the nation play powerful roles in sustaining our communities and providing resources to help solve a myriad of problems. In Colorado alone, there are over five-thousand charitable nonprofit organizations that devote tireless effort year after year to improve the quality of life in our communities. In appreciation, the State of Colorado honors these organizations and the causes they champion by declaring the week of March 1st to March 5th to be Colorado Nonprofit Week.

In Colorado, there are hardly any social problems that do not have a group of dedicated individuals trying to solve them. Indeed, there are nonprofits addressing such diverse challenges as promoting arts and humanities, protecting animals, sheltering the homeless, providing job training and saving open space, to identify just a few. Colorado's nonprofits have succeeded in raising awareness for their causes in recent years. As a result, the number of nonprofits organizations in Colorado and the magnitude of services they provide have more than doubled in the last decade.

These organizations give hundreds of millions of dollars and countless hours of volunteer time to address their respective issues, yet are rarely given the credit they deserve. By recognizing the contributions of the nonprofit sector during Colorado Nonprofit Week, we acknowledge the exemplary public service and positive direction they provide for our communities.

Mr. Speaker, I ask my colleagues to join with me in recognizing Colorado Nonprofit Week and in thanking nonprofit organizations for all of the good and important work they do in Colorado.

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## AUSTRALIAN UNIVERSITY STUDENTS AS AMBASSADORS TO AND FROM CONGRESS

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. NADLER. Mr. Speaker, there is a long list of people and institutions that have helped our nation flourish through our nearly 228 years of independence. One of our greatest traditions as Americans is to welcome friends from around the world into our lives—sometimes professionally and sometimes personally.

Most congressional offices host American college students, to help our nation's future leaders understand the political complexities affecting our constituents and our jobs as their representatives. Now, thanks to the Uni-Capitol Washington Internship Program, some of Australia's best and brightest university students have had the opportunity to participate in six-week, full-time internships in House and Senate offices. These internships have proved to be an invaluable learning experience, both for the students and for their hosts.

The program is the brainchild and pro bono non-partisan effort of former long-time House and Senate staffer Eric K. Federing, who began lecturing at Australian universities in the early 1990s while working for our former colleague Norman Y. Mineta of California. Mr. Federing wanted to bridge what Australians call "The Tyranny of Distance," which can prevent Americans and Australians from knowing each other as well as our mutual interests and traditions suggest we should.

Five universities now participate and a dozen Australian students travel to Washington, DC annually as part of the program. An important reason for the exchange's success is the careful matching of students and their interests with our work and constituencies. This year, Laura Crommelin, a law student from the University of Melbourne, joined my staff for most of January and February. She is professionally poised, and sophisticated in her understanding of our mission as a chamber and my work for the 8th District of New York. Meeting Laura has given my staff and me an insight into Australian politics and society, as well as a fresh perspective on the work we are doing here in Congress.

Mr. Speaker, I believe my experience has not been unique. The students and other congressional hosts in 2004 should be congratulated for their participation in this exchange: Richard Abraham, of Macquarie University, in the office of Senator CHRISTOPHER DODD of Connecticut; Kirstin Ferguson, of the University of Wollongong, in the office of Representative ALCEE HASTINGS of Florida; Netta Goussac, of the University of Western Australia, in the office of Representative LORETTA SANCHEZ of California; Elli Jacovides, of the University of Melbourne, in the office of Representative JIM CLYBURN of South Carolina; Leng Lee, of the University of Melbourne, in the office of the Joint Economic Committee, minority staff; Ian Repper, of the University of Western Australia, in the offices of Representative BOB NEY of Ohio and the House Administration Committee, majority staff; Heather Rietdyk, of the University of Canberra, in the office of Representative SAM FARR of California; Louise Squire, of the University of Western Australia, in the office of the House Transportation and Infrastructure Committee, minority staff; Lisa Sharland, of Macquarie University, in the office of Senator CHUCK HAGEL of Nebraska; Ken Shaw, of the University of Melbourne, in the office of the House Small Business Committee, majority staff; and Jane Stewart, of the University of Melbourne, in the office of Representative LOUISE SLAUGHTER of New York.

In closing, Mr. Speaker, it is important to note that this effort has received programmatic assistance from both the U.S. and Australian governments, as well as numerous individuals and institutions in Washington, DC that have welcomed these students during their visit. I am proud to participate in this worthwhile program, and wish it continued success in the future.

## PERSONAL EXPLANATION

### HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber, on January 21, 2004. I would like the record to show that, had I been present, I would have voted "yea" on rollcall vote No. 4.

I was also unavoidably absent from this Chamber on January 28, 2004. I would like the record to show that, had I been present, I would have voted "yea" on rollcall Nos. 8, 9 and 11. I would also like the record to show that I would have voted "no" on rollcall 10.

## CONGRATULATIONS TO DR. PAUL SWANSON

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and enthusiasm that I rise to recognize and congratulate Dr. Paul Swanson. This dedicated and giving man will be honored tonight with the Ambassador for Peace Leadership in Reconciliation and Peace-Making Award. A resident of Northwest Indiana, Dr. Swanson has devoted his life to the preservation of peace in his community and throughout the world. His work will be honored this evening at the Ambassadors for Peace Awards Banquet.

Throughout his career, Dr. Swanson has united his fellow citizens by demonstrating the importance of compassion and understanding toward those of different beliefs. As a mentor to many pastors in the Midwest, Dr. Swanson has broken new ground in the areas of ecumenical and interdenominational dialog.

Mr. Speaker, Dr. Paul Swanson is currently a Professor Emeritus of Family Counseling for the Lutheran School of Theology at the University of Chicago. Although he has spent his career helping others, Dr. Swanson's family has always been his first priority. His wife Cordie, and their two children provide the inspiration for Dr. Swanson in his commitment to improve the community around him.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating Dr. Paul Swanson for his outstanding service to the residents of Northwest Indiana. His efforts to improve his community should be commended, and I am proud to represent him in Congress.

## REMEMBERING PRIVATE FIRST CLASS HOLLY McGEOGH

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. DINGELL. Mr. Speaker. I rise today to pay tribute to Private First Class Holly McGeogh, Michigan's first female soldier killed in the conflict in Iraq. Private McGeogh was from Taylor, and a constituent of mine.

Private McGeogh, who was 19, was one of three soldiers killed in a roadside explosion near Kirkuk. She was assigned to Company A, 4th Forward Support Battalion, 4th Infantry Division, from Fort Hood, Texas. Two years ago, she graduated from Truman High School, where she was a cadet in the Junior ROTC for four years. During high school, Private McGeogh won numerous awards and recognition for her service to her school and community. She was dedicated to enlisting in the Army, and to serving her country, which she did with distinction.

Before leaving for Iraq she told her family that if she were killed in battle, to remember she died for a reason and a cause she believed in. Those words should be remembered and cherished today and always.

Mr. Speaker, Private McGeogh is a hero. She died trying to make this world a safer, kinder, and more humane place, and for that we are all humbled. Our thoughts and our prayers go to her parents, her family, and her friends. I would like you to join me in commending her limitless courage for our country. She has shown the entire nation what it means to be a hero.

## HONORING FATHER JOSE LUIS OCHOA

### HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mrs. NAPOLITANO. Mr. Speaker, it is with tremendous respect that I rise today to honor Father Jose Luis Ochoa, who is retiring from his post with the parish of St. Pius X in the City of Santa Fe Springs to return to Guadalajara, Mexico and work with the Guadalupe Missionaries. Throughout his career of service, Father Ochoa has spread faith and charity throughout many parts of the world.

Father Jose Luis Ochoa was born in Mexico on December 5, 1940, the third child of seven children. In 1953 he entered the "Diocesano de Mexico" seminar. In 1956, he continued his schooling at the "Seminario de Misiones" with the Jesuits. Even during his vacations from the seminary, he would dedicate his time to travel outside of Mexico wherever there was a need for priests.

On July 10, 1966, he was ordained at the chapel "Seminario de Misiones" and assigned as a missionary to Kenya, Africa. Upon his arrival in Nairobi, Kenya, Father Ochoa began to work as a vicar in the parish of Amakura. While there, he built a secondary school for girls to help instill in them the values of dignity and self-respect and help them reject exploitative and unhealthy practices.

In 1975, he was assigned back to Mexico to serve as a Director to the Department of Promotions and Development. This work was a necessity for the "Instituto de Misioneros de Guadalupe," and he worked with Bishops from different Archdioceses and became responsible for getting financial and vocational opportunities for the missions.

After spending some time in Switzerland, Father Ochoa returned to Mexico once again in 1985 to help form a Seminary School in Guadalajara. While there, he also taught classes at a local school, helped construct a temple and a secondary school and started a food bank for the less fortunate.

In January 1991, he departed to Los Angeles to be an administrator in charge of a home for Guadalupe Missionaries and was in charge of all missionary work. While in Los Angeles, he promoted the Integral System of New Evangelization program. From 1996 to 2004, he served in several parishes of the Archdioceses, with the permission of the Guadalupe Missionaries. His last assignment for the past four years was at St. Pius X in the City of Santa Fe Springs, where he brought great joy to the parishioners.

I want to thank Father Ochoa for all he has done for my community and many communities throughout the world. I ask my colleagues to join me in wishing him good health and best wishes in his future endeavors.

## MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

SPEECH OF

### HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 27, 2004*

Mr. SOUDER. Mr. Speaker, I rise today in support of H.R. 3493, the Medical Devices Technical Corrections Act of 2003. This bill will help ensure medical devices are quickly approved and sent to market as intended by the Medical Device User Fee Modernization Act of 2002. In particular, the bill will clarify FDA third-party inspection requirements to ensure companies can use third-party inspectors for two consecutive inspections. Additionally, the legislation will authorize HHS to conduct a study to identify barriers to market entry for pediatric products, which often help small populations and, therefore, are not profitable to manufacturers.

These clarifications are critical to the medical device industry in the United States, which leads the world in the development and manufacturing of medical technology. Medical device companies produce nearly $78 billion annually and generate nearly 6 percent annual growth. The products produced by these companies have a tremendous impact on our country's economy by creating great high-paying American jobs and consistently generating annual trade surpluses in the billions of dollars.

Advances in medical technology are improving the quality of life for people around the world as new and more effective treatments for various diseases and medical conditions are developed. New medical technology also helps reduce the cost of health care and Medicare as health problems are prevented and treated more easily through early detection, less invasive procedures and faster recovery times for the patient.

The medical device industry is critical to the economy of Indiana as well as the district I represent, Indiana's 3rd district. A large majority of the nation's orthopaedic devices are produced in Warsaw, Indiana, where DePuy, Zimmer and Biomet, three of the Nation's leading companies in orthopaedic devices are located. These companies control more than 60 percent of the global market share of orthopaedic joint replacements and generate $4 billion dollars annually in sales. The combined economic and societal impacts of these three companies to my district and the state are highly significant. I commend the House for summarily passing H.R. 3493 and I encourage my colleagues in the other body to vote in favor of H.R. 3493, the Medical Devices Technical Corrections Act of 2003.

## PERSONAL EXPLANATION

### HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed four votes in the House of Representatives on January 28, 2004. Had I been in attendance I would have made the following votes:

Vote on the Baldwin of Wisconsin Substitute Amendment to S. 1920, the Farmer Bankruptcy bill. Had I been in attendance, I would have voted "no."

Vote on the Motion to Recommit with Instructions on S. 1920, the Farmer Bankruptcy bill. Had I been in attendance, I would have voted "no."

Vote on Passage of S. 1920, the Farmer Bankruptcy bill. Had I been in attendance, I would have voted "yea."

Vote on the Motion to Instruction Conferees on S. 1920, the Farmer Bankruptcy bill. Had I been in attendance, I would have voted "no."

Unfortunately, I missed three votes in the House of Representatives on February 3, 2004. Had I been in attendance I would have made the following votes:

Vote on the Motion to Suspend the Rules and Agree to H. Res. 507, a Resolution expressing the profound sorrow of the House of Representatives on the anniversary of the accident that cost the crew of the Space Shuttle Columbia their lives, and extending heartfelt sympathy to their families. Had I been in attendance, I would have voted "yea."

Vote on the Motion to Suspend the Rules and Agree to H. Res. 157, a Resolution expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet. Had I been in attendance, I would have voted "yea."

Vote on the Motion to Suspend the Rules and Pass H.J. Res. 84, a Resolution recognizing the 93rd birthday of Ronald Reagan. Had I been in attendance, I would have voted "yea."

## DEATH OF EMMETT BURKE, THE SON OF ALDERMAN EDWARD BURKE

### HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. RUSH. Mr. Speaker, today I rise to extend my condolences to Alderman Edward Burke and his family on the loss of his beloved son, Emmett Burke. It is with deepest sympathy that I rise to offer encouragement to the Burke family in their time of bereavement.

Mr. Speaker, Emmett Burke, only 30 years old, will be sorely missed by everyone who knew him. For the past decade, Emmett Burke worked for the Cook County Forest Preserve Police Department. He started in patrol, then was promoted to the canine and search and rescue units, and eventually served as the deputy chief of the police department. Emmett Burke was known for his diligence, his commitment, and his excellence in the field of law enforcement.

Mr. Speaker, I personally understand the undescribable sadness that occurs when a father has to bury his son. It has been nearly 5 years since I was faced with that same difficult reality. This is why I am able to stand today and encourage Alderman Burke to counter the hurt, pain, and sorrow with strong support from family and friends, and fervent prayers to God, who is the author and finisher of our faith.

And finally, I can assure the Burke family that the present agony felt from the loss of a loved one can only be replaced with the everlasting love and peace of God, the father, Jesus the son, and the Holy Spirit.

So, I rise today to extend my deepest sympathy to the Burke family, my prayers are with you, and know that in our time of mourning, God has promised to comfort us.

## THE COMMUNIST REGIME IN VIETNAM

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. LOFGREN. Mr. Speaker, President Bush and his Administration have begun a new relationship with the communist regime in Vietnam. Recently, the Vietnamese Defense Minister and the Deputy Prime Minister traveled to Washington for historic visits with Defense Secretary Donald Rumsfeld and Secretary of State Colin Powell. Shortly thereafter, the U.S.S. Vandegrift entered the port of Ho Chi Minh City, the first U.S. warship to visit Vietnam since the end of the Vietnam War nearly three decades ago.

This newly forged friendship between the Bush administration and the communist regime in Vietnam comes amidst continuous reports of human rights violations committed by the Vietnamese government.

The U.S. Commission on International Religious Freedom reports that almost forty Buddhist monks and lay leaders are in prison, under house arrest, or in re-education camps, as well as twenty Hmong Protestants and at least ten Catholic priests in detention.

Freedom of speech in Vietnam is just as bad. According to a report by the Campaign for Freedom of Expression and Information in Vietnam, Vietnam's 500-plus newspapers and magazines are state-owned and vigorously censored while 2,000 of Vietnam's 5,000 websites are currently blocked for disseminating messages the state has deemed "subversive" or "reactionary." Worse yet is the case of a Vietnamese writer and journalist imprisoned just after he submitted written testimony to a Congressional Members' briefing that I sponsored.

Yet, every time I write the State Department, I get the same response, but no action, just as the letter I am submitting for the RECORD today. The State Department tells me, in their words, "we share your serious concern" and are "deeply troubled by the restrictions that the Government of Vietnam places on its citizens' freedom of expression, as well as other human rights." They tell me that "[p]romoting human rights is a priority in our bilateral relations with Vietnam."

If promoting human rights in Vietnam really is a priority for the Bush Administration, why are they having friendly meetings with high-level Vietnamese officials without initially demanding protection of human rights?

Why is the Bush Administration not, instead, condemning the communist regime in Vietnam for issuing a statement that attacks a human rights resolution this body passed with an overwhelming vote of 409–13? That Vietnamese statement, which I submit for the RECORD today, alleges that our Congressional resolution contains "false" and "inaccurate" information. Yet, our resolution is backed by reports from various respected human rights organizations, the U.S. Commission on International Religious Freedom and the U.S. State Department. Instead of condemning the reckless statement from Vietnam, the Bush Administration is embracing a communist regime it admits is a human rights violator.

The Bush Administration's hypocrisy and apathetic attitude towards human rights is unacceptable. As long as the people of Vietnam are oppressed, abused, and imprisoned, our President should not get friendly with a communist regime without first demanding protection of human rights.

U.S. DEPARTMENT OF STATE,
*Washington, DC, January 13, 2004.*

Hon. ZOE LOFGREN,
*House of Representatives.*

DEAR MS. LOFGREN: This is in response to your December 30, 2003 letter to Secretary Powell concerning detained dissident Mr. Nguyen Vu Binh in Vietnam. We share your serious concern over his recent sentence and ongoing detention.

The Department strongly condemned the harsh sentence given to Binh on December 30, 2003. No individual should be imprisoned for the peaceful expression of his views. The sentencing of Binh clearly violates international standards for the protection of human rights, including freedom of expression. The U.S. Embassy sent an officer to the court, but he was unable to gain access to the trial, despite repeated oral and written requests to the Vietnamese Government.

We are deeply troubled by the restrictions that the Government of Vietnam places on its citizens' freedom of expression, as well as other human rights. These restrictions violate international human rights instruments, including the International Covenant on Civil and Political Rights that Vietnam has ratified. We consistently urge the Government of Vietnam to adhere to its international obligations to protect the human rights of its citizens. The Government of Vietnam should release Mr. Binh and all others detained or imprisoned for the peaceful expression of their views.

Promoting human rights is a priority in our bilateral relations with Vietnam. We will continue to press the Government of Vietnam to take steps to improve its human rights record.

Let me assure you that our efforts to promote human rights and freedom in Vietnam continue undiminished. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

MICHAEL C. POLT,
*Acting Assistant Secretary,*
*Legislative Affairs.*

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EMBASSY OF VIETNAM,
*Washington, DC, November 28, 2003.*

Hon. ZOE LOFGREN,
*U.S. House of Representatives,*
*Washington, DC.*

The Embassy of the Socialist Republic of Vietnam in the United States of America presents its compliments to the Office of the Honorable Zoe Lofgren and has the honor to forward herewith the faxed copy of the Statement of the National Assembly of the Socialist Republic of Vietnam with regard to passing by the US House of Representatives of H. Res. 427.

The Embassy of the Socialist Republic of Vietnam avails itself of this opportunity to renew to the Office of the Honorable Zoe Lofgren the assurances of its consideration.

STATEMENT OF THE NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM

The National Assembly of the Socialist Republic of Vietnam altogether rejects H. Res. 427 Resolution adopted on 19th November 2003 by the United States House of Representatives and the Resolution adopted on 20th November 2003 by the European Parliament on the so-called "situation of religious freedom in Vietnam". These wrongful, negative resolutions do not serve the relations between the United States and the European Union on the one hand and Vietnam on the other.

Alleging false, inaccurate information provided by a handful of extremist elements who take advantage of the mantle of religion and in pursuit of political goals, distort the founding history of the Buddhist Church of Vietnam after the reunification of the country these resolutions slander the policies and practice of religious freedom in Vietnam. Today's so-called "United Buddhist Church of Vietnam" is nothing but a grouping of individuals who are driven by personal ambition and political motives to act against the nation's interest. As a result of their blatant violation of the law and of their attempts to spur confrontation and sow division among the Buddhist followers, this grouping stands completely isolated from the Buddhist congregation and the national community of Vietnam.

Expressing the will of the Vietnamese people, the National Assembly of the Socialist Republic of Vietnam supports the consolidation and development of Vietnam's relations with the United States and the European Union on the basis of mutual respect for their respective independence and sovereignty, of non-interference into each other's internal affairs and of mutually beneficial cooperation on an equal footing.

In that spirit, the National Assembly of the Socialist Republic of Vietnam urges that the US House of Representatives and the European Parliament stop lending their support to actions that slander the actual situation of religion in Vietnam and undermine mutually beneficial cooperation with Vietnam. At the same time, the National Assembly of Vietnam consistently advocates the enhancement of mutual understanding and narrowing down of differences through dialogue with the US Congress and congressmen as well as with the European Parliament and its members, for the sake of the long-term interests of the nations concerned, and of peace, cooperation and development in the world.

*Hanoi, 26 November, 2003.*

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## TRIBUTE TO MR. KEN BURNS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. NEY. Mr. Speaker, it is with sad tidings that I announce the loss of Ken Burns, a dedicated House employee that many of us had the pleasure of working with.

Ken began his career with the House working for House Information Resources as a Communications Specialist in November 1999. During his time there, Ken served as the PBX administrator and supported video conferencing for all congressional offices. Ken also served as a Move Coordinator during the last transition. He was always very helpful and dedicated to the customer.

Ken received numerous letters of recognition for his cheerful and positive attitude. He never hesitated to go the extra mile to make sure his customers were totally satisfied. He made himself available to assist customers no matter when he was needed. He was a real pleasure to work with and always maintained an upbeat attitude—even when you knew things were not going well for him.

And for the past year, Ken worked at the Recording Studio, handling all the video teleconferences for Members. He was very knowledgeable about the systems and stayed on top of new technologies. Ken was always very helpful in many areas of that operation—he helped answer phones at the front desk and operated television cameras in the House studios regularly. Ken's personality was infectious, always positive, upbeat, and never had a bad word to say about anyone.

I feel privileged to have known Ken as a person and know that he will be sorely missed by all who had the pleasure of working with him.

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## HONORING THE RETIREMENT OF FIRE CHIEF MICHAEL P. BIRRELL

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to my friend Michael P. Birrell on the occasion of his retirement from the Dearborn Fire Department after 29 dignified years of service.

Serving as the Chief of the Department since March 2000, Mr. Birrell has shown tremendous dedication and leadership throughout his long-lasting career. He joined the Department on December 9, 1975 as a probationary firefighter. Promoted to Firefighter 2 in 1980 and Firefighter 3, an engine driver, in 1985, Mr. Birrell's achievements resulted in him becoming Fire Lieutenant in 1990, Captain in 1994, and Battalion Chief in 1995.

In addition to serving in the Fire Department, Mr. Birrell finds many ways to channel his supportive energy into the community. He is a Certified Instructor of the Michigan Firefighter Training Council and a National Fire Academy Instructor of Incident Command and Emergency Response to Terrorism.

Mr. Birrell graduated from Saint Alphonsus High School in 1968 and attended Henry Ford Community College and Eastern Michigan University. A veteran of the U.S. Army from March of 1970 to January of 1972, Mr. Birrell served with the Military Police and was honorably discharged as Specialist 4.

Mr. Birrell and his wife, Elaine, have one daughter, Kathleen, who is a senior at Edsel Ford High School. His stepson, Stuart Debrowsky, is also a Dearborn Firefighter.

As Mr. Birrell enters his retirement years, I would like to give him my best wishes for a relaxing and enjoyable future. I would like to thank him for all of his hard work and commitment to the Dearborn Fire Department and Dearborn community.

Mr. Speaker, I would like to ask that my colleagues join me in commending Chief Birrell for leadership in both his Department and community, as we celebrate his 29 years of dedication to the Dearborn Fire Department.

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## FREEDOM FOR LIBRADO RICARDO LINARES GARCÍA

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Librado Ricardo Linares García, a prisoner of conscience in totalitarian Cuba.

Mr. Linares is an engineer who was expelled from Castro's totalitarian Communist Party in 1992 after he called for economic reforms. Following his eviction, Mr. Linares decided the most effective way to fight Castro's brutal repression was to join the dissident movement. Eventually, Mr. Linares became president of the Cuban Reflection Movement.

Between 1995 and November 1999, Mr. Linares was continually harassed, arrested, detained, and fined by Castro's ruthless machinery of repression. Despite these constant setbacks, Mr. Linares persevered in his quest to obtain basic human rights for every Cuban citizen. Unfortunately, on March 18, 2003, the tyrant Castro had Mr. Linares arrested and convicted on sham charges.

According to Amnesty International, in the sham trial verdict, Mr. Linares was accused of "using his human rights work as a front for alleged counterrevolutionary activities such as meetings, conferences and seminars."

Mr. Speaker, Mr. Linares is suffering because of the gross human rights abuses and outrageous repression that continue every day in totalitarian Cuba. Mr. Linares is languishing in the totalitarian gulag because he believes in basic human rights for every Cuban. It is that simple, Mr. Linares is confined in a dungeon because he believes in freedom and the tyrant Castro believes in repression.

My colleagues, we must stand as one and demand freedom for Librado Ricardo Linares Garcia and every prisoner of conscience in totalitarian Cuba.

## PERSONAL EXPLANATION

### HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "yes" on rollcall No. 12.

## HONORING JUSTIN GREGORICH

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Justin Gregorich, one of my young constituents who recently saved someone's life.

Justin was walking home from football practice last week when he witnessed an elderly man lose control of his car, drive into a retention pond, and begin sinking in the snake and alligator-filled water. Justin instantly dove into the water, and with the help of two other passers by, pulled the man from his submerged car to safety.

Justin's two helpers, Michael McBayer and Shawn Brady, live in Chairman BILL YOUNG's congressional district, which borders mine. Justin credited Mr. McBayer and Mr. Brady for saving the car's driver, though he said his only thought when he saw the crash was that "I gotta save that guy." I think that Justin's mother, Alice, must have taught her son to be humble and help others, which is exactly what he did that day. She certainly deserves credit for raising such an outstanding young man.

Mr. Speaker, Justin, Michael, and Shawn are heroes in the truest sense of the word. They disregarded their own safety for that of another. Their selfless actions should remind us all of the fundamental goodness and humanity that so many of our countrymen exhibit everyday. I urge our colleagues to join me in thanking them for their actions and for reminding us of the spirit of compassion and courage which makes our country great.

## A BILL TO PROVIDE FOR TAX-EXEMPT FINANCING FOR UNITED NATIONS FACILITIES

### HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HOUGHTON. Mr. Speaker, today I am joined by my colleague from New Jersey, DONALD PAYNE, in introducing a bill to provide for tax-exempt financing for new United Nations facilities. This is a bipartisan effort by the two of us, as the current Congressional delegates to the United Nations.

The bill is straightforward and, like a provision in effect before 1986, would allow the use of tax-exempt bonds for the building of new UN facilities, other than the UN Headquarters itself. As a result of the 1986 changes, the UN is now treated as if it were a for-profit company for purposes of tax-exempt bonds, much less favorably than charitable hospitals, universities or State or local governments.

Most recognize that the United Nations Secretariat and Headquarters facilities are now more than 50 years old and greatly in need of renovation and reconfiguration to increase the efficiency of UN functions, improve security and life safety, and reduce overhead and administrative costs.

Let me give you a few examples of the need for the renovation. Most of the building systems have passed their life expectancy: The plumbing was installed in 1952 and most of the electrical systems in the Secretariat building were installed in 1949. These are clearly outdated. The building contains asbestos and it does not have sprinklers, both of which create significant safety hazards. And, of course, the buildings were not built with today's terrorist threats in mind. These needs have been carefully and extensively studied not only by the UN but also by the United States General Accounting Office, which concluded that the UN's planning for renovation has been reasonable.

In the President's budget released earlier this week, he proposed that the United States provide the United Nations with a 30-year, $1.2 billion loan to finance the renovation, another recognition of the importance of moving forward with the renovation.

The work cannot commence without a series of preliminary steps. These include financing and constructing a new building for the UN in New York City that the UN General Assembly, UN Secretariat and other UN personnel at UN Headquarters would occupy while the needed renovation and reconfiguration of Headquarters space proceeds. Due to the extent of the needed work and existing asbestos conditions, the current Headquarters space must be vacated until the Headquarters renovation and reconfiguration are completed.

New York City and State propose to provide the land for the new building without cost and to have a public benefit tax-exempt agency of the State arrange to finance, construct and operate the new building. The bonds that would be issued under this proposal would be secured by rent paid by the UN for its use of the new building until the bonds are paid, at which time the UN may become the owner of the land and new building. The UN will undertake the Headquarters renovation and reconfiguration independently, including payment of the cost for the work, without financing or other financial assistance from New York City or State.

Following completion of the new building, which is estimated to cost approximately $475 million, the renovation and reconfiguration of the UN Headquarters facilities can begin. That work is expected to be completed in 2011 under the current schedule. When the work is completed, the new building will permit all UN Headquarters space and activities that are now scattered in different locations in New York City to be consolidated at that single location connected directly to the renovated and reconfigured Headquarters space.

Expeditious work on the needed renovation and reconfiguration is very much in the interest of the UN and in our national interest. The work when completed will strengthen the effectiveness of the UN organization, address security and life safety requirements and improve efficiency, thereby significantly reducing ongoing costs. Moreover, the work will further cement the presence of the UN in the United States, which not only benefits the United States internationally but also provides substantial employment and business opportunities with tens of millions of dollars for Americans and for New York.

We ask for your support of this important legislation.

## THE DECEMBER 22, 2003 EARTHQUAKE IN SAN LUIS OBISPO COUNTY, CALIFORNIA

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. THOMAS. Mr. Speaker, I rise today to introduce a resolution expressing the sense the House of Representatives with respect to the earthquake that occurred in San Luis Obispo County, California on December 22, 2003. Most importantly, I would like to recognize and commend the public safety and law enforcement personnel, elected officials, and the people of San Luis Obispo County for their courageous and effective response to this disaster.

This earthquake occurred at 11:15 a.m. on December 22, 2003. Its epicenter was in San Luis Obispo County, approximately 6 miles northeast of San Simeon and 24 miles northwest of Paso Robles. The earthquake measured 6.5 on the Richter scale, the largest quake to hit the area since 1952, and it was felt from Los Angeles to San Francisco with the most extensive damage occurring in the City of Paso Robles.

Tragically two lives were lost and more than 40 persons sustained injuries. Thankfully, the loss of additional lives was averted through the quick and professional response provided by the public safety and law enforcement personnel and elected officials who serve the people of San Luis Obispo County and the State of California.

San Luis Obispo County experienced a massive disaster but it is evident that recovery has begun as a result of the vibrant actions taken by its residents and leaders. When complete, this renewal will serve as a reminder of the fierce determination displayed by the community and local, state, and federal governments to rebuild in the wake of this disaster.

Accordingly, I ask that this resolution be supported in order to recognize and honor those local officials, public safety and law enforcement personnel, and individuals, who served San Luis Obispo County in the aftermath of this natural disaster.

## TRIBUTE TO RICHARD ROA

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. BACA. Mr. Speaker, it is with great pride that I pay tribute today to the life of Richard Roa. Richard recently passed away, leaving a legacy of community work and commitment to those he loved. He was a magnanimous figure who was dedicated to his family, his friends, and his roots. It gives me no greater pleasure than honoring his memory today.

To all those who knew Richard, he exhibited generosity of spirit, love for his fellow man, and dedication to his work. He constantly challenged the status quo and was never afraid to speak his mind, undoubtedly leaving an immeasurable impression on his community.

The life of Richard Roa took him from Riverside, California, where he was born and raised, to Japan and Korea, where he was assigned to active duty as corporal for the 40th Infantry Division.

After completing his military service, Richard turned to business, working for Helgeson Buick, before moving on to community work. He was soon named Community Relations Coordinator for the City of Riverside and became the first president of the Casa Blanca Community Action Group (CAG), helping to redress the problems of an area that needed his caring touch. At Casa Blanca, Richard found himself fighting for improved housing, increased business development, and the creation of important neighborhood public services. He always advocated for those in need and was beloved by those around him.

I join today with family and friends in paying my respects to Richard Roa. He was a generous and gentle man who fought the good fight and will be deeply missed by all.

## CONGRATULATING BUSH CHAUDHARY, ON HIS ACHIEVEMENT

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. LANGEVIN. Mr. Speaker, I proudly rise today to congratulate Mr. Bush Chaudhary of Providence, Rhode Island on his receipt of the prestigious Ambassadors for Peace Award. The Ambassadors for Peace Award is bestowed upon 50 outstanding American and other international leaders for exemplary service in the arena of interfaith reconciliation and cooperation amongst Christians, Jews, and Muslims. Mr. Chaudhary will be presented with the award at a ceremony on the 4th of February 2004.

As the founding President of the India Museum Heritage Society, Mr. Chaudhary has played a tremendous role in fostering interfaith tolerance in his community. As the past President of both the India Association of Rhode Island and the American Freedom Coalition, Mr. Chaudhary has served as a community leader for over 25 years.

Thank you, Mr. Speaker, and I hope our colleagues will join me in congratulating Bush Chaudhary for his achievement, and I wish him great success in all of his future endeavors.

## IN MEMORY OF JOHN GELFF, SAN JUAN CAPISTRANO CITY COUNCILMEMBER

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to remember and pay my respects to an individual whose contributions to his community were exceptional. San Juan Capistrano City Councilman John Gelff recently passed away and today I would like the House of Representatives to recognize his contributions to his community.

John's life is marked by his service to community and others. He served in many public capacities throughout Orange County during his life and six years ago moved to San Juan Capistrano. His immediate devotion and commitment to San Juan Capistrano was evident in his leadership as Mayor in 2003 and his service as Chairman of the City's Redevelopment Agency.

Community members remark on his love for the city and charitable organizations, such as the American Diabetes Association's South Orange County Walk and his service on the Orange County Library Commission. His accomplishments during his short time as a city councilmember include the prevention of a second railroad track in town, the prevention of a San Diego Gas & Electric electrical substation being located in the City, and working with the Orange County Transportation Authority to make traffic improvements along the San Diego Freeway corridor.

In 2000, my congressional district changed to include part of San Juan Capistrano and immediately I was impressed with John's passion and commitment to his community. San Juan Capistrano is undoubtedly a better place because of John Gelff's contributions. His leadership and energy will be truly missed.

## SHORT-CHANGING THE U.S. POSTAL SERVICE IN PREVENTING BIOTERRORISM THROUGH THE MAIL

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. HOLT. Mr. Speaker, the discovery of ricin in the Dirksen Senate Office Building, and the resulting closure of all three Senate office buildings, is an unfortunate and disturbing reminder of our mail system's vulnerability to terrorism. As the Representative of the 12th District of New Jersey, my concern on this matter is heightened because of our area's direct experience with the anthrax attacks of 2001. At least one of the anthrax-tainted letters mailed to Capitol Hill was sent from a postal drop box in Princeton, New Jersey and processed at a sorting facility in Hamilton, New Jersey. Anthrax spores were also discovered in my Washington, D.C. office, which resulted in my congressional office—and several others—being relocated for three months.

I rise today to express my profound disappointment that our federal government seems to have learned very little from these incidents. I am concerned that the United States Postal Service (USPS) has not received adequate funding to protect postal employees and the general public from the risk of bio-terrorism in the Fiscal Year 2005 budget that President Bush delivered to Congress two days ago. Specifically, I am troubled that the USPS was denied emergency preparedness funding in Fiscal Year 2004, and would be denied again in the President's Fiscal Year 2005 budget request. This continued lack of funding leaves the United States Postal Service ill-equipped to defend against bioterrorism.

A safe postal delivery system is critical not only for our homeland security, but also for our economic security. Only sustained, significant investment in our postal system will ensure that we are prepared to prevent, detect, and respond to bio-terrorism through the mail. I will be writing to President Bush to reconsider this oversight and provide the USPS with funding for this important initiative.

## RECOGNIZING STATE SENATOR JOHN L. BURTON OF CALIFORNIA

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Ms. SOLIS. Mr. Speaker, I stand today to recognize State Senator John L. Burton of California.

A bellwether in American politics, Senator Burton authored policy at the state and federal levels for 30 years. Prior to being elected to the California State Senate in 1996, Senator Burton served as a Member of Congress from 1974 to 1983. Elected President Pro Tempore of the California State Senate in 1998, he proudly represents the 3rd Senatorial District, encompassing the City of San Francisco and other Bay Area counties. He also serves as Chair of the Rules Committee and is a member of other powerful panels such as the Appropriations, Constitutional Amendments, Public Safety, and Revenue and Taxation Committees.

Under his leadership, Senator Burton has improved the lives of millions of Californians by authoring legislation that ranges from education to health care. He has made college accessible for thousands of low-income students, by guaranteeing Cal Grant scholarships of $9,700 for students who meet the GPA requirements. In the first state budget enacted during his time as President Pro Tempore, he revived cost of living adjustments and increased benefits for the elderly, disabled, and welfare-dependent mothers. In the latest budget, he ensured that mental health services and juvenile crime prevention programs receive high levels of financial support. In addition, Senator Burton has spearheaded legislation that allows the use of DNA testing to improve criminal investigations, strengthen child support collection and reform the campaign monetary system.

During his illustrious political career, Senator Burton has received numerous honors by eminent organizations and institutions. Some of his past recognitions include: Legislator of the Year by the California Association of Mental Health Patients' Rights Advocates, the California State University Lifetime Achievement Award, and the Sean McBride Award for Human Rights Work.

Well into his seventies, Senator John L. Burton continues to work hard for the people of California. He is a tireless and relentless leader, who I believe exemplifies the excellence in leadership today.

## HONORING THE HARLANDALE HIGH SCHOOL CHEERLEADERS

### HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. RODRIGUEZ. Mr. Speaker, I am proud to recognize the Harlandale High School Cheerleaders as the 2003 National Cheerleading Association's Senior and Junior High School National Champions. In addition to this great accomplishment, this star team also placed first in the Large Co-ed Division and won the Innovative Choreography Award.

Angie Pina, cheer director, Delilah Loredo, captain, and Felicia Campos, co-captain, deserve praise for leading and motivating the squad to such a high level of accomplishment. Their hard work and athletic ability have made this team an impressive success, and their tireless dedication has been well rewarded. Not only am I proud of the team, but also of each individual member for her commitment to achieving such high goals. They have set a new standard for achievement.

As an alumnus of Harlandale High School, I would like to thank these students for bringing acclaim to Harlandale and keeping the school spirit strong. I know they will continue to excel this year and in their future endeavors—both in athletics and academic studies.

## HONORING CURTIS MANCINI

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. DEUTSCH. Mr. Speaker, today I rise to commemorate the contributions of Curtis Mancini of Davie, Florida. Curtis was among the seven U.S. soldiers killed on January 29 while serving in Afghanistan. He had served as a Davie police officer for 17 years and had been serving in Afghanistan for a year as a reservist.

Curtis was a soldier's soldier. His father, Commander Sergeant Major John Mancini of Rhode Island had served in the Army for 35 years and remembers Curtis saying he served now so that his children and other people's children would not need to later. Curtis had been promoted to sergeant first class, assigned to the 2nd Battalion Infantry, 10th Mountain Division and shipped off to Afghanistan on January 5. He served as a positive role model and longtime instructor at the Institute of Public Safety. Between 1989 and 2000, Curtis served on a drug task force in the U.S. DEA in Fort Lauderdale and upon returning to Davie, he became a training instructor. Friends and family remember Curtis as an avid sportsman, a brilliant instructor and dedicated father. He enjoyed running marathons, most recently the Walt Disney World marathon and ran 45 miles weekly.

In 2000, Curtis said in a Miami Herald interview, "It's better to burn out than fade away." This was the type of man Curtis was.

Curtis is survived by his three children, his former wife, and countless colleagues, friends and family.

## RECOGNIZING THE DENTISTS OF CHESTER COUNTY FOR THEIR PARTICIPATION IN "GIVE KIDS A SMILE!" DAY

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

Mr. GERLACH. Mr. Speaker, I rise today to recognize the dentists in my district, as well as those throughout the nation, who will be participating this week in the "Give Kids a Smile!" program.

On Friday, February 6, 2004, the nation's dentists are providing free oral health care services to thousands of low-income children across the country. The ADA's second annual "Give Kids a Smile!" national children's dental access day, during National Children's Dental Health Month, will enhance the oral health of large numbers of needy children. The "Give Kids a Smile!" initiative is designed to nationally promote the numerous charitable education, screening, prevention and comprehensive treatment programs already in existence by having many of them coordinated and occurring on the same day. At the same time, the campaign has provided a framework for identifying, cataloging and recognizing the many access programs that take place throughout the year.

In Chester County, Pennsylvania over 30 local dentists will be doing their part to provide a wide range of dental services for underserved children. These dentists and their staff members will be volunteering their time in the dental clinic at the Community Volunteers in Medicine (CVIM) facility in West Chester. They will be providing much-needed free dental care to between 75 and 100 uninsured or underinsured children in the County.

Mr. Speaker, I ask my colleagues to join me today in recognizing the dentists in Chester County, as well as those throughout our country, who are volunteering their time and services so nobly on Friday to provide dental care to thousands of uninsured and underinsured children.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 5, 2004 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### FEBRUARY 9

10 a.m.

Governmental Affairs

To hold hearings to examine the Department of Homeland Security's budget for fiscal year 2005.

SD-342

Governmental Affairs

To hold hearings to examine Department of Homeland Security budget for fiscal year 2005.

SD-342

#### FEBRUARY 10

9:30 a.m.

Armed Services

To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.

SR-325

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of Energy.
SD–366

2 p.m.
Veterans' Affairs
To hold hearings to examine the Adminstration's proposed fiscal year 2005 Department of Veterans Affairs' budget.
SR–418

FEBRUARY 11

9:30 a.m.
Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR–485

10 a.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine cable industry competition.
SD–226

1 p.m.
Banking, Housing, and Urban Affairs
International Trade and Finance Subcommittee
To hold hearings to examine financial reconstruction in Iraq.
SD–538

2 p.m.
Judiciary
To hold hearings to examine judicial nominations.
SD–226

FEBRUARY 12

9:30 a.m.
Foreign Relations
To hold hearings to examine policy and programs relating to the State Department.
SR–325

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine Department of Defense contractors who are abusing the federal tax system by either failing to file tax returns or not paying their taxes.
SD–342

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of the Interior.
SD–366

2 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine evaluating a temporary guest worker proposal.
SD–226

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1466, to facilitate the transfer of land in the State of Alaska, S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives, S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.
SD–366

FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.
SD–366

MARCH 4

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 25

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

# SENATE—*Thursday, February 5, 2004*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. STEVENS)

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of Hosts, Ruler of all nature, we magnify Your name. On today, many lift their hearts in prayer for our Nation. Lord, You have promised that a nation that humbles itself and prays, seeking Your face, will hear from You. You have promised to forgive our sins and to heal our land. Thank You for doing for America immeasurably more than we can ask or imagine. You have blessed us with wonderful freedoms and opportunities to accomplish Your purposes on Earth.

Guide our Senators as they seek to be Your instruments. Empower our leaders to live for Your glory. Protect our military and those who daily risk their lives for freedom.

Lord, we declare today that the kingdom, the power, and the glory belong to You. We pray this in Your awesome Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting Republican leader is recognized.

## SCHEDULE

Mr. ROBERTS. Mr. President, this morning following morning business, the Senate resumes consideration of S. 1072, the highway bill. As the majority leader announced last night, it is hoped we will be able to work through those amendments early in the day so we can proceed to additional amendments. Senators should expect votes today as the Senate continues to make progress on the highway bill. Senators will be notified as votes are scheduled.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader.

## ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I intend to use my leader time this morning. I ask unanimous consent that morning business not be reduced as a result of my use of leader time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## KEEPING ALIVE THE WORK AND SPIRIT OF PAUL WELLSTONE

Mr. DASCHLE. Mr. President, I would like to use a few minutes of my leader time to talk about a remarkable new effort that is being launched today to try to develop a broader national consensus about the kind of future we want in America and how we can achieve it. It is called the Wellstone Civic Dialog Project. It is being organized by Wellstone Action, a progressive advocacy organization created by Paul and Sheila Wellstone's sons Mark and David to keep their parents' work and spirit alive.

The first meetings will be held this evening. In what may be the largest book group ever, thousands of ordinary Americans in 40 States will meet in private homes, schools, churches, community centers, bookstores, and hundreds of other places to discuss the direction and the future of our Nation. Those attending the discussion are encouraged to read a book Senator Wellstone wrote which was published the year before he died. It is called "The Conscience Of A Liberal." If the title evokes memories of another book, it is deliberate.

In the introduction of his own book, Paul recalled the good-natured ribbing some of his Republican colleagues gave him when he attended Barry Goldwater's funeral service.

> They gave me Goldwater's "The Conscience of a Conservative" to read on the plane. "Paul," they said, "read this; we read this book at young ages and it set us on the right path. We still have hope for you."

Paul replied that he, too, had read Senator Goldwater's book at a young age and explained: "That's why I'm a liberal."

"But," he said, "I also told them that I admired Barry Goldwater for his political integrity."

More than almost anyone else I have ever known, Paul Wellstone had an unshakable faith in the fundamental decency of most people and in the genius of democracy. He believed if we faced our challenges squarely and listened respectfully to each other, we would discover that most of us share the same values, the same concerns, and the same dreams; that we would also discover the solutions and strength to overcome almost any obstacle.

The Wellstone Civic Dialogue Project is an attempt to bring ordinary Americans together to develop a consensus to move America in a more humane, more progressive direction. It is what Paul called "citizen democracy."

Groups will meet in more than 600 communities throughout America. In a touch that I am sure Paul Wellstone and Barry Goldwater would have appreciated greatly, in several of the groups self-declared Republicans and Democrats have agreed to sit face to face and discuss their ideas and values.

The first meetings, as I said, will take place this evening in more than 600 communities throughout America. A topic for tonight's discussion is "Can we dream again?" It is a reference to a quote by Eleanor Roosevelt that Paul loved and preached often. The future will belong to those "who believe in the beauty of their dreams."

It is expected that groups will meet as many as eight additional times over the next several months to discuss issues ranging from education and health care, to domestic violence, money and politics, and the war in Iraq. Anyone interested in attending a Civic Dialog Project discussion can go to the Wellstone Action Web site, www.wellstone.org, to find a discussion group near them or to download study guides for any of the discussion topics.

If there isn't a group in your neighborhood, you might want to consider starting one. The Wellstone Action group has trained hundreds of volunteer facilitators to help people set up and run discussion groups in their own communities.

Before Paul came to the Senate, he was a political science professor. But there was nothing the slightest bit academic or abstract about his politics. He used to say: "People yearn for a 'politics of the center'—not the 'center' so widely discussed by politicians and pundits in Washington but, rather, a politics that speaks to the center of people's lives: affordable child care, good education for children, health security, living-wage jobs that will support families, respect for the environment and human rights, and clean elections and clean campaigns.

You can see that yearning today in the record turnouts in Presidential caucuses in primaries in Iowa, New Hampshire, and so many other States. Instead of questioning each other's character and motives and patriotism, people want politicians to talk honestly about the concerns at the center of people's everyday lives.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

One of the concerns is the refusal by some insurers to provide fair and equitable treatment for people with mental illness. Nothing made Paul angrier nor offended him more deeply than the stigma attached to mental illness and the discrimination and suffering that people with mental health problems suffer as a result of that stigma. He thought it was cruel that people with mental health problems often received lesser care than those with physical health problems. He was outraged by the terrible toll such discrimination often takes on people with mental illness and their families. He and Senator DOMENICI introduced a bill—now called the Paul Wellstone Mental Health Equitable Treatment Act—to end such discrimination. The bill was reintroduced at the beginning of this Congress, but it has been stalled in committee for more than a year now because of opposition from the insurance industry and its allies.

Last October, on the first anniversary of the plane crash that killed Paul and Sheila, their daughter Marcia, and four others, I asked unanimous consent that the Senate take up and pass the Wellstone Mental Health and Treatment Act. It would have been the perfect tribute to Paul.

The Republican leadership blocked that request. But they gave us their word that the Senate will consider the Wellstone mental health bill early this year. I am here to say, very clearly, that Democrats intend to hold them to that promise.

Like tens of millions of Americans, Paul Wellstone knew well the anguish that mental illness can cause families.

Nearly 50 years ago, when his older brother Stephen was a freshman in college, he suffered a severe mental breakdown. Stephen Wellstone spent the next 2 years in mental hospitals. Eventually, he recovered and graduated from college—with honors—in 3 years. But it took his immigrant parents 20 years to pay off the bill from those 2 years.

In his book, Paul recalled the years that Stephen was hospitalized. "For two years," he wrote, "the house always seemed dark to me—even when the lights were on. It was such a sad home."

Fifty years later, there are still far too many sad homes in America; there are still far too many families that are being devastated by the physical and financial consequences of mental health problems. In many cases, they have health insurance. But their insurance companies refuse to pay for the mental health care they or their loved ones need.

I hear from such families every week.

Three days ago, a woman from Sioux Falls called my office. She is about 50. She and her husband have two children, and they have health insurance through his job. Years ago, she suffered one of the most agonizing losses a person can endure: Her 3-year-old daughter died from spinal meningitis.

She now suffers from chronic depression, which she manages with the help of medication and therapy.

Recently, the cost of her medication jumped from $100 a month to $500 a month, and her insurance company informed her that she has now hit their lifetime cap on mental health benefits, so they will no longer pay anything for her medications or her therapy.

So she and her husband now face a choice: pay the entire cost of her prescriptions and her therapy each month, out of pocket, or pay their mortgage.

She was fighting back tears when she called my office. She said, "If I had a heart ailment, they wouldn't think twice about sending me to a cardiologist. But there's such a stigma associated with mental health."

She added, "This isn't something I've chosen any more than people who suffer from diabetes or heart disease chose their conditions."

What makes her story even more terrible is how many other people in this country are having to fight the same fight, and make the same awful choices. No family is untouched by mental health problems. Fifty-four million Americans suffer from some form of mental illness. They include Republicans, Democrats, and people who don't care at all about party labels.

Paul Wellstone and PETE DOMENICI were about as far apart politically as two people could be. But they shared a common bond: They both had people in their families, who they loved, who were affected by mental illness. They were unlikely but great allies.

In 1996, thanks in large part to their leadership, Congress passed the Mental Health Parity Act. It says that group health plans sponsored by employers with 50 or more workers cannot place annual or lifetime dollars limits on mental health benefits that are more restrictive than their limits for physical health care.

It was an important step forward. But discrimination persists; we know that. Some insurers openly disregard the law. Some have found new ways to restrict mental health benefits. The results can be devastating: unemployment, broken homes, shattered lives, poverty, poor school performance—even suicide.

The Paul Wellstone Mental Health Equitable Treatment Act does not force employers to offer mental health coverage. It simply says that if employers offer mental health benefits, insurers cannot provide more restrictive coverage for mental health benefits than they do for other medical and surgical benefits.

Some insurers already meet this basic fairness standard. They are to be commended for doing the right thing. But others will not do the right thing unless they are required by law to do so. So Congress needs to act.

The insurance industry claims—incorrectly—that requiring insurers to treat mental illness the same way they treat physical illness will drive premiums up so high that more people will lose their health insurance. Their claims are not true. They are simply scare tactics; we've heard them before.

The truth is, two highly respected organizations have analyzed the Paul Wellstone Mental Health Equitable Treatment Act. The private accounting firm of PricewaterhouseCoopers predicts the bill would increase health insurance premiums by one percent. One percent. That works out to $1.32 per month. The Congressional Budget Office predicts an even smaller average increase: nine-tenths of 1 percent. I think most families would consider that was a very good deal.

Senators DOMENICI and Wellstone modeled their bill on the mental health parity provisions on the Federal Employee Health Benefits Program. For 3 years, Senators and the other 8.5 million members of that program have had the protection of genuine mental health parity. According to the Office of Personnel Management, it has increased premiums only 1.3 percent. And that includes parity for substance abuse services, which are not included in the Wellstone mental health bill.

Nearly 2 years ago, President Bush said, "Our country must make a commitment: Americans with mental illness deserve our understanding and they deserve excellent care. They deserve a health care system that treats their illness with the same urgency as physical illness." We urge the President to back up his words with leadership.

The Paul Wellstone Mental Health Equitable Treatment Act is cosponsored by 68 Senators—more than two-thirds of this Senate. It is also supported by more than 360 national organizations—90 of which have added their support just since October.

Groups endorsing the Wellstone bill include the American Academy of Pediatrics, the Alzheimer's Association, the National PTA, the Evangelical Lutheran Church in America, Catholic Charities, the National Association of Counties, the American Medical Association, the American Nurses Association, the American Association of Pastoral Counselors, the Christopher Reeve Paralysis Foundation, the National Rural Health Association, the National Organization on Fetal Alcohol Syndrome, and many other groups.

I ask unanimous consent that the complete list be inserted at the close of my remarks in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Mr. President, nearly 50 years after mental illness brought such sadness and financial strain to Paul Wellstone, doctors and scientists have made great strides in understanding and treating many mental health problems. But those advances mean little to those who cannot afford them.

In South Dakota and throughout America, there are still too many homes that seem dark even when the lights are on. There are too many people who are being denied essential mental health care because of arbitrary decisions by insurance companies putting profits ahead of people.

The Wellstone bill can change that. We have a commitment from the Majority Leader that the Senate will deal with this issue early this year. We are determined to see that that happens.

I yield the floor.

EXHIBIT 1

### 361 ORGANIZATIONS SUPPORTING THE PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT (DOMENICI/KENNEDY (S. 486) AND KENNEDY/RAMSTAD (H.R. 953)), JANUARY 29, 2004

Advocates for Youth
Alaska State Medical Association
Alliance for Aging Research
Alliance for Children and Families
Alliance For Mental Health Consumers Rights
Alzheimer's Association
American Academy of Child and Adolescent Psychiatry
American Academy of Cosmetic Surgery
American Academy of Family Physicians
American Academy of Neurology
American Academy of Ophthalmology
American Academy of Otolaryngology-Head and Neck Surgery
American Academy of Pediatrics
American Academy of Physical Medicine and Rehabilitation
American Academy of Physician Assistants
American Academy of Psychiatry and the Law
American Academy of Sleep Medicine
American Association for Geriatric Psychiatry
American Association For Marriage and Family Therapy
American Association for Psychological Rehabilitation
American Association for Thoracic Surgery
American Association of Children's Residential Centers
American Association of Clinical Endocrinologists
American Association of Pastoral Counselors
American Association of Practicing Psychiatrists
American Association of School Administrators
American Association of Suicidology
American Association on Mental Retardation
American Board of Examiners in Clinical Social Work
American College of Cardiology
American College of Chest Physicians
American College of Emergency Physicians
American College of Medical Genetics
American College of Mental Health Administration
American College of Nurse-Midwives
American College of Obstetricians and Gynecologists
American College of Occupational and Environmental Medicine
American College of Osteopathic Family Physicians
American College of Osteopathic Surgeons
American College of Physicians
American College of Preventive Medicine
American College of Radiology Association
American College of Surgeons
American Congress of Community Supports and Employment Services (ACCSES)
American Counseling Association
American Diabetes Association
American Family Foundation
American Federation of State, County and Municipal Employees
American Federation of Teachers
American Foundation for Suicide Prevention
American Gastroenterological Association
American Geriatrics Society
American Group Psychotherapy Association
American Heart Association
American Hospice Foundation
American Hospital Association
American Humane Association
American Jail Association
American Managed Behavioral Healthcare Association (AMBHA)
American Medical Association
American Medical Directors Association
American Medical Group Association
American Medical Rehabilitation Providers Association
American Medical Student Association
American Mental Health Counselors Association
American Music Therapy Association
American Network of Community Options and Resources
American Nurses Association
American Occupational Therapy Association
American Orthopaedic Foot and Ankle Society
American Orthopsychiatric Association
American Osteopathic Academy of Orthopedics
American Osteopathic Association
American Pediatric Society
American Political Science Association
American Psychiatric Association
American Psychiatric Nurses Association
American Psychoanalytic Association
American Psychological Association
American Psychotherapy Association
American Public Health Association
American School Counselor Association
American School Health Association
American Society for Adolescent Psychiatry
American Society for Clinical Pathology
American Society of Addiction Medicine
American Society of Anesthesiologists
American Society of Clinical Oncology
American Society of Clinical Pharmacology
American Society of Plastic Surgeons
American Therapeutic Recreation Association
American Thoracic Society
America's HealthTogether
Anna Westin Foundation
Anorexia Nervosa and Related Eating Disorders, Inc.
Anxiety Disorders Association of America
Arizona Medical Association
Arkansas Medical Society
Association for the Advancement of Psychology
Association for Ambulatory Behavioral Healthcare
Association for Clinical Pastoral Education, Inc.
Association for Science in Autism Treatment
Association of American Medical Colleges
Association of Asian Pacific Community Health Organizations
Association of Jewish Aging Services of North America
Association of Jewish Family & Children's Agencies
Association of Material and Child Health Programs
Association of Medical School Pediatric Department Chairs
Association of Orthopaedic Foot and Ankle Surgeons
Association of University Centers on Disabilities
Association to Benefit Children
Attention Deficit Disorders Association
Austism Society of America
Barbara Schneider Foundation
Bazelon Center for Mental Health Law
Brain Injury Association of America, Inc.
California Medical Association
Camp Fire USA
The Carter Center
Catholic Charities USA
Center for the Advancement of Health
Center for Women Policy Studies
Center for Disability and Health
Center on Juvenile and Criminal Justice
Central Conference of American Rabbis
Chicago Public Schools
Child & Adolescent Bipolar Foundation
Child Neurology Society
Children and Adults with Attention-Deficit Hyperactivity Disorder
Children's Defense Fund
Children's Healthcare Is a Legal Duty
Children's Hospital Boston
Child Welfare League of America
Crhistopher Reeve Paralysis Foundation
Church of the Brethren Washington Office
Clinical Social Work Federation
Coalition for Juvenile Justice
College of Psychiatric and Neurologic Pharmacists
Colorado Medical Society
Commission on Social Action of Reform Judaism
Connecticut State Medical Society
Corporation for the Advancement of Psychiatry
Council for Exceptional Children
Council of State Administrators of Vocational Rehabilitation
Council on Social Work Education
County of Santa Clara, CA
Cure Autism Now
Dads and Daughters
Depression and Bipolar Support Alliance
Disability Rights Education and Defense Fund, Inc.
Disability Service Providers of America
Division for Learning Disabilities (DLD) of the Council for Exceptional Children
Easter Seals
Eating Disorders Coalition for Research, Policy & Action
Employee Assistance Professionals Association
Epilepsy Foundation
Families For Depression Awareness
Families USA
Family Violence Prevention Fund
Family Voices
Federation of American Hospitals
Federation of Behavioral, Psychological & Cognitive Sciences
Federation of Families for Children's Mental Health
Florida Medical Association
Freedom From Fear
Friends Committee on National Legislation (Quaker)
Harvard Eating Disorders Center
Hawaii Medical Association
Human Rights Campaign
Idaho Medical Association

Illinois State Medical Society
Inclusion Research Institute
Indiana State Medical Association
Institute for the Advancement of Social Work Research
International Association of Jewish Vocational Services
International Association of Psychosocial Rehabilitation Services
International Community Corrections Association
International Dyslexia Association
International Society of Psychiatric-Mental Health Nurses
International Spinal Injection Society
Iowa Medical Society
Iris Alliance Fund
Jewish Federation of Metropolitan Chicago
Johnson Institute
Joint Council of Allergy, Asthma and Immunology
Kentucky Medical Association
Kids Project
Kristen Watt Foundation for Eating Disorder Awareness
Latino Behavioral Health Association
Learning Disabilities Association of America
Legal Action Center
Louisiana State Medical Society
Lutheran Ofc. for Governmental Affairs, Evangelical Lutheran Church in America
Lutheran Services in America
Maine Medical Association
Massachusetts Medical Society
MedChi, the Maryland State Medical Society
Medical Association of Georgia
Medical Association of the State of Alabama
Medical Group Management Association
Medical Society of Delaware
Medical Society of the District of Columbia
Medical Society of New Jersey
Medical Society of the State of New York
Medical Society of Virginia
Medicare Rights Center
MentalHealth AMERICA, Inc.
Michigan State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
NAADAC, The Association for Addiction Professionals
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance for Autism Research
National Alliance for the Mentally Ill
National Alliance for Research on Schizophrenia and Affective Disorders
National Alliance to End Homelessness
National Asian American Pacific Islander Mental Health Association
National Asian Women's Health Organization
National Assembly of Health and Human Services Organizations
National Association for the Advancement of Colored People (NAACP)
National Association for the Advancement of Orthotics & Prosthetics
National Association for Children's Behavioral Health
National Association for the Dually Diagnosed
National Association for Medical Direction of Respiratory Care
National Association for Rural Mental Health
National Association of Anorexia Nervosa and Associated Disorders—ANAD
National Association of Case Management
National Association of Children's Hospitals
National Association of Community Health Centers
National Association of Counties
National Association of County Behavioral Health Directors
National Association of County and City Health Officials
National Association of Developmental Disabilities Councils
National Association of Mental Health Planning & Advisory Councils
National Association of Pediatric Nurse Practitioners
National Association of Protection and Advocacy Systems
National Association of Psychiatric Health Systems
National Association of School Nurses
National Association of School Psychological
National Association of Social Workers
National Association of State Directors of Special Education
National Association of State Mental Health Program Directors
National Center for Policy Research for Women & Families
National Center on Institutions and Alternatives
National Coalition Against Domestic Violence
National Coalition for the Homeless
National Coalition of Mental Health Consumers and Professionals
National Committee to Preserve Social Security and Medicare
National Council for Community Behavioral Healthcare
National Council of Jewish Women
National Council of La Raza
National Council on the Aging
National Council on Alcoholism and Drug Dependence
National Council on Family Relations
National Council on Problem Gambling
National Council on Suicide Prevention
National Down Syndrome Congress
National Down Syndrome Society
National Eating Disorders Association
National Educational Alliance for Borderline Personality Disorder
National Education Association
National Exchange Club Foundation
National Foundation for Depressive Illness
National Health Council
National Health Law Program
National Hispanic Medical Association
National Hopeline Network
National Housing Conference
National Latino Behavioral Health Association
National Law Center on Homelessness & Poverty
National Leadership on African American Behavioral Health
National League of Cities
National Medical Association
National Mental Health Association
National Mental Health Awareness Campaign
National Multiple Sclerosis Society
National Network for Youth
National Organization for Rare Disorders
National Organization of People of Color Against Suicide
National Organization on Fetal Alcohol Syndrome
National Osteoporosis Foundation
National Partnership for Women and Families
National PTA
National Recreation and Park Association
National Rural Health Association
National Schizophrenia Foundation
National Senior Citizens Law Center
National Therapeutic Recreation Society
National Treatment and Research Advancements Association for Personality Disorder
Native American Counseling, Inc.
Nebraska Medical Association
NETWORK, a Catholic Social Justice Lobby
Nevada State Medical Association
New Hampshire Medical Society
New Mexico Medical Society
NISH (National Industries for the Severely Handicapped)
Northamerican Association of Masters in Psychology
North Carolina Medical Society
North Dakota Medical Association
Obsessive Compulsive Foundation
Office & Professional Employees International Union
Ohio State Medical Association
Oklahoma State Medical Association
Older Adult Consumer Mental Health Alliance
Oregon Medical Association
Organization of Student Social Workers
Partnership for Recovery
People For the American Way
Pennsylvania Medical Society
Presbyterian Church (USA), Washington Office
Prevent Child Abuse America
Rebecca Project for Human Rights
Renfrew Center Foundation
Rhode Island Medical Society
Samaritans Suicide Prevention Center
School Social Work Association of America
Service Employees International Union
Shaken Baby Alliance
Sjogren's Syndrome Foundation
Society for Adolescent Medicine
Society for Pediatric Research
Society for Personality Assessment
Society for Public Health Education
Society for Research on Child Development
Society for Social Work Research
Society for Women's Health Research
Society of American Gastrointestinal Endoscopic Surgeons
Society of Medical Consultants to Armed Forces
Society of Professors of Child and Adolescent Psychiatry
Society of Thoracic Surgeons
South Carolina Medical Association
South Dakota State Medical Association
STOP IT NOW!
Suicide Awareness Voice of Education
Suicide Prevention Action Network USA
Tennessee Medical Association
Texas Medical Association
The Arc of the United States
Title II Community AIDS National Network
Tourette Syndrome Association
Treatment and Research Advancements Association of Personality Disorder
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
United Cerebral Palsy Association
United Church of Christ, Justice and Witness Ministry
United Jewish Communities
United Methodist General Board of Church and Society
Utah Medical Association
Vermont Medical Society
Volunteers of America
Washington State Medical Association
Wellstone Action
West Virginia State Medical Association
Wisconsin Medical Society
Working Assets
Women of Reform Judaism
Wyoming Medical Society
Yellow Ribbon Suicide Prevention Program

Youth Law Center

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there now will be a period for the transaction of morning business until 10:40 a.m. with the first 22 minutes under the control of the Senator from Kansas, Mr. ROBERTS, or his designee; the following 22 minutes under the control of the Senator from Florida, Mr. GRAHAM, or his designee; the following 22 minutes under the control of the majority leader or his designee; and the final 22 minutes under the control of the Senator from California, Mrs. FEINSTEIN, or her designee. Under the unanimous consent agreement just entered, this time shall not be diminished by the minority leader having used his time.

The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, Senator GRAHAM and I have conferred. He has a scheduling conflict. So I ask unanimous consent that he be recognized first. I think that is his intent.

The PRESIDENT pro tempore. Without objection, the Senator from Florida is recognized for 22 minutes.

Mr. GRAHAM of Florida. Mr. President, I thank my friend and colleague for his graciousness. I also commend him for the leadership he has been providing to this body, particularly as the chair of the Intelligence Committee. That is the subject of my remarks today.

## THE NEED FOR INTELLIGENCE REFORM, PART III

Mr. GRAHAM of Florida. Mr. President, during this week, I have spoken—and this will be the third statement—about the need to reform our Nation's intelligence agencies. I have suggested that the horrific acts of September 11, 2001—acts which killed nearly 3,000 Americans in New York, Washington, and Pennsylvania—could have been avoided if our intelligence agencies had been more organized and more focused in dealing with the threat of international terrorism. These conclusions were largely the result of the work of the House-Senate joint inquiry on September 11, 2001. This bicameral, bipartisan committee finished its investigation on December 20, 2002, and filed its report. In that report, it concluded there were a number of problems with our existing intelligence networks and it made 19 recommendations of how to fix those problems.

Repairing the flaws in our intelligence community is a matter of national security, a matter of the highest importance and urgency. As we are now learning in the context of the war with Iraq and Saddam Hussein's weapons of mass destruction, policymakers cannot make wise decisions affecting the security of American people without timely, accurate, credible information, and tough-minded, independent analysis, and will use that information to shape the judgments of the President and other decisionmakers, not to validate previously held opinions. If we fail to accurately perceive future threats, we will be poorly prepared to respond to them. If we do not perceive current threats accurately, then our response may be either inadequate or excessive.

Whether restraining the development of proliferation of weapons of mass destruction or interdicting terrorists, now, more than ever, intelligence matters. If there is another terrorist attack on American soil, the American people will demand to know what the Congress, what the President, what other governmental institutions learned from the September 11 attacks, and now the prewar intelligence in Iraq, and how that information was used to protect them. There will be no avoidance of accountability for the next attack, either for Congress or the President. We must take our responsibility seriously.

Further, we must recognize that every day needed intelligence reforms are delayed is a day of unnecessary risk for the American people. Unfortunately, with regard to the recommendations of the joint inquiry committee, very little has been accomplished to date. In my two previous statements, I discussed the status of these recommendations dealing with the intelligence community reform and specific responses to terrorism. I particularly commend Senator DIANNE FEINSTEIN for her leading role in the area of reorganization of the intelligence community.

Today I will turn to two additional areas of particular concern: the Federal Bureau of Investigation and the application of the Foreign Intelligence Surveillance Act, or FISA, which governs the use of electronic eavesdropping on foreign nationals in the United States. Here, I particularly recognize the contributions of Senators DEWINE, DURBIN, EDWARDS, and KYL to this section of our report.

We know now the FBI did not have or did not give adequate attention and resources to the problem of terrorism prior to September 11, 2001. For the FBI, terrorism was a lesser priority and its personnel did not understand the FISA and therefore did not use effectively its available investigative authority. Important information was not shared with other agencies, was not shared even within the various branches of the FBI itself. During the summer of 2001, separate parts of the FBI had information that could have been used to disrupt or destroy al-Qaida's hijacking plot, but that information was never collectively analyzed.

For example, what agents in Minnesota knew about Zacaria Moussaoui, the so-called twentieth hijacker who was taken into custody in August of that year, is he was studying to fly commercial airlines but was disinterested in either taking them off or landing them. Meanwhile, a Phoenix field agent of the FBI had become suspicious of radical Islamists who were also learning to fly airplanes. An agent in San Diego was working with an informant who knew at least two of the hijackers. The informant was aware that one of the future hijackers was moving to Arizona with a fellow terrorist—again to attend flight school.

If these agents had been aware of each other's activities or if the analysts at FBI headquarters had connected these geographically separate events, portions of the September 11 plot might well have been uncovered and disrupted. Unfortunately, the FBI lacked the sufficient number of analysts to process all the relevant information, and barriers to sharing information prevented agents from learning about each other's activities, even though both the Phoenix memo which expressed concern that bin Laden was sending young recruits to the United States for pilot training and the Moussaoui investigation were handled by the same unit at FBI headquarters.

Furthermore, although existing laws gave FBI agents the authority to pursue these leads, individual agents were in some cases unaware of their powers under the Foreign Intelligence Surveillance Act and this confusion prevented them from pursuing aggressively potentially helpful lines of investigation.

With these facts in mind, the joint inquiry made four recommendations related to the FBI and FISA which I will now discuss.

Recommendation No. 6 calls for the FBI to improve its domestic intelligence capability as fully and as quickly as possible and to establish clear counterterrorism priorities for the agency to follow. Specific areas for improvement are mentioned, including the need to improve analytical capability, the need to disseminate intelligence information within the FBI and among Government agencies, the need to improve knowledge of national security laws, the need to hire more personnel with linguistic skills, and the need to fix persistent information technology problems.

Our joint inquiry report gives a thorough explanation of why each of these improvements is necessary. In the years leading up to September 11, the FBI was faced with a shortage of counterterrorism personnel partly due to a lack of overall resources, partly because counterterrorism priorities were not clearly established or followed. In particular, the number of qualified intelligence analysts was at a critically low level. This is the reason the memo from the FBI agent in the Phoenix field office did not generate any further discussion or analysis and is also the reason no one at the FBI headquarters was able to connect the dots and see that information collected by the FBI in California, in Minnesota, in Arizona was all related to a larger terrorist plot. The analyst shortage was compounded by outdated information technologies and the lack of a good counterterrorism database which made it difficult for analysts to assess and organize crucial information.

Prior to September 11, the FBI also had a severe shortage of linguists. For example, 35 percent of all materials collected by the FBI in the Arabic language were not even reviewed because there were not enough persons within the FBI to translate that material. This one fact may have deprived the Bureau of potentially valuable terrorist-related intelligence which could have avoided September 11. Even in those cases where the Bureau did collect and identify information on terrorist activity, it failed to share that information with other agencies, both inside and outside the intelligence community.

For example, if the Federal Aviation Authority had been told in August of 2001 that the FBI had identified a potential airline suicide hijacker in Minnesota, the FAA would have had at least the opportunity to increase security precautions on domestic flights such as by reinforcing the doors between the cockpit and the passenger cabin. Tragically, this did not happen.

I am pleased to report some improvement has been made in these problem areas. In 2003, the Bureau developed a strategic plan outlining its top counterterrorism priorities. It has also increased hiring and training and many agents have been permanently reassigned to high priority areas. However, while hiring and training have increased, the General Accounting Office has suggested the FBI continues to lack fully adequate analytical capability and that the Bureau continues to face a shortage of linguists and information technology personnel as well as administrative staff.

Even more troubling is the fact that officials in Federal agencies, State governments, and local levels continue to report they do not consider the current information-sharing system to be effective. With few exceptions, these individuals say they are not receiving all the information they need to fulfill their responsibilities as the front line of our war against terrorism.

In some cases this is because information is simply not available. But too often it is because of institutional practices that prevent important information from being shared. Even when information is disseminated, officials at all three levels report that it is frequently inaccurate, irrelevant, and not received in a timely fashion.

This situation is made worse by the fact that none of these problems are new. In the year 2000, two separate commissions on national security pointed to these same weaknesses within the FBI and urged that they be corrected.

The National Commission on Terrorism, also known as the Bremer commission, issued its report in June of 2000, and the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, known as the Gilmore commission, issued its second report the following December.

Both commissions stated that the FBI needed to improve its analytical capability and disseminate information in a more timely manner inside and outside the Bureau.

The two commissions also suggested that FISA gave the FBI more investigative powers than were currently being used, and the Gilmore commission suggested that this was due to misunderstanding and confusion regarding the law. The Bremer commission also called attention to the shortage of skilled linguists within the agency, which is a problem that we still face today.

Since September 11, FBI Director Mueller has initiated a serious and sustained effort to reform and reshape the FBI to fight terrorism. Progress has been made. However, much is left to be done.

One particular area of concern is the information technology systems at the FBI. The computer and communication systems at the FBI have been notoriously outdated.

I recall a meeting at one of our CIA stations in the Middle East during which the agency personnel pleaded with the Members of Congress who were present to push the FBI toward adopting computer systems that would be compatible with the CIA's so that basic information could be shared.

A recent report by the General Accounting Office on this subject is highly critical of the FBI's attempts to improve its information technology systems. As we saw in our investigation of the September 11 attacks, the best work of skilled agents is wasted if they cannot communicate it to those who will use it. We cannot rest until we are certain the FBI has made all the changes it so desperately needs.

Recommendation No. 7 advises the Congress and the administration to evaluate and consider changes to the domestic intelligence sector.

In the short term, our national security interests are best served by taking actions to improve the capabilities of the FBI. However, over the long term, we must decide on the best way to organize our domestic intelligence agencies and consider serious restructuring if we conclude that the current structure is inadequate to serve our national security interests.

The joint inquiry recommended that FISA be included in this review. This recommendation reflects concerns that the FBI, which is primarily a law enforcement organization, is inherently ill-suited to the challenge of domestic intelligence gathering.

While the agency has done a commendable job carrying out its law enforcement missions, preventing attacks before they occur requires an approach very different from finding and punishing criminals after they have acted. Throughout its history, the FBI's focus has been on investigating crime and arresting criminals rather than preventing crime.

The lapses that preceded 9/11 may therefore be in part the consequence of requiring the same agency to carry out two very different functions. One example of this tendency of the FBI is how it defines investigatory targets. It tends to do so in terms of those that are likely to result in a prosecution as opposed to those that pose the greatest threat.

I recall during one of our Senate Intelligence Committee hearings a senior FBI official was asked to provide an estimate of the number of suspected terrorists within a specific region of the country. He responded by giving us the number of open investigative files at a certain field office—clearly a law enforcement methodology rather than the approach that an intelligence agency would take. I would note that none of the 19 hijackers of September 11 had an open FBI file that would have marked them as a suspected terrorist in our midst.

Our recommendations on the FBI consisted of three parts: First, we said in the short term we should do everything possible to strengthen the capability of the FBI to fight the war on terror. The FBI is all we have at the present time, and we need to make it as effective as possible.

Second, we need to conduct an open debate on the type of domestic intelligence that we as a nation want and need. We can look to other nations for models which are based on the perceived threat within the borders of each of those nations. They range from the extremely high level of surveillance that the Israeli Government exercises to protect its citizens from internal terrorist threats to the resistance to scrutiny of private citizens in certain regions of Germany.

Third, we need to evaluate the enhanced capability of the FBI against the model that we establish as our desired end state, and then determine if our security needs could be better met by creating a separate domestic intelligence agency, leaving the FBI to focus on law enforcement priorities. That model exists in Great Britain, where Scotland Yard, like the FBI, handles national domestic law enforcement matters, but there is a separate agency, the MI5, which performs domestic intelligence gathering.

To date, no changes have been made to FISA since we issued our report, nor has the larger debate regarding the structure of our domestic intelligence community taken place.

Our joint committee called for Congress to request a report from the administration regarding the structure of our domestic intelligence program. So far, no action has been taken on this recommendation.

Recommendation No. 8 calls for the Attorney General and the FBI to assure that the FBI uses its powers effectively and disseminates information quickly. In particular, it calls for FBI personnel to receive in-depth training on the Foreign Intelligence Surveillance Act and to implement a plan to use FISA to assess the threat of terrorist groups within the United States. It specifically refers to the need to identify whether and how any of these groups receive funding or support from foreign governments.

The need for clearer guidelines and better training regarding the FISA was made abundantly clear during the FBI's investigation of Zacharias Moussaoui. Agents in Minnesota correctly suspected that he was involved in a hijacking plot, but even after he was detained by the Immigration and Naturalization Service, the agents concluded that FISA did not give them the authority to search his belongings since it was not established that Moussaoui was acting as an agent of a foreign power.

This conclusion was incorrect under the FISA law. It demonstrates the significant confusion and ambiguity that has developed surrounding the use of FISA and that reform is important and urgent.

FISA is also one of the best tools we have for tracking terrorist funding. However, it is not always used to its fullest potential. For example, the chief of the FBI's Financial Crimes Section told our committee that if asked, he would have been able to locate hijackers Nawaf al-Hazmi and Khalid al-Mindhar by tracking credit card and banking transactions. These same powers could have been used by the FBI to track foreign sources of terrorist funding, with the aim of cutting off funds for terrorists and attacking these sources of funding directly.

The FBI has made significant progress in increasing awareness and knowledge of FISA. The Attorney General has issued new guidelines regarding terrorist investigations, and both current personnel and new hires are now receiving training on these guidelines.

Unfortunately, the Bureau has not made very good progress identifying foreign sources of funding for terrorist groups within the United States.

As an example, as I emphasized in my previous statements, the joint inquiry uncovered significant evidence of foreign government involvement in the 9/11 attacks, and raised the possibility that foreign governments continue to provide support to terrorist groups within the United States.

In spite of this alarming assessment, the FBI has not even developed an effective plan to assess the threat of foreign funding for terrorist groups, let alone combat this threat.

The USA PATRIOT Act and subsequent modifications have given the Bureau expanded access to banking and financial records, but it has been widely noted that terrorist groups use alternative methods of collecting, moving, and storing their money.

These methods include illegal drugs and other contraband; shipment of gems and other commodities; informal financial networks, such as the hawala system; and nontransparent organizations, such as charities and religious organizations.

The FBI, which is responsible for leading these investigations into terrorist financing, has acknowledged it does not systematically collect and analyze data on alternative financing mechanisms. Unless al-Qaida develops a policy of transferring money entirely by ATMs, the FBI's current investigatory methods are unlikely to be very effective.

The final recommendation of this report is No. 9, which urges the House and Senate Intelligence and Judiciary Committees to evaluate the FISA, and all modifying legislation, such as the USA PATRIOT Act, to ensure that our legal system adequately addresses current and future terrorist threats. These House and Senate committees have effectively begun to follow through on this task, and I am confident they will continue to do so.

This last report is one bright spot on an otherwise disappointing report card.

In evaluating the status of the joint inquiry's recommendations, I have tried to give due attention to those areas in which progress has been made. However, we must not ignore those shortcomings that remain, particularly when so many of them are of such a serious nature. We must overcome bureaucratic inertia and organizational difficulties to fix these problems in an effective and expeditious manner. We must not continue to be a slave to the status quo. Our national security and the well-being of the American people demand nothing less, as does the memory of nearly 3,000 innocent American lives lost on September 11, 2001.

I ask unanimous consent that the recommendations of the Joint Inquiry Committee, as adopted on December 10, 2002, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS—DECEMBER 10, 2002

Since the National Security Act's establishment of the Director of Central Intelligence and the Central Intelligence Agency in 1947, numerous independent commissions, experts, and legislative initiatives have examined the growth and performance of the U.S. Intelligence Community. While those efforts generated numerous proposals for reform over the years, some of the most significant proposals have not been implemented, particularly in the areas of organization and structure. These Committees believe that the cataclysmic events of September 11, 2001 provide a unique and compelling mandate for strong leadership and constructive change throughout the Intelligence Community. With that in mind, and based on the work of this Joint Inquiry, the committees recommend the following:

1. Congress should amend the National Security Act of 1947 to create and sufficiently staff a statutory Director of National Intelligence who shall be the President's principal advisor on intelligence and shall have the full range of management, budgetary and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole. These responsibilities should include: Establishment and enforcement of consistent priorities for the collection, analysis, and dissemination of intelligence throughout the Intelligence Community; setting of policy and the ability to move personnel between elements of the Intelligence Community; review, approval, modification, and primary management and oversight of the execution of Intelligence Community budgets; review, approval modification, and primary management and oversight of the execution of Intelligence Community personnel and resource allocations; review, approval, modification, and primary management and oversight of the execution of Intelligence Community research and development efforts; review, approval, and coordination of relationships between the Intelligence Community agencies and foreign intelligence and law enforcement services; and exercise of statutory authority to insure that Intelligence Community agencies and components fully comply with Community-wide policy, management, spending, and administrative guidance and priorities.

The Director of National Intelligence should be a Cabinet level position, appointed by the President and subject to Senate confirmation. Congress and the President should also work to insure that the Director of National Intelligence effectively exercises these authorities.

To insure focused and consistent Intelligence Community leadership, Congress should require that no person may simultaneously serve as both the Director of National Intelligence and the Director of the Central Intelligence Agency, or as the director of any other specific intelligence agency.

2. Current efforts by the National Security Council to examine and revamp existing intelligence priorities should be expedited, given the immediate need for clear guidance in intelligence and counterterrorism efforts. The President should take action to ensure that clear, consistent, and current priorities are established and enforced throughout the

Intelligence Community. Once established, these priorities should be reviewed and updated on at least an annual basis to ensure that the allocation of Intelligence Community resources reflects and effectively addresses the continually evolving threat environment. Finally, the establishment of Intelligence Community priorities, and the justification for such priorities, should be reported to both the House and Senate Intelligence Committees on an annual basis.

3. The National Security Council, in conjunction with the Director of National Intelligence, and in consultation with the Secretary of the Department of Homeland Security, the Secretary of State and Secretary of Defense, should prepare, for the President's approval, a U.S. government-wide strategy for combating terrorism, both at home and abroad, including the growing terrorism threat posed by the proliferation of weapons of mass destruction and associated technologies. This strategy should identify and full engage those foreign policy, economic, military, intelligence, and law enforcement elements that are critical to a comprehensive blueprint for success in the war against terrorism.

As part of that effort, the Director of National Intelligence shall develop the Intelligence Community component of the strategy, identifying specific programs and budgets and including plans to address the threats posed by Usama Bin Ladin and al Qa'ida, Hezbollah, Hamas, and other significant terrorist groups. Consistent with applicable law, the strategy should effectively employ and integrate all capabilities available to the Intelligence Community against those threats and should encompass specific efforts to: Develop human sources to penetrate terrorist organizations and networks both overseas and within the United States; fully utilize existing and future technologies to better exploit terrorist communications; to improve and expand the use of data mining and other cutting edge analytical tools; and to develop a multi-level security capability to facilitate the timely and complete sharing of relevant intelligence information both within the Intelligence Community and with other appropriate federal, state, and local authorities; enhance the depth and quality of domestic intelligence collection and analysis by, for example, modernizing current intelligence reporting formats through the use of existing information technology to emphasize the existence and the significance of links between new and previously acquired information; maximize the effective use of covert action in counterterrorist efforts; develop programs to deal with financial support for international terrorism; and facilitate the ability of CIA paramilitary units and military special operations forces to conduct joint operations against terrorist targets.

4. The position of National Intelligence Officer for Terrorism should be created on the National Intelligence Council and a highly qualified individual appointed to prepare intelligence estimates on terrorism for the use of Congress and policymakers in the Executive Branch and to assist the Intelligence Community in developing a program for strategic analysis and assessments.

5. Congress and the Administration should ensure the full development within the Department of Homeland Security of an effective all-source terrorism information fusion center that will dramatically improve the focus and quality of counterterrorism analysis and facilitate the timely dissemination of relevant intelligence information, both within and beyond the boundaries of the Intelligence Community. Congress and the Administration should ensure that this fusion center has all the authority and the resources needed to: Have full and timely access to all counterterrorism-related intelligence information, including "raw" supporting data as needed; have the ability to participate fully in the existing requirements process for tasking the Intelligence Community to gather information on foreign individuals, entities and threats; integrate such information in order to identify and assess the nature and scope of terrorist threats to the United States in light of actual and potential vulnerabilities; implement and fully utilize data mining and other advanced analytical tools, consistent with applicable law; retain a permanent staff of experienced and highly skilled analysts, supplemented on a regular basis by personnel on "joint tours" from the various Intelligence Community agencies; institute a reporting mechanism that enables analysts at all the intelligence and law enforcement agencies to post lead information for use by analysts at other agencies without waiting for dissemination of a formal report; maintain excellence and creativity in staff analytic skills through regular use of analysis and language training programs; and establish and sustain effective channels for the exchange of counterterrorism-related information with federal agencies outside the Intelligence Community as well as with state and local authorities.

6. Given the FBI's history of repeated shortcomings within its current responsibility for domestic intelligence, and in the face of grave and immediate threats to our homeland, the FBI should strengthen and improve its domestic capability as fully and expeditiously as possible by immediately instituting measures to: Strengthen counterterrorism as a national FBI program by clearly designating national counterterrorism priorities and enforcing field office adherence to those priorities; establish and sustain independent career tracks within the FBI that recognize and provide incentives for demonstrated skills and performance of counterterrorism agents and analysts; significantly improve strategic analytical capabilities by assuring the qualification, training, and independence of analysts, coupled with sufficient access to necessary information and resources; establish a strong reports officer cadre at FBI Headquarters and field offices to facilitate timely dissemination of intelligence from agents to analysts within the FBI and other agencies within the Intelligence Community; implement training for agents in the effective use of analysts and analysis in their work; expand and sustain the recruitment of agents and analysts with the linguistic skills needed in counterterrorism efforts; increase substantially efforts to penetrate terrorist organizations operating in the United States through all available means of collection; improve the national security law training of FBI personnel; implement mechanisms to maximize the exchange of counterterrorism-related information between the FBI and other federal, state and local agencies; and finally solve the FBI's persistent and incapacitating information technology problems.

7. Congress and the Administration should carefully consider how best to structure and manage U.S. domestic intelligence responsibilities. Congress should review the scope of domestic intelligence authorities to determine their adequacy in pursuing counterterrorism at home and ensuring the protection of privacy and other rights guaranteed under the Constitution. This review should include, for example, such questions as whether the range of persons subject to searches and surveillances authorized under the Foreign Intelligence Surveillance Act (FISA) should be expanded.

Based on their oversight responsibilities, the Intelligence and Judiciary Committees of the Congress, as appropriate, should consider promptly, in consultation with the Administration, whether the FBI should continue to perform the domestic intelligence functions of the United States Government or whether legislation is necessary to remedy this problem, including the possibility of creating a new agency to perform those functions.

Congress should require that the new Director of National Intelligence, the Attorney General, and the Secretary of the Department of Homeland Security report to the President and the Congress on a date certain concerning: The FBI's progress since September 11, 2001 in implementing the reforms required to conduct an effective domestic intelligence program, including the measures recommended above; the experience of other democratic nations in organizing the conduct of domestic intelligence; the specific manner in which a new domestic intelligence service could be established in the United States, recognizing the need to enhance national security while fully protecting civil liberties; and their recommendations on how to best fulfill the nation's need for an effective domestic intelligence capability, including necessary legislation.

8. The Attorney General and the Director of the FBI should take action necessary to ensure that: The office of Intelligence Policy and Review and other Department of Justice components provide in-depth training to the FBI and other members of the Intelligence Community regarding the use of the Foreign Intelligence Surveillance Act (FISA) to address terrorist threats to the United States; the FBI disseminates results of searches and surveillances authorized under FISA to appropriate personnel within the FBI and the Intelligence Community on a timely basis so they may be used for analysis and operations that address terrorist threats to the United States; and the FBI develops and implements a plan to use authorities provided by FISA to assess the threat of international terrorist groups within the United States fully, including the extent to which such groups are funded or otherwise supported by foreign governments.

9. The House and Senate Intelligence and Judiciary Committees should continue to examine the Foreign Intelligence Surveillance Act and its implementation thoroughly, particularly with respect to changes made as a result of the USA PATRIOT Act and the subsequent decision of the United States Foreign Intelligence Court of Review, to determine whether its provisions adequately address present and emerging terrorist threats to the United States. Legislation should be proposed by those Committees to remedy any deficiencies identified as a result of that review.

10. The Director of the National Security Agency should present to the Director of National Intelligence and the Secretary of Defense by June 30, 2003, and report to the House and Senate Intelligence Committees, a detailed plan that: Describes solutions for the technological challenges for signals intelligence; requires a review, on a quarterly basis, of the goals, products to be delivered, funding levels and schedules for every technology development program; ensures strict

accounting for program expenditures; within their jurisdiction as established by current law, makes NSA a full collaborating partner with the Central Intelligence Agency and the Federal Bureau of Investigation in the war on terrorism, including fully integrating the collection and analytic capabilities of NSA. CIA, and the FBI; and makes recommendations for legislation needed to facilitate these goals.

In evaluating the plan, the Committees should also consider issues pertaining to whether civilians should be appointed to the position of Director of the National Security Agency and whether the term of service for the position should be longer than it has been in the recent past.

11. Recognizing that the Intelligence Community's employees remain its greatest resource, the Director of National Intelligence should require that measures be implemented to greatly enhance the recruitment and development of a workforce with the intelligence skills and expertise needed for success in counterterrorist efforts, including: The agencies of the Intelligence Community should act promptly to expand and improve counterterrorism training programs within the Community, insuring coverage of such critical areas as information sharing among law enforcement and intelligence personnel; language capabilities; the use of the Foreign Intelligence Surveillance Act; and watchlisting; the Intelligence Community should build on the provisions of the Intelligence Authorization Act for Fiscal Year 2003 regarding the development of language capabilities, including the Act's requirement for a report on the feasibility of establishing a Civilian Linguist Reserve Corps, and implement expeditiously measures to identify and recruit linguists outside the Community whose abilities are relevant to the needs of counterterrorism; the existing Intelligence Community Reserve Corps should be expanded to ensure the use of relevant personnel and expertise from outside the Community as special needs arise; Congress should consider enacting legislation, modeled on the Goldwater-Nichols Act of 1986, to instill the concept of "jointness" throughout the Intelligence Community. By emphasizing such things as joint education, a joint career specialty, increased authority for regional commanders, and joint exercises, that Act greatly enhanced the joint warfighting capabilities of the individual military services. Legislation to instill similar concepts throughout the Intelligence Community could help improve management of Community resources and priorities and insure a far more effective "team" effort by all the intelligence agencies. The Director of National Intelligence should require more extensive use of "joint tours" for intelligence and appropriate law enforcement personnel to broaden their experience and help bridge existing organizational and cultural divides through service in other agencies. These joint tours should include not only service at Intelligence Community agencies, but also service in those agencies that are users or consumers of intelligence products. Serious incentives for joint service should be established throughout the Intelligence Community and personnel should be rewarded for joint service with career advancement credit at individual agencies. The Director of National Intelligence should also require Intelligence Community agencies to participate in joint exercises; Congress should expand and improve existing educational grant programs focused on intelligence-related fields, similar to military scholarship programs and others that provide financial assistance in return for a commitment to serve in the Intelligence Community; and the Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devise a strategy to capitalize upon the unique cultural and linguistic capabilities of first-generation Americans, a strategy designed to utilize their skills to the greatest practical effect while recognizing the potential counterintelligence challenges such hiring decisions might pose.

12. Steps should be taken to increase and ensure the greatest return on this nation's substantial investment in intelligence, including: The President should submit budget recommendations, and Congress should enact budget authority, for sustained, long-term investment in counterterrorism capabilities that avoid dependence on repeated stop-gap supplemental appropriations; in making such budget recommendations, the President should provide for the consideration of a separate classified Intelligence Community budget; long-term counterterrorism investment should be accompanied by sufficient flexibility, subject to congressional oversight, to enable the Intelligence Community to rapidly respond to altered or unanticipated needs; the Director of National Intelligence should insure that Intelligence Community budgeting practices and procedures are revised to better identify the levels and nature of counterterrorism funding within the Community; counterterrorism funding should be allocated in accordance with the program requirements of the national counterterrorism strategy; and due consideration should be given to directing an outside agency or entity to conduct a thorough and rigorous cost-benefit analysis of the resources spent on intelligence.

13. The State Department, in consultation with the Department of Justice, should review and report to the President and the Congress by June 30, 2003 on the extent to which revisions in bilateral and multilateral agreements, including extradition and mutual assistance treaties, would strengthen U.S. counterterrorism efforts. The review should address the degree to which current categories of extraditable offenses should be expanded to cover offenses, such as visa and immigration fraud, which may be particularly useful against terrorists and those who support them.

14. Recognizing the importance of intelligence in this nation's struggle against terrorism, Congress should maintain vigorous, informed, and constructive oversight of the Intelligence Community. To best achieve that goal, the National Commission on Terrorist Attacks Upon the United States should study and make recommendations concerning how Congress may improve its oversight of the Intelligence Community, including consideration of such areas as: Changes in the budgetary process; changes in the rules regarding membership on the oversight committees; whether oversight responsibility should be vested in a joint House-Senate Committee or, as currently exists, in separate Committees in each house; the extent to which classification decisions impair congressional oversight; and how Congressional oversight can best contribute to the continuing need of the Intelligence Community to evolve and adapt to changes in the subject matter of intelligence and the needs of policy makers.

15. The President should review and consider amendments to the Executive Orders, policies and procedures that govern the national security classification of intelligence information, in an effort to expand access to relevant information for federal agencies outside the Intelligence Community, for state and local authorities, which are critical to the fight against terrorism, and for the American public. In addition, the President and the heads of federal agencies should ensure that the policies and procedures to protect against the unauthorized disclosure of classified intelligence information are well understood, fully implemented and vigorously enforced.

Congress should also review the statutes, policies and procedures that govern the national security classification of intelligence information and its protection from unauthorized disclosure. Among other matters, Congress should consider the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information. The Director of National Intelligence, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the Attorney General, should review and report to the House and Senate Intelligence Committees on proposals for a new and more realistic approach to the processes and structures that have governed the designation of sensitive and classified information. The report should include proposals to protect against the use of the classification process as a shield to protect agency self-interest.

16. Assured standards of accountability are critical to developing the personal responsibility, urgency, and diligence which our counterterrorism responsibility requires. Given the absence of any substantial efforts within the Intelligence Community to impose accountability in relation to the events of September 11, 2001, the Director of Central Intelligence and the heads of Intelligence Community agencies should require that measures designed to ensure accountability are implemented throughout the Community. To underscore the need for accountability: The Director of Central Intelligence should report to the House and Senate Intelligence Committees no later than June 30, 2003 as to the steps taken to implement a system of accountability throughout the Intelligence Community, to include processes for identifying poor performance and affixing responsibility for it, and for recognizing and rewarding excellence in performance; as part of the confirmation process for Intelligence Community officials, Congress should require from those officials an affirmative commitment to the implementation and use of strong accountability mechanisms throughout the Intelligence Community; and the Inspectors General at the Central Intelligence Agency, the Department of Defense, the Department of Justice, and the Department of State should review the factual findings and the record of this Inquiry and conduct investigations and reviews as necessary to determine whether and to what extent personnel at all levels should be held accountable for any omission, commission, or failure to meet professional standards in regard to the identification, prevention, or disruption of terrorist attacks, including the events of September 11, 2001. These reviews should also address those individuals who performed in a stellar or exceptional manner, and the degree to which the quality of their performance was rewarded or otherwise impacted their careers. Based on those investigations and reviews, agency heads should take appropriate disciplinary and other action and the President and the House and

Senate Intelligence Committees should be advised of such action.

17. The Administration should review and report to the House and Senate Intelligence Committees by June 30, 2003 regarding what progress has been made in reducing the inappropriate and obsolete barriers among intelligence and law enforcement agencies engaged in counterterrorism, what remains to be done to reduce those barriers, and what legislative actions may be advisable in that regard. In particular, this report should address what steps are being taken to insure that perceptions within the Intelligence Community about the scope and limits of current law and policy with respect to restrictions on collection and information sharing are, in fact, accurate and well-founded.

18. Congress and the Administration should ensure the full development of a national watchlist center that will be responsible for coordinating and integrating all terrorist-related watchlist systems; promoting awareness and use of the center by all relevant government agencies and elements of the private sector; and ensuring a consistent and comprehensive flow of terrorist names into the center from all relevant points of collection.

19. The Intelligence Community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activity targeting the United States and U.S. interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks within the United States. This issue must be addressed from a national standpoint and should not be limited in focus by the geographical and factual boundaries of individual cases. The FBI and CIA should aggressively and thoroughly pursue related matters developed through this Joint Inquiry that have been referred to them for further investigation by these Committees.

The Intelligence Community should fully inform the House and Senate Intelligence Committees of significant developments in these efforts, through regular reports and additional communications as necessary, and the Committees should, in turn, exercise vigorous and continuing oversight of the Community's work in this critically important area.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, if I could have the attention of the Senator from Florida, I thank him for his presentation. Essentially, I think what the Senator suggested was the Intelligence Committee, which is the appropriate committee of jurisdiction, have hearings and take a look at the recommendations he just outlined as a result of the investigation by the House and Senate on the 9/11 tragedy. As I have indicated to the Senator before—and he has written me a letter—both Senator ROCKEFELLER and I think that is most appropriate, and we intend to hold hearings just as soon as we can get our current inquiry on the prewar intelligence in Iraq out in a situation where we can present it to the public. I think the Senator has provided a valuable service.

One of the important aspects when discussing intelligence is not only to find out the accuracy and timeliness of the prewar intelligence but also to really get into the recommendations on how we fix things. The Senator has done us a good service. We will have hearings on these recommendations.

Mr. GRAHAM. Mr. President, I thank the Senator for his comments. I particularly appreciate his sense of urgency to move forward on these issues and present to the Senate and the American people a set of reforms that will give them greater security.

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## ACTIVITIES OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE—IRAQ

Mr. ROBERTS. Mr. President, I rise today in order to update my colleagues in this body on the recent activities of the Senate Select Committee on Intelligence with respect to Iraq. This is a subject that has been in the headlines consistently for many different reasons. But my purpose in rising today is to report to the Senate, for it is an important day in that the Intelligence Committee members, as of this afternoon, will be presented the working draft of what the staff has been working on for better than 7 months.

In June of last year, nearly 8 months ago, the Intelligence Committee began a formal review of U.S. intelligence into the existence of Iraq's weapons of mass destruction programs, Iraq's ties to terrorist groups, Saddam Hussein's threat to regional stability and security in the Persian Gulf, and his violation—obvious violation—of human rights.

This review was initiated as part of the committee's continuing oversight of the U.S. intelligence community's activities and programs, which is always continuing. Our committee staff had, for the previous several months, already been examining the intelligence activities regarding Iraq, including the intelligence community's support to the United Nations weapons inspections in Iraq and the community's analysis and collection of reporting related to the alleged Niger-Iraq uranium deal.

On June 20, 2003, however, Vice Chairman ROCKEFELLER and I issued a press statement. We announced a joint commitment to continue the committee's thorough review of prewar U.S. intelligence. In that press statement, Senator ROCKEFELLER and I agreed to examine the following: the quantity and quality of U.S. intelligence on the Iraqi regime's weapons of mass destruction programs, its ties to terrorist groups, the regime's threat to stability and security in the region, and its repression of its own people.

We also agreed to look at the objectivity and the reasonableness, independence, and accuracy of the judgments reached by the Intelligence Community; whether those judgments were properly disseminated to policymakers in the executive branch and the Congress; whether—and this is very important—any influence was brought to bear on anyone to shape their analysis to support policy objectives; finally, other issues we might mutually identify in the course of the committee's review.

I laid out three phases of the committee's overall Iraq review. First, to evaluate the quantity and quality of the intelligence underlying prewar assessments concerning Iraq; second, to determine whether the analytical judgments contained in those assessments were objective, independent, and reasonable; third, to evaluate the accuracy of those assessments by comparing them with the results of the ongoing investigative efforts in Iraq.

This afternoon, as I have stated, our committee members will begin reading and reviewing the staff's draft report, which does contain the committee's efforts to complete the first and second phases of the review. The third and final phase will be completed when the Iraq survey group completes its work in Iraq.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. ROBERTS. I am delighted to yield.

Mr. WARNER. Mr. President, I am privileged to serve on the committee with the Senator. There has been criticism, raising the inference that we have not in the Senate been addressing this with the depth and sincerity and interest we should.

I take great umbrage at that. Under the leadership of the chairman and, indeed, myself, we are the ones who brought David Kay up. We are the ones who put David Kay on the stand, the Intelligence Committee first, and before the Armed Services Committee immediately following, and subjected him to cross-examination after the delivery of his report. His report is a mixed one in certain ways, in my judgment, but nevertheless in no way were we not taking the initiative to bring this to the forefront.

I say also, yesterday the Armed Services Committee heard from the Secretary of Defense. The distinguished chairman was present. He is a member of that committee. Again, the first questions on WMD and precisely the question of whether or not there was any manipulation or distortion came from the Chair, myself, addressed directly to the Secretary.

Any objective analysis of the reports out of that hearing this morning—it was covered by the press—he faced it head on and answered those questions.

As we are speaking, I just departed the television where Director Tenet is now addressing the Nation. So I think the President and his principal deputies are facing square on these complex issues, as is the Senate.

I commend the chairman, and perhaps he will agree with my observations.

Mr. ROBERTS. Mr. President, I fully agree with the distinguished chairman of the Armed Services Committee, and I am very proud to serve on that committee, as well as privileged being the chairman of the Intelligence Committee.

We discussed this at great length. All members of these committees discussed it at great length. We have a responsibility to the American people to fully investigate this and to publicly, when we can, when we are not dealing with any classified information, tell the American people what they should know and have a right to know. We are proceeding in that fashion. We are taking this very seriously, which is why I am trying to summarize now for the Senate and for all those who may be interested in this issue precisely what we have done to date in regard to the Intelligence Committee.

The Senator is exactly right, he has taken the lead in the Armed Services Committee with the appropriate people within the military, and I thank him for his contribution.

Mr. WARNER. Mr. President, I thank the Senator.

Mr. ROBERTS. Mr. President, our review in the Intelligence Committee began in earnest in early June of last year when the intelligence community did provide our committee with 19 volumes—19 volumes, floor to ceiling—and they contained approximately 15,000 pages of intelligence assessments and sources and source reporting underlying the assessments of the Hussein regime's WMD programs. They also pertained to ties to terrorist groups, the threat to stability and security in the region, as I have said before, and the repression of his own people.

Our committee staff began immediately to read and analyze every report provided to determine how intelligence analysts reached their conclusions and whether any assessments were not supported by the intelligence provided to the committee.

Our committee staff endeavored to the greatest extent possible to disregard—to disregard—postwar revelations concerning Iraq in order to replicate the same analytical environment enjoyed by the intelligence community analysts prior to the war.

In late August and early September of 2003, our committee staff did request additional intelligence to substantiate the intelligence community's assessments which staff judged were not sufficiently supported by the intelligence that had been previously provided. Not only did we ask for the original information, but when we were not satisfied, we asked for more; we demanded more.

Our committee staff began to receive this additional supporting intelligence in October of 2003. In late October, the staff requested any intelligence which had not already been provided that contradicted the intelligence community's prewar analysis in regard to Iraq.

For example, the committee staff requested intelligence that showed Iraq had not reconstituted its nuclear program, had not renewed the production of chemical agents, and had abandoned an offensive biological weapons program. In early November of 2003, the intelligence community wrote to the committee that it was working to provide the contradictory intelligence we requested.

In the same letter, the community stated it had uncovered an additional six volumes of intelligence material that supported its assessments on Iraq's WMD programs, and the community did provide the contradictory intelligence information in late November.

I want my colleagues to realize that this has been an extremely thorough undertaking. During the 8 months of the committee's review, our committee staff submitted almost 100 requests for supplemental intelligence information, received over 30,000 pages of documents in response to those requests, and reviewed and analyzed each document that was provided.

Additionally, our committee staff have interviewed more than 200 individuals, including intelligence analysts, senior officials within the Central Intelligence Agency, Defense Intelligence Agency, Department of Defense, Department of Energy, Department of State, National Ground Intelligence Center, the Air Force, and the Federal Bureau of Investigation.

They have also questioned former intelligence analysts, national intelligence officers, operations officers, collection managers, signals intelligence collectors, imagery analysts, nuclear experts with the International Atomic Energy Agency, ambassadors, former United Nations inspectors, Department of Defense weapons experts, State Department officials, and staff members of the National Security Council.

Additionally, the committee has held three hearings on aspects of United States intelligence on Iraq, a hearing on the Iraq-Niger connection, a briefing by the CIA and State Department inspectors general on their review of the Iraq-Niger issue, and a hearing on the history and the continuity of weapons of mass destruction assessments that pertain to Iraq.

These efforts have enabled our committee staff to develop a full understanding of the quantity and quality of intelligence reporting supporting the intelligence community's prewar assessments.

Our committee staff have also gained an understanding of how intelligence analysts throughout the community used that intelligence to develop their assessments on these issues and how those assessments were actually disseminated to policymakers, and whether those assessments were reasonable, objective, independent, or if there was any political consideration and, again, whether any influence was brought to bear to shape their analysis to support any policy objective.

The professional bipartisan staff of the Intelligence Committee I think has done an outstanding job. It is a very complete job. For the next 3 weeks, however, it will be the members of the committee, our turn to do our work by reading and reviewing and suggesting any changes to the report.

I only hope that members will not prejudge the report. Let me repeat that. I only hope that members will not prejudge the report—there has been activity in the past indicating plans to do just that; I hope that does not happen—and that they will take the time to actually read the information in order to make informed critiques of the material.

This report can have a profound impact—it will have a profound impact—on the future of our intelligence community as we face the threats of a new century. However, this can only be done if colleagues on both sides of the aisle put aside election year politics and review the facts in an objective and unbiased manner.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas has 9 minutes remaining.

Mr. ROBERTS. Mr. President, I wish to read a statement by Winston Churchill which I think has application to the inquiry we are conducting in the Intelligence Committee and the whole issue in regard to the credibility and the timeliness of intelligence prior to the war in Iraq. Sir Winston Churchill said this upon hearing about the attack on Pearl Harbor:

> Silly people, that was the description many gave in discounting the force of the United States. Some said they were soft, others that they would never be united

Let me repeat that.

> That they would never be united, that they would never come to grips. They would never stand bloodletting. Their system of government and democracy would paralyze their war effort.

Let me repeat that.

> Their system of government and democracy would paralyze their war effort.
>
> Now we will see the weakness of this numerous but remote, wealthy and talkative people.

Referring to Americans.

> But, I have studied the American Civil War fought out to the last desperate inch. American blood flowed in my veins. I thought of a remark made to me 30 years before: The United States is like a gigantic boiler. Once the fire is lighted under it, there is no limit

to the power it can generate. It is a matter of resolve.

I am concerned in what appears to be almost a blast furnace of politics at a very early time, in an even-numbered year—and I understand that. I know politics is not bean bagged, and I know that my colleagues have very serious differences of opinion, as we will on the committee, but I hope what Sir Winston said: "Some said they were soft, others that they would never be united . . . their system of government and democracy would paralyze their war effort." is not true in regard to the global war on terrorism. I have some concerns about that.

I indicated at the first, when I knew it was our responsibility and obligation, in working with the distinguished vice chairman of the Intelligence Committee, that we would do our job and that we would do it just as bipartisan as we possibly could, that it would be thorough. It is my view that this draft report, and then what the Members will agree to, will be the most thorough review of the intelligence community in the last decade. I also said that we will make every effort to hold public hearings, because the American people have a right to know, and we will let any political chips fall any way they want to fall.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Under the previous order, the majority leader controls the next 23½ minutes and the Senator from California then would control 23½ minutes. The Senator from Mississippi.

Mr. LOTT. Mr. President, with the Senator's agreement I will go ahead and proceed since we did have, I think, about 27 or so minutes.

Mr. ROBERTS. I yield the floor. May I inquire as to how much time I have remaining?

The PRESIDING OFFICER. The Senator from Kansas has 5 minutes remaining.

Mr. ROBERTS. I ask unanimous consent that that time be yielded to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Mississippi is recognized for 5 minutes.

## KEEPING POLITICS OUT OF INTELLIGENCE COMMITTEE FUNCTION

Mr. LOTT. Mr. President, let me first commend and congratulate Senator ROBERTS, the chairman of our Select Committee on Intelligence, for the leadership he is giving on that very important committee. It is a very important and difficult assignment.

I thought his statement today was a very good one. I jokingly said, but I meant it sincerely, I could not quite tell when he went from quoting Churchill to speaking for himself because the eloquence was very close.

He makes a plea that is so important, and that is: Do not prejudge what the subcommittee is going to do. Members of the Intelligence Committee should not prejudge the information we are going to receive in the staff report. We should work together to see what we have and what conclusions we reach and what should be done. That is our job.

I acknowledge that this is another in a series of what has been described in many different ways but I just refer to it as "oops" hearings—oops, we missed something here. But it has been going on for years.

There was not a clear indication of what was happening in the Soviet Union, that they were imploding economically and they did not have the strength we thought they did in the defense area. We had Khobar Towers. We have had a series of events that our intelligence did not pick up. Once again, we find ourselves now, with the 9/11 Commission, working to see what we missed perhaps in our intelligence and law enforcement community before 9/11. It should not be approached, though, with the idea of condemning some particular individual but finding out what happened: Why did we not do a better job? What did we not know? And more importantly, what are we going to do about it?

I am tired of oops hearings that happen after the fact and nothing really changes. Are we going to make a real change this time? Can we do a better job with our intelligence, and our intelligence community? I think we can.

By the way, when we start pointing a finger of blame, we better look in the mirror first. We have had these intelligence committees since the 1970s. We have known that their budget has not been adequate through much of the 1990s. We have known that we lost our ability to have human intelligence, people on the ground. It became politically incorrect in the 1970s to have the head of, say, a financial institution in Buenos Aires to be headed by an American who was an agent, or a journalist who was working for a newspaper but was an agent. We have made it extremely difficult. We have become too caught up in sophistication, thinking we could get enough with satellites or with technology. It is not enough.

I think what we need to do is lower the rhetoric. I know this is a political year, an election year. Everything is going to be somewhat political on both sides, but can we spare one thing, just one thing, from the political agenda? Can we not separate out intelligence and how we support it? Can that not be bipartisan? Now there is a call for an independent commission. We have even dropped "bipartisan." Now it is "independent."

Who decides that it is independent? Some people are indicating if the President calls for an independent commission, one to which he appoints good men and women, that is not independent, but if it is one established by the Congress where we name Republicans and Democrats; that is independent.

Quit the blame game. Ask legitimate questions. Work together. Draw conclusions and, more importantly, take action. Intelligence is so critical. In some respects it is even more critical than defense spending, because if we do not have good intelligence and if we do not have a reliable intelligence apparatus that works with our defense, our men and women are exposed to uncertainty, unknown difficulty, and death.

We are talking about the lives of young men and women. Is it good that we are condemning and revealing information about the quality of our intelligence community while our men and women are today in Iraq, Afghanistan, and all over the world, who are relying on the ability of our agents, the CIA, the DIA, the different organizations we have doing intelligence? Even doing that is dangerous, in my opinion.

We should do our work. I am not happy with the intelligence. I do not think the intelligence was what it should have been. It was inadequate, maybe even inaccurate. But why? There was large agreement not only within our community but also with agencies from around the world.

Has my time expired?

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

Mr. LOTT. I believe the Senator from Kansas yielded to me some more of his time, if I could inquire about using an additional 2 minutes.

The PRESIDING OFFICER. Under the previous order, the majority leader or his designee has 24½ minutes.

Mr. LOTT. Madam President, I yield myself an additional 2 minutes of time that has been designated for the leader or Senator ROBERTS. I will be brief because I know Senator FEINSTEIN is waiting.

Mr. ROBERTS. Will the Senator yield?

Mr. LOTT. I would be glad to yield.

Mr. ROBERTS. I think the original order has it that the majority leader or his designee will be recognized for the next 24 minutes. In discussing this with Senator FEINSTEIN, I know she has waited patiently and she has 22 minutes reserved.

I ask unanimous consent that after the remarks of Senator LOTT Senator FEINSTEIN be recognized for her remarks and we would reserve the remainder of our time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Madam President, I conclude by talking about what we should do now. The Intelligence Committee should do its job. We should not jump to conclusions. Let's review the report. Let's do our homework. We pushed so much of it off on our staff, now it is time we do it ourselves. Let's read what is in there and then let's decide what recommendations we are going to make.

Why do we have these committees that are evenly divided? I have studied the history. I have been involved in how the Intelligence Committee works. We have carefully tried to make sure we put our best on that committee and that it is equally divided and that it is not partisan. The same thing in the House. Now it is time we lead and show some direction.

I hope we will take some action. I am for actually making some really aggressive rules. I am not sure our intelligence community is set up properly. I don't like the idea that we have 13 different agencies running around. Who is in charge, who coordinates and asks them and directs them? I think there are some problems there.

Then there are those saying we need an independent commission. The President said we should have one. Let's do everything we can to find out the facts and see the recommendations and take action and reassure ourselves and the American people. Now that is being condemned.

I think we should do our work in the Intelligence Committee. Let the President appoint this independent commission. Let's do this job in a responsible way and not rush to judgment.

There will be efforts today to say, well, the report is totally inadequate, before the Senators even read the report. I realize Senators don't like to have lengthy sessions of reading material to review these recommendations. But never before has it been more important that we do this right.

I think we should make changes. I personally think there need to be some personnel changes. That may not be my decision. But hopefully I can help get a result that will make sure we don't have another, "Oh, my God, what didn't we know?" hearing. This is too serious. I urge my colleagues on both sides of the aisle, let's do our job, let's do it in a nonpartisan way, and let's try to keep politics, as much as we can, at least out of Intelligence.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

## INDEPENDENT COMMISSION ON INTELLIGENCE

Mrs. FEINSTEIN. Madam President, I thank the chairman of the Intelligence Committee for his remarks. I think he well and ably set out the structure of what we are doing.

I also thank Senator LOTT for his remarks, particularly the remarks that said we should work together. That has been one of the problems. I want to go into that.

But before I do, I would like particularly to thank the Senator from Florida, the former chairman of the Senate Select Committee on Intelligence, for his three speeches. I had the privilege of previewing these. I think he delivered them eloquently and forcefully. I want him to know I very much appreciate his careful scholarship and his reasoned approach, which mark not only his remarks here but also his tenure as chairman of the Intelligence Committee. He has presided over what continues to be one of the most difficult chapters in the history of our intelligence community.

Senator LOTT has just said, with considerable spark, that we should work together. I could not agree more.

Second, the committee has been prevented from examining the use of intelligence by policymakers. This I believe is a real problem. Our own resolution sets out that we should be able to examine the use of intelligence by policymakers and administration officials. To a great extent this is the reason we are here today creating an independent commission which will have more authority than the elected officials of this Government have.

I learned this morning that the independent commission that is functioning today has access to the President's daily intelligence briefs. The Intelligence Committee of the Senate does not have access to the President's daily intelligence briefs, nor have we had, to the best of my knowledge, through this investigation.

I was very pleased to see that over the past weekend the President has apparently reversed course, accepting the recommendations from Dr. Kay, from Members of the Senate, and from a host of experts to the effect that only a full and outside investigation will be able to be both credible and acceptable to the world at large.

I did not believe so before. I voted against the Corzine resolution when it came up before. I changed my mind because if we, the elected representatives, are not permitted to look into the use of intelligence as provided by S. Res. 400, and it has to be an outside committee that will have that right, so be it. But I find it to be really idiosyncratic, because I believe the full power should be vested in the officials of our Government, of which the Senate plays a very major role, not necessarily always an independent committee, as it appears to be happening.

Such a commission, though, will be able to remove some of the partisanship that has infected this issue and, I hope, provide a reasoned, careful, and credible assessment. I am concerned that the President has let it be known he intends to appoint all of the members of the commission and carry this out through Executive Order. This I believe will adversely affect the commission's independence.

Let me give you an example. Many believe the handling of the National Commission on Terrorist Attacks on the United States—that is a Commission now functioning—headed by Gov. Thomas Keane and Congressman Lee Hamilton, is a case in point. There have been many reports that chronic delays in providing documents and foot dragging in arranging interviews have frustrated the efforts of this Commission to complete its work within the timeline the White House insisted upon.

The Commission is asking for an extension of time and Senators McCAIN and LIEBERMAN have introduced legislation to do so. I understand the President yesterday agreed to extend this timetable to July 26 of this year. I strongly believe the Commission should be given whatever time it needs to complete its examination and we, in fact, should pass the McCain-Lieberman bill.

Nevertheless, it is my hope that a commission, whether it is created by Executive order or by statute, will be able to answer four questions.

The first is: Were the prewar intelligence assessments of the dangers posed by Saddam Hussein's regime wrong? This is not as simple a question as it seems, for in the months prior to the invasion of Iraq these assessments had two separate, equally important parts. The first is whether Iraq had the capability to place the United States in such danger as to warrant the unprecedented step of a unilateral preemptive invasion of another sovereign nation. Just two days ago Secretary Powell, asked if he would have recommended an invasion knowing Iraq had no prohibited weapons, replied: "I don't know because it was the stockpile that presented the final little piece that made it more of a real and present danger and threat to the region and to the world." He added: "The absence of a stockpile changes the political calculus; it changes the answer you get."

Second, was such a threat imminent or was it grave and growing? Critical to this debate during the Summer and Fall of 2002 was the immediacy of the threat which supported the argument that we needed to attack quickly, could not wait to bring traditional allies aboard or to try other options short of invasion.

The second question is: Whether the intelligence assessments were bad as well as wrong.

This requires a fine distinction between an intelligence assessment that is wrong, and one that is bad. Intelligence assessments are often wrong, for by their nature they are an assessment of the probability that a future event will take place. But wrong does not always mean bad. Sometimes an intelligence assessment follows the right logic and fairly assesses the amount, credibility and meaning of collected data, and still is wrong. What the independent commission needs to do is to separate these two different, but related, issues.

The third question is to determine—if the intelligence assessment was both bad and wrong—to what degree and why?

Did the intelligence community negligently depart from accepted standards of professional competence in performing its collection and analytic tasks?

Was the intelligence community subject to pressures, personal or structural, which caused it to reach a wrong result through bad analysis?

Were the ordinary internal procedures by which intelligence is subject to peer review properly carried out?

A commission must delve deeply into the mechanisms of intelligence analysis to reach these answers.

The fourth and final question is whether the intelligence assessments reached by the intelligence community, whether right or wrong, good or bad, were fairly represented to the Congress and to the American people. Did administration officials speaking in open and closed session to members of Congress accurately represent the intelligence product that they were relying upon? Were public statements, speeches and press releases, fair and accurate? This is the cauldron boiling below the surface.

This final question is particularly grave, because it touches upon the constitutionally critical link between the executive and legislative branches. The Founders knew what they were doing when they developed a shared responsibility for war making—only Congress can declare war, with the President, as Commander in Chief, conducting it—and the need is vital for Members of Congress to have fairly presented, timely and accurate intelligence when they consider whether to invest the President with the authority as Commander in Chief to put American lives, as well as those of innocent civilians, at risk.

My vote, in particular, was based largely on intelligence, and statements about that intelligence, related to Saddam's certain possession of chemical and biological weapons and the probability or likelihood, that he had both weaponized and deployed them. Also, the fact that he had violated the U.N. missile restrictions and possessed a delivery system for a chemical or biological warhead, and could deliver that warhead 600 miles, threatening other Middle Eastern nations or perhaps, from offshore, the United States.

There were many statements made by the administration that when combined with the intelligence created an overwhelming case. I think particularly for me and for many others. I don't think there would have been 77 votes in the Senate to authorize use of force had these statements not been made.

Let me give just five examples of such statements:

Secretary of State Powell, on September 8, 2002, said on Fox News Sunday: "There is no doubt that he has chemical weapons stocks." He also said: "With respect to biological weapons, we are confident that he has some stocks of those weapons, and he is probably continuing to try to develop more."

President Bush, on September 12, 2002, said in his address to the U.N. General Assembly: "Right now, Iraq is expanding and improving facilities that were used for the production of biological weapons."

President Bush, in his October 7, 2002, address also said: "We know that the regime has produced thousands of tons of chemical agents, including mustard gas, sarin nerve gas, and VX nerve gas."

Secretary Powell, again in his February 5, 2003, address to the U.N. Security Council, said:

> Our conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent. That is enough agent to fill 16,000 battlefield rockets. Even the low end of 100 tons of agent would enable Saddam Hussein to cause mass casualties across more than 100 square miles of territory, an area nearly 5 times the size of Manhattan . . . when will we see the rest of the submerged iceberg? Saddam Hussein has chemical weapons. Saddam Hussein has used such weapons. And Saddam Hussein has no compunction about using them again, against his neighbors and against his own people.

What a strong statement—a statement that has to be backed up with almost certain facts.

President Bush said, on October 2, 2002, in Cincinnati: "Facing clear evidence of peril, we cannot wait for the final proof, the smoking gun that may come in the form of a mushroom cloud."

I remember hearing this speech, which made a deep impression upon me.

The President of the United States said this. Members of the Intelligence Committee are looking at intelligence. When combined with the President's statements, the statements of the Secretary of State and the statements of the Vice President, how can you not believe them? That is why this committee's investigation into the use of intelligence which we have been prohibited from entering into is so important that we do. We are the official people's representatives on this Committee on Intelligence, and to cut us out from one part of an investigation that our own resolutions say we should look at, I think, is unconscionable.

When all of this is combined with the intelligence provided to Congress, the aerial photographs of what was believed to be chemical weapons plants, and the National Intelligence Estimate of October 2002, this information created an overwhelming belief that there was an imminent threat to our Nation, and a dominant majority of the Senate of the United States voted for the resolution authorizing the use of force.

You can imagine my surprise that after more than 1,500 sites—top priority sites—have been searched and millions of dollars spent on Dr. Kay's special investigation, no weapons have been found. And Dr. Kay submits to us that he does not believe any will be found.

So the reality of what has been learned in Iraq versus the intelligence presented to us causes enormous concern.

Again, I truly believe that had it not been for the strength of the intelligence and statements made to Congress, including the Senate Select Committee on Intelligence, a vote for regime change alone, without the belief of an imminent threat, would not have had the majority it did, may well not have passed, and if it did, most likely would have passed with a bare majority.

These statements and the intelligence upon which they were based now appear to be unsupported by the available evidence, and have been contradicted by Dr. Kay's findings. A commission must look closely at these and other similar statements.

Even as the commission moves forward, I believe Congress should undertake two related tasks. The first is to carefully review the implications of the President's so-called preemption doctrine. I have strongly criticized this policy since its inception. Although, clearly, the United States will always retain the right to defend itself in specific circumstances from a real, imminent threat, preemption as a doctrine departs from core American values. We must be strong in defense but not allow this country to become an aggressive nation of conquest.

I also believe the doctrine runs counter to 50 years of bipartisan American foreign policy, which is based on the belief that international law, multilateral agreements, and diplomacy are also effective means to promote and to protect American security.

Finally, and on a more fundamental and practical level, the doctrine requires a faith in the perfectibility of intelligence analysis that is simply not attainable. Preemption inherently requires us to be right every time on the nature and imminence of threats.

Unfortunately, as every senior intelligence official to whom I have spoken tells me, intelligence is rarely going to be that accurate, for the very reason I have mentioned earlier it is, at its heart, probability analysis.

This past weekend, Dr. Kay spoke to this issue, saying, and I quote, "if you cannot rely on good, accurate intelligence that is credible to the American people and to others abroad, you certainly can't have a policy of preemption."

The preemptive concept bets everything on one roll of the dice and we had better be right every time.

I spoke about this when the doctrine was announced and offered the hypothetical of a preemptive attack based on intelligence that was wrong, that results in destruction and death, and undermines American credibility and our position around the world. The hypothetical, so far, at least, is true in Iraq.

I hope the President and his advisers will reconsider the ill-advised adoption of preemption in light of what we have already learned from its first exercise.

The second thing the Congress should do, and do now, is begin the process of restructuring the intelligence community and begin by taking a single, critical step: Pass legislation creating a Director of National Intelligence and change from the current situation where a single man is both head of the entire intelligence community—with its 15 departments and agencies—and the head of the Central Intelligence Agency. It is an impossible job with insufficient authority.

I have introduced legislation that would accomplish this in both the 107th and 108th Congresses. Each time I stood on this floor to urge its passage and each time I expressed my belief that the current structure could result in a colossal intelligence failure.

In June of 2002, I said: "This legislation creates the Director of National Intelligence to lead a true intelligence community and to coordinate our intelligence and anti-terrorism efforts and help assure the sort of communication problems that prevented the various elements of our intelligence community from working together effectively before September 11 never happen again."

I fear it has happened again. Once more, I stand in the Senate to urge the passage of the legislation.

It has to be pointed out that our present intelligence structure for the most part is based on a post-World War II, cold-war environment. It is not suited for the new challenges of asymmetric threats and non-state entities, as well as quite possibly from states also involved in terrorism. We have a Soviet-era intelligence community in a post-Soviet world.

We need to have a Director of National Intelligence now more than ever and we should not wait any longer for the results of another commission. I remind my colleagues that creating a Director of National Intelligence was the very first recommendation of the bipartisan Joint Inquiry into the Attacks on September 11, a recommendation contained in a report signed by every member of the Intelligence Committees of the Senate and the House. Senator GRAHAM spoke earlier about this provision, and I agree with his explanation of the pressing need for the change.

Such a position, if created today, would provide substantial improvement in the function and quite possibly the restructuring of the more than one dozen agencies and departments. It would give one person, appointed by the President for a 10-year term, the statutory authority to determine strategies across the board, to set priorities, and to assign staff and dollars across departments and agencies.

It is my understanding the Senate Select Committee on Intelligence will take up this legislation in 2004, I am told, in April. It is my hope that working together we can include this legislation as part of the Intelligence Authorization Act for fiscal year 2005 and make it law this Spring.

As I have said earlier, the so-called "bipartisan" investigation by the Senate Select Committee on Intelligence has had little effective participation by Democratic Senators, or their staffs. In fact, in many ways had the Intelligence Committee been able to carry out its responsibilities, as set for in Senate Resolution 400, much of the debate on the floor on this issue would be unnecessary. Nonetheless, I look forward to this afternoon when the report will be made available to committee members.

I deeply believe that the Senate Select Committee on Intelligence should turn its attention to its core responsibilities—conducting vigorous oversight of the intelligence community, and carefully considering legislation to make necessary changes. To that end I urge Chairman ROBERTS to take up legislation restructuring the Intelligence Community, including, but not limited to, my bill to create a Director of National Intelligence, hold comprehensive hearings on these proposals, and report out legislation in time for inclusion in this year's Intelligence Authorization bill.

As I have said earlier, my vote in favor of the resolution to authorize the use of force in Iraq was perhaps the most difficult, and consequential, vote of my career. It was a decision based on hours of intelligence briefings from administration and intelligence officials, plus the classified and unclassified versions of the National Intelligence Estimates. My decision was in part based on my trust that this intelligence was the best our Nation's intelligence services could offer, untainted by bias, and fairly presented. It was a decision made because I was convinced that the threat from Iraq was not only grave but imminent.

Because of my vote, and the votes of the 76 other Senators who voted for the resolution, our troops are stuck in Iraq, under fire, and taking casualties. Our armed forces are stretched thin; we have antagonized our enemies and alienated many of our closest allies.

In the post-9/11 world, a world where we confront asymmetric threats every day, intelligence plays a key role informing the policy-making process. The administration bears primary responsibility for our intelligence apparatus—ensuring that it works well, is honest, and is properly focused. The administration is also responsible for honestly and fairly presenting the results of the intelligence process to the Congress, informing, for instance our vote on the resolution to authorize force.

I now fear that the threat was not imminent, that there were other policy options, short of war, that would have effectively met the threat posed by Saddam Hussein.

And that is why a full investigation of the prewar intelligence is so critical.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I would like to be notified when I have used 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## U.S. INTELLIGENCE

Mrs. HUTCHISON. Madam President, we have heard a number of speakers in the Senate this week. It has been an important week. We have had the testimony of David Kay, the United Nations inspector who just came back from Iraq. We had the reaction to his testimony. We had reports from the Senate Select Committee on Intelligence. And today we are going to have a major speech by the Director of the Central Intelligence Agency, George Tenet.

It is very important that we put in perspective what is happening and the steps that should be taken to ensure we are addressing the problems correctly.

First, Mr. Kay, who is totally credible on the issue of weapons of mass destruction, made the following statements in his Armed Services Committee testimony.

Senator McCAIN asked the question:

> [Y]ou agree with the fundamental principle here that what we did was justified and enhanced the security of the United States and the world by removing Saddam Hussein from power?

Mr. Kay:

> Absolutely.

Senator KENNEDY:

> Many of us feel that the evidence so far leads only to one conclusion: That what has happened was more than a failure of intelligence, it was the result of manipulation of the intelligence to justify a decision to go to war . . .

Mr. Kay:

> All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than

> Iraq was a gathering, serious threat to the world with regard to weapons of mass destruction.

He went on to say:

> I think the world is far safer with the disappearance and removal of Saddam Hussein. I have said I actually think this may be one of those cases where it was even more dangerous than we thought. I think when we have the complete record you're going to discover that after 1998 it became a regime that was totally corrupt. Individuals were out for their own protection. And in a world where we know others are seeking weapons of mass destruction, the likelihood at some point in the future of a seller and a buyer meeting up would have made that a far more dangerous country than even we anticipated with what may turn out not to be a fully accurate estimate.

Senator MCCAIN:

> Saddam Hussein developed and used weapons of mass destruction; true?

Mr. Kay:

> Absolutely.

Senator MCCAIN:

> He used them against the Iranians and the Kurds; just yes or no.

Mr. Kay:

> Oh, yes.

Senator MCCAIN:

> OK. And U.N. inspectors found enormous quantities of banned chemical and biological weapons in Iraq in the '90s.

Mr. Kay:

> Yes, sir.

Senator MCCAIN:

> We know that Saddam Hussein had once a very active nuclear program.

Mr. Kay:

> Yes.

Senator MCCAIN:

> And he realized and had ambitions to develop and use weapons of mass destruction.

Mr. Kay:

> Clearly.

Senator MCCAIN:

> So the point is, if he were in power today, there is no doubt that he would harbor ambitions for the development and use of weapons of mass destruction. Is there any doubt in your mind?

Mr. Kay:

> There's absolutely no doubt. And I think I've said that, Senator.

So I think, when we look at the testimony of the man who has been on the ground, who has searched for the weapons of mass destruction, who knows what all the clues are, who knows what the body of intelligence was—and he says it really could have been more dangerous than we even ever thought—I think we have to assess that in the context of all of the rhetoric we are hearing about second-guessing a decision that was based on what we had at the time.

Senator FEINSTEIN said we should relook at our intelligence-gathering organization. I do not think anyone would disagree with that, including the President of the United States.

In our first effort to address the issues of the failure that led to 9/11, we all tried to look at the intelligence failures, to look at the things that did not compute, to look at the communications systems that did not match up. We tried to put a grid in place in the agency that was created for homeland security that would allow all of the intelligence gathering that is done in and for our country to be put through a grid to warn us when there was an imminent danger.

Let's talk about what the result has been because we have tried to address those failures. We have prevented potential terrorist acts. We know we prevented an airliner from being blown up because a very smart flight attendant saw a man get ready to strike a match and light his shoe. We know from that experience what to look for in an airline passenger, and we have refined the system. We have seen flights canceled because there was a suspicion there might be something going on. Who knows what was prevented in that instance?

We have seen arrests in very remote parts of our country because of intelligence gathering. We have not had a terrorist attack on our country since the time we were attacked on 9/11. We have had attempts, but we, because we have processes in place from what we have learned, have thwarted those attempts, including one this week in the United States Senate.

So, yes, we need to relook at our intelligence gathering. Yes, we are learning every day. And, yes, the President of the United States has already said he will have an independent investigation of our intelligence gathering that led to the invasion of Iraq. He has said he would do that. The President has also agreed to the extension asked for by the 9/11 Commission, the bipartisan commission that is looking into what happened before and during the 9/11 incident. He has said, yes, I will agree to an extension, because he was asked. The President of the United States is being open. The President of the United States is trying to do the right thing to get to the bottom of this because he has the interests of the United States at heart.

Let's look at some other results. Let's look at the difference in the hope of the people of Iraq and Afghanistan today. Yes, there are continuing problems. Yes, it grieves every one of us. Our hearts stop when we hear there has been another bombing or mishap that has hurt one of our soldiers or killed one of our soldiers or an Iraqi citizen. Yes, it hurts.

But do the people of Iraq today have a better chance to live in freedom and prosperity than they had the entire time they had been ruled by a despot? Absolutely. Do the people of Afghanistan today have the hope for a future of freedom more than they had under the Taliban and the other despots under whom they have been buried for all these years? Oh, yes. They have a constitution that is getting ready now to become implemented that actually says women will be equal in that country.

We have come a long way.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. HUTCHISON. Madam President, I ask the distinguished Senator from Oklahoma if he would like to extend the time or is he prepared to go to the highway bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, we are prepared to go back to the bill at this time.

Mrs. HUTCHISON. Thank you.

Madam President, let me end by saying I hope we will come together and support the President in his initiatives to get to the bottom of this issue. The President is looking out for the United States of America, and we do not need partisan rhetoric on an issue such as this. We need to come together. That is what we must do.

Thank you, Madam President. I yield the floor, and I yield back the time that was allocated for morning business.

## SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the hour of 10:50 having arrived, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

> Modified committee amendment in the nature of a substitute.
>
> Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.
>
> Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. At this point, I will yield to the Senator from Iowa, and following his remarks I will seek to be recognized.

(Mr. ENSIGN assumed the Chair.)

Mr. GRASSLEY. Madam President, I want to address the consideration that the Senate Finance Committee gave to the portion of the highway bill that determines the size of the trust fund, source of the trust fund, and our committee's decisionmaking over that. And my speaking to the Senate is based on the proposition, thus far, that we are moving ahead with the total highway package the way that has been suggested by the Senate Environment and Public Works Committee, Senate Banking Committee, and the Senate Commerce Committee, with my committee working in cooperation with those three committees, at that level of expenditure.

Somehow, if the President, in succeeding days, would say he is not going to sign a bill that is that big, I will moderate my remarks to conform with that. But right now, all I know is what this body has done in three of its committees to arrive at where we are now. I want to address, within that framework and that environment, the work of our committee.

I will particularly speak about some other Members of this body who lack a consideration of the hard work that has been put into this product, as well as their philosophical objections to what we have done. I don't have any question that any Senator can have any philosophical objections to anything he wants, but I want everybody in the Senate to know that the 21 members of the Senate Finance Committee did not take this product lightly.

There has been a lot of harsh criticism of the upcoming Finance Committee title of this highway bill.

What I will do is lay out the context of the funding portions of this legislation and respond to this harsh criticism. The role of the Finance Committee on the highway bill is centered on the highway trust fund raising, not expending, funds. Finance Committee jurisdiction involves the Federal excise taxes, the highway trust fund, and the expenditure authority of the trust fund. The Finance Committee has acted in all of these areas as recently as just this Monday.

The authorizing committee's actions will result in outlays from the trust funds of $231 billion for highways, and $36.6 billion for transit, spread out over the next 6 years. Essentially, those figures I just gave you represent the cashflow out of the trust fund. The Finance Committee's action provided the resources in the trust fund to cover the cash outflows and provide a cushion in the trust fund balances. This is how we arrived at that action of the Senate Finance Committee.

But some of the critics have said the Finance Committee should have funded the trust fund at the level of the motor fuel taxes and the compliant savings resulting therefrom.

This is a very fair debate to have in the Senate, or in any committee, but I want the Members of this body who don't serve on the Finance Committee to understand that we had that fair debate in the Finance Committee on Monday, and in other sessions before that. This committee had to decide otherwise from those critics who have said that the Finance Committee should have funded the trust fund at just the levels of the motor fuel taxes and compliant savings.

So I think everybody in this body has a responsibility to be realistic and wake up to the facts of life as we are considering this legislation and in their responding to it because there will be a time when the Senate will express its will on this floor, and we all have to face the reality of the legislative process. The will of the Senate, at the end of the day, will be to fund highways and transit programs at the outlay levels provided by the three authorizing committees of Banking, Commerce, and Environment and Public Works.

So to my critics, some of whom chose to criticize me directly, let me remind them that last year I was 1 of 21 votes against the Bond-Reid amendment during the budget debate. That wasn't an easy vote. So I understand the sentiments for lower funding levels, but Members of this body need to understand that 21 is a sizable minority of this body, and the vast majority decided more money should be spent on highways and transit.

That was last year, and this is now, today. A majority of the Finance Committee dealt with this fundamental reality. So I would like to ask the critics to come out of their ivory towers and deal with the reality of the Senate.

The reality that faced us on the Finance Committee was how to bridge the gap between the baseline revenue collections and the outlay levels of the three authorizing committees, which was considerably higher.

In consideration of this major problem facing us, the leader of the Democrats on my committee, Senator BAUCUS, and I—and we try to work together whenever we can, and that is most of the time—had the reality of the Senate to take into consideration. We had to keep in mind the institutional issues with which the Senate Finance Committee has to deal. We could not and we would not choose an option that would undermine the integrity of the trust fund, and we surely are not going to do anything to undermine the role of the Senate Finance Committee.

What do I mean by the integrity of the trust fund? The answer is that the Finance Committee needs to ensure that there is a relationship between the receipts in the trust fund and the spending from that trust fund. To the extent that relationship is undermined, I say to my fellow colleagues, the Finance Committee's role is undermined as well.

I also wish to point out the bottom line for those other 20 Senators who, like me, voted against the higher trust fund spending last year. Again, the political reality is that the Senate is going to approve outlays at the levels approved by these three authorizing committees.

One option would be a direct general fund transfer. A direct general fund transfer erodes the integrity of trust funds, and it dilutes the role of the taxwriting committees. It directly delinks highway spending and highway receipts, and we believe those have traditionally been tied together and should be tied together. Because of that, the Senate did not go there.

There is a danger for us fiscal conservatives of such an approach because direct general fund transfers would potentially be open ended and no fiscal discipline whatsoever.

If the Finance Committee had done what the critics argue, what would have been the outcome on the floor of the Senate? Does anyone believe that we would have been left at the authorized funding amounts? No, we all know the funding levels would have gone way up. Where would we end up? The answer is that we would end up with a direct general fund transfer.

Any Finance Committee member should be concerned about that bottom line result and what that does to the trust fund concept and the history of our committee's jurisdiction over that trust fund but, more importantly, our responsibility we have to the Senate.

In the Finance Committee, we decided to maintain the relationship between the trust fund receipts and the trust fund spending. It is so important then to distinguish between trust fund receipts and revenues that is counted for budget purposes.

Embedded in the trust funds are several policies that burden the trust fund. The clearest of these, and one we always hear, is the treatment of ethanol. The tax benefit for ethanol is the only—the only—energy production incentive that is not borne by the general fund. There are billions of dollars in tax benefits for oil and gas that are charged to the general fund, for instance. Do Senators from oil and gas States understand that the tax benefit for ethanol is the only energy production incentive that is not borne directly by the general fund?

Under current law, the use of ethanol is prejudiced in terms of the highway trust fund resources. That is because the benefit is charged against the trust fund up to this point when we adopt this legislation because my VEETC proposal eliminated the inequity by making sure the trust fund is fully funded by those who use ethanol fuel. For my friends who are always criticizing, the tax benefit for ethanol, like that of any other energy source, will be borne then by the general fund.

There are numerous other exemptions from the fuel taxes in addition to ethanol. These exemptions further important policy purposes but purposes which are not embedded in highway policy. No one takes issue with the exemption but whether they should be borne by the highway trust fund. We don't hear that argument.

Contrary to what has been suggested, increasing highway funding in this manner is not unlimited like the direct general fund transfers but is limited by the universe of exemptions.

For the 20 other Senators who, like me, last year voted for lower highway spending, they have an interest in what the Finance Committee did. By maintaining the relationship between highway receipts and spending, we maintain a ceiling on the spending. A direct general fund transfer does not have such a limit.

I repeat and remind my colleagues, the bottom line is that the so-called illusory receipts that Finance came up with result in a ceiling on highway and transit spending. Don't these other 20 Senators want some sort of a ceiling? The ceiling is not available with a direct general fund transfer.

The Finance Committee bill contains a self-imposed ceiling that relates the receipts to expenditures of the trust fund and everything connected with the trust fund.

Do these receipts end up as refunds or exemptions? No, those are legitimate policy choices made by Congress in law. I cited the case of ethanol. There are others. Those receipts represent the burden users put on our roads. The trust fund then properly accounts for these users.

Where we have shifted the burden of an exemption or refund from the highway trust fund to the general fund, the Finance Committee has provided offsets. In the end the Finance Committee has made sure this will not add to the deficit.

To those who choose to ignore the political reality of the Senate, decisions made overwhelmingly by three other committees, decisions made last year on the budget we are still operating under with only 21 dissenters, the rest of the Senate decided there ought to be more massive amounts of money spent on roads.

That is the political reality of the Senate. I say to these people, what would you do? What would you do to make the trust fund a relevant part of the highway program, where it has been since we have had Federal gas taxes? What would you do to maintain the relationship of the trust fund receipts and trust fund spending? What would you do to avoid an open-ended general fund transfer where there is lesser, or maybe absent any, fiscal responsibility?

I get back to some old sayings that can say it better than I can, and I think I read in Lyndon Johnson's biography, "The Master of the Senate," that Sam Rayburn said something about any jackass can push a barn down, but it takes a carpenter to build one.

We have a few people who are trying to kick the barn down. These people are not really interested in building a barn like the three authorizing committees are, as they tried to put something together. Albeit there might be some sort of disagreement about exactly what the right and ideal level of expenditure is, but they have worked hard. The American people want us building the legislative barn.

I turn to these people who do not want to build this barn—our Federal obligation under highways. It has been a pretty dominant Federal policy since Eisenhower and the interstate system, and of course a long time before that with other highways. They ought to quit kicking and focus on the reality of getting this highway bill done. The Finance Committee amendment took a step forward to getting this job done.

The Finance Committee did the job. We provided the funding. More importantly, we linked the highway receipts to the spending, and we did this in a deficit-neutral way.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the distinguished chairman of the Finance Committee. I congratulate him and the ranking member for moving forward. I found the comments of my neighbor in Iowa to be particularly appropriate about the need to build the barn. Again, I express my thanks to our colleagues on the Environment and Public Works Committee, Senator JEFFORDS, Senator REID, and the others, for moving forward.

Right now we are asking that Chairman INHOFE return. He has an important meeting right now and he is going to come out to assure we can get more of this bill moving. We have a very short time window today. I know that on both sides of the aisle we would like to have people come down, offer relevant amendments, try to get as much of this bill moving as possible, and begin the voting process.

As I said, we have much work going on just off of the Senate floor as we try to move this legislation forward. We have several more pieces of SAFETEA to be brought forward. We are working with the other committees involved to make sure they come forward. I believe Chairman SHELBY from the Banking Committee will arrive shortly to bring forth a mass transit bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, at this time I would like to recognize Senator SHELBY for some comments about his amendment and then reclaim the floor.

Mr. REID. Mr. President, reserving the right to object, was this a unanimous consent request?

Mr. INHOFE. No.

The PRESIDING OFFICER. The Senator does not have the right to yield the floor to another Senator.

The Senator from Alabama.

### AMENDMENT NO. 2269

(Purpose: To amend chapter 53 of title 49, United States Code, relating to the authorization of Federal funding for public transportation, and for other purposes)

Mr. SHELBY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 2269.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SHELBY. Mr. President, the text of this amendment is identical to the legislation that the Banking Committee ordered reported from the committee by a voice vote yesterday. In other words, it was a unanimous vote in the Banking Committee.

I rise today in support of the Federal Public Transportation Act of 2004. This is the bill, as everyone knows, that was successfully reported out of the Committee on Banking, Housing, and Urban Affairs yesterday.

I am proud of this piece of legislation which was crafted on a bipartisan basis with cooperation from the distinguished Senator from Maryland, Mr. SARBANES, the committee's ranking member.

This amendment, which I hope will be part of the bill, provides record growth for public transportation at $56.5 billion—a 57-percent increase over TEA-21. This funding level tracks with the growth in the highway program to $255 billion. This combined funding will go a long way toward improving and expanding upon our Nation's transportation infrastructure. I am pleased, as I said, to be working with the Environment and Public Works Committee chairman, Senator INHOFE, to accomplish this goal.

Our amendment, which will be part of the bill, we trust, accomplishes three important policy goals. It creates funding flexibility, increases accountability, and improves the performance and efficiency of the transit programs in the United States.

The bill creates several new formulas to better address growing transit needs. A rural low density formula is created to allow for transit services in sparsely populated areas where employment centers and health care are great distances apart. A growing States formula is created to allow communities with populations projected to grow significantly in the coming years to put in place needed transportation infrastructure. A small transit intensive cities formula is created to address the needs of communities where the level of transit service exceeds what their population-based formula provides.

Our bill also creates a super-high density formula to provide additional funding for States with transit needs that are particularly great because they have transit systems in extremely urban areas with high utilization rates.

The bill increases the accountability within the transit program. It rewards transit agencies to deliver products that are on time, on budget, and provide the benefits that they promised. Further, this bill allows communities to consider more cost-effective, flexible solutions to their transportation needs by opening up eligibility of a new starts fund to nonfixed guideway projects under $75 million in cost. With this change, other solutions can be fostered, such as bus rapid transit, which can produce the majority of the benefit of rail at a fraction of the cost.

Finally, the bill seeks to improve the performance and efficiency of transit systems nationwide. It provides incentives for the coordination of human service transportation activities to eliminate duplication and overlap. It increases the focus on safety and security needs with transit systems to insulate them against terrorist attacks. It also enhances the role of the private sector in providing public transportation in an effort to reduce costs and to improve service.

In short, the Federal Public Transportation Act is a good bill and one that will dramatically improve the public transportation program to help Americans with their mobility needs in urban and rural areas nationwide.

I commend this to the Senate and ask my colleagues for their support.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to join my distinguished colleague from Alabama, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, in very strong support of the Federal Public Transportation Act of 2004.

First, let me express my appreciation to the chairman of the Banking Committee, Senator SHELBY, who has worked assiduously on this legislation, reaching across the aisle in a most cooperative manner to develop a transit bill that will begin to address the urgent needs faced by communities all across the country.

As a result of his efforts and those of other members of our committee on the transit bill, the Federal Public Transportation Act of 2004 was reported out of the Banking Committee yesterday morning with unanimous support. Every member of the committee supported this legislation.

Let me also acknowledge the contributions made by Senator ALLARD of Colorado and Senator REED of Rhode Island, the chairman and ranking member of our Housing and Transportation Subcommittee, who have worked with us step by step to develop the package that is being brought to the floor of the Senate.

I also thank the distinguished leadership of the Environment and Public Works Committee, Chairman INHOFE and Ranking Member JEFFORDS, as well as the leadership of the Finance Committee, Chairman GRASSLEY and Ranking Member BAUCUS, with whom we have worked closely in order to address a number of important issues related to the financing of this bill. Without their help and the very committed work of the Senate leadership, Majority Leader FRIST and Minority Leader DASCHLE, I doubt that we could be where we are today. I think it is important to recognize the broad effort and the broad support that exists for this legislation.

As we approached the expiration of the previous surface transportation bill, the Transportation Equity Act for the 21st Century, known as TEA-21, the Banking Committee and its Housing and Transportation Subcommittee held a series of hearings—some at the full committee level and some at the subcommittee level—on the Federal transit program and its contribution to reducing congestion, strengthening our national economy, and improving our quality of life.

Over the course of those hearings, which extended over roughly a 2-year period, we heard testimony from dozens of witnesses, including Secretary of Transportation Norman Mineta, Federal Transit Administrator Jenna Dorn, representatives of transit agencies from around the country, mayors, business and labor leaders, environmentalists, and transit riders—virtually all of the stakeholders in this important matter—and including economic development experts, a very important dimension of this, to which I will refer again shortly.

Virtually all of the witnesses we heard agreed that the investment that had been made under TEA-21—in other words, the predecessor legislation to what we are now considering in the Senate—contributed to a renaissance for transit in this country. In fact, transit has experienced the highest percentage of ridership growth among all modes of surface transportation, growing almost 30 percent between 1993 and 2001.

We also heard testimony about the other benefits of transit. For example, the U.S. Chamber of Commerce testified that $1 billion of capital investment in transit creates almost 50,000 jobs. Moreover, the economic development benefits of transit are becoming more and more apparent as new systems come into service. For example, we heard testimony from one of the county commissioners in Dallas that over $1 billion had been invested in private development along Dallas's existing and future light rail lines, raising nearby property values and supporting thousands of jobs.

We heard from a representative of BellSouth that his company decided to relocate almost 10,000 employees from scattered sites in suburban Atlanta to three downtown buildings near the MARTA rail stations because, as he put it, transit "saves employees time. It saves employees money. It saves wear and tear on the employees' spirit."

Transit benefits the economy in other ways as well. For example, transit investments in one community can have repercussions in many areas around the country. The president of the American Public Transportation Association, Bill Millar, who has testified before the Senate on a number of occasions and has brought extraordinary leadership to this effort, pointed out that when one locality builds a rail system or develops its bus system, much of that construction or the assembly of those buses may well be done in a different jurisdiction. So one has to keep in mind when considering the economic benefits, it is not just the area that is upgrading the transit system that is getting the money, but that area in turn is spending its money on a whole range of supplies and services which take place elsewhere in the country. When Texas cities buy buses, for example, it may be a company in Colorado that is producing the buses. As Mr. Millar said, "While the Federal money would appear to be going one place, the impact of that money tends to go very far and wide."

Of course, transit is about more than our economic life. It is also about our quality of life. During our hearings, we heard a great deal about the importance of transit to our senior citizens, our young people, the disabled, and others who rely on transit for their daily mobility needs. There is a population out there, significant in number, whose mobility depends on transit systems. They do not have the alternative of the automobile.

Several of our witnesses observed that the increased investment in transit and paratransit services under TEA-21, the previous legislation, provided the crucial link between home and a job, school, or a doctor's office, for millions of people who might not otherwise have been able to participate fully in the life of their community.

Further, we saw after September 11 how transit can be an important lifeline in other respects, as well. We had very moving testimony during our hearings about the efforts made by transit operators on that day to move tens of thousands of people quickly and safely out of our city centers.

As a result of transit's many benefits, the demand for transit is continuing to increase all across the Nation. States that for a long time had no interest in transit now have a very keen interest in transit. I say to the Presiding Officer, the State of Nevada is developing major transit in the Las Vegas area, for example, and it is made necessary by the population explosion which has taken place in that State over recent decades. Small towns, rural areas, suburban jurisdictions, large cities, all are struggling to keep up with the need to provide safe and reliable transit service for their citizens.

The Department of Transportation has estimated that nationally communities will need $14 billion per year in capital investment simply to maintain the condition and performance of their transit systems, let alone what is necessary to improve conditions and service. If we do not make this investment today, we will be left with deteriorating infrastructure and worsening congestion tomorrow and that, of course, would be a depressing influence on our economy and would undermine our economic strength and vitality.

The legislation before the Senate authorizes $56.5 billion in transit investment over the next 6 years. This is the amount approved by the Senate during consideration of the fiscal 2004 budget resolution and represents a substantial increase over TEA–21. Most experts conclude it is not adequate to address all the transit needs of the Nation, but it does represent a significant step forward in our efforts to improve our citizens' mobility and strengthen our national economy through investments in our transportation infrastructure.

The legislation maintains a feature of both ISTEA and TEA–21, the two previous surface transportation acts, namely, parity between the transit program and the highway program so that they will be able to move ahead in a parallel and comparable fashion. We are appreciative of our colleagues on other committees for recognizing the importance of that proposition.

Moreover, the legislation maintains the existing 80% Federal match on new starts transit projects. Again, that maintains the parallelism that has existed between highways and transit so that the decision being made at the local level is not weighted in one direction or the other because of the match that is required in order to move forward with the transportation infrastructure. Mayor McCrory of Charlotte, North Carolina, made this point at one of our hearings when he observed that "there's a strong need to keep the program 80–20, as we do for other forms of transportation, including roads. That does send a strong message that transit is as important as our road network."

The proposal brought forward by Chairman SHELBY provides for growth in both the urban and rural formula program, with added emphasis placed on the rural program. The committee was sensitive to the needs of the rural areas of our country, and the rural program will see significant growth in order to help States with large rural areas provide the services their residents need.

The bill also increases the Fixed Guideway Modernization Program. This funding is very important to helping cities with older rail systems, which in some cases were built almost a century ago, make the investments needed to preserve those highly successful systems, which move millions of people every working day.

The New Starts program, which helps communities make their first major investment in transit as well as expand existing systems, also grows under this bill. The New Starts program will allow communities to address their growing needs with transit investment and gain the benefits of transit that exist elsewhere in the country.

The bill makes a significant change in the New Starts program by allowing New Starts funding to be used for the first time to fund transit projects that do not operate along a fixed guideway, as long as the project is seeking less than $75 million in Federal funds. There are a few projects of this type currently operating the Nation, and I hope to work with the Federal Transit Administration to ensure that the FTA develops an appropriate quantitative methodology for evaluating the costs and benefits of such projects, particularly as they relate to land use and economic development impacts. As we begin to experiment with different forms of transit service, we must be careful not to adversely impact FTA's highly competitive and successful process for moving projects through the New Starts program.

While the bill preserves the general structure of TEA–21, several new formulas are included to target transit funds more directly to those states and cities with extraordinary transportation needs. The bill includes a new Growth and Density Formula: the growth portion will distribute funds to all states based on their expected future population, and the density portion will provide funding to those states whose populations are above a certain density threshold. The bill also includes an incentive tier to reward small transit-intensive cities—those cities with a population between 50,000 and 200,000 which provide higher-than-average amounts of transit service. The funds distributed under these new formulas will help communities address their unique transportation needs.

So there is an effort in this legislation to recognize the various types of transit needs across the Nation. Of course, as you do any formula, no one gets as much as they would like to get, but you work within certain constraints. Given the framework within which the committee had to work, I think we have responded fairly and rationally to the needs that have been expressed to us. We have a new growth and density formula in this legislation. We make some changes in the fixed guideway program to give a little more discretion for smaller projects. But, all in all, I think this is a balanced package. I commend it to my colleagues, and of course I am happy to discuss with any of them any questions they may have.

I want to highlight just a few more of the bill's provisions. The bill includes a requirement that metropolitan planning organizations develop a public participation plan to ensure that public transportation employees, affected community members, users of public transportation, freight shippers, private sector providers—all the interested parties concerned about the transportation infrastructure—have an opportunity to participate in the transportation plan approval process. Transportation investments are among the most important decisions made at the local level. I firmly believe all interested parties should have an opportunity to contribute to this process. Our transportation infrastructure is central to making our economy, and indeed our society in a broader sense, work day to day. That is why this is such a critical and important piece of legislation.

I am pleased that the legislation includes a new transit in parks program to help national parks and other public lands find alternative transportation solutions to the traffic problems they are now facing. This is a program the administration supports, and it has had very strong bipartisan support in the Senate. It is an effort to address the problem, made manifest in certain of our Western national parks, of the overcrowding that has come with increased visitation. You have people who wait in line all day long to get into Yosemite, for example. They get to the entrance and they cannot get in, because the park's roads and parking lots are at capacity. It is a very serious problem.

TEA–21 required the Department of Transportation to conduct a study of alternative transportation needs in our national parks and other public lands, and that study confirmed that the parks are ready and willing to develop transit alternatives. This legislation will help the parks make investments in traditional public transit, such as shuttle buses or trolleys, or other types of public transportation appropriate to the park setting, such as waterborne transportation or bicycle and pedestrian facilities.

I also want to note that the bill makes a number of modifications to section 5333(b), known as section 13(c), the transit employee labor protections. These provisions were the result of extended discussions between the transit labor unions and members of the committee who were concerned about the impact of 13(c) on the transit program. I note that section 13(c) has been a part of every transit bill since 1964, providing crucial collective bargaining and job right protections. It has served to unify a broad coalition of transit industry and employee representatives to form a unique partnership which has worked together to expand the Federal transit program to what it is today: an unequivocal success. I want to mention one modification which addresses the concerns of members regarding issues arising when one private contractor replaces another private contractor through competitive bidding. Such rights were addressed in the Department of Labor's Las Vegas decision dated September 21, 1994, as amplified by letter dated November 7, 1994. This legislation includes language in section 13(c) to ensure that the Department of Labor's decisions involving so-called "contractor to contractor rights" are governed by the standards set forth in the Department's Las Vegas rulings, without otherwise affecting employee rights under section 13(c). In addition, I note that the changes to section 13(c) are not intended to impact the level of protections covering freight rail employees existing on the date immediately preceding enactment of this act.

There are a number of other provisions in the legislation that modify previous aspects of the transit programs, but for the most part the committee's intention was not to enact major changes to a program that has worked well.

For example, while the bill enhances the role of private-sector transit providers in several ways, it was not intended to change the long-standing congressional policy that decisions involving the choice between public and private transit operators should be left to local authorities who are better equipped to make local transportation decisions, and the Federal Government should remain neutral with respect to such local decision-making. In addition, while the definition of public transportation is modified slightly in the bill, the intent is to clarify, rather than change, the universe of modes and services encompassed by that definition.

And as I indicated earlier, some of the changes with respect to the formula seek to be sensitive to ensuring that all parts of the country can participate in the transit programs. But we have tried to essentially maintain most of the previous arrangements which have worked so successfully.

I conclude by saying that this amendment provides essential support to our local and State partners in their efforts to combat congestion and pollution and to ensure that their citizens can access safe and reliable transit services. That is why the bill is strongly supported by a number of associations representing local officials, transit providers, environmental groups, and others.

In a letter received by the committee yesterday, the American Public Transportation Association stated:

> We support your commitment to retain the overall structure of the federal transit program and the decision to increase federal investment in transit infrastructure. This increased investment will not only improve and modernize the nation's transportation system, but it will also create and sustain millions of badly needed jobs.

Mr. President, I ask unanimous consent that that letter, along with other letters of support, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, I will close by saying, as these letters demonstrate, the legislation we are considering today is vitally important to keep America moving forward in the 21st century. It is no exaggeration to say this is essential legislation for the future strength and vitality of our economy and of our society. I very strongly urge my colleagues to support the legislation that has been brought forward from the Banking Committee, as I said, on a unanimous vote in a markup yesterday morning.

I yield the floor.

EXHIBIT 1

COMMUNITY TRANSPORTATION
ASSOCIATION,
*February 5, 2004.*

Hon. RICHARD SHELBY,
*Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*
Hon. PAUL S. SARBANES,
*Ranking Minority Member, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATORS SHELBY AND SARBANES: We'd like to take this opportunity on behalf of our more than 7,000 members providing community and public transportation services around the nation, as well as the millions of Americans who rely on these services every day, to commend you for your leadership in the creation of the Federal Public Transportation Act of 2004.

This groundbreaking legislation builds the kind of 21st century transportation network our nation needs. We're pleased that it recognizes the real character of public transportation and invests in transit for communities of all sizes and locations. At long last, this bill begins to adequately address the transportation needs of rural Americans and of senior citizens.

Much of the success we've enjoyed in the past six years in community and public transportation was based upon the innovative guarantees and protections for transit financing made by the federal government in TEA–21. Continuing these guarantees in this important legislation is essential.

There's an old proverb that says the journey of a thousand miles begins with a single step. This bill is a giant step toward building the foundation for America's transportation future.

We're grateful. Thank you on behalf of our members, and on behalf of the American people.

Sincerely,

DALE J. MARSICO,
*CCTM, Executive Director.*

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AMERICAN PUBLIC
TRANSPORTATION ASSOCIATION,
*Washington DC, February 4, 2004.*

Hon. PAUL S. SARBANES,
*Ranking Minority member, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR SARBANES: On behalf of the 1,500 member organizations of the American Public Transportation Association (APTA), I write to express our appreciation for your outstanding efforts in marking up the Federal Public Transportation Act of 2004 today. We strongly support the bill and urge Senators to oppose any amendments that would upset the carefully crafted compromise that the Banking Committee developed. In addition, we understand that an amendment will be offered to guarantee funding for transit and highway investment authorized under the transportation bill (S. 1072) now under consideration on the Senate floor. We strongly support that amendment as well, and urge the Senate to adopt it.

### ABOUT APTA

APTA is a nonprofit international trade organization of more than 1,500 public and private member organizations including transit systems and commuter railroads; planning, design, construction and finance firms, product and service providers; academic institutions, state associations and departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over ninety percent of riders using public transportation in the United States and Canada are served by APTA member systems.

### SENATE BANKING COMMITTEE BILL

APTA applauds your leadership in crafting this important legislation. We support your commitment to retain the overall structure of the federal transit program and the decision to increase federal investment in transit infrastructure. This increased investment will not only improve and modernize the nation's transportation system, but it will also create and sustain millions of badly needed jobs.

### CONCLUSION

Again, please accept APTA's gratitude and support for your efforts. We look forward to working with you to enact legislation that addresses the nation's critical need to maintain and improve our surface transportation infrastructure. If we can be of assistance in any way please have your staff contact me or

Rob Healy of APTA's Government Affairs staff.

Sincerely yours,

WILLIAM W. MILLAR,
*President.*

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THE UNITED STATES
CONFERENCE OF MAYORS,
*February 5, 2004.*

Hon. WILLIAM H. FRIST,
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*
Hon. THOMAS A. DASCHLE,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*
Hon. RICHARD C. SHELBY,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*
Hon. PAUL S. SARBANES,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATORS: In January the United States Conference of Mayors met in Washington, D.C. for our 72nd Winter Meeting to chart a new agenda for keeping America's metropolitan economies strong. The cornerstone of that agenda is the reauthorization of TEA–21 that invests in public transit.

From that discussion we write to express our support for the Senate Banking Committee transit title funding level providing $56.5 billion over six years for the federal transit program with at least $47 billion of the $56.5 billion for the transit program from the Mass Transit Account of the Highway Trust Fund. We also urge you to protect the funding guarantees and firewall for the transit program in its entirety.

Mayors know all too well the negative impacts of increasing congestion on our cities and recognize that anything less than $56.5 billion for transit will continue America's dependence on the automobile and continue the funding challenges for the rail modernization, new starts, and bus programs.

We applaud the Banking Committee's work on reauthorizing the transit title of TEA–21 and look forward to providing further feedback on other issues in the bill once we are able to review the entire proposal. With strong backing from mayors across the nation, we stand ready to work with you on the reauthorization of TEA–21.

Sincerely,

JAMES A. GARNER,
*Mayor of Hempstead, President.*

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FEBRUARY 5, 2004.

Hon. RICHARD SHELBY,
*Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*
Hon. PAUL S. SARBANES,
*Ranking Minority Member, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN SHELBY AND RANKING MINORITY MEMBER SARBANES: On behalf of the Surface Transportation Policy Project and its many partner organizations, we are writing to convey our support for the "Federal Public Transportation Act of 2004", legislation approved February 4 that provides for a 6-year, $56.5 billion program commitment to public transportation as well as other critical transportation policies under your Committee's jurisdiction.

We want to commend you and members of the Committee for renewing the key program elements of current law, ensuring that the recent successes in improving public transportation services under TEA–21 will continue into this next renewal period. Our support for this package, however, is conditioned upon resolving outstanding funding issues with the full Senate regarding funding guarantees and firewalled spending to ensure that the critical feature of TEA–21 that made expanded transit investment and improved services possible is part of the final package. This must ensure that transit providers, other agencies and the public can count on the full $56.5 billion over the 6-year renewal period.

Specifically, we want to applaud your efforts to protect the core elements of the existing program structure, ranging from continuation of the Rail Modernization program to the Jobs Access and Reverse Commute program, while finding resources to support new policy efforts such as those envisioned under the President's New Freedom Initiative and Transit in the Parks program. Finally, we also want to convey our support for the Committee's affirmation of current law protections for clean air conformity and other clean air-related provisions as well as preserving other important current law policies governing NEPA and other project delivery elements. It is our firm position that final provisions in the Senate bill must fully account for the need to consider fairly and fully transportation alternatives that minimize or avoid adverse impacts and affirm locally determined priorities. In this way, this renewal legislation will ensure that State and local investment decisions are more balanced, offering more choices to the public and making continuing gains in air quality and other community health and environmental objectives.

We support your legislation with the aforementioned condition and urge your colleagues to support it fully during Senate action on TEA–21 renewal.

Sincerely,

America Bikes, Association for Commuter Transportation, American Society of Landscape Architects, Chicago Bicycle Federation, Environmental and Energy Study Institute, Environmental Defense, National Association of Railroad Passengers, National Parks Conservation Association, National Recreation and Park Association, Natural Resources Defense Council, Sierra Club, Smart Growth America, Surface Transportation Policy Project, Union of Concerned Scientist.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. While the ranking member and the chairman are in the Chamber, I wish to express my appreciation—and I think that of the entire Senate—for the bipartisan bill that is now going to be part of this highway bill. These two men—the senior Senator from Alabama and the senior Senator from Maryland—are legislators. They are experienced. They understand when there is a time to be partisan and when there is a time not to be partisan. They understand when it is important to move forward for the good of this country. And that is what they did.

Without their leadership, we could not be in our present position. We have the highway portion of this bill that has been laid down. We have a few of our little technical things to do before they are joined together perfectly, but the transit portion of the bill—they are both excellent pieces of legislation. The transit portion of the bill affects all of our country.

As the Presiding Officer knows, the city of Las Vegas—and Reno to a lesser extent—is very dependent on transit moneys now. I cannot say enough to express my personal appreciation and that of the Senate for the work done by these two fine men. This is good legislation. I hope we can move forward on it quickly.

I wish to say, after having issued this compliment, with which I want the RECORD to be spread, that I have worked with Senator INHOFE on this legislation for now more than a year, and Senator BOND, and, of course, my distinguished former chairman and ranking member, Senator JEFFORDS.

The concern I see at this stage—we have been on this bill for some time now, a matter of days—is that we have not moved far. We started at the goal line, and we are at about the 5-yard line. We have to get to the other goal line, which is 95 yards away.

There is an issue that has been brought up by the distinguished senior Senator from the State of New Hampshire. I was talking to some of my friends earlier today. We have very few people in this legislative body who are as experienced as the senior Senator from New Hampshire—a House of Representatives Member, Governor, now a Senator—and he has brought forward an amendment he believes in, and he is not going to leave until something happens on this amendment. He may leave physically, but he is going to be around here. We are going to have to dispose of this amendment.

It is obvious now that the majority will not accept a voice vote. We do not have enough votes to table the amendment, and I would not vote to table his amendment anyway. So we have, on this amendment, a filibuster. That is what it is. It is a filibuster by I don't know how many members of the majority, but at least one.

I think we should recognize that it is holding up this bill. This bill is a very important piece of legislation: $255 billion that has been supported by trust fund moneys—all but $30 billion of it. The other $30 billion has been accounted for.

In my opinion, the administration has signed off on this. Any veto threat they have issued has been related to what they are trying to do in the House. So as hard as the chairman of the committee, Senator INHOFE, has worked, he cannot do anything as long as he has people on his side trying to hold up this bill. I think there has to be a decision made on what we are going to do about this. We have spent a couple of days hoping the senior Senator from New Hampshire would go away. I have had a lot of experience with him and he doesn't go away very easily.

I think we should recognize that we have an amendment that is popular and it has been brought here previously and more than 50 people will support his amendment. Whether 60 people will support it is another question. The leadership should understand that this bill is not going anyplace until we dispose of this amendment. It is extraneous, as the chairman will recognize. On this side, we believe in this bill and we thought, at least during this week, there should be no extraneous amendments offered.

We want to get the bill passed. This is important to the people of this country. If we want to create jobs, this is the way to do it: pass the highway bill. As many as 2 million jobs could be created with this highway bill. So I hope the majority realizes the predicament they are in. We are willing to work with them in any reasonable way to try to move beyond where we are today. Just giving speeches out here on the bill is not going to do the trick. If we want to pass the bill, we are going to have to, in effect, get rid of the Gregg amendment. I have to be careful how I say this. One of my friends told me something the other day. We were in a huddle talking about the bill, and I said: We are going to have to figure out a way to get rid of JUDD GREGG.

He said: You better be careful saying stuff like that. In England, the history is very clear that on the occasion when the King said the Archbishop is causing me a lot of problems, a couple days later three people went out and assassinated the Archbishop.

We certainly don't mean to apply that to JUDD GREGG. We are talking about his amendment, not him personally. It is a problem with his amendment.

Mr. INHOFE. Mr. President, first of all, I am sure we all appreciate that clarification. I often wish the Senators who are not on the committee knew the time, effort, the bridges we have crossed, the compromises we have made, and the time we have spent. We have some provisions that have nothing to do with the formula or the issues or the nongermane issues that the Senator from New Hampshire has. It has been very difficult. It has taken many hours and committee hearings. We have had people coming in from local governments and State governments to get where we are today.

We would like to have gotten to this point back when the other authorization ran out but were unable to do it. We made a commitment that we would be there, and we are capable of being there now when this expires on February 29. So there is going to be every effort to get that done.

I know the Senator from Rhode Island wants to be heard. It will be my intention to reclaim the floor at the conclusion of his remarks.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I commend Chairman INHOFE for his great effort to move the highway provisions forward. I very much would like to speak about the public transit issue.

Let me begin by commending Chairman SHELBY and Ranking Member SARBANES for their extraordinary efforts on a bipartisan basis to ensure that we continue the success that we have enjoyed since TEA–21 with our public transit programs throughout the country. I also thank Senators DASCHLE, JEFFORDS, SANTORUM, and BAUCUS for their efforts to convince the Finance Committee to provide us with the adequate resources that were necessary to bring this transit bill to the floor.

The bill before us today is a strong step forward toward meeting our Nation's significant transit needs. Over the course of the last 2 years, I had the opportunity, first, to serve as chairman of the Subcommittee on Housing and Transportation of the Banking Committee, and then as ranking member to my colleague, Senator WAYNE ALLARD of Colorado. Our joint tenure as chair and ranking member, respectively, allowed us to look deeply at the issues confronting transit throughout the United States. We had a number of hearings and we were able to get a broad-based spectrum of witnesses to talk about the successes and the challenges that face transit throughout the United States.

We heard from each region of the country—northern and southern, rural and urban. Mass transit is not exclusive to one region. In fact, what we are finding throughout the country, particularly as metropolitan areas grow and transit needs increase and commuting increases, every community is looking for ways to incorporate transit in their overall transportation plan—not simply to move people but also to meet environmental standards, which are increasingly difficult to achieve without some type of transit system. We heard from businesspeople, environmentalists, senior citizens, the disabled, and those making the transition from welfare to work. We heard from the administration and from academics who are experts in the field of transit.

Now, while these witnesses did not agree about every detail, they shared one central message: TEA–21 works. The current Federal program for transit support works very well, but preserving that success is jeopardized by one simple thing: resources. We have to reinforce success. If we do not provide the resources and continued commitment, we will lose that success; we will disadvantage communities throughout this country.

Mr. President, I am very pleased today that the bill we have before us in the Senate makes some changes to current law, but it takes that central message to heart and provides increased resources to meet the demands of all of our communities for more effective public transportation.

When we passed TEA–21 years ago, transit funding doubled and ridership rose by 28 percent—faster than any other mode of transportation. Mass transit is increasing faster in terms of its use by the American public than any other form of transportation. Another example is how this program is being successfully greeted enthusiastically by people throughout this country. It is my hope the bill before us, which would provide $56.5 billion for transit of all types, can help achieve the same levels of return on our investment, and that we see a continued increase in ridership and use. That has a positive effect in terms of moving people throughout metropolitan areas and rural areas to get to their jobs. It has a positive effect in terms of making the cost of transportation lower for most people. Also, as I mentioned, it has beneficial environmental effects.

This bill would increase our transit formula programs by 56 percent, on average, and no State sees a rate of increase below 37 percent for its apportionment, and the vast majority of States are at or above the national average.

The bill is not just an urban transit bill. Indeed, rural transit programs would grow from $1 billion under TEA–21 to almost $3 billion under this legislation.

The committee also responded to the needs of States experiencing the highest rates of population growth and those States with high levels of population density by creating a new program to address the traffic congestion so commonly experienced in these areas.

The bill also increases funding for the Elderly and Disabled Transit Program from $90 million in the current fiscal year to $187 million in fiscal year 2005 and would continue to increase this essential program to a total of $248 million in fiscal year 2009.

This legislation will also provide significantly greater discretionary funding to improve our Nation's bus fleets and expand or construct new transit projects.

One of the areas that was of great concern to Senator ALLARD and I in our deliberations was the impact of 9/11 on our transit system. This legislation recognizes that after 9/11, we can't assume that transit is just business as usual. We all recognize the vital role that transit played in mitigating the damages, both in New York City and in Washington, DC.

The transit system in Washington, DC, was remarkable in terms of moving and evacuating the city. The transit system in New York City was critical in literally saving thousands of lives as alert and experienced transit operators were able to close stations, move people out of stations, reroute trains, and save thousands of lives. We have to learn from that example. We have to incorporate in this legislation—and I am proud to say we do—the responsibility and also the flexibility so that local communities can use transit funds to prepare their workforce for these types of dangers. It is something that is necessary and something, indeed, I am proud to see.

We held two hearings in the subcommittee with respect to transit safety issues. In addition to that, Senator SARBANES and I commissioned a GAO study to look at the security needs for transit systems. Those needs are significant. This bill at least attempts to provide the resources to begin dealing seriously with those transit security needs.

Indeed, I am glad recommendations by the GAO have been incorporated in the bill before us. I am particularly pleased that urban grant recipients will be able to use their Federal funds to better train their personnel in security needs, as well as conduct emergency response drills to prepare for a potential terrorist incident. Such training is one of the single most important things that transit agencies can do to improve their passenger security.

This is an important step forward toward improved transit security. But there are two other issues that Congress and the administration must address.

First, the Department of Homeland Security must formally accept its responsibility for protecting the millions of Americans who ride our bus and rail systems every day. I hope to offer an amendment, when appropriate, to this legislation to ensure the Department of Homeland Security does take these responsibilities seriously. And second, improved transit security will require more resources than we are able to provide within the context of this reauthorization bill. I hope I can count on all of my colleagues to support increased funding for the Department of Homeland Security appropriations so that it can use those funds to enhance the security of transit systems throughout this country.

One of the unfortunate aspects of the world in which we live is that our foes seek the weakest links when they choose to attack us. Unfortunately, we have not invested in transit security to the degree we have in aviation and port security. It is, unfortunately, the weakest link, and we have to improve it.

Transit is an essential part of our Nation's economy in every region of the country. The investments in this legislation will help to ease congestion on our highways, reduce pollution, and provide for a smoother functioning and more efficient economy. I urge all of my colleagues to support this important measure.

Once again, I commend Chairman SHELBY and Ranking Member SARBANES for their great efforts, and also Senator INHOFE and Senator JEFFORDS for their leadership on the highway bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the chairman and ranking member of the Banking Committee not only for their work on this important part of the legislation but also for their willingness to work with me to reconcile the environmental provisions that are contained in this amendment with the provisions contained in S. 1072.

S. 1072 amends title 23 of the United States Code to provide for adjustments in the transportation planning process. The amendment the Banking Committee has admirably drafted contains similar provisions that amend title 49 of the code.

I understand that for the sake of good policy—that is, minimal confusion to the entities that must implement this law—the chairman and ranking member are willing to work with us to craft provisions that are consistent with the two titles. I thank the Senators for their help.

Mr. President, I am also very pleased that the bill the Environment and Public Works Committee reported contains a provision that will help fund community efforts to provide safe routes to schools for schoolchildren who walk or who ride their bikes to school.

This would include funding for overpasses, underpasses, red lights, or other ways to help reduce accidents and keep schoolchildren safer.

The exact use of the funds would depend on the needs of the local community. The funding is important because many school districts have a policy of prohibiting bus service for children living within a mile or perhaps a half mile of the school.

A National Academy of Sciences report shows that, on average, almost 16,000 schoolage children per year are injured or killed during normal school travel hours. Let me repeat that number. Almost 16,000 schoolchildren are injured or killed during normal school travel hours. Thus, I support strong funding for safer routes to the schools.

I know that in my home State of Vermont, especially in the dark winter mornings when it is icy, schoolchildren can be at risk while walking to school. When Vermont warms up, many schoolchildren may choose to ride bikes to school, and we should make it as safe as possible for them to get safely to and from school.

Often school districts do not provide bus service to children living near the schools they attend. Yet research shows that many children are injured within a mile or so of their homes.

The provision in our bill will provide $70 million per year to help States and local communities reduce these serious risks to schoolchildren. The committee report notes that the purpose of this program is to enable and to encourage children to walk and bicycle to school and encourages a healthy and active lifestyle by making walking and biking to school safer or a more appealing transportation alternative for those living close to school.

I look forward to working with the other body on this important initiative. I know that safe routes to schools is important to my friend, Congressman OBERSTAR, and to a great many of his colleagues.

Thank Senators INHOFE and BOND for working with Senator REID and me on this important issue. We worked out a strong provision regarding safe routes to school.

Mr. President, I wish to briefly discuss the freight provisions we have included in this bill. We have crafted a package that provides considerable flexibility to States and metropolitan planning organizations in addressing freight rail concerns.

We have made improvements to intermodal freight transportation projects eligible for the Surface Transportation Program and the National Highway System funding.

We will have each State designate a freight coordinator to assist in integrating freight concerns into statewide planning and metropolitan planning.

We have also included funding to improve the condition and performance of the National Highway System intermodal connectors. These connectors are those last mile connections to ports and other freight-related facilities that experience a high volume of traffic and have not received the proper amount of attention in the past.

These freight rail provisions make our bill very responsive to the needs of the freight community.

These are important sections of the bill. I wish to emphasize the need for transit improvement. As we travel around this Nation, from California to New York—wherever we go—we have to develop better ways for our transit systems to be more effective. Looking worldwide, we have seen incredible improvements in some countries that are very populous with the utilization of new transit systems and new modes of transportation, such as maglev and other evolving systems. This is very important, and it is going to be more important as we continue to go forward and continue to increase the number of automobiles on our highways.

Mr. President, I yield the floor.

Mr. INHOFE. Before the Senator yields the floor, will he yield for a question?

First, I appreciate the fact the ranking member of the committee is bringing up these issues. Everything he mentioned was controversial. Fortunately, we didn't have to handle a lot of the problems with transit because that was done in another committee, and I certainly commend the chairman of the committee, as well as the ranking member, as well as the subcommittee ranking member and subcommittee chairman. I understand the subcommittee chairman is going to come on the floor and make some comments.

When the Senator talks about safe routes to school, I think that is a good example of the weeks and months we spent coming to an agreement. Frankly, Senator JEFFORDS is the one driving force to get up from $50 million to $75 million. I felt that perhaps priorities could be in some other areas.

In looking at this, I want to commend the Senator for the work he did because I think he is right. We probably spent several months just on the freight area. Everyone knows that was not adequately addressed in TEA-21 and was not adequately addressed in ISTEA. I appreciate very much the time the Senator has spent in these very sensitive and controversial areas where it was give and take, it was compromise. Many times we gave up something we believed in in order to accomplish it and come up with a bill, a good bill, which we have right now.

Mr. JEFFORDS. I thank my chairman. I understand his dedication to doing so much more as we go forward. We are accomplishing a lot today, and yet we still have to sit down and look to the future as soon as we are done with the present.

Mr. INHOFE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask if the chairman of the committee has any further comments to make concerning this particular part of the bill, the transit portion.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I hope we can get together in the hours to come and try to put a package together, perhaps, and move this bill. This is an important bill in America for highways and transit. It affects everybody in America. It affects every Congressman's district, every Senator, and I think it is too important to ignore in any way.

I commend the senior Senator from Oklahoma, the chairman of the committee, for the work he has done. He has been pushing this highway bill—I know because he has been pushing me—for months and months. I do not know how many hours of work he and his staff have put in, along with Senator JEFFORDS, Senator BOND, and others. This is just too important. It affects so many Americans. It covers everything dealing with our infrastructure, and it will be good for the economy.

The Presiding Officer comes from one of the fastest growing States in the United States. Moving people in his State, as well as a lot of others, is very important. There has to be lead time to plan. I believe this is a good bill, considering everything. We have put it together in a bipartisan way in the Banking Committee where we, as well as the other committee, have authorization for transit. I stand ready to work with the principals to move this bill as soon as possible.

I yield the floor.

Mr. JEFFORDS. Mr. President, I recognize my good friend from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I concur with the remarks made by Chairman SHELBY. I think they are right on point. I want to stress again to my colleagues, as I understand it, the highway bill was brought out of the Environment and Public Works Committee with an overwhelming vote, almost unanimous but not quite. I think there were two exceptions, but otherwise all members of that committee on both sides of the aisle were supportive of this legislation.

The transit part that is being offered as a title or an amendment to the highway bill came out of the Banking Committee with a unanimous vote. I think this reflects the fact that in both venues, both forums, a major effort was made over a sustained period of time to address the problems Members confronted and to try to develop a formula, an allocation, and other provisions of the legislation that would be responsive to their needs.

So I say to my colleagues, this is legislation that has been very carefully developed. It has been worked over and over and I think it is a very good product. I think it has struck a very good balance. I think it contains within it a vision for the country.

There is a clamor across the country for this legislation on the part of the public and on the part of all of the stakeholders who deal with these issues. State governments, local governments, the various highway and transit groups, business interests, labor interests, are all strongly supportive of this legislation.

The reason they are so strongly supportive is because they recognize this legislation is critical to moving the Nation ahead. It is essential for the economy. It is essential for enhancing the quality of life. People are spending hours trying to get to and from work and we need to help address that issue. Seniors, young people, and the disabled need these various forms of transportation in order to live their lives. I strongly commend this legislation to my colleagues. A great deal of work has gone into it by many Members of this body. I think it is very important that we move this legislation forward and over the next few days to come, I hope we will be able to accomplish that and put into place this extremely important legislation.

Actually, in one of the statements of the majority leader he indicated he thought this might well be the most important legislation to be considered by this body in this session of the Congress. I do not think that is an overstatement and I again commend this legislation to my colleagues. I thank Chairman SHELBY for the very productive, positive, and cooperative way in which he worked on this legislation and I join with him in commending Chairman INHOFE and Ranking Member JEFFORDS for the very fine work that was done in the Environment and Public Works Committee and Chairman GRASSLEY and Ranking Member BAUCUS for their efforts in the Finance Committee that, in effect, developed a full package that will make this legislation work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I appreciate the comments the Senator made. I know it is a very difficult area to deal in, but I think it is also interesting. When we look at the chairman, the ranking member, and then the chairman of the subcommittee and the ranking member of the subcommittee, there is Alabama, Maryland, Colorado, Rhode Island. There is a huge diversity. Most people think that geographically only certain parts of the country have an interest in transit. It is not true at all because there is equal enthusiasm. I am quite sure, knowing all four personalities and the areas they represent, they spent a long time putting this together, coming up with the successes they did achieve.

I would like to go back and review a couple of subjects we have talked about, but, first, I understand that perhaps Senator CARPER was wanting to seek recognition.

Mr. CARPER. Mr. Chairman, when it is appropriate, I will welcome the opportunity to speak for maybe 5 to 10 minutes on the bill.

Mr. INHOFE. The Senator may have longer than that if he wishes, and then I would want to reclaim the floor at the conclusion.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Oklahoma yields the floor. The Senator from Delaware.

Mr. CARPER. Mr. President, I join my colleague, Senator SARBANES, in voicing my thanks for the work that has been done on the legislation before us today, and certainly to Senator INHOFE and his staff and Senator JEFFORDS and his staff.

As a member of the Senate Banking Committee, it has really been a pleasure for me these last 12 months to work with our new chairman—well, not so new chairman—Senator SHELBY and our ranking member, former chairman, Senator SARBANES, as we have attempted to craft any number of pieces of legislation. Last year, the Fair Credit Reporting Act, which I described yesterday, with Senator SHELBY, was just a model in the way we should be creating legislation in a badly divided Congress these days.

I don't know if the bill before us is going to be held out as a model for crafting legislation, but my hope is the product is going to be a good one for us and for our country.

I would like to speak for a few minutes about the transit provisions of this bill and then to talk a bit about our support as a nation for rail transportation and whether or not we have provided the right support and sense of priority for rail, be it freight rail or passenger rail.

Let's go back to the 1970s when something called the Urban Mass Transit Administration was created. We talk about legislation. We didn't have ISTEA; we didn't have TEA–21; we had a highway bill. Every several years the Congress would pass a highway bill. Even after the Urban Mass Transit Administration was created, we would pass in the Congress from time to time a highway bill.

In due course, the Urban Mass Transit Administration became the Federal Transit Administration. Somewhere I believe in the 1980s, the Federal Transit Administration funding was joined with the highway bill to become a transportation bill and we began taking money. Today I think it is a little less than 3 cents for every gallon of gasoline that is sold that will be allocated to the Federal Transit Administration to support mass transit services, including buses, including rail and a variety of other transit services.

With respect to the transit provisions of this bill, I think they represent our growing awareness that while roads and bridges and highways are important and we still love our cars in this country—cars, trucks, and vans—more and more people are using transit. It is a good thing they are. With the kind of congestion we have on our highways, with the kind of dependence on foreign oil and the kind of problems with air pollution, it certainly makes sense to have people get out of the cars, trucks, and vans to use transit to go to work or go shop or go to a ball game or any variety of other purposes.

I would like us to think of our transportation system in this country holistically for just a moment. It includes our highways, our roads, our bridges. It also includes transit. Last year we spent a fair amount of time reauthorizing the Federal Aviation Administration. In doing so, a variety of related programs, including the airport improvement program, were reauthorized. You may recall we fund aviation improvements, and particularly airport improvements, from a variety of user fees and some general fund moneys.

Last year we focused on aviation and how to improve our aviation component of our transportation system. This week we are focusing on highways and roads. Today we are focusing a bit on transit.

Mr. KENNEDY. Will the Senator yield for a consent request? I ask unanimous consent to be able to proceed after the Senator from Delaware finishes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CARPER. At a day and age in which some 16 percent of our freight in this country is shipped by rail, all told over 40 percent of our total ton miles of intercity freight go by rail, we have not yet seen fit to say the Federal Government should have some interest, more than just a passing interest, in helping to support, to nurture the rail component of our transportation system.

Later, probably not this week but I suspect next week, we will have the opportunity to consider that question: What kind of attention, what kind of support should we in the Congress and in this country be providing for freight rail service? What kind of support should we be providing in this country for passenger rail service?

Amtrak has just concluded a year where they had the highest ridership in the history of the company. More than 24 million people rode intercity passenger trains, and they had the highest revenue, I believe, for any year in their history as well.

We spend a whole lot of time from year to year in this body talking about passenger rail service and Amtrak. We really don't focus much on freight rail. I would have us keep in mind, in a day and age where we are using some 55 percent of the oil we use to run our cars, trucks, and vans, 55 percent of it comes from foreign sources.

You can take 1 ton of freight, put it on a train here in Washington, DC, and take it up to Boston, MA, and you use 1 gallon of diesel fuel. Let me say that again. You take 1 ton of freight, put it on a freight train here in Washington, DC, take it up the Northeast corridor to Boston, MA, and that train will use 1 gallon of diesel fuel to move a ton of freight by rail.

As Governor of Delaware, I was involved a whole lot in trying to improve our highways, our roads, our bridges. There has been a lot of State money and, frankly, a good deal of Federal money. We are always grateful for that partnership. We invest a considerable amount of money in transit services. We invest State money in airports along with Federal money.

We also invested State money in rail transportation projects. We did not have as a partner in those rail transportation projects the Federal Government. However, if it were a highway project, for every 20 cents we put up, the Federal Government would put up 80 cents to match. If we had the opportunity to choose between projects where we were getting an 80–20 match, an 80-cent match for our 20 cents on a highway project, and we had the option of putting our money and no Federal money in a rail project, the funding formula just automatically skewed our decisionmaking.

We may have had a rail project that made a whole lot more sense for our State, got a whole lot better bang for the buck than the highway project, but we were inclined and encouraged to use the money for the highway project because of a far better return, 80 to 20 versus nothing for our 100 cents.

What I think some of us will be really asked to think about next week is whether it makes sense to say the Federal Government should be at least a modest partner in encouraging the utilization of freight rail—greater utilization of freight rail. Today, the role is almost zero.

I believe we can do better than that. There are a whole lot of different approaches, different ideas and thoughts about creating an entity that would issue bonds. The interest on those bonds would be paid for by the Federal Government through tax credits. The entity issuing those bonds would be essentially paid. There has been discussion of adding an extra penny or so to the Federal gas tax and using those funds to support rail in some context.

I know when I served on the impact board—and former Governor Tommy Thompson preceded me—he and I both suggested an extra half cent or so to the gas tax to provide additional money for capital investments for infrastructure. We thought that made sense.

We may be asking our colleagues next week to look at an approach that suggests maybe a source of funding through a gasoline tax. I don't think creating an entity to issue new debt is the answer, at least not now—but to look for some source of funding that would provide some money for the next 6 years to States that have identified good rail projects, freight rail, or even passenger rail, which makes sense for those States; if they are willing to put up their money in order to match moneys from a Federal grant through the U.S. Department of Transportation, I think that is an idea that may not have had a lot of merit several years ago.

But, when you travel the highways around here or Delaware or Vermont or Maryland, I suspect even some places in Oklahoma, Missouri, Massachusetts, we see congestion on our roads the likes of which we have not seen in our lifetimes. When you travel to airports, whether it is in Philadelphia, or BWI, or other places around the country, the kind of congestion we see is congestion

I have never seen in my lifetime, and the kinds of delays we are facing I have never seen in my lifetime.

When I got out of the Navy in 1973 and got off active duty and moved from California to Delaware, about 30 percent of the oil used in Delaware back then in this country that year was oil we got from overseas.

When we can move a ton of freight from Washington, DC to Boston on a freight train and use one gallon of diesel, that certainly says to me there are some lessons for fuel economy in this day and age that we ought to pay attention to.

Senator JEFFORDS has provided great leadership with respect to clean air issues. We are wrestling and wrangling before the committee on what is the right approach. We have seen improvements in certain aspects of air quality. In the Northeast, we still have huge problems with respect to smog and nitrogen oxide: great problems with respect to mercury. I believe others here will agree to disagree that global warming is a growing concern. But in that kind of environment, the notion that we as a nation should be interested in fostering and encouraging a greater dependence on rail—freight and passenger—to move people and to move goods is I think the right notion.

I want to close by going back to where I started.

Again, we worked a whole lot last year on aviation. This week we are working on highways, roads, and bridges, and that certainly is appropriate. During today's debate, hopefully we will introduce transit into the fray. That is another important component of our transportation system that should get special attention. I don't know how long I am going to be in the Senate. I hope I will be here for a while. But I am going to keep reminding my colleagues that rail deserves a place at the table. If we provide that place, without even providing a huge amount of money, I think we are going to find our country and our respective States are well served by that attention.

I thank the Senator very much for yielding the time.

The PRESIDING OFFICER (Mr. BUNNING). Under the previous order, the Senator from Massachusetts is recognized.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. KENNEDY. I am happy to yield without losing the right to the floor.

Mr. INHOFE. I yielded to the Senator from Delaware at his request, and I asked that I get the floor when he finished. I want to explain to the Senator why I wanted to get the floor back. We are on the transit section. The chairman of the subcommittee, Senator ALLARD, has been waiting to be heard on that. I only inquire about how long the Senator will be until we regain the floor.

Mr. KENNEDY. It is a relevant point. If the Senator is here and wants to make a brief statement on it, I would be glad to yield now if I have the right to follow.

Mr. INHOFE. How much time does the Senator think he will require?

Mr. KENNEDY. Probably 20 minutes.

Mr. INHOFE. I thank the Senator.

Mr. KENNEDY. If he is here on the relevant part, I would be glad to wait. That is an enormously important sector of it. I intend to speak very briefly about it, but I don't intend to be longer than that.

Mr. INHOFE. I thank the Senator.

Mr. KENNEDY. Mr. President, I thank Chairman SHELBY and Senator SARBANES for their bold transit proposal that is before us. Throughout this process, they have been resolute in their defense of mass transit and the result is the proposal that benefits cities across this country. Simply put, mass transit, subways, commuter rail, and rapid transit is the lifeblood of metropolitan economies. We cannot expect our cities to remain the enormous economic engines they are today unless we make the critical investments.

The U.S. Conference of Mayors recently released a study that shows U.S. metropolitan areas have accounted for 87 percent of the Nation's economic growth and have generated over 85 percent of the economic output, labor, income, and jobs over the past 10 years. Eighty-seven percent of the Nation's economic growth was from the cities.

When we consider statistics like these, I think my colleagues will agree this Senate should invest in transportation resources in a manner that benefits America's metropolitan areas.

I am particularly happy to report that the package crafted by Senators SHELBY and SARBANES does just that, and all of us in the Senate are truly in their debt.

On another matter, I strongly support the Public Safety Employer and Employee Cooperation Act amendment. I commend my colleague of the HELP Committee, Chairman JUDD GREGG, for sponsoring the Public Safety Employer and Employee Cooperation Act, and for offering it as an amendment on this bill. I am a cosponsor on this bill which was reported out of the committee last fall. We are joined by 25 other sponsors of the Senate, including a number of our Republican colleagues.

Our public safety workers play a tremendous role in protecting our communities and families. I remember the extraordinary courage we saw among those rescue workers, among those firefighters, and among those police officers on September 11 in 2001. They entered those burning buildings, risking their lives, and after the buildings fell, they raised an American flag amid the ruins. That image captures perfectly what these brave men and women do. They not only protect homes and our lives, they represent the very best that is in us. The courage and the sacrifice of ordinary working Americans is our Nation's greatest strength.

We were prepared to call on these men and women on 9/11, and they answered the call. It is time to honor them—to honor their service and their sacrifice—by giving them collective bargaining rights.

For more than 60 years, collective bargaining has enabled labor and management to work together to improve job conditions and to increase productivity. These productive relationships also help workers to obtain better wages, better health benefits and pension benefits.

Collective bargaining in the public sector, once controversial, is now widely accepted. It has been common at least since 1962 when President Kennedy signed an executive order granting these basic rights to Federal employees. Indeed, over 30 States already recognize bargaining rights for these employees. Unfortunately, public safety employees in many States still lack the right to bargain collectively. They lack a voice on the job. By giving them this voice, we will not only help these brave workers, but we will also increase the safety and effectiveness of our public services.

This amendment guarantees the fundamental rights necessary for collective bargaining—the right to form and join a union, the right to bargain over working conditions, and the right to legally enforceable contracts.

The benefits of this legislation are clear and compelling. First, this amendment will improve public safety. Our firefighters and police officers are better equipped than anyone else to know how to improve our public safety.

As the former president of the Fraternal Order of Police testified at a congressional hearing in 2000: "Public safety service is delivered by rank-and-file officers. Therefore, it is their observations and experience which will best refine the delivery of service. To exclude them from having any input relating to their job, particularly when their lives are on the line, is not only unfair to the officers, but the public they are sworn to protect."

Unfortunately, many public safety officers do not have this right today. They risk their jobs when they speak out about working conditions that are a danger to themselves and the public. Take, for example, the firefighters in Springdale, Arkansas, who testified to the city council about the need for better equipment in staffing. He was fired for insubordination. Or the firefighters in Odessa, Texas, who set up a Web site and newsletter publicizing the fire department's failure to provide them protective masks in the case of a chemical attack and were interrogated and disciplined for their actions.

There are too many examples like this of public safety workers who see inadequate staffing and equipment, placing themselves and the public at risk, who do not have the right to bargain to change the problems in a contract. Our public safety employees know best what is needed to keep us safe. Under this amendment they would have the right to negotiate these workplace conditions with cities and towns they serve. This will lead to greater cooperation, improved labor-management relations, and better service.

One example of this success can be found right here with the Capitol Police. When the Capitol Police were granted collective bargaining rights, their contract provided for a joint labor-management relations committee to review police practices, equipment, and officers' safety. As a result of these discussions, the United States Capitol Police were given greater access to body armor and upgraded weapons. Over a year before September 11, 2001, our officers were already aware of the need for increased security in the Capitol buildings, something we are reminded of every day, particularly this week.

Collective bargaining is also more cost effective. A study by the International Association of Firefighters shows some States and municipalities that have given firefighters the right to discuss workplace issues have lower fire department budgets than States without such laws.

Not only would collective bargaining benefit the public, it would help these employees who do so much to protect us. Every year more than 15,000 police officers and 75,000 firefighters are injured on the job. On average, 160 police officers and nearly 100 firefighters die in the line of duty each year. This amendment gives these workers the opportunity to discuss the on-the-job safety concerns with the management. It would also give workers a chance to improve their wages and benefits.

Public safety employees without collective bargaining rights are often paid less than their representative counterparts. In some of these States, it is not unheard of for firefighters to earn less than $18,400, the Federal poverty level for a family of four. Many of these workers have to pay for their own health insurance. This costs thousands of dollars a year they cannot afford.

Some of my colleagues have previously expressed concern that this legislation affects States rights and public safety. This amendment would preserve States rights. Each State would maintain and administer its own collective bargaining law. States would have the ability to decide how they want to provide the collective bargaining rights. Indeed, the majority of the States already meet the amendment's criteria.

This amendment also recognizes the importance of community security. I strongly believe our police officers and firefighters will always act to protect the safety of the public first. However, in order to ensure there is no possible risk to this, this amendment expressly prohibits the right to strike. My colleagues should, therefore, have no concern that this would in any way compromise the safety of our cities and our neighborhoods.

The Federal Government recognized the right to collective bargaining more than 60 years ago. Public safety workers are one of the largest sectors of the workplace who do not yet have that basic right. Our Nation's police officers, firefighters, and emergency rescue workers have earned that right. I urge my colleagues to give them that right by supporting this amendment.

### MEDICARE

Mr. President, on another matter, the administration is robbing the Medicare Program to finance the Bush reelection campaign. That is wrong. Today, we call on the Comptroller General of the United States to investigate the legality, propriety, and accuracy of this unprecedented and improper use of taxpayers' money. The Washington Post describes the ads the Bush administration is running as designed to build public support for the new Medicare prescription drug law, seeking to counteract Democratic criticism that changes to the program will harm older Americans.

The $12.6 million of Medicare money the Bush administration will spend on these ads is on top of the $10 million they plan to spend on a deceptive mailing to all 40 million Medicare beneficiaries touting the new law. There is no purpose for these advertisements except to convince senior citizens the Medicare bill is good for them. They are nothing more than propaganda for the Bush reelection campaign, using $23 million of senior citizens' own Medicare money.

The merits of the new law are a legitimate subject for political debate. Democrats intend to keep talking about this issue all the way to November. We will be fighting to rewrite this deeply flawed and destructive bill. President Bush will be claiming credit for it, defending it, as he did in the State of the Union Message. He is entitled to do that. But he is not entitled to use senior citizens' own money, the taxpayers' own money, to sell this bill like a car or a cake of soap so the President can improve his fading chances of reelection.

For those who have not seen the advertisement, it features actors pretending to be Medicare beneficiaries. Every question the actors ask is answered with a variant of a simple-minded slogan which is shown throughout the advertisement: Same Medicare, more benefits.

The advertising campaign is managed—listen to this—the advertising campaign is managed by the same firm that works for the Bush reelection campaign and for the drug industry. If there is anyone who thinks the sole purpose of these ads is not to promote President Bush's reelection, they must come from another planet, maybe Mars.

There is a lot the ads and mailings do not tell the senior citizens because the Bush administration understandably does not want them to know the facts of the new law. Its bland assurance that the elderly can keep their Medicare does not tell them the administration's own estimates project over $50 billion in excess payments to Medicare HMOs in order to prevent Medicare from competing on a level playing field and ultimately privatizing the whole program.

It does not tell them up to 6 million senior citizens will be forced into a vast demonstration program that will require them to pay higher premiums if they want to keep their Medicare.

It does not tell them if the insurance company offering the drug benefit in their area charges a premium that is too high or does not cover the drugs doctors prescribe, the only way they can get the drug benefit is to leave regular Medicare and join an HMO or other private insurance plan. It does not tell them that.

There is a lot more this ad leaves out. It does not tell senior citizens the bill has provided over $100 billion in windfall profits for the pharmaceutical companies and that the Government is prohibited from negotiating better prices for senior citizens.

It does not tell them almost 3 million senior citizens will lose good retirement coverage and be forced into the inadequate Government program.

It does not tell them if they are poor and on Medicaid they will have to pay more for drugs they need and have less access to the drugs their doctor prescribes.

It does not tell them if they wait a year or two and see how the program turns out before they join it, they have to pay higher premiums. In fact, it does not even tell them they will have to pay a premium.

It does not tell them they are prohibited from using their own money to buy supplemental coverage to fill in the gaps in the inadequate Medicare benefit.

It does not tell senior citizens the Bush administration misrepresented to their own party and to the American people the costs of the bill.

The more senior citizens learn about this program, the angrier they become. I predict when they learn this misleading ad, designed to help the President's reelection campaign, is paid for by their own Medicare money, they are going to be even angrier.

### UNEMPLOYMENT

Finally, I bring to the attention of the Senate an excellent report, the

Economic Policy Institute report that talks about the wage and salary income for workers in this country. It is an ominous report and is something all Members who have been traveling around our States certainly have found out in talking to any of the workers.

I ask unanimous consent to have the document printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Economic Policy Institute Economic Snapshots, Feb. 4, 2004]

### Wage and Salary Income Yet To Share in Growth

The Department of Commerce's advance release on gross domestic product (GDP) estimated that the U.S. economy grew 4% in the last quarter of 2003. This is a solid growth number, although well off the extraordinarily high (and unsustainable) 8.2% rate of the third quarter. However, the rise in GDP has not yet translated into higher wages and salaries for many U.S. workers.

Despite solid GDP growth in the second half of 2003, many Americans continue to rate addressing the economy and jobs as the nation's highest priority. One possible reason for this continued anxiety in the face of rising GDP is shown in the figure below: the current recovery remains the single worst on record in terms of generating the real (inflation-adjusted) growth in wages and salary income that is the economic lifeblood of most American families.

In the 25 months since the recession ended, total wage and salary income is up only 0.4%. It should be emphasized that this is growth after the recession ended and does not include income losses incurred while the economy was contracting. This is the slowest wage and salary growth of any recession since 1959, the first year in which monthly data on total wage and salary income is consistently available.

Wage and salary income after the previous five recessions was an average of 9.4% higher by this point in the recovery. Prior to this recovery, the worst post-recession spell for wage and salary growth was the last jobless recovery of the early 1990s, which still saw wage and salary income rising nine times faster (3.6%) than in the past 25 months. The current slow growth of wages and salaries means that many U.S. workers are not reaping the benefits of the recent GDP growth.

Mr. KENNEDY. This is the first time in over 50 years that long-term joblessness has reached such high rates. Mr. President, 22.3 percent of the unemployed have been out of work for more than 6 months. Without workers being offered any Federal job benefits, every week 90,000 workers are running out of unemployment benefits.

In the Senate, we have tried more than a dozen times to extend the unemployment benefits to ensure that those workers can continue to support their families while they look for a job. More than a dozen times our Republican colleagues have said no.

The White House has been silent on the issue claiming "mission accomplished" on the economy while millions of Americans remain out of work. The Bush economy continues to create only one job for every three people out of work.

But yesterday we finally had some good news. Our colleagues in the House recognized the unemployment crisis and voted, 227 to 179—including 39 Republicans—to reinstate the Federal unemployment benefits for 6 months. Workers have paid into the unemployment insurance trust fund. The trust fund is now $17 billion. The extension would cost $6 billion to $7 billion. This is a matter of fairness.

In December, only 1,000 new jobs were created. Tomorrow we will find out how many jobs were created in January. I hope it is good news. But I can assure you right now, it will not be enough to restore the 2.4 million jobs lost under President Bush or enough to ensure that every worker who wants a job can have one.

That is why we need to reinstate the unemployment benefits. Americans are suffering. They are struggling to pay their mortgages and keep food on their families' tables.

If the House of Representatives can accept this, in a bipartisan way, with 39 Republicans, you would think we would be able to accept it and not have it continually blocked.

I will just show a chart. This chart shows the average number of out-of-work Americans running out of unemployment benefits without finding a job from 1973 to 2003. For 30 years it has averaged 151,000. In January of this year, 375,000. Our Republican friends refuse—absolutely refuse—to permit the continued help and assistance which those workers have paid into the unemployment compensation fund, which today is $17 billion in surplus.

The House of Representatives has accepted it. Thirty-nine Republicans went along with it. I wait, as many of our colleagues, for the amendment that will be offered by our friend and colleague, a leader on this issue, Senator CANTWELL, who will offer that amendment; and it will give an opportunity for the Senate to address this issue.

But I also point out—I see my leader in the Chamber—the Economic Policy Institute, on February 4, issued a presentation of which I cite a chart entitled "Real growth in wages and salaries, 25 months since recession's end." They go back to 1961, 1970, 1975, 1982, 1991, and 2001. In the 25 months since the recession ended, wages and salaries have only grown 0.4 percent. It is the lowest in the history of any economic recovery that has ever been recorded.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield.

Mr. REID. I had to step off the floor, but I did come back and heard part of the Senator's statement regarding Medicare.

It is true, is it not, that the taxpayers of this country are paying for political advertisements to talk about how good the bad Medicare package is? Is that true?

Mr. KENNEDY. Well, the Senator is absolutely correct. A total of $23 million will be money that is paid in for our seniors. It is taking that money that was to be used for the protection of our seniors, and it says $12 million—$6 million will be spent on the television. That is on top of the $10 million that will be done for a mailing to all 40 million Medicare beneficiaries. The ad house that is handling this is in charge of the Bush administration's reelection campaign.

Mr. REID. May I ask another question.

Mr. KENNEDY. Please.

Mr. REID. So the Senator is saying, not only are taxpayers' dollars being spent to promote a bad Medicare program, but that the advertising is being done by the President's own reelection media team?

Mr. KENNEDY. The Senator is absolutely right. I know the Senator is in disbelief of the gall the administration would have to take $23 million out of Medicare to use it with their own ad agency for mailings to 40 million seniors and to use on the airwaves in support of a bill and in misrepresenting the bill itself.

I took a moment of time to show how the ad itself is so misrepresentative of what is in the bill. But the Senator is correct.

Mr. REID. Will the Senator yield for one other question?

Mr. KENNEDY. Yes.

Mr. REID. Is it also true that in the mailings and the television they do not bother to tell what is going to happen after the election that takes place in November with Medicare? Because I believe—and think the Senator from Massachusetts believes—most of the bad stuff happening in this bill comes after the election. Is that true?

Mr. KENNEDY. The Senator is quite correct, although he is not entirely correct. The bonuses that are going to the HMOs—some $12 billion now will go to the HMOs to treat any person who would qualify for Medicare. They will get a 25-percent bonus over Medicare with direct subsidies, which is not a level playing field, of which we hear so much from the other side, but direct subsidies. Those subsidies start in March of this year.

So you are right, the benefits are way down the road. The benefits that will affect the poorest of the poor are going to be after 2006. But the payoffs, the bonuses to the HMOs of $12 billion will start in March. In fact, the Administration's own internal estimates, that were kept secret from the American people, and have just been released, indicate that the payoffs will be more than $50 billion.

So I thank the Senator.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I appreciate very much the Senator from Massachusetts being sensitive to the chairman of the Subcommittee on Transit who wants to come down to the floor. He will be here shortly.

Mr. President, what I thought I would do is continue to go through—in these moments where there is a little bit of a lull—this section-by-section analysis, as arduous as it may be to some people. But I think we need to have it in the RECORD so everybody has an understanding of not the hours, not the days, but the more than an entire year we have worked very carefully with the Senator from Nevada and the Senator from Vermont in coming up with the agreements and the compromises we have.

As we had said before, the goals of the reauthorization of TEA–21—which for the next 6 years we refer to as SAFETEA—have been to increase the rate of return to donor States. This is something of which certainly the Presiding Officer is fully aware. It is something we are all sensitive to.

My State of Oklahoma, for example, was down in the 70 percent range prior to ISTEA. Then with ISTEA and TEA-21 we crept up to 90.5 percent. This bill will take us up so every State will be guaranteed to get back 95 percent. I think that goes a long way. Some people who are a bit sensitive to the plight of donor States believe that getting to 95 percent pretty much resolves the problem.

That was one of the points we dealt with, and that took a long time on which to get an agreement. At the same time we did that, we wanted to make sure we were not negatively impacting donee States. We hear people come down and complain about the formula approach, their State perhaps is not getting what they should be getting. Then we hear later on a donee State will come down. We have to recognize, if we don't have floors and ceilings and we take care of all the needs of the donor States, it is going to affect the others.

For the fast growing States, that is a consideration in the formula. We have never done this before. For those States that are growing very fast, we had to put in a ceiling, so we bumped the ceiling; otherwise, there wouldn't be anything for the other States.

We have to keep in mind that the three largest, fast growing States are consuming in this bill 26 percent of the growth. Consequently, as people have come to the floor, if you try to look at that and say, yes, we are sensitive to this, we must do something about the fast growing State, and yet at the same time you have one of the States such as New York or Pennsylvania that would be negatively impacted by the same thing. So this was a compromise all the way through.

Streamlining is something we tried to address. I was actively involved in the other body during the development of ISTEA in 1991 and then again in TEA-21 in 1998 on this side. We were not successful in doing it. In other words, there are things we can do to streamline some of the regulations we have to deal with. Many of those are environmental regulations where we can get that taken care of first, and we have provisions in this legislation that will do that and end up getting a lot more for our dollars.

The reason we are calling this SAFETEA is that right now we have some 43,000 deaths on the highway. We are looking now at a trend line that is going the wrong way. So it is time to address that. We even have the name SAFETEA. That is very appropriate.

Freight movement: We haven't really spent a long time on addressing these things. Nonetheless, this bill does do it. The Federal Highway System is a key component to continued economic growth in this country. We have talked about the positive effect of this bill when we get it passed and get by these parliamentary obstacles. Keep in mind, it bothers me a little bit that we have obstacles from perhaps 5 or 6 people when we had 75 votes to move on and invoke cloture.

Remember when we saw in one of the publications on the Hill the "Men Working" sign, and then, superimposed in the middle of that, "Men Not Working." That is a sign that we still have a problem. We have an economy that is on the rebound now, but jobs are lingering behind.

There is no program out there that is more of a significant jobs program than this bill. The IPAM provisions in the legislation will allow those projects which are immediately ready to be completed. I know the Senator from Oregon has been very concerned about how quickly we can get in there and get some of these jobs going. That is why that provision is in there, so you can move immediately to those projects that have been approved without going through a long and arduous process.

That is the major concern the American people have with our not getting something done. There is a lag behind highway construction and getting the job done, we all know that.

When you talk about deficient bridges, of all 50 States, my State is No. 1. People are very sensitive to that. But they also recognize that even when we pass this, it is going to take a while to get this done.

What they are aware of is, you pass this and immediately it is going to have a very positive impact on the job market. In calculating job opportunities, it is about quadruple the number of jobs that would be corrected with this legislation. The reason is this: If a guy has a job, he is out building a road; he is also buying goods and services. The manufacturing jobs are improving. We are talking about a huge issue. There is nothing we can do that would more quickly take care of this problem.

The old bills had what was called a minimum guarantee. TEA–21 had a minimum guarantee. We all remember. We remember that formula, the 1104 formula. As you looked at the formula, each State had a percentage of the total amount, and that was what was called the formula. But politically speaking, once you get up to the 60 votes you need, it does not make any difference what they did. Consequently, it didn't have any of the provisions in there that would try to do the most good, build the best roads, and take care of the problems in the States where they are the most serious. We have done away with that.

It would have been easier to just go ahead with that because everybody understands that and you get 60 people happy and you have a bill. But we didn't want to do that because there are a lot of the categories of people in the States that need to be taken care of.

One of the problems we have with the very fast growing States and the large States is that while we are going to end up in 2009, at the end of this 6-year period, with 95 percent in terms of the donor States, the fast growing States, the large States will not reach that until 2009. I regret that is necessary, but frankly there is no other way to make this happen. So what we did was to put the formula into effect and let the formula work.

I have been going through and outlining the various sections of the bill. We have done it from the very beginning, section 1101, all the way up now to 1620.

Section 1620 is the Highway Stormwater Discharge Mitigation Program. As introduced, S. 1072 did address the issue of contaminated storm water runoff from highways. Specifically, it expanded the eligibility of storm water projects to be able to use a State's funds under the NHS program and extended the eligibility of storm water projects to mitigate runoff on existing Federal aid highways, ongoing reconstruction, rehabilitation, resurfacing, or restoration projects. An amendment was adopted to create a 2 percent set-aside from the Surface Transportation Program amounting to nearly $1 billion.

This is something about which I know a lot of Members have a concern. My position has always been that if a State wants to use a 2 percent, a State can do it. If you have a mandatory set-aside, it puts us all in the position of where not only do we not have a choice, no other State has either. When you add it up, that is a lot of money. You are talking about a billion dollars. That is something that is going to be dealt with, it is my understanding, by interested Members. We will have to debate that.

My concern is getting to the position where we can debate legitimate differences of opinion. And that was one on which our committee was divided right down the middle. The concern I have right now is we are not debating things where there is a legitimate difference of opinion or even things that are germane. I hope that we can get to a point where we can table all nongermane amendments. I don't think we are going to get there, but I would like to get there. If we did, that would resolve that problem.

There are legitimate issues to deal with, with amendments. Section 1701 is transportation systems management and operations. Despite the historic increase in highway investment following the enactment of TEA-21, operational performance has declined. For example, a trip that would have taken 25 minutes during the congested period in 1987 now takes an additional 5 minutes. What we are talking about here is we have more congestion. I have seen this congestion mount. I was in the other body for 8 years. I was on the Transportation Committee during that time. The committee structure in the other body is not the same as here. In the other body, all they deal with is transportation.

Over here, we have Environment and Public Works, so we have other issues with which to deal. But when I got to the Senate, a vice chairmanship of the subcommittee became available. That was clean air. We went through the clean air problems we had during the Browner administration in the EPA. A lot of the problems that came up in my State—in fact, with original proposals that came through, out of 77 counties in Oklahoma we would have had some 50 counties that would have been out of attainment. We worked on that and tried to get something done that would be successful.

But when we deal with this section 1701, we are saying that if you are out there taking a trip, going from one point to another, and because of congestion you have to stop and let your engine idle and let the truck idle, you are using up a lot of fuel unnecessarily, and we will quantify that in a moment in our discussion. No. 2, it is a time waste. So you have an air quality problem as well as a pollution problem. This bill makes several changes to improve the transportation system's management and operations, including the creation of a foundation for transportation systems management and operations. Through the provisions of this bill, transportation systems management and operations programs and projects are integrated into the capital planning and construction processes. States are given tools for reducing traffic delays caused by vehicle accidents and breakdowns on highways during peak traveling times. The bill encourages continued development and deployment of safety measures, notification systems to disseminate safety information on Federal aid highways to motorists and public safety agencies as needed. Examples may include traffic congestion, freight movement and conditions, amber alert, weather event emergency notifications, and border and homeland security notifications.

I have been informed there may be another Member who wants to speak for a specific period of time on an unrelated issue.

Mr. WYDEN. Will the Senator yield?

Mr. INHOFE. I will yield——

Mr. WYDEN. For a question?

Mr. INHOFE. Yes.

Mr. WYDEN. First, I express my appreciation to the chairman on the committee on which I sit. He has worked very closely with Senator SMITH and me, and we appreciate that. If it doesn't cause any great travail, I was interested in speaking for maybe 10 minutes on a health care issue. I see our friend from Colorado. Maybe something could be worked out among the three of us whenever the chairman has completed his remarks. I think at 1:30 the rule kicks in where you can address other issues. If something could be worked out, it would be helpful.

The PRESIDING OFFICER. The time is 1:49 when that rule kicks in.

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senator from Oregon be recognized for up to 12 minutes on a subject of his choice and that Senator ALLARD be recognized immediately after that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I wanted to understand where we were. The Senator is going to speak for 12 minutes and then I will be recognized for 10 minutes; is that correct?

The PRESIDING OFFICER. Yes.

### THE MEND ACT

Mr. WYDEN. Mr. President, skyrocketing prescription drug bills are hitting senior citizens in this country like a wrecking ball. It seems to me it is critically important that the Congress move on a bipartisan basis to put in place aggressive cost containment measures that can best be achieved by making sure that the Medicare Program has real bargaining power, that the barriers are eliminated to bringing in drugs that are safe from other countries, and that seniors are in a position to compare prices, with real price disclosure in markets across the country.

Today I have introduced, along with the senior Senator from Maine, Ms. SNOWE, legislation that would do just that. I believe it is critically important for Congress to move on this legislation in the days ahead. If for no other reason, the legislation I introduced with Senator SNOWE should be priority business because of the developments in the last week.

In the last week, it has become clear that the prescription drug measure passed last year—a measure I voted for—will cost over $130 billion more than was originally anticipated. So I think there was a strong case for the cost containment measures that Senator SNOWE and I are advocating today even before the developments of the last week.

But on the basis of what we have learned in the last week, I don't see how you can logically argue that Medicare should not have the same authority to bargain for seniors who need those prescription drugs that Members of Congress benefit from because of the Federal Employees Health Benefits Program that goes to bat for us.

So I am hopeful that this bipartisan legislation—which I believe is the first significant bipartisan health reform bill this Congress—will be considered quickly. Certainly the developments of the last week have given, in my view, new impetus for this legislation.

Our legislation is called the MEND Act, the Medicare Enhancements for Needed Drugs Act. It attacks the high prices seniors are facing in four major ways:

First, it leverages the market share of tens of millions of seniors into real bargaining power.

Second, it breaks down the barriers to reimportation of lower cost drugs.

Third, it makes Congress a watchdog against unfair price spikes.

Fourth, it creates real incentives for seniors to get the best prices for their medicine.

I think colleagues understand, having been home over the last few weeks, that there is tremendous concern with respect to this legislation. There is confusion about what it stands for. I think we have all heard that. But at the top of the list of concerns seniors are bringing to us is the question of what is being done to rein in these costs. It seems to me that with an opportunity to address this in a bipartisan way, which is what I have done with Senator SNOWE—we have been at this now for 5 years—the Congress could come together.

Now, if that is not done, it seems to me that given the developments of the last week, and the legislation costing $100 billion-plus more than anybody anticipated, we are going to see the frustration mount not just with seniors but with taxpayers across the country.

I am going to be talking about this legislation more in the days ahead. I am very pleased that the Senator from Colorado was kind enough to give me the opportunity to speak for a few minutes in the Chamber today. I am very pleased that, with Senator SNOWE, we have a bipartisan, commonsense proposal that can help America's seniors receive the prescription drugs they need.

Our legislation will give seniors a powerful one-two punch to fight back against high prescription drug prices. It will help seniors save money on every prescription and give the new Medicare benefit even more buying power.

Under our bipartisan bill, the Secretary of Health and Human Services could fight on behalf of seniors for lower drug prices and individual Medicare plans would actually have incentives for negotiating prices comparable to the VA.

Seniors should not have to underwrite tax breaks for companies that try to keep affordable, reimported drugs out of their hands. Today, drug companies get a dollar-for-dollar tax writeoff on their advertising, advertising that is helping, in my view, to drive up the cost of prescription medicine. In the last year for which we have figures, direct-to-consumer advertising cost $2.5 billion.

What we say in our bipartisan legislation is if the drug companies say no to affordable reimported drugs for seniors, then they are going to have to say no to the tax breaks that are paid for with seniors' tax dollars.

I hope in this session of Congress we will see an effort on a bipartisan basis to improve on the legislation that was passed last year. I voted for that bill last year. I still have the welts on my back to show for it. But I also came to the floor at that time and said I think the Congress can do better in terms of cost containment, not by setting price controls, not by some big Government regime that has the Government interfering in various kinds of areas where there is no appropriate role. But I said there is no logical reason why Medicare shouldn't have the same bargaining power to get a good price for seniors the Federal employee plan has for Members of Congress. Now there is a bipartisan proposal before the Senate that will get seniors a fair shake using marketplace forces.

I hope in the remaining days of this session, legislation can be acted on favorably. Senator SNOWE and I have worked as a bipartisan team for 5 years now in an effort to try to get this prescription drug issue right.

At the top of our seniors' concerns today is the need for better cost containment. We can do it with marketplace forces. The Senate now has bipartisan legislation that will do just that. I hope my colleagues will support it.

Again, I express my thanks to Senator ALLARD and look forward to working with him on the transportation bill as well.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank my colleague from Oregon for his comments. I, too, look forward to working with him on these transportation issues. We worked together on a number of issues throughout our careers. I always look forward to the cooperation he is willing to share in a bipartisan way.

While we are passing out some "atta boys," I want to again congratulate the chairman of the Environment and Public Works Committee for getting this bill to the floor. It was not easy. I know he worked all last year, and while most of us were on break, he was working hard trying to work out compromises so this legislation would be one of the first with which we would be dealing when we came back in for this particular session of the Congress.

Historically, transportation issues have not been partisan. Usually, it is approached in a bipartisan way. It is very complicated. Every State is affected differently. The bill has a highway transportation portion and a mass transit portion. Usually, there are some provisions, such as we saw this year, that come out of the Commerce Committee. The Finance Committee gets involved because there are some issues on how we are going to come up with the money that is required.

I also wish to compliment Chairman SHELBY. Chairman INHOFE is chairman of the Environment and Public Works Committee, and then we have Chairman SHELBY who is chairman of the Banking Committee. A major part of the mass transit provisions comes out of that committee. He has been working with the ranking member, Senator SARBANES. I am chairman of a subcommittee in the Banking Committee that deals with housing and transportation, so I have oversight over mass transit. I work with the ranking member, Senator REED of Rhode Island. They, too, spent a great deal of time working on this legislation, and I thank them for working in a bipartisan way to reach a consensus on this bill.

One of the issues we struggled with is how we are going to pay for what everybody wants in highway transportation and mass transit. It is something with which Congress has been struggling.

This bill came out of the Finance Committee, and they put in provisions. My concern is that we don't add to the deficit and we use those dollars that are available in the highway trust fund to finance transportation needs, particularly for highways.

The bill is a step in the right direction. It makes important steps in a number of areas. I come from a State that has experienced rapid growth. I know a lot of Members of the Senate who come from rural areas, particularly in the West and the South, have experienced similar growth rates in their particular States. So we all are challenged with the transportation problems that come with that rapid growth. One problem is mass transit.

Historically, most of the dollars in mass transit have gone to those States that have large metropolitan areas or directly to a large metropolitan area, such as New York, Los Angeles, or Chicago. But those of us who come from relatively small metropolitan areas but are showing a lot of growth have never had access to dollars that are required for us to begin to move forward with mass transit.

In the State of Colorado, Denver is our metropolitan area. It was very difficult at one point to access the dollars to start mass transit systems. There were provisions put in place when we had Chairman Alfonse D'Amato from New York. I worked with him to try and put together a formula for mass transit where the smaller States could begin to participate in some of the mass transit dollars. That originally got put in place when Alfonse D'Amato, who was from New York, was chairman of the committee. Like I said at the time when we were working with Chairman D'Amato, we don't want to take all the money for small States, but I think when we have more than 90 percent of the dollars in mass transit going just to 11 cities, that is not a good balance either. So we needed to work out a formula.

We worked out a formula where the smaller growing metropolitan areas in this country would have some additional access to mass transit money.

We continue to work on that provision in this bill. We are beginning to recognize the growth and the needs in many other communities throughout the United States and working to give them flexibility to approach their transportation problems with different perspectives. We give them as many alternatives as they possibly can select in trying to meet their transportation needs.

One area is using buses, what we call rapid transit buses. These are buses that have dedicated lanes on highways. In some areas, it is cheaper to put down roads and highways than it is to build rail. They use that and then use buses instead of mass transit. It has the advantage of additional flexibility because the bus doesn't have to stop at one particular station. I know my State of Colorado is looking at this as an alternative.

We have money in the section that came out of Banking to provide additional flexibility to the States and local communities so they can look at these various alternatives as to what they can afford. There is no getting around it; when you start putting in a fixed rail system, they are very expensive.

I am happy to report in my State of Colorado, we have a major construction project combining expanding highways with mass transit. That particular project has been under budget and is ahead of schedule. As a result of that, the State is developing a good reputation in that regard. We have tried to put incentives in this legislation that says to communities throughout the country if you begin to take on these projects, we have incentives where you can work on the project, and if you are responsible with the taxpayers' dollars and you are ahead of schedule and under budget, this is all good news, so we want to encourage that type of behavior.

That is so much of what we have been trying to accomplish in the mass transit section of the bill.

Highways, obviously, are important as far as rural transportation is concerned but also is bus service. In some isolated areas of this country, there are elderly people, and many rural communities are disproportionately impacted by again rural populations. So they need to have some other alternatives of being able to get to their doctor or being able to get down and around in their communities to take care of their vital needs. So we have provided some programs that begin to provide bus service for the rural communities.

Overall, I think there has been a little bit of shift, if one looks at this transportation bill, from large States to the smaller States and giving the smaller States some flexibility as far as the dollars. That is good because that is kind of what is happening with the population. There is a lot of population change. People are moving from the larger communities and going out into the smaller communities, and sometimes it has to do with the quality of life. They are going out in the smaller communities because they have smaller classes in the schools. They like the rural living. They like easier access without having to deal with traffic problems.

We need to keep this in mind. So there is a provision in there to help take care of some of these big issues. We figured out that about 40 percent of the counties in this country do not have any transit at all and they are looking at some ways of trying to meet the needs of their local citizens.

Overall, this package has some good in it. We just need to work out how we are going to pay for all of it.

The other thing I would mention is, the private sector plays a key role in all of this. We sort of leaned on the private sector to help provide the expertise, and we want to be sure they have an opportunity to get into public-private partnerships because it can benefit all parties. Many times if it can be opened to a free market approach, it holds down the cost of the project. If projects develop into monopolies where one company, one group of employees, or one community has such control, then we do not have the competition out there to hold down the cost of the project.

I am one who ordinarily believes that if costs for a project are to be held down, competition is the way to do it. Rules and regulations are passed, as well as having price controls. Basically, it is going to be competition that best serves the customers, whatever that transit project would happen to be, and also would be a process where we do not have an overburdensome bureaucracy which in itself does a lot to add to the cost of the project because of so much oversight.

So it is kind of a balance between where is the proper level of regulation so they can assure that things are done right but on the other hand hold down on the regulations so there are not unnecessary bureaucratic delays.

This is sort of a broad-brushed approach to our transportation needs. We began to recognize that there are lots of ways people can travel, and I think we have done that in this particular bill.

I want to talk a little bit more about my own State of Colorado and what is happening. If we look at the highway transportation funding formula, Colorado does well as far as the formula is concerned. This kind of chart sort of illustrates that. If we look at TEA–21, the 6-year average is $335 million available for Colorado in the previous 6 years, per year. TEA–21 is the highway transportation bill that was passed and its funding ended in 2003. Now we are on 2004. This is what we call SAFETEA. If we look at the funding there, we have $423 million in 2004 for Colorado. In 2008, it goes up to $505 million, but in the last year we have a real balloon that goes up to $603. Some people say: I do not know if it is going to be there.

Well, it is out there quite a ways, 6 years. In the last transportation bill we had, it was available for the State of Colorado. In the last transportation bill, they had flexibility that the States could use. There were some rather unique happenings in the Denver metropolitan area in trying to meet the transportation needs of the State as well as that metropolitan area. So for the State of Colorado it is about a 46-percent increase. All total, we are talking about 934.3 million new dollars over and above what was provided in TEA–21. If we want to spill those over into jobs, it is estimated that could create as much as 44,300 new job opportunities in the State of Colorado. So there is no doubt that if the infrastructure is worked on and it is done the right way, it can create a lot of opportunity in one's State. Certainly in the State of Colorado it is creating a lot of opportunity for us.

Now, when we talk about transportation issues in my State, there are a lot of things with which the local communities have to deal. Obviously, there are those who have to commute to work who want to get to work as fast as possible. There are those who say, look, we have air pollution problems and as a result of that we want to restrict the amount of driving that goes on. So maybe mass transit is one of the ways to do that.

The first large mass transit line that we put in the State of Colorado, in the Denver metro area, out toward what we would refer to as the southwest corridor, has helped hold down our air pollution. People are using that.

Some people say we spent a lot of money on mass transit but it does not get used. Well, at least as far as the Denver metro area, it is being used. In fact, it is being used to the point where it has exceeded the amount of revenue that anybody anticipated. The usage is much higher. There is so much demand to get on the train that one of the things that has become an issue is parking, where are people going to park around the various stations in order to be able to take the train to work.

So now this has been moved a step further. With the success of that train, they are taking the money and saying, OK, now we can expand it out to the major project they are doing now, which is between two major business centers. As far as Denver is concerned, it is going to help the economy a lot. So when done right, this can create a lot of opportunities in the various States.

Again, I would stress the importance of the provisions that we have in here that encourage local control, encourage accountability, encourage efficiency so public policymakers in one's State will ask: What is it that we can do that will allow this project to move forward, without unnecessary delays? Our communities will benefit if we can get these projects done under budget and ahead of schedule.

This is something I think every community should have the opportunity to strive for. As policymakers at the Federal level, it is something we need to begin to push.

Again, the issue we are all facing is how to pay for this. I know the Finance Committee struggled. We are still struggling with it. What is the proper funding level for mass transit? I think the key markers that the President and so many Members have talked about is that we have to make sure the money is money that does not come out of the general fund, that it stays with the—now I am talking about highways—gas tax, because the gas tax is an allocated stream of revenue that has gone to a special purpose, and that special purpose is to build roads and highways and meet the needs of this Nation.

We need to make sure we stay with that principle. Also, we want to make sure we do not begin to spend money on a bill, or through a bill, that is going to add to our Nation's deficit. Our deficits in this country are reaching historic highs, and we need to do something now to get deficit spending under control.

I think the Budget Committee and the Members of this body are beginning to treat that issue in a very serious way. So we still have some challenges ahead of us, as we move forward with this particular legislation.

I have a lot of confidence in Chairman INHOFE as well as Chairman SHELBY. I think they have the ability to shepherd this very controversial, very complicated piece of legislation through the process.

This is just one body. You have the House. They take a little different perspective on the highway transportation bill because they have districts they have to represent, and they don't look at it from a State view like those of us here in the Senate.

I don't like, in my State, to be putting in special projects because what happens with special projects is they take away the flexibility of the State. You are telling your State where they ought to be spending their money on certain projects. I think that ought to be left to the States.

For example, in the State of Colorado we have sort of a complicated process. We have a highway commission. They allocate. They make recommendations to the Governor and legislature. I don't feel comfortable as a policymaker here in Washington telling my Governor and the highway commission, people who know what is happening as far as their transportation needs, what should be done in the State of Colorado. So I try to avoid what is referred to as porkbarrel spending, where you earmark any particular projects in your particular State because I think that ought to be done in the State level.

In the Senate that has never been much of a problem. When you get to the House side, where Members have their own districts they have to worry about, sometimes they worry about not having adequate voice even at the State level for the district they represent, particularly if it is a rural area, because it gets run over by the masses in the metropolitan areas. So on the House side you will see more earmarking, but on the Senate side you don't see so much. If I talk to my colleagues I try to encourage them to stay away from earmarking projects.

I think the chairman on the Environment and Public Works Committee shares those views. He has done a good job of making this a responsible piece of legislation. We still have a few challenges ahead of us, but it has been a pleasure working with the chairman.

I see he has made it here to the floor. I don't see anybody else right now here who is interested in speaking, so without any more comment on anything.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I appreciate the efforts my colleague from Colorado has made on the committee all the way through, in addition to the transit portion of this bill. We have had a very cohesive committee in the time, well over a year, we have worked on this issue.

I would like to go through a few more sections here until someone appears, wanting to be recognized.

Arguably, this bill could be characterized as the most significant bill we will deal with in terms of how it affects so many people.

Regarding the Real-Time System Management Information Program, real-time information is the key to enhancing the operation and performance in the management of our transportation system. In drafting this legislation we adopted the ambitious and important goal of providing nationwide capability of real-time traffic and travel information. The more up-to-date information available to highway users, the better they are able to utilize the highway transportation system efficiently. The objectives of the Real-Time System Management Information Program include improving the security of the surface transportation system, addressing congestion problems, improving responses to weather events, and facilitating national and regional travel information.

As part of this real-time information program, States are required to establish a statewide incident reporting system within 2 years unless the Secretary grants a longer extension of time.

We try to recognize all the way through the bill what we don't want to do. Having been a mayor of a major city for four terms, I know what unfunded mandates are. That is something we don't want to be a part of, and we are not. We were sensitive to the problems of States and local governments so unique problems we cannot foresee at this time are taken care of with the discretion of the Secretary of Transportation.

Regarding future Interstate System routes, under current law, States have 12 years to construct National Highway System roads according to the standards of a highway on the Interstate System if they wish to designate the highway as a future Interstate System route. Recognizing the relative needs of the States and their respective abilities to meet these standards, this bill extends the current 12-year requirement to 25 years in order to give States more time to substantially complete the construction of highways designated as future Interstate System routes.

One of the problems, if we didn't do this, is that is making this a race to complete projects. The decision that programs should warrant more time, we feel, is going to end up being in everyone's benefit.

Stewardship and oversight is section 1802. Value engineering is another important stewardship tool for reducing the total cost of projects and improving their quality. Along these lines, States must annually certify the adequacy of their financial management systems and project delivery systems to meet all Federal requirements for financial integrity.

Accordingly, the Secretary is required to develop minimum standards for estimating project costs and to periodically evaluate the States' practices for estimating costs, awarding contracts, and reducing costs. States must apply a value engineering analysis during the design phase of all highway projects on the Federal aid system over $25 million and all bridge projects over $20 million to reduce the overall cost of the project and improve project quality.

Not only are States required to meet standards of financial integrity for federally funded projects, but they must also determine that subrecipients of those Federal dollars also have sufficient accounting controls and project delivery systems.

The bill also contains mechanisms to protect future Federal aid projects from fraud by mandating the debarment of contractors who have been convicted of fraud related to Federal aid highway or transit programs. It mandates the suspension of contractors who have been indicted for offenses relating to fraud.

This has become a problem because there is no mechanism set up to keep this from happening. We now will have the mechanism.

Section 1803 is design-build contracting. Under the current law, a design-build contract is defined as an agreement that provides for both the design and construction of a project. The goal of design-build contracting is to reduce costs by contracting out the design and construction of a project to a single contractor. At Senator CORNYN's request, the bill expands eligibility for design-build projects to include the design and construction of intermodal facilities.

Section 1804 is program efficiencies financing. To address certain program efficiencies in the area of financing, the bill revises current law by removing the existing restrictions that States must obligate all apportioned or allocated funds or demonstrate they will use all obligation authority allocated to it for a Federal aid highway or highway safety construction before advanced construction projects are approved. This revision clarifies that advance construction procedures can be used for all categories of Federal aid funds, and that when a project is converted at a regular Federal aid project, any available Federal aid funds may be used to convert the project.

The bill further removes the existing requirement that the Secretary first approve an application from the State before authorizing the payment of the Federal share of the cost of the project when additional funds are later apportioned or allocated to the State.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I will be speaking, for the next several moments, on leader time.

### DC SCHOOL CHOICE INCENTIVE ACT

Mr. President, very briefly, I will address two issues, the first relating to a bill we passed 2 weeks ago. In fact, 14 days ago—exactly 2 weeks ago—the Senate voted 65 to 28 to help liberate Washington, DC's schoolchildren from its worst performing public schools. The bill itself was called DC Choice. The "DC" is obviously the District of Columbia. And the "choice" really is right at the heart of empowering parents and families and schoolchildren to participate in the decisions that we know strike right at the heart of opening that American dream and giving hope to young schoolchildren here in the District.

DC Choice had weathered years of debate and even a veto by President Clinton, but finally DC Choice is on its way to the District's neediest public school children.

It was 2 weeks ago that we passed a bill that helps schoolchildren here in the District. Under the DC School Choice Incentive Act, the District will receive 40 million new dollars to support public schools and charter schools and choice scholarships. Indeed, nearly 2,000 District schoolchildren will now be able to receive federally funded opportunity scholarships to the tune of about $7,500 each in order to attend schools of their choice.

I take this opportunity to thank some of the people—I regard them as true leaders—who made this historic legislation happen.

First, I commend Senator DEWINE for his integrity and fairness in guiding the school choice debate. Senator DEWINE, as we all know, is a consummate gentleman and has been an invaluable ally in the cause of justice for the District's schoolchildren.

I also express my deep appreciation and respect for Senator JUDD GREGG. His passion for this issue, his dedication to this issue, his unflagging commitment to seeing that DC's children get the very best education possible, the best education we can offer, really is an inspiration to us all.

Senator FEINSTEIN also deserves tremendous praise for her leadership. Her devoted support for DC schoolchildren was critical in moving this legislation, this effort forward.

But in addition to our colleagues, none of this would have been possible without the leadership and courage of the city's elected leadership, people such as Mayor Anthony Williams. He has been sincere and tenacious throughout the discussion and the debate. He has again and again reflected his belief in and commitment to the District of Columbia's children. Over the last several weeks and months, he has shown extraordinary strength and determination in achieving that goal of giving children here in the District that hope for the future, that opportunity to succeed, to realize the American dream.

Others who have been instrumental in this effort—Cardinal McCarrick, Peggy Cooper Cafritz, Kevin Chavous, and Virginia Walden Ford—have demonstrated exemplary leadership in accomplishing passage of this legislation. They are, to me, true champions of the public good, and the District of Columbia is made better by their leadership.

I also thank Senate staffers Mary Dietrich, Sharon Soderstron, Townsend Lange McNitt, and Denzel McGuire for their hard work, their compassion, and their dedication to passage of this bill. They devoted long hours to this legislation.

Washington, DC, the District here, is blessed to have caring and committed citizens pressing for change. And with passage of this bill, change is coming soon to the District's classrooms.

Some colleagues—some in this body and others—have implied that they want to reverse this historic accomplishment. These individuals, I think, by doing so, by expressing they want to see the reversal of this historic accomplishment, at least imply to me tolerating the status quo. That simply is unacceptable—the status quo—where we do have too many failing schools here in the District, where we have frustrated parents who see their children locked in these failing schools.

We have kids here in the District, within blocks and miles of this Capitol Building, without hope, without ambitions, without dreams. We have an obligation to help reverse this hopelessness, and indeed that is exactly what this legislation does.

We no longer can keep this city's children in the shadows. It is time to help lift them up, lift them up to ours and their parents' and their families' highest expectations. Lifting the District's children out of illiteracy and educational poverty, putting the District's children on the path to academic excellence, is just too important. The District's leaders want it, the District's parents want it, and, most importantly, the District's children deserve it.

We can all expect intense scrutiny as this choice plan, which is now law of the land, unfolds. Critics, I know, are going to assail every perceived setback. But also expect the District of Columbia schoolchildren to prove them wrong. In cities such as Detroit and Milwaukee, where choice has been tried, choice has thrived. We see scores go up; we see educational gaps narrow; we see parents much more pleased, much happier with their children's schools; and we see that public support for school choice rises.

Choice in the District will succeed because it is based on the belief that achievement is for everyone and not just a privileged few; that if you open the door to opportunity, hard-working people are going to step through that door.

I am proud of everyone who made the D.C. educational choice happen. It begins with the parents, probably ends with the legislators, but also includes the elected officials and committed community leaders.

I am also proud of the District schoolchildren. Now, because of DC Choice, they are more likely to have that more cherished of American birthrights: a solid education, something we all know is the key to the American dream.

### MARRIAGE

Mr. President, I will take just a few minutes and comment on another issue, an issue that relates to the decision yesterday by the Massachusetts Supreme Court. By now we have all heard that, in the decision yesterday made by the Massachusetts Supreme Court, same-sex marriage is the law of that State according to the courts. Indeed, same-sex marriage licenses will be issued beginning May 17 in Massachusetts.

Same-sex couples from across the Nation will go to Massachusetts to get married. They will return to their home States—whether it be Tennessee or Alabama or Wyoming or Ohio, all 50 States—and I would think and assume that all of them would sue.

Some of our best legal minds conclude that courts will require recognition of same-sex marriage in every single State in the Nation.

Marriage should remain the union of a man and a woman. The evidence is overwhelming that children do best with a mother and a father. We are gambling with our future if we permit activist judges to redefine marriage for our whole society.

I want to be very clear: We reject intolerance. We reject hatred. We must treat all our fellow citizens with civility and kindness. But marriage should not be redefined by the courts, and we in this body cannot let it. We will not let it.

The U.S. Congress has codified this principle in the Defense of Marriage Act. It passed with 85 votes in the Senate and was signed by President Clinton in 1996. We must protect, preserve, and strengthen the institution of marriage against activist judges. If that means we must amend the Constitution, as it seems increasingly likely, then we will do just that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

### CUBA

Mr. BAUCUS. Mr. President, I would like to spend some time today talking about the issue of Cuba. This was an issue that the Senate spent a lot of time on last year, and I am here today to tell my colleagues we are just as committed this year.

Last year, as most Members know, we made tremendous progress toward eliminating the Cuba travel ban and easing the four-decade-old embargo. As part of the appropriations process last year, both the Senate and the House passed amendments overwhelmingly that would temporarily suspend enforcement of the Cuba travel ban.

I was, frankly, not only disappointed but outraged that this provision was taken out of the final omnibus bill. It should not have been, especially since the measure passed both bodies by very large margins. In stripping out that provision, the leadership broke the rules of Congress and defied the will of the majority of both Houses. That is simply undemocratic. It is wrong. It is not the way bills should be handled.

While disappointed, I emphasize today that the majority of us who favor ending this embargo will work hard this year to pass legislation, one way or another, through both bodies of the Congress, through conference, and on to the President's desk. Senators ENZI, DORGAN, and I have introduced legislation that would permanently end the travel ban. Last year, that legislation passed out of the Foreign Relations Committee by a vote of 13 to 5, a very large margin. The bill has 33 cosponsors and is now ready for floor consideration. I respectfully ask the majority and minority leaders to make floor time available to consider the legislation.

The fight to end the Cuba travel ban is not over. It has just begun. It is ironic that we finally face this moment at the same time that we are scrutinizing both the war on terrorism and the stretched Federal budget because enforcing the Cuba travel ban means the use of scarce Federal resources.

It is important for Senators to understand that the Cuba travel ban is enforced by the same Federal agency—the Office of Foreign Assets Control or OFAC—that also is charged with rooting out the sources of international terrorist financing and stopping the spread of weapons of mass destruction. Somewhere overseas, a massive international financial network routes millions of dollars to Osama bin Laden and other terrorists. Their access to dollars is their lifeline, their sole means of attacking our citizens and our soldiers. Rooting out this network and shutting it down is clearly one of our Nation's top priorities. Yet the very agency that is charged with this crucial task must divert valuable resources to enforce an absurd travel ban that a clear majority of Congress has already voted to terminate. It doesn't make any sense.

By its own estimate, OFAC diverts one-sixth of its employee resources to enforcing a silly travel ban. How can we justify diverting $1 of this limited budget, let alone one-sixth of our resources? Just as disturbing, late last week the Department of Homeland Security announced that it, too, would divert some of its resources to monitoring U.S. citizens who might have traveled to Cuba.

In a post-9/11 world, I do not understand the administration's priorities. I hope this year we can finally change this policy and the Senate will have a chance to fully debate the issue so we can finally make some sense out of the travel policy we do not have with Cuba.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. What is the matter now before the Senate? Is it the Dorgan amendment or the Gregg amendment?

The PRESIDING OFFICER. The matter before the Senate is the Shelby amendment.

Mr. REID. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MAD COW DISEASE

Mr. DASCHLE. Mr. President, I wanted to take a minute to come to the floor this afternoon to talk about the report issued yesterday by an international panel of experts that was convened by the Department of Agriculture to look at this whole issue of BSE, otherwise known as mad cow disease. They have, once again, announced—and publicly stated—what many of us have known for a long time, that there are still many outstanding questions about BSE.

I think the unfortunate fact about all of this is that the one question for which there isn't any doubt is the origin of the mad cow problem to date: one Canadian-born cow which cost a tremendous amount of market and value in the agricultural markets today. The one cow has shed an adverse light on American cattle producers in a way that is not only unfair but extraordinarily costly to every producer in the country today.

Just yesterday—yesterday—the cost per hundred in the Chicago Mercantile Exchange was $75. A couple of weeks ago, it was $118 per hundred. So we have seen a precipitous drop in the marketplace. Yet we still see a resistance on the part of many with regard to one simple effort that could change a great deal of confidence on the part of the American consumer—a change that has already been adopted by 43 other countries. Forty-three countries currently have country-of-origin labeling. We have been told by some of our exporting partners in some of those markets abroad that unless we implement country-of-origin labeling, we can forget about exporting our products to those countries. So we languish with tens of millions of dollars of product still on the water unable to unload in those markets, and unable to bring the product back to this country because we don't want to further jeopardize what fragile market there is.

We have—I do not recall now the exact figure—tens of millions of pounds worth hundreds of millions of dollars out there on ships unable to go anywhere in large measure because we continue to refuse to label the product. It is not just a question of consumer information, as important as that is.

I find it intriguing that today we label for content. We can tell you down to the last gram what is in a can or a package. We can tell you what the nutritional value is. We can tell you how many carbohydrates there are. We can tell what the calories are and the fat, but we can't tell you from what country it has come. It is a remarkable omission.

What is all the more remarkable is that there are those who actually argue that it would be an impractical requirement. We have already adjusted to content. We have adjusted to nutrition. But somehow it is impractical—and we are told almost impossible—for us to put country-of-origin label. I don't know anybody who honestly believes that, but there are those who profess that.

There is a reluctance on the part of the administration and a reluctance on the part of some in the Congress to recognize what I think is inevitable. One day we will have country-of-origin labeling. One day we will have the full advantage—I would say the patriotic advantage—of ensuring that we know we are eating American beef and agricultural products—one day. But that day should have been a year ago when we passed the farm bill. We gave them a year. They had until last September to implement it, and we have now been put on a 2-year delay.

But this international export issue, the consumer information issue, and the tremendous advantage in creating greater competence for producers alone ought to be arguments that the time has come for us to pass country-of-origin labeling without incumbrance.

For the life of me, I can't understand in this day and age, with all the facts on the side of those who argue in favor that there can still be the intransigence, that there can still be the reluctance and that there can still be the opposition from the administrations, the meatpackers, and some of our Republican colleagues in the House in particular. This is not a partisan issue in the Senate. There have been a number of Republican and Democratic Senators who have worked together to cosponsor legislation. An overwhelming number of Members have voted in favor—not once but twice so far. We have had ample debate. I must say I think the arguments get flimsier and flimsier.

The international panel that convened and looked at this situation once again offer us yet another illustration as to why it is important for us to do this now.

Let's pass country-of-origin labeling. Let's ensure that consumers have the same information as fellow consumers have in 43 other countries. Let's do for origin what we have already done for nutrition and for content.

We will continue to offer amendments. We will continue to make it the policy of this Senate, we will continue to ask for rollcall votes, and we will continue to keep the pressure on until this job is done. I think it is inexcusable and somewhat embarrassing that in this day and age with all the facts presented to us, as they now have been, that there could be any question. We need to get this job done—I think for good reason among producers and consumers alike. Patience is wearing thin.

Mr. DORGAN. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. I would be happy to yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, let me say that the Senator from South Dakota, Mr. DASCHLE, has been leading on this issue for some long, long while.

Country-of-origin labeling is a requirement under the law. We passed it. It is just that this administration and the U.S. Department of Agriculture doesn't want to implement country-of-origin labeling.

I held up a beefsteak by consent here on the floor of the Senate about 2 weeks ago, and I asked the question: Can anyone here tell me where this piece of beefsteak came from? Everyone can say where his necktie comes from. That is labeled. Just turn it over. But can anyone tell where a beefsteak comes from? Could it have come from the plant in Mexico where one USDA inspector showed up, and found diseased carcasses hanging, covered with feces, getting ready to be put in the meat supply for human consumption in the United States? Could it be from that plant?

After that USDA inspection, that plant changed its name, changed owner, the inspector has never been back, and that plant is certified now to ship into this country. The question was, did that beefsteak come from that plant, a plant from Guatemala, Canada, the United States? Where? No one knows.

I ask the Senator from South Dakota, can he tell me which special interest has fought so aggressively, so long, and so hard to try to prevent country-of-origin labeling and prevent consumers and farmers and ranchers from being able to understand where this meat comes from? Who has the administration listened to, in deciding not to implement current law?

Mr. DASCHLE. That is a very good question, and I must say I know the Senator from North Dakota certainly knows the answer, but for the record it is the packers. There is an amazing coalition on one side, over 160 consumer groups—agriculture groups, good government groups of all kinds, people who have said without equivocation, this is good law, it ought to be done—160-plus groups on one side, the packers on the other side. Guess who has sided with whom? The administration is saying, we have to listen to those packers.

The point made by the Senator from North Dakota is absolutely right. We have had a change of heart with regard to downer cattle in this country and it goes to the point the Senator from North Dakota is making. We had the picture of a British downer cow, crippled, sick, unhealthy, and that picture was portrayed over and over and over again. Rarely was it noted that downer cow was not from the United States, that was a British downer cow. But it left the perception there are downer cows in this country that were entering the meat system, sick cattle, diseased cattle entering the meat system. So that steak could have come from a downer cow, a diseased cow.

What happened? The administration rightfully said, we are going to ban downer cattle from the market. I applauded it when they did. Now they say, by and large, other countries are beginning to comply, as well. But we do not have any assurance that downer cattle are going to be prevented from entering our meat processing system even now. While we have the safest system in the world, we ought to be able to buy and eat and be confident about our beef products because we have such a safe system, wouldn't it be nice to know whether or not an imported product which potentially could be a product from a downer cow came from Canada or Mexico or some other country? Wouldn't it be nice to know we have that additional confidence that we are eating beef where downer cattle have been expressly prohibited?

That is what we are talking about, improving upon an already good meat safety system. That, too, is a good reason why country-of-origin labeling ought to be law today.

Mr. DORGAN. If the Senator would allow me to inquire further, the opposition to country-of-origin labeling, as the Senator indicated, comes from the big meat packing plants, the beef packing plants. Eighty percent of the beef packing is controlled by four companies. It is a case of big interests versus the rest.

The ranchers of South Dakota and North Dakota produce the best quality beef in the world. We know that. They know that. So the question is, why should the consumers not be able to have access to the information about where this beef comes from at the meat counter when they purchase the meat? Is it South Dakota beef, North Dakota beef, Guatemala beef, or Mexico beef?

I will read the specifics regarding the Mexican plant because it is important. I discussed this previously in the Senate. In 1999, in May, one inspector from this country paid a surprise visit to a meat packing plant in Mexico. He found "shanks and briskets contaminated with feces: disease condemned carcass was observed ready for boning and distribution into commerce." Then the Mexican officials took note, went to work to restore that plant's ability to sell meat in America. The Mexican plant regained the export license, it switched owners, it switched its name, and it now sells meat in America.

The question is, in South Dakota, when you buy a beefsteak, is it coming from a ranch in South Dakota? The consumers ought to have a right to know and ranchers and farmers want them to have that right. This Congress and this President ought to stand up for the interests of people out there farming and ranching in this country who demand this country-of-origin labeling become law.

Senator DASCHLE has led the fight for some years. I appreciate the fact today you said you will not quit. We will get this done. And whether it is forcing them to see the light or feel the heat, one way or the other, this administration has to stand aside and get out of the way and let us get this done for the American consumer.

Mr. DASCHLE. Mr. President, I reiterate my thanks to the Senator from North Dakota because he has been right alongside those fighting from the very first. I remember during the debate on the farm bill he was in the room as we began writing country-of-origin labeling. He was extremely helpful in ensuring we did the right thing in terms of the way the legislation initially was drafted. His point is well taken.

Today, we see an unusual phenomenon. It is not often producers and consumers merge, coalesce, and form the coalition they have in support of public policy. But in this case, it is one of those occurrences. One hundred and sixty organizations, consumers, producers, virtually every good government organization that cares about nutritional issues and agricultural issues, food and production issues, have joined together to say the time has come for us to do this. We have to do it now in light of BSE, in particular. Let's get this job done.

The international experts convened. They, too, said there are a lot of questions out there. We need to make sure we get the right answers to those questions. I am simply saying, as a result of yet another report, we have one more reason why country-of-origin labeling should be law today.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

STATE OF INTELLIGENCE

Mr. DORGAN. Mr. President, George Tenet gave a speech today at Georgetown that was profoundly disturbing to me and I want to visit about it for a moment.

I am not on the Senate Intelligence Committee. I am not someone who claims to have substantial knowledge or detailed knowledge about all of these issues. I spend a great deal of time concerned about economic issues and think I know something about some of those, but I do not pretend to be an expert in foreign policy or intelligence issues.

I, as have all of my colleagues, have sat in rooms with a label called "top secret" and listened to briefings, top-secret, classified briefings from Mr. Tenet, from the Vice President, from National Security Advisor Condoleezza Rice, from Secretary Powell, and others. I, like others, have watched what has happened in recent weeks with the testimony from David Kay in which he came to the Senate as a witness and said, look, we got it all wrong. We were all wrong about the intelligence with respect to Iraq.

I listened to David Kay describe his assessment of the intelligence system—again, this is the top weapons inspector, appointed by President Bush—and what he said was, this country got it all wrong. Its intelligence service got it all wrong. He said, they failed the President.

They did not just fail the President of the United States, if they failed. They failed the President and they failed those in Congress who they looked right in the eye as they gave top-secret briefings to us about their assessment of intelligence. They failed the American people, in my judgment. So this failure was much greater than just a failure to properly inform the President.

This country has an enormous stake in making sure we have an intelligence community that works, one we support, and one we are proud of. Why? Someplace this afternoon there are intelligence agents who are pouring over the thinnest of hints about what terrorists might be deciding to do to murder Americans, to attack an American city, to commit a terrorist act against our country, and we must rely on those intelligence agents and the intelligence community to understand it and to get it right, not to exaggerate it, not to misinterpret it, but to understand it and get it right. The safety and security of this country depends on it.

None of us wants the intelligence community to be held up in anything other than the highest esteem. I want to be able to say the intelligence community gets it and gets it right. But I cannot do that at the moment.

Something is wrong, and we must fix it. When the top weapons inspector comes to the Congress and says, look, the intelligence was all wrong, it failed the President, you don't need much more than that to understand somebody has to be accountable. We have to, posthaste, begin to fix that which failed us.

I have not heard of all of Mr. Tenet's presentation; I just heard the highlights a bit ago in which he was defending the CIA. But let me describe one of the reasons I found Mr. Tenet's remarks so distressing.

Last evening I happened to be watching something on "60 Minutes." They were interviewing a gentleman named Greg Thielmann. Mr. Thielmann had been in charge of analyzing Iraqi weapons threats for Secretary of State Colin Powell's Intelligence Bureau. He was the one who, after 25 years, became the Acting Director of the Office of Strategic Proliferation and Military Affairs. He was responsible, before he retired, for analyzing the Iraqi weapons threat.

He and his staff had the highest security clearances. They saw virtually everything, whether it came in to the CIA or the Defense Department. He was, by all accounts, admired by everyone, and had a long and distinguished career.

During the "60 Minutes" interview, Mr. Thielmann describes watching the February 5, 2003, presentation Secretary Powell made to the United Nations. He says at the time Secretary Powell made that presentation he was nonplused by what Secretary Powell was saying. He says what Powell was saying about a range of things was not at all in concert with the intelligence the State Department had. About the charge that Iraq was importing aluminum tubes to use in a program to build nuclear weapons—he said:

> This is one of the most disturbing parts of Secretary Powell's speech for us.

He is talking now of those who were part of the intelligence-gathering part of the State Department.

Intelligence agents intercepted the tubes in 2001, and the CIA said they were parts for a centrifuge to enrich uranium—fuel for an atom bomb. But they got information from the Oak Ridge National Laboratory—those are the scientists who enrich uranium for our bombs, our nuclear weapons—and the experts there advised that the tubes were all wrong for a bomb program and the aluminum, apparently, it turns out, after further inspection, was exactly what the Iraqis wanted for artillery.

So they sent the word up to Secretary Powell this is not about nuclear weapons, it is about artillery, and the fellow who is at the Oak Ridge Laboratory, Houston Wood, said:

> I guess I was angry, that's the best way to describe my emotions. I was angry at that.

Mr. Thielmann was talking now about Secretary Powell's speech to the United Nations. He said he found that the tubes could not be what the CIA thought they were. They were too heavy, three times too thick, and certain to leak.

The transcript says:

> "Wasn't going to work. They would have failed," says Wood. . . .

And they reached that conclusion in 2001.

They reported to Secretary Powell's office that they were confident the tubes were not for a nuclear program. And then nothing happened. About a year later, when the administration was building the case for the war, the tubes were resurrected on the front page of the New York Times. And Mr. Wood says:

> I thought when I read that there must be some other tubes that people were talking about. I just was flabbergasted that people were still pushing that those might be centrifuges.

The New York Times reported that senior administration officials insisted the tubes were for an atom bomb program.

Again, Mr. Wood, the expert from Oak Ridge Laboratories, says:

> Science was not pushing this forward. Scientists had made their determination, their evaluation, and now we didn't know what was happening.

The scientists had already said this cannot be for the development of nuclear weapons.

So in his United Nations speech, Secretary Powell acknowledged there was a disagreement about the aluminum tubes, but he said most experts agreed with the nuclear theory. Mr. Powell said:

> There is controversy about what these tubes are for. Most U.S. experts think they are intended to serve as rotors in centrifuges used to enrich uranium.

Most of the experts—nearly all of the experts—are at Oak Ridge. And Mr. Houston Wood, at Oak Ridge, claims he does not know anyone in academia or a foreign government who would disagree with his appraisal.

He said: I don't know a single person anywhere who believed that these aluminum tubes were for a nuclear program.

Now, I do not understand this. It appears to me that information was available that would have debunked several key portions. I have not talked about the alleged yellowcake purchase from Niger, which was in the President's State of the Union Address, which turned out to have been wrong, or the UAVs, the most sensitive of information, which turned out to be wrong.

Mr. Thielmann, who was, again, the top official at the State Department for the gathering of intelligence for presentation to Secretary Powell, talked about some of the slides Secretary Powell was using. He talked about the stockpile of between 100 and 500 tons of chemical weapons. He said part of the stockpile was clearly in these bunkers. He was showing slides:

> The four that are in red squares represent active chemical munitions bunkers. How do I know that, how can I say that? Let me give you a closer look.

Up close, Powell said you could see a truck for cleaning up chemical spills. It is a signature for a chemical bunker.

Quote:

> It's a decontamination vehicle in case something goes wrong.

But again, Mr. Thielmann, who is the top intelligence person who is providing information to Powell, said:

> My understanding is that these particular vehicles were simply fire trucks. You cannot really describe [that] as being a unique signature.

In fact, it is interesting, when the weapons inspectors showed up over there, that is what they discovered, it was firetrucks. And in other circumstances, that which was part of the slides shown, they were trucks with cobwebs in them and had not been used for a long while. There was no evidence of weapons of mass destruction.

So this is a "60 Minutes" presentation from the last evening, in which a top intelligence person, with all the clearances, having seen all the intelligence, says Secretary Powell, and others, would have had the intelligence to deal with these questions easily.

This debate is not about pulling Saddam Hussein out of a rat hole. Saddam Hussein was more than a rat. Saddam Hussein was an evil man who killed thousands, perhaps hundreds of thousands. It is the case our country has opened mass graves the size of football fields, and those graves contain the skeletons of thousands and thousands and thousands of Iraqis. The world is much better off because Saddam Hussein has been apprehended and no longer runs the country of Iraq.

But the question for this country—and it is an important question—is, when the call is made the next time—perhaps an hour from now, perhaps a month from now—to have our intelligence community make an accurate assessment, will they make an assessment that is accurate? Will they fail us? Will they fail the President? Will they fail our country? This is a very significant issue.

Mr. Tenet's speech today was not only defensive, but Mr. Tenet's speech failed, in my judgment, to acknowledge what the country has widely acknowledged, starting with David Kay and others, that the intelligence failed us with respect to Iraq. And that bothers me a great deal.

Now, I know there will be people who come to the floor of the Senate, and they will say none of this really matters. Saddam Hussein was a bad guy. He was; no question about that. But if you say that good intelligence does not matter, then don't sleep very well tonight because terrorists want to commit terrorist acts in this country. Terrorists want to kill people in this country. The only way we are going to make certain we protect this country is through good, strong intelligence.

I worry a great deal about an intelligence community that does not seem to be accountable, does not get it right, and no one cares. The President ought to be furious about what is happening. The Congress ought to be apoplectic about what is happening. Both should demand on an urgent basis a complete, thorough review of what went wrong and how to fix it—not tomorrow, not yesterday, but right now. I don't see that urgency at all. What I see is the President finally getting pushed and nudged the last couple days, saying: I will put together an independent commission that can investigate intelligence, only under pressure.

Then we have people who come to the floor and say: There is no problem here. Saddam Hussein was a bad guy found in a rat hole. It is better that he is in jail.

Every single one of us—Republicans, Democrats, the White House, and the Congress, and especially the American people—must rely on a strong system of intelligence that gets it right to protect this country's long-term security. To the extent that, as David Kay indicated, it failed and to the extent that, as so many others have testified, circumstance after circumstance that was alleged was not accurate, and to the extent now that Mr. Tenet continues today to seem to believe all was well and all those who are critical are somehow just plain wrong, America is weakened for that.

We will strengthen ourselves when we understand we must rely on good intelligence. And if we have not received good intelligence, we must fix that system now. It must be done posthaste. It must be job one. There is an urgency for us to take action now to make certain the next intelligence assessment, perhaps an hour from now, to try to protect this country will be an assessment that is accurate and one upon which we can rely.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to respond to a few of the comments our colleague from North Dakota has just made. I begin with the proposition that it does help to have been on the Senate Intelligence Committee or to be a member of the committee today to conduct a more thoughtful, reasoned discussion of this debate than has generally been characterized by the media accounts.

People in the media tend to try to capsulize everything in an attention-grabbing headline way when in fact intelligence is a very complex, difficult proposition that needs to be handled and approached in the most cautious and careful manner.

I think it is important for those people who have been on the committee or, as the Senator from Missouri sitting next to me noted, currently just received briefings as a member of the committee—it is important for them to be able to respond when comments have been made such as those just concluded.

David Kay did not say we got it all wrong. I invite anyone who would like to bring to this floor a quotation from David Kay that says "we got it all wrong" to do so. He did not say that. I know that is what opponents of the Bush administration wish he had said, but he didn't say that. Let me quote to you some of the things he did say.

He was asked a question by Senator MCCAIN testifying before the House Armed Services Committee:

> You agree with the fundamental principle here that what we did was justified and enhanced the security of the United States and the world by removing Saddam Hussein from power?

David Kay:

> Absolutely.

But then Senator KENNEDY asked a question that kind of got to some of the points our colleague from North Dakota just made. He asked:

> Many of us feel that the evidence so far leads only to one conclusion: that what has happened was more than a failure of intelligence, it was the result of manipulation of the intelligence to justify a decision to go to war.

David Kay:

> All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to WMD.

That is exactly the conclusion that other Members of this body articulated. I won't quote names, but I remember several of my colleagues, including a Member on the other side of the aisle, saying pretty much the same thing.

President Clinton said almost exactly the same thing. In fact, in 1998, we overwhelmingly passed a resolution in this body authorizing President Clinton to take action to remove the

Saddam Hussein regime in Iraq precisely because of this. The intelligence that existed then, that existed before then, and that existed before our most recent conflict with Iraq all verified what David Kay said was true.

So far from saying that we got it all wrong, David Kay is saying we were perfectly justified in taking the action we took. Part of getting it all wrong would have been the information that we had regarding the violations of the U.N. resolutions. What did David Kay think about that?

He said:

> In my judgment, based on the work that has been done to this point of the Iraq Survey Group, and in fact, that I reported to you in October, Iraq was in clear violation of the terms of Resolution 1441. Resolution 1441 required that Iraq report all of its activities: one last chance to come clean about what it had. We have discovered hundreds of cases, based on both documents, physical evidence and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441, with Iraqi testimony that not only did they not tell the U.N. about this, they were instructed not to do it and they hid the material.
>
> Iraq was in clear and material violation of 1441. They maintained programs and activities, and they certainly had the intentions at a point to resume their program. So there was a lot they wanted to hide because it showed what they were doing was illegal. I hope we find even more evidence of that.

This is what David Kay actually said. One of the arguments made was that, somehow or other, the CIA and our intelligence community were pressured by the Bush administration to somehow modify the intelligence to suit their nefarious purposes, the implication being that the administration wanted to go to war and needed to somehow manipulate the intelligence to reach that conclusion.

Here is what David Kay said about that:

> And let me take one of the explanations most commonly given: Analysts were pressured to reach conclusions that would fit the political agenda of one or another administration. I deeply think that is a wrong explanation. And never—not in a single case—was the explanation, "I was pressured to do this." The explanation was, very often, "The limited data we had led one to reasonably conclude this. I now see that there's another explanation for it." And each case was different, but the conversations were sufficiently in depth and our relationship was sufficiently frank that I'm convinced that, at least to the analysts I dealt with, I did not come across a single one that felt it had been, in the military term, "inappropriate command influence" that led them to take that position.

Some people in saying, well, maybe we didn't get it all wrong, but what was the real state of intelligence here and did it comport with what we thought we knew—I thought the colloquy between Senator McCAIN and David Kay at this hearing was most interesting.

Senator McCAIN:

> Saddam Hussein developed and used weapons of mass destruction; true?

David Kay:

> Absolutely.

Parenthetically, I would note, this is not an answer from a man who is saying we got it all wrong because, remember, the allegation had been that Saddam Hussein had developed and used weapons of mass destruction. So he didn't say: We got it all wrong. He said: Absolutely.

Senator McCAIN then:

> He used them against the Iranians and the Kurds; just yes or no.

David Kay:

> Oh, yes.

Senator McCAIN:

> OK. And U.N. inspectors found enormous quantities of banned chemical and biological weapons in Iraq in the '90s?

David Kay:

> Yes, sir.

Senator McCAIN:

> We know that Saddam Hussein had once a very active nuclear program.

David Kay:

> Yes.

Senator McCAIN:

> And he realized and had ambitions to develop and use weapons of mass destruction.

David Kay:

> Clearly.

Senator McCAIN:

> So the point is, if he were in power today, there is no doubt that he would harbor ambitions for the development and use of weapons of mass destruction. Is there any doubt in your mind?

David Kay:

> There's absolutely no doubt. And I think I've said that, Senator.

There is one final thing I would like to talk about that David Kay actually said. Senator CLINTON asked him a question at that hearing as follows:

> I think that rightly does raise questions that we should be examining about whether or not the U.N. inspection process pursuant to 1441 might not also have worked without the loss of life that we have confronted both among our own young men and women, as well as Iraqis.

David Kay:

> Well, Senator Clinton, let me just add to that. We have had a number of Iraqis who have come forward and said, "We did not tell the U.N. about what we were hiding, nor would we have told the U.N. because we would run the risk of our own"—I think we have learned things that no U.N. inspector would have ever learned given the terror regime of Saddam and the tremendous personal consequences that scientists had to run by speaking the truth. That's not to say, and it's not incompatible with the fact that inspections accomplish a great deal in holding a program down. And that's where the surprise is. In holding the program down, in keeping it from break out, I think the record is better than we would have anticipated. I don't think the record is necessarily better than we thought with regard to getting the final truth, because of the power of the terrorist state that Saddam Hussein had.

The bottom line is that David Kay recognizes that, while the U.N. inspectors found certain things, the inspections that he performed were even more helpful because of the pressure that the Iraqis had been under when Saddam Hussein was in power. But what David Kay said—if you read all of the rest of the testimony—was basically this: There are many things we found about Saddam Hussein's weapons program. We even found some weapons, and we talked to a lot of Iraqis who told us that he had every intention of reinitiating the programs once the sanctions were lifted. Everything was in place for him to do that.

The thing that puzzled David Kay is that we had not found the stocks of chemical weapons, primarily. We knew that he had artillery shells, some of which were filled with chemical agents, and others that could be filled with chemical agents, and that he had large stocks of those agents, as well as some biological agents.

How do we know that is true? Because the Iraqis admitted that and the U.N. inspectors confirmed it. He admitted it in 1998. He never explained what happened to those stocks thereafter.

Now, one would think that when he admits that he has the stuff—and we know that he used that same kind of weapon before—that if he doesn't prove to us that he got rid of it—in fact, he offers no explanation about where it is—you have to assume that he hasn't. It would be imprudent to assume otherwise.

So to suggest that David Kay came back and said, no, we got it all wrong, that is wrong. What he puzzles about was why we had not found this stock of artillery shells.

Before the military activity was taken, all of the Senators were invited every day at 9 o'clock to go to the secure area of the Capitol to visit with the general and CIA people who briefed us on the status of the war. Every morning, if colleagues will remember, one of the things they briefed us on was how close our troops were getting to the red line—that line around Baghdad—where we had information that artillery with chemical shells could be lobbed against our soldiers. We did everything we could to stop that. We bombed warehouses of artillery, and we were trying to take out the command and control that would issue the orders. We dropped millions of leaflets on the military commanders of the Iraqis, saying they would be war criminals if they carried out orders to fire those artillery shells against our troops.

We were surprised when we took the Baghdad Airport and they had not fired the artillery shells. We thought they were going to use them. We went to a lot of trouble to take them out. Maybe we took them out. Maybe we ruined their plan with command and control. Maybe they had gotten rid of them by then. Maybe they buried them or sent them to Syria.

Secretary Rumsfeld testified yesterday that there are about five different scenarios that could explain why we have not found the artillery shells so far. David Kay says he is not sure we will ever find them, or that they existed on the day we went to war against Iraq. Maybe they had been destroyed, although you would wonder why Saddam Hussein didn't tell anybody about it. Maybe they were sent to other countries or maybe they were given to terrorists. That would be a terrible thing, but we don't know.

Obviously, we had no evidence that they no longer existed. At one time, they existed. So it is far from David Kay saying we got it all wrong; he is saying that we got it all right, except—and I am paraphrasing here—for the fact that we cannot explain what happened to those weapons, and he wonders whether they existed when we went to war.

What does George Tenet have to say about it? Our colleague says that George Tenet's comments were defensive. Maybe they were a little defensive. If you have been the subject of attack for several weeks about how you got it all wrong, you would be defensive, too.

I found his speech today to be a very interesting presentation, a careful presentation about what, in fact, we knew, why we knew it, and why it would not have been prudent for us not to take action on it. I thought this to be particularly interesting.

One of the things that he said was:

> To understand a difficult topic like Iraq takes patience and care. Unfortunately, you rarely hear a patient, careful, or thoughtful discussion of intelligence these days. But these times demand it because the alternative—politicized, haphazard evaluation, without the benefit of time and facts—may well result in an intelligence community that is damaged and a country that is more at risk.

I don't find that defensive. Rather, I find it an attempt to try to put this discussion into a thoughtful, careful way of analyzing where we were right and where we were wrong, and how to make sure we are as right as possible in the future. He went on to say:

> By definition, intelligence deals with the unclear, the unknown, the deliberately hidden. What the enemies of the United States hope to deny, we work to reveal. The question being asked about Iraq in the starkest terms is, were we right or were we wrong? In the intelligence business, you are almost never completely wrong or completely right.

He goes on to detail the information we had about the missile program of the Iraqis. I would like to say to colleagues, with respect to the missile program, it appears that we got it right. He talks about what we thought we knew, what he told the President we thought we knew, and what we believe is the case of our military actions. And with respect to their efforts to develop missiles that were in violation of U.N. resolutions, they appear to have gotten that pretty well right.

His conclusion on that was this, and I will quote it:

> My provisional bottom line on the missiles: We were generally on target.

He says that because he urges us to consider the fact that there is still a great deal of information left to be discovered in Iraq. They are nowhere near complete in their effort to try to find what Saddam Hussein had and to analyze how dangerous it was.

With respect to that general proposition, I want to quote this:

> And to come to conclusions before the war other than those we reached, we would have had to ignore all the intelligence gathered from multiple sources after 1998.

He detailed many here. He said:

> My provisional bottom line on missiles: We were generally on target.

Regarding the unmanned aerial vehicles, he said:

> My provisional bottom line today: We detected the development of prohibited and undeclared unmanned aerial vehicles. But the jury is still out on whether Iraq intended to use its newer, smaller, unmanned aerial vehicle to deliver biological weapons.

With regard to nuclear weapons, he said:

> My provisional bottom line today: Saddam did not have a nuclear weapon, he still wanted one, and Iraq intended to reconstitute a nuclear program at some point. We have not yet found clear evidence that dual-use items Iraq sought were for nuclear reconstitution. We do not yet know if any reconstitution efforts had begun. But we may have overestimated the progress Saddam was making.

That is in contrast to what he said before the first gulf war when he noted that that colored the way they approached their analysis with respect to his nuclear program.

Then, with respect to a biological program, he said:

> My provisional bottom line today: Iraq intended to develop biological weapons. Clearly, research and development work was underway that would have permitted a rapid shift to agent production if seed stocks were available. But we do not yet know if production took place. And just as clearly, we have not yet found biological weapons.

Finally, with regard to the chemical weapons, he said:

> My provisional bottom line today: Saddam had the intent and capability to quickly convert civilian industry to chemical weapons production. However, we have not yet found the weapons we expected.

I will quote a little more on this point:

> I have now given you my provisional bottom lines, but it is important to remember that estimates are not written in a vacuum. Let me tell you some of what was going on in the fall of 2002.

He proceeds to detail several kinds of sources that came to the attention of the intelligence community, sources which provided information which no rational intelligence leader would have ignored: Saddam Hussein calling together his nuclear weapons committee—I am not going to go into all of this detail. He quotes, "A stream of reporting from a different sensitive source" that caused the intelligence community to advise the President, the Vice President, and others that they believed Saddam Hussein was actively trying to pursue these programs.

He said:

> So what do I think about all of this today? Based on an assessment of the data we collected over the past 10 years, it would have been difficult for analysts to come to any different conclusions than the ones we reached in October of 2002.

That is what George Tenet said. You can say he is being defensive. I say it is important for George Tenet to speak out and to explain to the American people how difficult it is to get intelligence, what we thought we knew at the time, what he advised our leaders of, what we think we know today.

He also noted the fact they have instituted efforts internally to try to discover why they didn't know things perhaps they should have known, how they can do it better in the future.

When you combine that with what David Kay said about the fact there was no evidence that our leadership in any way pressured our intelligence community to come to different conclusions, you have to stand up to the people who gathered this intelligence and presented it to the leaders. They maybe didn't get it all right, but they did their best. And with respect to our leadership, there is no reason to believe they didn't treat this information with the utmost of seriousness and honesty; that they presented it to the American people, exactly as George Tenet said today. They presented it in an honest way and that it would have been irresponsible of them to have acted any differently, to have presented it any differently given the information that had been presented to them.

I think that had the President, knowing what he now knows and all of this would eventually come out even though a lot of it is classified information, if the President had not taken action and, God forbid, something had happened, a lot of people on the Senate floor, in the Senate, around the country, and certainly pundits would be saying: Why did President Bush ignore these warnings? Why did he ignore what the intelligence community came up with?

There are some people who are saying that with respect to the attack of 9/11 when the President had virtually nothing, in fact, when we had obviously no reason to believe that on September 11 there would be an attack from the airliners that would be used by the al-Qaida terrorists, and yet with virtually nothing to go on, people are saying the President should have known and done something about it.

With all of the evidence we had about Saddam Hussein and all of the evidence with regard to Iraq, to have ignored that would have been absolutely irresponsible. My colleagues who are criticizing him today for acting would then be criticizing him for not acting, I believe.

In a political season, you are darned if you do and darned if you don't. We understand that. But I think it is important, as George Tenet asked us to do, especially for those of us in the Senate, especially those of us who served on the Intelligence Committee, to urge people to approach this subject from a sober, careful, nonpoliticized point of view because lives are at stake.

We make decisions and the executive branch and military make decisions based upon our intelligence. We have to make sure that the way we restructure intelligence, the funding decisions that we make, and the other things we do are not based upon quick judgments, on political judgments certainly, but rather are based upon a calm analysis, a reflection based upon perspective and certainly an understanding of the difficulties that the intelligence community faces.

When you do all of that, I think you can come to no other conclusion than what David Kay came to, that George Tenet said, the President, the Vice President, Secretary Powell, before the United Nations, that there was a problem here that could not be ignored.

It would be absolutely wrong for anybody to suggest today that we got it all wrong and that for some reason that is President Bush's fault and certainly not for anyone to suggest that somehow or another our leadership misled the American people in order to go to war. That would be the absolute height of irresponsibility. No President, Republican or Democrat, I can think of would ever do such a thing.

I am disappointed that some—and I am not referring to anybody in this body at this point—that some people would actually suggest that would be the case. But when we talk about the intelligence the way it has been discussed here today, it leads to that kind of conclusion. I think that is unfortunate.

I urge all of my colleagues to try to discuss this in a relatively impassioned way, a carefully constructive way so working together we can craft the kind of policies that will provide for our security in the future, protection of the American people, and certainly the protection of the people we send into harm's way to protect us.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague's admonition in using care in discussing this issue is admirable. Care is exactly what we ought to use when we evaluate what has happened and not happened.

My colleague, incidentally, has just made the point that there was intelligence that suggested that Iraq posed a threat. And that was exactly my point. That is exactly the intelligence that was represented to this body and to the House and to the American people. But it turns out the intelligence, the specific intelligence, that was presented was wrong.

My colleague also, at the start of his presentation, defied anyone to show him a quote from Mr. Kay that said he was wrong or we were wrong. I will do that. My colleague will likely want to then revise his remarks. My hope is he might do that.

Here is the front cover of Newsweek this week. Mr. David Kay—and this is in quotes—says:

> We were all wrong.

I will go to the inside on page 27, again a direct quote of Mr. Kay:

> It turns out we were all wrong probably in my judgment.

This is testimony before the Armed Services Committee. On a third point, in the fourth paragraph of his prepared testimony given before the Armed Services Committee, quoting David Kay:

> Let me begin by saying we were almost all wrong.

My colleague challenged someone to come up with a quote. There are three of them, and my hope is the record might at least stand on direct quotes that are presented here before a committee of the Senate.

If one dare whisper these days—just whisper—about these issues, it is perceived as a frontal assault against the President of the United States. That is sheer, utter nonsense.

The question before this body and this country, in my judgment, is if the top weapons inspector appointed by this President goes to Iraq and comes back to us and says that body of intelligence that was given us, given our country, given our Congress before we went into Iraq was all wrong, we have an obligation to address that issue, not later, but now. We have an obligation not to try to protect someone in the administration or in Congress. We have an obligation to protect the American people not later, but now.

I am not on the Intelligence Committee. I have deep admiration for all who do serve, Republicans and Democrats. But I would hope, just as one Member of the Senate, that the most significant energy in this body to follow where this string leads and try to determine what is wrong, what happened, what persuades Mr. Kay to come and say, "It turns out we were all wrong," I would expect my colleagues on the Intelligence Committee, without respect of politics, just to follow that string to find out what on Earth happened and how do we fix it immediately.

To suggest that somehow that we ought not worry about this, that invading Iraq was fine because Saddam Hussein was an evil man, just changes the subject. Sure he was an evil man. We found him in a rathole. He was a rat in a rathole. He is a killer, a murderer. The world is better off because he doesn't lead Iraq. That is not the question.

The question is what trust, what confidence do we have in this country's system of intelligence today? Our intelligence system needs to pore over information about chatter, about satellite photos, about raw intelligence to determine who might be planning an attack tonight on an American city, who might be designing right now to kill Americans. I want that intelligence community to get it right. I want it to be the finest intelligence community in the world. I am sorry that I say Mr. Tenet is defensive. I am sorry to have to say that I think he got it wrong. But David Kay says it and others say it.

All of us in this Chamber depend on our intelligence community. We spend a great deal of money on it. I want the finest we can possibly have protecting this country. If anyone believes our intelligence community got it all right, did just fine, then they ought to sleep like a baby—go to sleep early and sleep late and have a great night's sleep. But if they believe, as Mr. Kay does—and, yes, that is what he believes. I have quoted three different occasions where he said we got it wrong, and if someone believes, as many respected foreign policy thinkers and intelligence thinkers do believe, that there is something wrong, something significantly wrong that we need to address, then we ought to join together, Republicans and Democrats, and not worry about who might be criticized, just decide we are going to fix it. That is our job.

It is not our job to protect the Senate, to protect the President. It is our job to protect this country. I worry a great deal about what is going on. My colleague went far afield and made a defense of the Iraq resolution. Well, a good many of us in the Senate and in the Congress voted for that resolution. Now we discover Mr. Kay suggests the intelligence got it all wrong, the basis for that resolution got it all wrong.

Mr. KYL. Will my colleague yield for one moment on that?

Mr. DORGAN. I would be happy to yield.

Mr. KYL. I really do appreciate that. I think what the Senator referred to and what he read was that Mr. Kay said: We all got it wrong. But he did not say: We got it all wrong.

Mr. DORGAN. Reclaiming my time.

Mr. KYL. Go right ahead and read that again. That is the distinction I would make. We did get one thing wrong. We cannot find the weapons.

Mr. DORGAN. With due respect, and I have great affection for my colleague from Arizona, he has it wrong. Let me read from the fourth paragraph of Mr. Kay's testimony given to the Senate Armed Services Committee: "Let me begin by saying we were almost all wrong."

Now, this is not about parsing words. It is Mr. Kay saying: Look, the intelligence was wrong.

I say to my colleague from Arizona, my point is not about the President, it is not about the Vice President, it is not about Condoleezza Rice or Secretary Powell or Mr. Tenet. It is about whether this country is well served by the current intelligence community. Do they have it right or not? If they got it wrong, as many suggest they have, and it is pretty hard to make the case they got it right, then what do we do about it?

Mr. BOND. Mr. President, will my colleague yield for two quick questions?

Mr. DORGAN. I would be happy to yield for one question and then another.

Mr. BOND. Well, the most important question and I know this is a very important debate—the Senator from Maine was hoping to speak on the bill and I wondered how much longer the Senator from North Dakota was going to speak.

Mr. DORGAN. Well, I do not have a gauge on the tank. In fact, I barely came to the Senate expecting to speak for 5 minutes and then the Senator from Arizona piqued my interest and I decided I had to go find some quotes and respond to his presentation. I know the Senator from Maine has been here awhile, and I will not be much longer.

Mr. BOND. If the Senator will yield for one additional question.

Mr. DORGAN. I would be happy to yield.

Mr. BOND. Does the Senator realize all the rest of the Intelligence Committee is in S-407 receiving a 300-page report compiled over 8 months by the entire staff of the Intelligence Committee, after over a couple of hundred interviews and reviewing tens of thousands of documents, which goes right to this question and which we in the committee will be working on and trying to present either in classified or we hope mostly unclassified material so we can carry on this debate? Is the Senator aware that the reason there are not members of the Intelligence Committee here is that they are getting that information right now? Is the Senator aware of that?

Mr. DORGAN. Mr. President, I am aware of that. I might say I have high hopes that that study, which has been underway for some long while, will be helpful to us. I must say also that there is a portion of the study that is a black hole. The study that is going on up there and will be released deals only with the gathering of intelligence, which I think shortchanges this Senate and the American people, because it does not deal with the use of that intelligence. But we can deal with the issue of the use of intelligence at another time. I wish it had been done in the same report.

Again, this issue of intelligence is critical to this country's protection and security interests. I believe that is something on which we would agree. We share that understanding, and my hope is that up in 407—the Senator from Missouri refers to a room in the Capitol Building that is a room where the Intelligence Committee meets. It is a room where top secret briefings are given. One of the things that persuaded me to come to the floor this afternoon is I have sat in that room. I have sat in that room with a neon sign that says "top secret" up on top flashing, and I have had the very people who developed this intelligence assessment look me in the eye and give me information that I now know to be wrong. That bothers me a lot.

I do not know how that happened. I do not know whether it was just bad collection of data, bad interpretation of data, or misuse of data. I do not have the foggiest idea, but I am saying this, that as one Senator I have been sitting in that room, I have asked direct questions, and I have had people look me in the eye and give me an answer that I now know to be wrong. I think most Senators who have had that experience are concerned about it.

I say to the Senator from Missouri, because I do not know whether he heard me say it, I have great admiration for those who serve on the Intelligence Committee. I do not serve there. I do not profess to be an expert in intelligence or foreign policy, but all of us have an obligation to be as informed as possible about all of these issues.

I expect the most aggressive Members of this Senate, following the trail of where this leads, to be those who serve on the Intelligence Committee. If Mr. Kay truly believes we got it all wrong, quote, unquote, then I would expect the Intelligence Committee to lead the way in finding out why that happened and how we get to a point where we never have that assessment again when it comes to this country's vital national interests.

Again, my colleague from Maine has been patient and I would not have spoken at this length except that I was intrigued and interested by my colleague from Arizona.

So I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I will take less than 1 minute, because I do not want to excite my friend any further, to say that all of us on the Intelligence Committee not only share the commitment to getting to the bottom of what went on, but we also know that David Kay said it was absolutely right and prudent to go into Iraq because it was more dangerous than we knew in certain areas. I hope the report we issue will answer questions that I and the other members of the Intelligence Committee have raised and that all Members of this body ought to be raising, and that we will provide some recommendations for curing the problems we find.

I hope now we can turn back to the SAFETEA bill, S. 1072, which is very important. I appreciate the patience of the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senate begins consideration of the transportation legislation, let me first commend the distinguished managers of this bill, Senator INHOFE, Senator BOND, Senator JEFFORDS, and Senator REID for their efforts to bring this vital 6-year reauthorization bill to the Senate floor. I particularly wish to recognize the efforts of Senator BOND. He has been a tireless champion of improving the transportation infrastructure in this country. He has worked night and day to craft a well-balanced bill. I hope we can move forward in considering this bill without undue delay.

This legislation would be very beneficial for the people of Maine and for our national economy. Nationwide, our transportation system is the lifeblood of economic development, the catalyst for the creation of thousands of jobs. Our transportation system affects our competitiveness, both within the United States and competing internationally.

For our economy to prosper, we need an integrated modern transportation system that realizes our goal of cost-effective and efficient modes of transportation while also recognizing the need for continued progress in improving the quality of our air. That is why I have not only supported funding for our highways and our bridges, but also I have advocated increased Federal funding for mass transit, for passenger rail initiatives, and alternative means of transportation as well.

In a large rural State such as Maine, an effective transportation network is absolutely essential. Maine has 1.3 million people spread out across roughly 34,000 square miles. Our State has by far the lowest population density in all of New England. Consequently, continuing to upgrade and improve our roads, highways, and bridges is essential to Maine's future prosperity. It is also a vital part of the economic strategies in our State that are aimed at increasing job opportunities for all of our citizens.

It is my hope that the Federal funding that is included in this legislation will support a strong partnership with the States that will allow us to build, repair, and maintain our surface transportation system into the 21st century.

The bill would also allow us to pursue some high priority transportation projects over the next 6 years. For example, as a native of Aroostook County in northern Maine, I understand how important it is to construct a north-south highway, a modern limited access highway through Aroostook County. This project has been in the works for more than 20 years. The interstate, when it was first constructed, for some reason stopped at Houlton, ME, rather than going through Aroostook County to the Canadian border. For that reason there have been economic development projects underway for some time, calling on us to construct a north-south highway to the Canadian border.

This project has been funded through the preconstruction stages and is currently undergoing the necessary review to complete the required environmental impact statement.

Northern Maine desperately needs the transportation and safety improvements such a highway would bring. For this reason I have made it my top transportation priority since being elected to the Senate in 1996. I hope the higher funding levels authorized by this legislation will enable the State of Maine to continue moving this vitally important project forward to the construction phase.

Just as I believe that the Aroostook highway project is critical for the transportation system and the economy of northern Maine, I also believe that an east-west highway, potentially running from the maritime provinces in Canada through eastern, central, and western Maine, to Quebec and northern New York State would significantly boost economic growth, job creation, and development throughout the entire region. This is an important transportation project, not only for that region of Maine but also for our Canadian neighbors.

Maine, like many other States in the Northeast, is facing an aging transportation infrastructure. It requires maintenance, rehabilitation, and in some cases outright replacement. The most urgent example of this problem is the Waldo-Hancock Bridge, a major suspension bridge that carries U.S. Route 1 over the Penobscot River, south of Bangor, and acts as a gateway to downeast Maine, one of the State's most widely visited regions.

The nearest alternative for crossing the Penobscot River is some 20 miles away in Bangor, and any interruption in the service would thus require a detour of at least 40 miles.

Unfortunately, due to safety concerns, last summer the State Department of Transportation had to lower the weight limits for vehicles using this bridge. The condition of the bridge has been declining steadily for a number of years, and despite efforts by the State to rehabilitate the existing structure, it has now become evident that the bridge must be replaced as soon as possible.

While providing States with adequate funding to move forward with high priority projects such as the east-west highway, the Hancock-Waldo bridge, and the Aroostook highway, as well as the funding of other more routine highway and transit projects as a major focus of this legislation, I also see this bill as an opportunity to address some important transportation safety issues. The most pressing transportation safety issue in my State has to do with Federal truck weight limits.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from the border of Maine with New Hampshire, to Augusta, our capital city. At that point, right before Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds north to Houlton. Heavy trucks are forced onto smaller, secondary roads that pass through our cities, our towns, and our villages.

Augusta is an example of the problems this creates. When the trucks leave the interstate, they frequently travel down Western Avenue to encounter two heavily traveled traffic circles. These traffic circles have some of the highest accident rates in our State, and having these large, heavy trucks travel through the congestion of Western Avenue, around these two traffic circles and then continue on secondary roads poses a serious safety threat.

A uniform truck weight of 100,000 pounds on all of Interstate 95 in Maine would reduce highway miles and travel times necessary to economically and efficiently transport freight throughout Maine that would result in both economic and environmental benefits.

Moreover, Maine's extensive network of State and local roads would be better preserved without the wear and tear of heavy truck traffic. But most importantly, as I indicated with my example of the traffic circles in Augusta, ME, a uniform truck weight limit on the interstate would keep trucks on the interstate, which is designed to handle heavy trucks. That is where they belong rather than on the roads and highways that pass through Maine's cities, towns, and neighborhoods.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are diverted from the interstate and onto local roads.

Senator SNOWE and I have an initiative to deal with this issue. We hope to work closely with the managers of the bill to address this very important traffic safety issue.

With 3,400 miles of coastline and 14 inhabited islands, there is another very important feature of transportation that affects my constituents. The Federal Highway Administration's Ferry Boat Discretionary Program is vitally important to the Maine State Ferry Service and the Casco Bay Island's Transit District, which provide critical transportation services to Maine's island communities. I have joined with my colleague, Senator MURRAY, and a bipartisan group of Senators in sponsoring the Ferry Transportation Enhancement Act, which would significantly increase funding that is available for ferry projects. We hope to pursue this proposal as the debate on this important legislation continues.

While this highway reauthorization legislation includes funding for traditional transportation programs, I am also pleased that it includes increased funding for both transportation enhancements and the Recreational Trails Program. Both have allowed States to greatly expand their bicycle path systems.

In Maine, for example, 94 bicycle paths and pedestrian walkways have been built with funding from these special programs.

I also believe that it is in our national interest to pursue and strengthen passenger rail services in the United States and to help maintain the solvency of Amtrak, even as we put reforms in place. Currently, there is no long-term stable funding source for passenger rail in the United States. Since 1971, when Amtrak was created, $25 billion has been spent on passenger rail. This contrasts sharply with the $750 billion that has been invested in our highways and aviation.

As the Senate moves forward in considering a wide range of transportation issues and funding questions in this vital bill, I look forward to working with all of my colleagues to make sure we pursue the goal of ensuring that our roads, our highways, and bridges are able to meet the needs of our citizens and commerce as we move forward in the 21st century.

Thank you, Mr. President. I yield the floor.

Mr. DODD. Mr. President, I rise in support of the transit amendment to the highway funding bill.

As a member of the Banking Committee, I commend Chairman SHELBY, Senator SARBANES, and their staffs for their hard work and their willingness to reach consensus on this important measure.

I also commend members of the Finance Committee for also discharging their duty to fully finance the transit spending authorized in the budget. Our Democratic leader, who also sits as a member of that committee, was particularly helpful in that regard.

The legislation passed yesterday by the Banking Committee was no easy achievement. The members of the Banking Committee have different transit needs for their States. There are some Senators on the Banking Committee from mostly rural States, others from States with largely urban centers, and others whose States have a combination of both.

The transit title, which was unanimously approved yesterday in the Banking Committee, goes a long way toward balancing these needs. Although this legislation is not perfect, it does come close to achieving a national transit policy, which is a goal I believe was not achieved in the highway funding portion of the bill.

The transit bill has a number of important provisions:

It provides $56.5 billion for mass transit over the next six years. This amount is a significant investment for the future. I am hopeful that more progress can be made to increase assistance for those regions that rely heavily on mass transit but whose aging infrastructure needs repair and modernization.

If anybody were to deny that a problem exists in this regard, I would urge them to read an article which appeared in yesterday's Stamford Advocate entitled "Metro-North Struggles To Keep Cars in Service." It describes how a combination of cold weather and aging railcars has knocked one-third of the aging New Haven Line out of service for several weeks.

In fact, about 37 percent of the New Haven Line is out of service for maintenance. The Metro-North Line has lost 230 out of its 800-car fleet for repairs. Thousands of commuters in Connecticut rely on this service to get to and from work, travel to and from school, and to see their families.

The legislation devotes significant resources to the Job Access as well as the Elderly and Disabled transit programs, which have been successful in providing transportation services to many of the most vulnerable members of society. Such transportation services enable low-income individuals, as well as senior citizens and the disabled, to have access to jobs, education, and training, which ultimately fosters self-sufficiency and improves their quality of life.

The transit title also includes funds to small communities with significant transit infrastructure that currently do not qualify under existing formula programs. Many cities in Connecticut and throughout the region could benefit from this program.

Finally, I am pleased that the transit amendment includes language I authorized to promote the establishment of medical access programs. Many Americans lack transportation services to take them to the hospital to see a doctor, get medication, or undergo dialysis.

Often their only choice is to call an ambulance, even if it is not truly a medical emergency, because such services are reimbursed under Medicare. By encouraging community transit systems to establish medical access programs, we can reduce costs to Medicare while serving as a lifeline to those Americans in need of health care.

I am hopeful that more progress can be made to increase our investments in mass transit. I am grateful to Chairman SHELBY and Senator SARBANES for listening to other Senator's concerns throughout this process, and I look forward to working with them as this legislation moves forward.

I as unanimous consent to print the article to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Stamford Advocate, Feb. 4, 2004.]

### METRO-NORTH STRUGGLES TO KEEP CARS IN SERVICE

(By Katherine Didriksen)

Metro-North Railroad is bracing for another bout of wintry weather today while it struggles to fix widespread equipment problems caused by recent bitter cold and drifting snow.

The railroad has been unable to run a regular schedule during peak morning and evening hours for several weeks as more than one-third of its aging New Haven Line fleet has been knocked out of service.

"(The railcars) are just dying faster than we can fix them," Metro-North spokeswoman Marjorie Anders said. "It's cumulative."

Heavy electrical components, including traction motors and motor alternators, are particularly hard-hit by extreme cold and dusty snow, she said.

Trains have had decent on-time performance despite the car shortages, but customers will face standing-room-only conditions all week, Anders said.

Metro-North has lost 230 railcars out of its 800-car fleet to repairs. The railroad reached a high of 217 disabled railcars on Jan. 21. On the New Haven Line, 126 of 342 railcars, or about 37 percent, are out of service for maintenance.

On an average day, 50 to 60 cars are out of service for maintenance, Federal Railroad Administration-mandated inspections or major repairs, said Harry Harris, chief of the Connecticut Department of Transportation's bureau of public transportation.

"You never run 100 percent of your fleet. You can expect to have about 18 percent out for one reason or another," he said. "When you start reaching 80, 90, 100 cars, you are cutting in substantially to the fleet."

Today's forecasted wintry mix offers the railroad little time for repairs and presents other challenges. Cold and freezing rain causes problems with equipment on the ground, including track switches, Anders said.

Trains on the New Haven Line will continue to run under a speed restriction overnight to reduce stress on the overhead catenary wires that become brittle and taut in the cold, she said.

"It's getting pretty bleak," said Jim Cameron, vice chairman of the Metro-North-Shoreline East Rail Commuter Council. "They absolutely are desperate for capacity now."

Commuters are getting increasingly angry and upset, he said.

"My frustration is that they still don't understand the enormity of the situation or who's at fault," Cameron said. "Commuters don't like being kept in the dark, and they don't like being lied to."

The lack of communication lies on Hartford's shoulders, rather than on the railroad or the state DOT, he said.

Extreme weather is exacerbated by the state's aging equipment. The bulk of the New Haven Line fleet was commissioned in 1973—an average train lifespan is about 20 years—and the catenary wire system was built in the early 1900s.

"It's a real challenge to keep all this equipment going," Harris said. Repairs are complicated by a lack of maintenance space and replacement parts, he said.

Connecticut also hosts the only commuter railroad service that runs a dual-powered system of third-rail and overhead catenary wires, Harris said. A new car that fits the dual-powered system has a price tag of $1.5 million, he said.

"There is no quick solution, barring some kind of an economic miracle," Harris said. Commuters are not likely to see funds for new railcars until 2006, he said.

In the meantime, Metro-North and the state DOT are merely looking to survive the winter.

"The worst-case scenario is no service," Anders said. "We're not even close to that."

The railroad alerted passengers to the following timetable alterations through Monday: In the morning rush hour, the 6:42 a.m. train from New Haven, due in Stamford at 7:30 a.m. and arriving at Grand Central at 8:18 a.m.; and the 7:37 a.m. train out of Port Chester, N.Y., due in Grand Central at 8:20 a.m., are canceled.

During the evening rush hour, many trains departing Grand Central will be combined or canceled:

The 4:11 p.m. train from Grand Central to South Norwalk and the 4:16 p.m. train to New Haven are combined, departing at 4:16 p.m.

The 4:49 p.m. train from Grand Central to New Haven will terminate at Stamford. Customers for stations east of Stamford must take the 5:01 p.m. train. Darien passengers must take the 5:04 p.m. train to Danbury.

The 5:09 p.m. train from Stamford to New Canaan and the 5:26 p.m. train to New Canaan are combined, departing at 5:26 p.m.

The 5:23 p.m. train from Grand Central to Bridgeport and the 5:28 p.m. train to South Norwalk are combined, departing at 5:28 p.m.

The 5:44 p.m. train from Grand Central to Bridgeport and the 5:49 p.m. train to South Norwalk are combined, departing at 5:49 p.m.

The 6:37 p.m. train from Grand Central to Harrison, N.Y., and the 6:40 p.m. train to Stamford are combined, departing at 6:40 p.m.

The 7:07 p.m. train from Grand Central to Harrison and the 7:10 p.m. train to Stamford are combined, departing at 7:10 p.m.

For additional information, customers can consult www.mta.info.

Ms. MURKOWSKI. Mr. President, I appreciate the opportunity to say a few words about the highway bill. This legislation is of immense importance not only to my State of Alaska, but to the Nation as a whole. It is unlikely that this Congress will do anything of greater importance for our economy.

We all know that if our economy is our strength, transportation is our circulatory system. Without it, we cannot function. And make no mistake, we are not keeping up with the task.

Thirty-two percent of our major roads are in poor condition. Twenty-nine percent of our bridges need replacement or repair. Urban rail and bus systems are in equally poor shape.

According to the Department of Transportation, we should be spending over $100 billion per year on highways and over $20 billion per year on transit. But we cannot do that. We are constrained by reality. The components of the Senate bill will approximate only half that amount.

That is deeply disappointing to the Nation's 12,500 road construction contractors, and it is deeply disappointing to all our States and to their municipal governments, and to all our constituents.

We do not live in a perfect world. And given that reality, our job is to pass the best bill we can possibly pass.

It was no easy task to develop the bill before us today. We owe a tremendous debt of gratitude to the leaders of the Environment and Public Works Committee for their efforts, and to the leaders of the other committees necessary to make this bill a reality. No one could have worked harder and longer than Senator INHOFE, Senator JEFFORDS, Senator BOND and Senator REID.

Is this a perfect bill? No, indeed. There are many things I would like to see changed. For example, I strongly agree with the comments made by Senator VOINOVICH about the need for additional streamlining so that projects can get off the ground faster.

For my own State, I would like to see greater flexibility in a number of areas. I would also like to see greater recognition given to the fact that my State is far behind all the others in road miles, and that lack is holding back not only our economy but limiting our ability to contribute to the Nation as a whole. This bill does not address that fact to satisfaction.

By the same token, I understand that many of the donor States want to see more of their highway fuel tax dollars returned to them, and returned faster. I cannot blame them. At the same time, I want to remind my colleagues of this very important fact: This bill is not about my roads or your roads. This bill is about our roads.

We are all in this together. Let's not forget that fact.

The bill before us will increase every State's minimum guarantee to the 95 percent level they have long sought. And it will ensure that every State will see a significant increase in real dollars, an average increase of over 35 percent.

We cannot afford not to move forward.

In the last decade, travel on the Nation's highways increased almost 30 percent. By 2020, projections indicate travel will increase by another 50 percent. Those number don't just indicate a need; they demand a response. They demand that we move forward on this bill.

I yield the floor.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 1072 is the pending business.

### AMENDMENT NO. 2269 WITHDRAWN

Mr. SHELBY. Mr. President, I think I have an amendment pending.

The PRESIDING OFFICER. Amendment No. 2269 is pending.

Mr. SHELBY. Mr. President, I ask unanimous consent that I be allowed to withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I understand that if I ask that the amendments be set aside so I can send an amendment to the desk and ask for its immediate consideration, there is an objection to that; is that correct?

The PRESIDING OFFICER. There has not yet been an objection.

Mr. VOINOVICH. I did not hear the Chair.

The PRESIDING OFFICER. There is not yet an objection.

Mr. INHOFE. If the Senator will yield, it is my understanding that there will be an objection.

Mr. VOINOVICH. Mr. President, it is unfortunate that we have an objection to further amendments so that we can't set aside some of those that have been here and we are not making the kind of progress I think we should be making on this bill and that some in this body will not allow us to make progress and consider a germane amendment that has broad support. What I am going to do is file the amendment and hopefully get to it in due course.

Two days ago, I came to the floor to express my support for this bill. I praised the managers for their work in putting this compromise together. I said that the bipartisan spirit of this bill led me to believe we could actually get something accomplished, which is contrary to the predictions of many people for this session of Congress. I even borrowed from one of my models when I was Governor: Together we can do it. And together we can. We can get this bill passed if we have enough folks who are willing to compromise and understand there is an enormous need to deal with the infrastructure problems and challenges of our country and also understand the need for the jobs this bill will create in our respective States.

Today and yesterday we have seen, however, that some do not want to work in a bipartisan manner and pass this bill which will put hard-working Americans back to work and jumpstart our sluggish economy, particularly in States such as Ohio. This is the case even though 75 Members voted to invoke cloture and proceed to the bill. Sadly, until this logjam is broken, we can't even make progress on issues of broad agreement.

Regardless of these difficulties, I am pleased to announce that this amendment represents an agreement reached by the transportation community and the historic preservation community. I greatly appreciate the work of the many groups that worked on this amendment, including the National Trust for Historic Preservation, Preservation Action, the American Association of State Highway and Transportation Officials. I commend the Ohio Department of Transportation, especially Gordon Proctor, Tim Hill, and Michelle Holdgreve, for their tireless effort. They have worked very hard with us on this amendment. The hard work by all these interested groups have led to this carefully crafted compromise amendment that I believe will go a long way in expediting the time and decreasing the cost of transportation construction projects.

This amendment addresses section 4(f). Section 4(f) of the Department of Transportation Act of 1966 prohibits the Department of Transportation from approving any highway project that uses publicly owned land or a historic site of national, State, or local significance, unless, one, there is no prudent and feasible alternative that avoids such resources or causes less harm to them, and, two, the project includes all possible planning to minimize harm to those resources.

If publicly owned land or a historic site is chosen for use in the project, an evaluation must demonstrate that the use of other alternatives would have resulted in unique problems. "Unique problems" are present when there are truly unusual factors, or when the costs to the community's disruption reach "extraordinary magnitude." This test was introduced in Citizens to Preserve Overton Park v. Volpe, referred to as the "Overton Park criteria."

Section 4(f) was developed in the late 1960s to address a real problem. Construction of the Interstate Highway System was at its peak, and these projects took the path of least resistance, which, in many cases, was parkland because it was easy to acquire and cheap to build through.

The passage of section 4(f) was intended to protect parks and historic sites that could be adversely impacted by construction of the Interstate System. We all understand that. That makes sense.

Today, however, highway projects are more likely to involve maintenance and modernization of the current system. The problem is that section 4(f), which basically prohibits all use of protected resources, is difficult to apply to projects that would have some, but not significant, impact on a protected resource. Yet this law has never been amended since its creation almost 40 years ago. We need to address our attention to that.

When highway projects have resulted in litigation, section 4(f) has been a frequent cause. Moreover, inconsistent interpretation of the Overton criteria has been identified as one need for changes in section 4(f) to allow for a more balanced interpretation of its requirements. One of the reasons for this litigation is the subjective terms used in the law: "prudent and feasible," "all possible planning to minimize harm," "unique problems," and "extraordinary magnitude."

I will tell you, these provisions are a lawyer's dream and a nightmare for the courts that have to interpret it and the States and U.S. Department of Transportation, which has to enforce the law. The result has been needless confusion, significant delays, and high cost for issues that defy common sense. What we are talking about here is common sense.

In my State of Ohio, for example, a privately owned barn was considered eligible for the National Register of Historic Places. It was in the path of a needed road improvement. Let me clarify that the barn was eligible because it was more than 50 years old. Soon, we won't be able to do any improvements because sidewalks will be 50 years old in this country. After considerable delay, needless studies, and significantly increased costs, a decision was made to avoid the barn. The road improvement was rerouted and the barn protected. This is the barn in this photo that we were protecting because it was over 50 years old. Look at that.

The cost to reroute this was $100,000 and 4 months of delay. Anybody who knows about highway projects knows that for every day of delay, it costs money. Time is money. However, the barn fell down due to owner neglect a few years later.

The point is that, while transportation planners have to do all they can to protect something that is "eligible" for the register, the private owner of the place, or even another Federal agency, can destroy it without sanction. That just doesn't make any sense.

Section 4(f) was enacted in 1966, 37 years ago. It only applies to the U.S. Department of Transportation, not any other Federal agencies. It is an extremely stringent law that has been interpreted by the courts, as they say, in vastly different ways.

While it was created with good intentions and at a time when the law was arguably needed, U.S. DOT and State departments of transportation have become good stewards of the environment.

One of the things that happens in Washington is we give no credit at all to State organizations or local organizations, in terms of their concern about the environment. So often, we think we are the only ones who really care about the environment.

Section 4(f) requirements have been identified by State departments of transportation as a significant deterrent to timely environmental reviews of transportation projects. The requirements to avoid section 4(f) resources applies in all cases, even when the impact is minor, resulting in situations in which a minor historic property is protected at the expense of other more sensitive environmental resources or communities.

In April of 2003, the General Accounting Office reported the transportation stakeholders consider section 4(f) reviews as burdensome and inflexible and that alternative approaches could protect historic properties and take less time to reach resolution.

In that report, a large majority of the stakeholders indicated that historic property protections under section 106 of the National Historic Preservation Act of 1966 offered a more flexible mediation process. This law requires that Federal agencies consider the effect of properties either in or eligible to be in the National Register of Historic Places. It brings all parties into the discussion and allows for better outcomes that preserve the goals of the transportation project, while protecting historic properties. This concept is included in this compromise amendment.

We are using something with which people are familiar. It worked in other places and it can work in terms of highway construction.

Currently, section 4(f) does not provide exceptions for impacts with no adverse affect or even a beneficial effect. For example, in Ohio, a new highway project adjacent to a publicly owned golf course was being constructed, and the golf course asked if work could be performed to alleviate persistent flooding. However, the work would have required a section 4(f) study. As a result, the work wasn't performed and the golf course still floods to this day just because of this 4(f).

In more extreme cases, projects with very minor impacts on protected sites have had to be realigned at high social, environmental, and economic costs. The peculiarities of the law led to well-documented, unintended consequences.

The confusion over existing law and problems with delays has led to several attempts at remedies. AASHTO, the organization that represents all 50 State transportation departments, voted unanimously to reform section 4(f).

Section 4(f) is also one of the highest priorities of our own U.S. Department of Transportation, which proposed changes to section 4(f) in its surface transportation reauthorization proposal, SAFETEA, which is what we worked off when this bill was being put together.

This amendment remedies many of the problems with section 4(f). While many groups would have preferred greater reform, the final text is a compromise that satisfies major stakeholders in this debate. Again, this was a compromise between a lot of groups, including transportation, environmental, and historic preservation groups.

Specifically, the amendment states that section 4(f) requirements are satisfied if the Secretary makes a finding of de minimis impact to a protected site. For historic sites, such a finding occurs if the project has no adverse effect on a historic site and there is written concurrence from the State or tribal historic preservation officer.

So we go through this process, and it is looked at as de minimis and has to be signed off by the people who care.

For parks, recreation areas, and wildlife and waterfowl refuges, such a finding only occurs if the project will not adversely affect the activities, features, or attributes of the resource, and there is written concurrence from the officials with jurisdiction over the resource. The amendment also requires public notice—the public knows all about this; there is nothing under the table—and public comment on the process. So we vet this decision so everybody knows what is going on.

What is good about this amendment is it allows for better community outcomes. This amendment would require the Secretary, when making a finding of de minimis impact, to consider all "avoidance, minimization, mitigation, and enhancement measures" that have been incorporated into the project. The language serves an important function: It builds in an incentive for projects' sponsors to incorporate environmentally protective measures into a project from the beginning, in order to support a finding of de minimis impact. Otherwise, the resource would be avoided and the project would move forward without providing any of the associated benefits to the community.

In addition, the amendment requires the Secretary to promulgate new regulations to determine standards to define whether avoiding a protected resource is prudent and feasible.

The purpose of this amendment is to achieve greater clarity and consistency with regard to the application of the Overton Park standard in a variety of circumstances. Let me provide some examples of problems with the section 4(f). I have already done one. Let's look at others.

In Pennsylvania, the State department of transportation had to make a highway improvement. This project required that one of two farms near each other be sacrificed. One of them was an inactive farm eligible for the registry that was barely maintained and its owner lived out of State. The second was a working farm owned by a man and his two sons who were actively working the land.

The owner of the second farm intended to pass the land down to the family to continue the farming operation. Section 4(f) forced the State department of transportation to demolish the nonhistoric farm, even though it was actively being farmed and planned to be part of the family's livelihood for years to come. In the end, the historic farm was bought and developed.

This is ridiculous. Section 4(f) led to the destruction of both farms. It forced the officials to go against a hard-working family for a rundown farm that happened to be 50 years old. And then this law couldn't even protect it from being developed.

This amendment would at least have allowed the State preservation officer to make a balanced decision considering all of the information and alternatives.

Another good example comes from our neighboring State of Kentucky. A farmhouse and a farm was deemed historic. As a result of the project development process, the best alignment for a four-lane highway was found to be through the property and would separate the historic house from the rest of the farmstead. However, through coordination with historic preservation groups, the highway was realigned so that it would cross in front of the house, impacting only a small strip of land at the front edge of the property.

Everyone involved thought it was great. Then came section 4(f). Section 4(f) required total avoidance of this historic farmhouse. The result was less desirable, more costly, and required the acquisition and removal of a home that was not historic.

In the end, the family whose home was to be relocated bought the historic house from the contractor, tore down the old house, and relocated their modern house where the historic house had stood.

Let's think about this. This is a picture of the historic house. What happened was, they wanted to take a little piece of this property, but oh, no, under section 4(f), you can't do that. Oh, no. So they went across the street to a house more modern and said: We are going to take your property. These people had to relocate their house. They relocated their house. Do you know where they relocated it? They tore the old house down and relocated the modern house to where the old house was located.

That is the kind of result we get from section 4(f). It is understandable that this needs to be changed.

This is a compromise amendment that has broad support and will correct a problem that has plagued State and local officials for nearly 40 years. It is time for this inflexible and outdated law to be fixed.

I congratulate all involved on this work. Again, historic preservation groups came together and said: This is crazy; let's see if we can work something out. And they did it.

I think it is unfortunate this amendment will not be considered today. As I said, it has broad support.

I wish to say one other thing about the highway bill. There is no question that there is an overwhelming need for this legislation. In fact, if you look at the needs that have been projected by the Department of Transportation, the amount of money we are spending doesn't meet the need, but it is a reasonable compromise to start to address forthrightly some of the problems I have in Ohio, you may have in Texas, Mr. President, or the chief sponsor may have in Oklahoma, and around this country.

It also provides needed jobs for people in our respective States. To my knowledge, this is going to be the only jobs bill to come out of this Congress at this time. Those jobs are needed.

I was talking with some of my colleagues the other day and they said: It is not needed and there are no projects out there ready to go. I would like to say that in my State we have $164 million of work that, if the money were there, could start tomorrow. It could start tomorrow.

The economy in my State is not doing too well. We are getting killed because of manufacturing. We need this bill. There was a great conservative President of the United States named Ronald Reagan. He is on the altar and worshipped by conservatives all across America. He was a real conservative, a real fiscal conservative. In 1983, unemployment was up. I remember because I was mayor of the city of Cleveland. People needed work. Ronald Reagan, in his wisdom, saw a need out in the country. He went to Congress and asked for the emergency jobs bill. That bill extended unemployment benefits. That bill provided moneys to cities and counties.

When I was mayor, we were really hurting. It provided us $12 million for public works so I could put people to work. It provided $6 million to Cuyahoga County. That was Ronald Reagan, a fiscal conservative, a man of compassion. He reached out, saw these people on the unemployment line, saw that jobs were needed. He also understood that we had some real infrastructure needs in this country, and on April 1 of 1983, Ronald Reagan said: I don't want to borrow the money; I don't want to borrow the money to provide more money for highways, and suggested and got the Congress to agree to increase the gas tax by 5 cents.

It seems to me that some of my colleagues—and I consider myself a conservative—ought to look at the reality of all of this. I suggest to our administration, our President, who is compassionate, and his advisers, that they ought to also look at the needs we have.

I went along with a grant to Iraq because I wanted to rebuild their infrastructure, and we are borrowing that money. We are borrowing a lot of money for a lot of purposes. I think Senator GRASSLEY and the Finance Committee have tried to come up with some reasonable ways of paying for this bill and some offsets. Some people may nitpick it, but the fact is, they did genuinely try to do something about it.

Everyone who is concerned about it ought to look at this realistically. This is a very modest, responsible proposal that deals with great infrastructure needs in this country.

I come from a just-in-time State, and our roads and bridges are in bad shape. I come from a State where we have thousands of people who lose their lives because our roads are not what we want them to be—route 24, particularly. So we have these needs. This is not porkbarrel. We have real needs.

On top of that, the frosting on the cake is we need the jobs. I am hoping that the Holy Spirit will enlighten our President and his advisers and Members on my side of the aisle and on the other side of the aisle to do something good for America and get on with this bill, get it passed, and get the money on the street so we can put some people to work and get on with our infrastructure needs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have some remarks in conjunction with the statement of Senator VOINOVICH. I will yield to the Senator from Florida as soon as I make a couple of comments.

Mr. President, I rise to speak in favor of the amendment offered by my colleague from Ohio, Senate VOINOVICH. First, I thank him for working so hard on this very important issue. I know this issue has been controversial, and I appreciate his dedication to working out a compromise. Senate VOINOVICH's amendment adds much-needed reforms to a provision in current law commonly referred to as section 4(f) review.

Section 4(f) was approved by Congress as part of the Department of

Transportation Act of 1966 to protect public parks, recreation areas, wildlife and waterfowl refuges, and public and private historic sites.

It is important to protect our historic treasures and environmental and recreational resources. Our Government has invested money in establishing and maintaining these resources for the public's use. We should not allow another department to turn around and diminish those investments without good reason.

Unfortunately, court decisions have led to an interpretation of "avoid at all costs." In addition to adding significant time delays caused by extensive study of alternatives, this interpretation has led to some really bad public policy decisions—decisions that defy common sense.

For instance, does it make sense to spend a hundred thousand dollars to shift an alignment in order to avoid an old, abandoned, dilapidated barn? I don't think so, but it has happened. Should private citizens lose parts of their front yards to road expansion so that we can save the supposed parkland between the current road and the ditch that runs alongside it? I don't think so, but it has happened.

Those are just a couple of examples of where section 4(f) is obviously broken and desperately needs to be fixed. I am pleased that Senator VOINOVICH has brought us such a fix.

The State of Oklahoma DOT is pleased with this language. Our folks who actually deal with this issue on a regular basis believe this will help them make better decisions with less delay.

I think this amendment represents good policy all the way around—transportation officials will be able to make commonsense decisions, particularly when it comes to projects that will have minimal impacts, and we can all be assured that these important environmental and cultural resources are protected.

It is my understanding that this language was developed by a wide range of stakeholders, including Ohio DOT, AASHTO, the National Trust for Historic Preservation, Defenders of Wildlife, Environmental Defense and the Natural Resources Defense Council. I commend Senator VOINOVICH for bringing forward this section 4(f) amendment, and I am happy to add my support to it. I regret that we cannot consider his amendment today, but I assure the Senator that I will work to have his amendment adopted.

Mr. President, what my friend from Ohio is saying is what we have been saying since Monday morning.

The Senator is exactly right. I do not know how many times I have stood on this floor and said those of us who are conservatives historically have to stop and look at what is Government here for. Conservatives are generally big spenders when it comes to defense, when it comes to infrastructure. We need to defend America and we need infrastructure. Right now, I am sure there are some States that are not as sensitive as the Senator from Ohio and I are because they do not have the problems, but when we look at what this bill is doing to try to correct the problem of, just as an example, our deteriorating bridges, my State of Oklahoma ranks dead first in terms of the deteriorated condition of bridges, and I chair the committee.

We are going to have to get a bill through. There has been some recent suggestion that it be pared down a little bit. I can assure my colleagues the figure we are talking about right now is a figure that is not acceptable to those on the other side of the Capitol, and this is the only way we can get one.

I thought we were making some headway. We have all of these little procedural hurdles. We are not able to send the amendment of the Senator to the desk, but I will tell the Senator right now I am going to do what I can about it.

First, I do agree with the Senator's amendment and I know how hard he has been working on it. A lot of people do not realize this section was approved by the Congress as part of the Department of Transportation Act of 1966. It is obvious it is not working now and we need to do something about it. Certainly the Senator is as enthusiastic about protecting any of our historical sites as we are, but we need to have something that is workable.

I know there is someone else who wants to speak, but let me give the Senator my assurance, as chairman of the committee, I will do everything I can to make sure he gets his amendment in, which I support. More important than his amendment, we want to get this bill passed so we can get America back to work again.

Remember, not long ago one of the publications in the Capitol had a "men working" sign on it, and they put a "not" right in the middle: Men not working. That is exactly what is happening right now. If we play around with the reductions, with the temporary extensions and all of that, we are not going to be able to get people back to work.

We have the infrastructure needs. We have the needs for jobs, and I will be there beside the Senator from Ohio doing what I can to make that a reality.

Before I yield the floor, let me ask my good friend with whom I was privileged to share this morning's chairmanship at the National Prayer Breakfast—one of the truly great moments of my life with my good friend. We are trying to stay on the highway bill. We have others who are going to be coming down. Could I inquire as to how much time the Senator from Florida would like to have?

Mr. NELSON of Florida. Probably no more than 8 or 10 minutes.

Mr. INHOFE. I ask unanimous consent that he be given 15 minutes and then after I be recognized as having the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I commend the Senator from Oklahoma. It has been a pleasure working with him as the cochairman of our Senate prayer breakfast, and now having the opportunity this morning with 4,000 people assembled at the Washington Hilton to cochair the National Prayer Breakfast with him—which really is a misnomer because it is an international prayer breakfast. We had people from 150 nations. We had five heads of state there. Of course, we had dual speakers this morning in the persons of former Congressman J.C. Watts and Congressman JOHN LEWIS. They were both riveting. I appreciate his collegiality and considerable cooperation as we entered into this delightful once-a-year event that occurs in Washington.

I say to the Senator from Ohio, though, before he walks out the door, that as he was talking about the transportation bill providing jobs, we have a saying in the south: "Amen, brother." We need the jobs in Florida, too. Indeed, they are needed all over the country and that is why I will support this bill, and that is why I did.

I congratulate the chairman and the ranking member of the committee in how they have fashioned this bill. There are parts of this bill I would like to see improved. For years, my State of Florida has given a dollar in in tax and only gotten back about 80 cents. Over the years, my senior colleague, Senator GRAHAM of Florida, has been working on that. Since I have been in the Senate the last 4 years, I have been working with him to improve that. We have got that ratio up to 90.5 percent that we get back for every dollar we send.

In the bill the chairman and the ranking member have crafted, over the 6-year period that will rise to 95 percent. Floridians will be very grateful for that. I wish it could rise 1 percent a year over those 6 years instead of the way it is crafted, which is that it stays at a 90.5 percent return on Florida's tax dollar and then it jumps in the sixth year to 95 percent return on the dollar, but that was part of the give and take.

I would certainly like to improve it, but I am grateful for it, because finally this battle Florida has had for ages in getting a return on its tax dollar, particularly a gas tax dollar it sends to the Federal Government, is going to get some equalization, particularly with other States that have in the past gotten in excess of a dollar's worth when they send in a dollar to the Federal gas tax trust fund. I have lots of good things to say about it, but, oh, does it make it tough in this environment in which we are, a highly charged partisan environment in an election year in which the deficit that was just announced 3 days ago is over a half a trillion dollars.

Now, deficit is a fancy word, but let me say to my colleagues simply what I think it means. It means if we are spending this much in this coming fiscal year, but we only have this much coming in in tax revenues, the difference, since we are spending more than we have coming in in revenue, is the deficit. That has been estimated, in the President's budget, at $525 billion. That is over a half trillion dollars.

Well, what does one do? Where does it come from? If spending is going to be here, but the tax revenues are only here in a given year, what is to be done? The difference is borrowed, and that difference then, when borrowed, is added to the national debt.

We can see if we are borrowing to the extent of over half a trillion dollars a year, it does not take too long to see the national debt just continue to go out of sight, and then on that debt we have to pay interest. When the interest rates go up after this year, then that is another big slug out of the Federal budget we will have to pay, interest on the national debt.

Goodness gracious. And think what we could be doing with money: $200 billion a year in interest. Think what that would buy in the programs that are being cut under this President's budget. These are programs such as law enforcement assistance from the Federal Government such as the COPS program, putting police on the beat, on the street. That is being cut. Education expenditures are being cut. Children's health programs are being cut. Environmental programs are being cut. I could go on.

Yet that creates the environment, the fiscal reality, that in times of huge budget deficits, if you are going to get that figure from here to match your revenues, you either have to cut spending or raise taxes or, in the alternative, stop tax cuts that are projected to go into effect in the future and don't let them go into effect, or both, in order to get your Federal budget into balance.

We had a chance 3 years ago. We were in a surplus situation with so much surplus projected over 10 years. We could have paid off the national debt if we had been wise and conservative in our approach. But we didn't. We went and blew it. We were like drunken sailors, spending and enacting tax cuts that were targeted to the more well off among us. The result is what the President's budget just said. In the budget that was just released, the deficit spending this next fiscal year is going to be over half a trillion dollars.

This is not conservative fiscal policy. This is wild and reckless policy. When you give a continued tax cut to the rich to be financed by out and out borrowing, that is not conservative fiscal policy. That is out of control fiscal policy.

By the way, guess where we borrow that money. We borrow it from Social Security recipients, because we are taking it out of the Social Security trust fund. Guess where else we borrow it. We borrow it from other countries and their companies and their investors. You think it is just you and I who buy U.S. Treasury bills? Some of us do. And we borrow it from us. But you would be shocked to know how much of the Nation's debt and the new borrowing that will occur is being bought up by corporations and governments in China and Japan. If they end up having a good bit of our debt that is owed to them, what does that do toward putting us in a vulnerable position in the future with regard to our foreign policy with those countries, China and Japan? If they own a lot of our debt or, put another way, if we owe them a lot of money, that is not a position in which I think America ought to be.

There are some clever little tricks in this budget, too. They are very technical. For example, one provision is that people are encouraged, if the President's proposal is enacted, to take money out of their individual retirement accounts, IRAs, or their 401(k) plans and put them over into basically a privatizing of Social Security accounts. But the little fiscal sleight of hand is that when you take it out of an IRA, you are going to have to pay taxes on it. Lo and behold, that gins up an additional $15 billion over this 5-year projection in the budget of new tax revenue, to make it appear as if there is going to be more revenue coming in than there is.

This is really not an economic document. It is a political document. Unfortunately, it is a political document that is not a conservative political document. So I am looking forward to us getting our fingers into this budget and beginning to pick it apart. But what it does when you have a budget this much out of control is it makes it so much more difficult for very important programs such as this transportation bill that will provide so many jobs, that will cause dollars to be spent and circulated and restore the economy—it causes it to be a very difficult time in which to enact this kind of legislation, particularly at the level that some of us would like.

Mr. President, I wanted to share my thoughts on this subject.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I appreciate the statement of my friend from Florida.

I would say, in terms of who the villain is in the deficit we are facing right now, there are two big villains. One is the war, and then the economy. As we started losing economic ground, a downturn back in March of 2000, people didn't realize for every 1 percent change in economic activity it translated into $45 billion in revenue. In other words, as the economy is rebounding now, the revenue is coming back up. Even continuing in the effort, the war effort—which I am afraid is going to last for quite a while—we are going to be facing end strength problems and that will have to go on.

I believe the best thing we can do is do it through the economy. At the same time there are certain things that have to happen in America. We have to do something about roads in America. I probably have as many townhall meetings as anyone. I suggest the Senator from Florida does, too. I can't remember one I have had where they haven't said something about roads.

In Oklahoma what they say is, we can always tell when we are around Thanksgiving time, when we have family coming in, we have friends coming in, we can always know when we get to Oklahoma because of the roads. I add to the Presiding Officer, when they come from Texas they make that comment about Oklahoma roads. So we do have a very serious problem. It seems to be more serious in my State.

Part of that is due to the donor status we have had for quite some time. Of course, we have not had the money with which to do it. I feel an obligation, and believe it is very appropriate for conservatives, to get out and vote in favor of this type of an infrastructure program. This translates directly into jobs, translates directly into the economy, translates directly into increasing economic activity and additional revenue that will come into Government.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Greenwich Village, NY. There, a 36-year-old man was assaulted by a group of 15 men on his way to a gay bar. Another man on the street yelled an anti-gay slur, and when the victim turned to see who had yelled at him, he was punched in the back of the head.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## TAIWAN'S PEACE REFERENDUM

Mr. ALLEN. Mr. President, for the past 54 years, Taiwan and the United States have been allies in the international arena, democratic partners and friends. In times of need and turmoil, both countries have always come to each other's aid. In the aftermath of the September 11 terrorist attacks, Taiwan immediately offered help to Americans through the U.S. Government. In recent months, Taiwan has offered humanitarian aid to post-war Iraq.

Today Taiwan is being threatened. Taiwan's planned referendum on March 20, 2004 has been called a move toward Taiwan independence. Some say it will push Taiwan to the "abyss of war." Such rhetoric is a distortion of Taiwan's true intentions. In the face of an overwhelming military threat against Taiwan, Taiwan President Chen Shui-bian's peace referendum asks Taiwan voters whether they should buy more anti-missile weapons if the People's Republic of China refuses to withdraw its 496 missiles targeted at Taiwan and whether Taiwan should open up talks with the People's Republic of China about issues of peace.

Taiwan's democratically elected president, President Chen, has made it clear that he continues to hold to the "five no's" of his inauguration speech, including the promise not to hold a plebiscite on the issue of Taiwanese independence. The referendum merely aims to avoid war, free its people from fear and maintain the status quo.

Taiwan, our ally and friend, is a democracy. Its people have every right to hold their referendum this March 20. Taiwan's referendum law is a basic democratic right that the United States should support rather than denigrate. The future of Taiwan must be determined peacefully, with the express consent of the people of Taiwan. Since its establishment, the United States has been the foremost champion of liberty and democracy in the world. We can, therefore, not afford to tell the people of Taiwan not to hold a referendum. There can be no double standard when it comes to exercising democracy.

## ADDITIONAL STATEMENTS

## TRIBUTE TO RONALD C. FOSTER

• Mr. CHAMBLISS. Mr. President, I pay tribute to Ronald C. Foster who will soon be retiring after an illustrious 33-year career with one of America's leading companies, the Atlanta-based United Parcel Service, UPS. First hired in October of 1966, Ron's 33-year corporate career led him from Kentucky to Colorado, Illinois, Indiana, New York, Pennsylvania, and ultimately to Washington, DC.

Ron started his career as a non-management hourly employee unloading UPS tractor-trailers in Lexington, KY. Promoted to the ranks of management 2 years later, Ron worked in UPS operations while attending the University of Kentucky, where he earned a Bachelor's Degree in Economics in 1972.

Ron held a series of managerial positions of increasing responsibility within the UPS Human Resources department which led him to become one of the company's senior Human Resources officials. In 1996, Ron Foster transferred to UPS' Washington, DC, Public Affairs office, where he represented the company on Capitol Hill and focused on labor relations, safety and human resources related public policy issues. At the time of his retirement Ron served as one of the company's most senior Public Affairs executives, as he coordinated the legislative and political activities of UPS Public Affairs managers both in Washington and in select state capitals.

Ron Foster's accomplished business career has been most noted for his unwavering loyalty to UPS and to his uncompromised dedication to integrity regarding business ethics and values. Ron will be remembered for the respectful and professional manner in which he treated all UPS colleagues. Ron's ability to deal fairly and equitably with people from all walks of life, a trait that is all too uncommon in today's society, was legendary among the UPS family.

Ron has been a very good friend to this Senator and I am happy that he will be spending his retirement years at Reynolds Plantation in Greensboro, GA. I congratulate Ron for a lengthy and highly successful business career, and more importantly, to wish Ron and Jo Foster a healthy and happy retirement.•

## HERB BROOKS

• Mr. COLEMAN. Mr. President, I am proud to recognize and pay tribute to my good friend, a great Minnesotan, and a real American hero, the late Herb Brooks, whose memory, accomplishments, and contributions are being memorialized today for all time in St. Paul.

Herb Brooks and I cam from two different worlds. I am so glad I got to know him in this place. Like a lot of sports fans, he gave me the greatest spectator moment of my life in Lake Placid. But what he has taught me about life is so much more significant.

Herb was a son of the East Side of Saint Paul. It's neighborhood that has produced mayors, Governors, and two Supreme Court justices. I wonder if there is a neighborhood that has touched more lives for good than the East Side.

Herb had a lot to say, and not all of it would go in a PG movie. He told his hockey team, "Gentlemen, we're not talented enough to win on talent alone." That was pretty autobiological, I think.

Tonight, we in Minnesota, Herb's home State that loved him so much, have the honor to unveil a permanent tribune to Herb's remarkable career, a career devoted not only to athletic excellence, but character and integrity. Then, we get to relive and relish the moment that reminded all Americans to start believing in miracles again at a screening of the new Hollywood feature film "The Miracle," based on the USA hockey team's shining moment in Lake Placid under Herb Brooks.

I learned a great deal about leadership from Herb Brooks. He was not a man of many words, but when Herb spoke, people listened, because what he had to say was always profound.

More importantly than what Herb said was what he did. He was the kind of leader we need more of, the kind that leads by example. Herb Brooks lived an amazing, remarkable life. He is a hero of mine, and was to millions of other Americans.

But what summed Herb Brooks up for me was this Brooksism: "Everybody is important, but not too important." That was how he articulated his team concept.

If we could all go through life seeing every person we meet as important and not seeing ourselves as too important—who knows, maybe there would be a lot more miracles.

Herb will always be remembered in the hearts and minds of my fellow Minnesotans. But tonight we unveil a statue—in a city that Herb loved and loved him back—that will forever immortalize Herb Brooks's image in Minnesota history. This is a wonderful tribute, and one I am deeply honored to be a part of.•

## FIGHTIN' BLUE HENS CELEBRATE NATIONAL FOOTBALL CHAMPIONSHIP

• Mr. BIDEN. Mr. President, in my 33 years as a U.S. Senator from Delaware, I have had the opportunity to give hundreds of speeches on the Senate floor, but today is a first. It gives me tremendous pride today to officially congratulate my alma mater, the University of Delaware, on winning its first-ever NCAA Division I-AA National Football Championship.

Players, fans, and students will celebrate this milestone in the University of Delaware's history at a rally on Tuesday, February 10, 2004, at the Bob Carpenter Center. And we have much more than the national championship to celebrate. The Fightin' Blue Hens played one of the most outstanding seasons in college football history, with a record of 15 and 1 and setting a school record for victories in a season.

After clinching their seventh Atlantic 10 Football Conference championship, the 2003 squad sailed through the Division I-AA playoff, outscoring opponents by a combined score of 149 to 23. In fact, they won the championship game by shutting down Colgate 42 to 0. You can be sure I attended every playoff game, along with tens of thousands of other devoted Blue Hen fans.

As I said earlier, this marks the University of Delaware's first Division I-AA title crown, but we earned six other football titles as a Division II school. The last Division II title in 1979 was significant because our current coach, K.C. Keeler, played on that 1979 championship team as a linebacker.

In just his second year at the helm of UD football, K.C. Keeler took his team to the national championship; but, K.C. is the first to give his predecessor, legendary Hall of Fame coach Tubby Raymond, all the credit for recruiting and building this team. Tubby, this championship is yours, too.

To be sure, UD football has come a long way since the 1960s when I was at the University. But at a time when we all need some good news, the 2003 University of Delaware football team has given our State plenty to cheer about. My warmest congratulations to the coaches, players, parents, school officials, cheerleaders, marching band members, students, and, of course, the diehard fans, as we celebrate being national football champions.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate communities.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 10:57 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3030. An act to amend the Community Service Block Grant Act to provide for quality improvements.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. Concurrent resolution congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I-AA national championship.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3030. An act to amend the Community Service Block Grant Act to provide for quality improvements; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 355. Concurrent resolution congratulating the University of Delaware men's football team for winning the National Collegiate Athletic Association I-AA national championship; to the Committee on the Judiciary.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6167. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Secretary, Department of Housing and Urban Development received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6168. A communication from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "Rules, Policies, Procedures for Corporate Activities" received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6169. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 68 FR 69961" (44 CFR Part 67) received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6170. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 68 FR 69323" (44 CFR Part 65) received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6171. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 68 FR 69959" (Doc. # FEMA–P–7630) received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6172. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency with respect to terrorists who threaten to disrupt the Middle East Peace Process; to the Committee on Banking, Housing, and Urban Affairs.

EC–6173. A communication from the Chief Counsel, Bureau of the Public Debt, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 363, Regulations Governing New Treasury Direct System" received on January 20, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6174. A communication from the Chair, Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the Annual Report of the activities of the Goldwater Foundation; to the Committee on Health, Education, Labor, and Pensions.

EC–6175. A communication from the Assistant General Counsel, Regulatory Services Division, Office of Elementary and Secondary Education, transmitting, pursuant to law, the report of a rule entitled "Title I—Improving the Academic Achievement of the Disadvantaged" (RIN1810–AA95) received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6176. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Secretary of Labor, Department of Labor, received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6177. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Solicitor of Labor, Department of Labor, received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6178. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a designation of acting officer and nomination for the position of Assistant Secretary for Public Affairs, Department of Labor, received on January 20, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6179. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Skin Protectant Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment" (RIN0910–AA01) received on January 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6180. A communication from the Director, Regulations Policy and Management

Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Requirements for Submission of Labeling for Human Prescription Drugs and Biologics in Electronic Format" (RIN0910-AB91) received on January 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6181. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Neurological Devices; Classification of Human Dura Matter" (Doc. No. 200N-0370) received on January 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6182. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium" (Doc. No. 2002F–0220) received on January 22, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6183. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "HIPAA Administrative Simplification; Standard Unique Health Identifier for Health Care Providers" (RNI0938-AH99) received on January 27, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6184. A communication from the Regulations Coordinator, OGC, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Implementation of Equal Access to Justice Act in the Agency Proceedings" received on January 27, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6185. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Study of the Impact of Boren Amendment Repeal"; to the Committee on Health, Education, Labor, and Pensions.

EC-6186. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of real property transferred for public health purposes; to the Committee on Health, Education, Labor, and Pensions.

EC-6187. A communication from the Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Exportation of Liquors; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002" (RIN1513-AA76) received on February 3, 2004; to the Committee on the Judiciary.

EC-6188. A communication from the Associate General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Inmate Discipline: Prohibited Acts: Change in Code Numbers for Agency Tracking Purposes Only" (RIN1120–AA78) received on January 27, 2004; to the Committee on the Judiciary.

EC-6189. A communication from the Associate General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Incoming Publications: Softcover Materials" (RIN1120–AA15) received on January 27, 2004; to the Committee on the Judiciary.

EC-6190. A communication from the Associate General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Incoming Publications: Nudity and Sexually Explicit Material or Information" (RIN1120-AA59) received on January 27, 2004; to the Committee on the Judiciary.

EC-6191. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report on the implementation of Section 428 of the Homeland Security Act of 2002; to the Committee on the Judiciary.

EC–6192. A communication from the Public Printer, Government Printing Office, transmitting, the Office's Annual Report for Fiscal Year 2003; to the Committee on Rules and Administration.

EC-6193. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Explanation and Justification for Revised Instructions for FEC Form 1M, Notification of Multicandidate Status" received on January 20, 2004; to the Committee on Rules and Administration.

EC-6194. A communication from the Secretary of Veterans' Affairs, transmitting, the Department of Veterans' Affairs Special Medical Advisory Group's Annual Report to Congress for Fiscal Year 2003; to the Committee on Veterans' Affairs.

EC-6195. A communication from the Inspector General, General Services Administration, transmitting, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6196. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled "Final Rule 5 CFR Parts 1600, 1601, 1603, 1604, 1605, 1606, 1640, 1645, 1650, 1651, 1653, 1655, 1690: Employee Elections to Contribute to the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participant Statements, Calculation of Share Prices, Methods of Withdrawing Funds from the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous" received on January 20, 2004; to the Committee on Governmental Affairs.

EC–6197. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, the Fiscal Year 2003 Annual Performance and Accountability Report; to the Committee on Governmental Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 2051. A bill to promote food safety and to protect the animal feed supply from bovine spongiform encephalopathy; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON:

S. 2052. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Energy and Natural Resources.

## ADDITIONAL COSPONSORS

### S. 557

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S . 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

### S. 1109

At the request of Mr. TALENT, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1109, a bill to provide $50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes.

### S. 1345

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1345, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

### S. 1630

At the request of Mrs. DOLE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

### S. 1703

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

### S. 2040

At the request of Mr. MCCAIN, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2040, a bill to extend the date for the submittal of the final report of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

### S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 2051. A bill to promote food safety and to protect the animal feed supply from bovine spongiform encephalopathy; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2051

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Feed Protection Act of 2004".

### SEC. 2. DEFINITIONS.

In this Act:

(1) BSE.—The term "BSE" means bovine spongiform encephalopathy.

(2) COVERED ARTICLE.—

(A) IN GENERAL.—The term "covered article" means—

(i) feed for an animal;

(ii) a nutritional supplement for an animal;

(iii) medicine for an animal; and

(iv) any other article of a kind that is ordinarily ingested, implanted, or otherwise taken into an animal.

(B) EXCLUSIONS.—The term "covered article" does not include—

(i) an unprocessed agricultural commodity that is readily identifiable as nonanimal in origin, such as a vegetable, grain, or nut;

(ii) an article described in subparagraph (A) that, based on compelling scientific evidence, the Secretary determines does not pose a risk of transmitting prion disease; or

(iii) an article regulated by the Secretary that, as determined by the Secretary—

(I) poses a minimal risk of carrying prion disease; and

(II) is necessary to protect animal health or public health.

(3) SPECIFIED RISK MATERIAL.—

(A) IN GENERAL.—The term "specified risk material" means—

(i) the skull, brain, trigeminal ganglia, eyes, tonsils, spinal cord, vertebral column, or dorsal root ganglia of—

(I) cattle and bison 30 months of age and older; or

(II) sheep, goats, deer, and elk 12 months of age and older;

(ii) the intestinal tract of a ruminant of any age; and

(iii) any other material of a ruminant that may carry a prion disease, as determined by the Secretary, based on scientifically credible research.

(B) MODIFICATION.—The Secretary shall conduct an annual review of scientific research and may modify the definition of specified risk material based on scientifically credible research (including the conduct of ante-mortem and post-mortem tests certified by the Secretary of Agriculture).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

### SEC. 3. PROTECTION OF ANIMAL FEED AND PUBLIC HEALTH.

It shall be unlawful for any person to introduce into interstate or foreign commerce a covered article if the covered article contains—

(1)(A) specified risk material from a ruminant; or

(B) any material from a ruminant that—

(i) was in any foreign country at a time at which there was a risk of transmission of BSE in the country, as determined by the Secretary of Agriculture; and

(ii) may contain specified risk material from a ruminant; or

(2) any material from a ruminant exhibiting signs of a neurological disease.

### SEC. 4. ENFORCEMENT.

(a) COOPERATION.—The Secretary and the heads of other Federal agencies, as appropriate, shall cooperate with the Attorney General in enforcing this Act.

(b) DUE PROCESS.—Any person subject to enforcement action under this section shall have the opportunity for an informal hearing on the enforcement action as soon as practicable after, but not later than 10 days after, the enforcement action is taken.

(c) REMEDIES.—In addition to any remedies available under other provisions of law, the head of a Federal agency may enforce this Act by—

(1) seizing and destroying an article that is introduced into interstate or foreign commerce in violation of this Act; or

(2) issuing an order requiring any person that introduces an article into interstate or foreign commerce in violation of this Act—

(A) to cease the violation;

(B)(i) to recall any article that is sold; and

(ii) to refund the purchase price to the purchaser;

(C) to destroy the article or forfeit the article to the United States for destruction; or

(D) to cease operations at the facility at which the article is produced until the head of the appropriate Federal agency determines that the operations are no longer in violation of this Act.

(d) CIVIL AND MONETARY PENALTIES.—The Secretary is directed to promulgate regulations on the appropriate level of civil and monetary penalties necessary to carry out the provisions of this Act, within 180 days following enactment of this Act.

### SEC. 5. TRAINING STANDARDS.

The Secretary, in consultation with the Secretary of Agriculture, shall issue training standards to industry for the removal of specified risk materials.

### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 to carry out this Act.

### SEC. 7. EFFECTIVE DATE.

This Act takes effect on the date that is 180 days after the date of enactment of this Act.

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By Mrs. HUTCHISON:

S. 2052. A bill to amend the National Trails System Act to designate El Camino Real de Los Tejas as a National Historic Trail; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, I rise today to introduce legislation to recognize the oldest highway in Texas and establish the El Camino Real de Los Tejas National Historic Trail.

This bill will preserve a vital piece of Texas history for generations to come. The El Camino Real trail established a key corridor for settlers, immigrants and militaries helping lay the groundwork for our state's future. It also served as a path for such Texas heroes as Davy Crockett and Sam Houston who both fought in the struggle for Texas independence from Mexico.

The 300-year-old corridor also served as a critical trade route, a post road, cattle trail and a military highway. The trail opened America to Texas and Texas to the world. Still today the trail collectively represents a series of roads and paths extending more than 2,500 miles in length from the Rio Grande River near Eagle Pass and Laredo through San Antonio, Bastrop, and Nacogdoches, Texas to Natchitoches, Louisiana. While 2,500 miles of the trail are in 40 Texas counties, the last 80 miles are in Louisiana.

The El Camino Real served as a strategic corridor during Texas' struggle for independence. Critical supplies made their way via the El Camino Real for the Republic of Texas Army as they victoriously forged ahead to defeat the Mexican Army in the Texas Revolution.

This legislation will recognize the significance of the El Camino Real and preserve its historic importance, as well as direct the National Park Service to establish the El Camino Real trail as a National Historic Trail. It will also allow our state agencies such as the Texas Historical Commission to participate in the establishment and designation of the trail, while protecting the private property of landowners along its route. This legislation will allow Texans and the thousands who visit our state each year to learn more of the rich history that forged the Lone Star State.

I am proud to offer this legislation to pay homage to an important piece of Texas and U.S. History, and I urge my colleagues to support the El Camino Real de Los Tejas National Historic Trail Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2052

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de los Tejas National Historic Trail Act of 2004".

### SEC. 2. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(23) EL CAMINO REAL DE LOS TEJAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), El Camino Real de los Tejas (The Royal Road of historic Tejas) National Historic Trail, a combination of historic routes totaling 2,580 miles in length from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, and including the Old San Antonio Road, as generally depicted on the maps entitled 'El Camino Real de los Tejas', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated July 1998. The National Park Service is authorized to administer designated portions of this trail system as a national historic trail as set forth in this paragraph.

"(B) Establishment.—

"(i) Publicly owned lands.—Congress authorizes the establishment of El Camino Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within publicly owned lands when such trail related resources meet the purposes of this Act or certification criteria set by the Secretary of the Interior per section 3(a)(3) of this Act.

"(ii) Privately owned lands.—Congress authorizes the establishment of El Camino Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within privately owned lands only through the voluntary and expressed consent of the owner and when such trails and sites qualify for certification as officially established components of the national historic trail. The owner's approval of a certification agreement satisfies the consent requirement. Certification agreements are not legally binding and may be terminated at any time. Should land ownership change at a certified site, the certification will cease to be valid unless the new owner consents to a new agreement.

"(C) Private property rights protection.—Nothing in this Act or in the establishment of any portion of the national historic trail authorizes any person to enter private property without the consent of the owner. Nothing in this Act or in the establishment of any portion of the national historic trail will authorize the Federal Government to restrict private property owner's use or enjoyment of their property subject to other laws or regulations. Authorization of El Camino Real de los Tejas National Historic Trail under this Act does not itself confer any additional authority to apply other Federal laws and regulations on non-Federal lands along the trail. Laws or regulations requiring public entities and agencies to take into consideration a national historic trail shall continue to apply notwithstanding the foregoing. Notwithstanding section 7(g) of this Act, the United States is authorized to acquire privately owned real property or an interest in such property for purposes of the national historic trail only with the consent of the owner of such property and shall have no authority to condemn or otherwise appropriate privately owned real property or an interest in such property for the purposes of El Camino Real de los Tejas National Historic Trail.

"(D) Coordination of activities.—The Secretary of the Interior may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

"(E) Consultation.—The Secretary of the Interior shall consult with appropriate State agencies in the the planning, development, and maintenance of El Camino Real de los Tejas National Historic Trail.".

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2269. Mr. SHELBY proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SA 2270. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2271. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2269.** Mr. SHELBY proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

### TITLE III—PUBLIC TRANSPORTATION

**SEC. 3001. SHORT TITLE.**

This title may be cited as the Federal Public Transportation Act of 2004.

**SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.**

(a) Amendments to Title 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) Updated Terminology.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

**SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.**

(a) Development and Revitalization of Public Transportation Systems.—Section 5301(a) is amended to read as follows:

"(a) Development and Revitalization of Public Transportation Systems.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) General Findings.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) Preserving the Environment.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

**SEC. 3004. DEFINITIONS.**

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (9);

(3) by redesignating paragraph (8) as paragraph (9);

(4) by striking paragraph (7) and inserting the following:

"(7) Mass transportation.—The term 'mass transportation' means public transportation.

"(8) Mobility management.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (10) to read as follows:

"(10) Public transportation.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity passenger rail, or sightseeing transportation.'';

(6) in subparagraphs (A) and (E) of paragraph (15), by striking "and" each place it appears and inserting "or";

(7) by striking paragraph (16); and

(8) by redesignating paragraph (17) as paragraph (16), to read as follows:

"(16) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

### SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

**"§5303. Metropolitan transportation planning**

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers that party's views; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NON-METROPOLITAN AREA.—The term 'non-metropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NON-METROPOLITAN LOCAL OFFICIAL.—The term 'non-metropolitan local official' means any elected or appointed official of general purpose local government located in a non-metropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 residents—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous metropolitan planning organizations and States.

"(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment, promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns;

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation of the existing transportation system, including services provided by public and private operators.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall develop, and update not less frequently than every 3 years, a transportation plan for its metropolitan planning area in accordance with this subsection. In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) CONTENTS.—A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, public transportation, multimodal and intermodal facilities, and intermodal connectors, that should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—

"(A) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 3 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan by—

"(i) citizens;

"(ii) affected public agencies;

"(iii) representatives of public transportation employees;

"(iv) freight shippers;

"(v) providers of freight transportation services;

"(vi) private providers of transportation;

"(vii) representatives of users of public transit;

"(viii) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(ix) other interested parties.

"(B) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(i) shall be developed in a manner the Secretary determines to be appropriate;

"(ii) shall be developed in consultation with all interested parties; and

"(iii) shall provide that all interested parties have reasonable opportunities to comment on—

"(I) the process for developing the transportation plan; and

"(II) the contents of the transportation plan.

"(C) CERTIFICATION.—Before the approval of a transportation plan by the Governor and metropolitan planning organizations, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(5) APPROVAL OF THE TRANSPORTATION PLAN.—

‘‘(A) IN GENERAL.—Each transportation plan prepared by a metropolitan planning organization shall be—

‘‘(i) approved by the Metropolitan Planning Organization; and

‘‘(ii) submitted to the Governor for approval of the first 5 years of the plan.

‘‘(B) PROJECT ADVANCEMENT.—The projects listed in the first 5 years of the plan may be selected for advancement consistent with the project selection requirements.

‘‘(C) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (B), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

‘‘(i) appropriate public involvement;

‘‘(ii) financial planning;

‘‘(iii) transportation conformity analyses; and

‘‘(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

‘‘(6) INCLUDED PROJECTS.—

‘‘(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation plan developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

‘‘(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

‘‘(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation plan.

‘‘(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation plan.

‘‘(7) SELECTION OF PROJECTS.—

‘‘(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

‘‘(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

‘‘(ii) by the designated recipient, in the case of projects under section 5307; and

‘‘(iii) in cooperation with the metropolitan planning organization.

‘‘(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project from the first 5 years of the approved transportation plan in place of another project in the same 5-year period.

‘‘(8) PUBLICATION REQUIREMENTS.—

‘‘(A) PUBLICATION OF TRANSPORTATION PLAN.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

‘‘(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 5 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the first 5 years of the transportation plan.

‘‘(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

‘‘(i) the types of data to be included in the list described in subparagraph (B), including—

‘‘(I) the name, type, purpose, and location (geocoded) of each project;

‘‘(II) the Federal, State, and local identification numbers assigned to each project;

‘‘(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and including the date on which each obligation was made; and

‘‘(IV) the status of each project; and

‘‘(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

‘‘(i) TRANSPORTATION MANAGEMENT AREAS.—

‘‘(1) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area with a population of more than 200,000 individuals.

‘‘(2) TRANSPORTATION PLANS.—Transportation plans for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

‘‘(3) CONGESTION MANAGEMENT SYSTEM.—

‘‘(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

‘‘(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for not less than 1-year after the identification of transportation management areas under paragraph (1) to achieve full compliance with the requirements of this section.

‘‘(4) SELECTION OF PROJECTS.—

‘‘(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation plan by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

‘‘(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved transportation plan by the State in cooperation with the metropolitan planning organization designated for the area.

‘‘(5) CERTIFICATION.—

‘‘(A) IN GENERAL.—The Secretary shall—

‘‘(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

‘‘(ii) subject to subparagraph (B), certify, not less frequently than once every 3 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

‘‘(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

‘‘(i) the transportation planning process complies with the requirements of this section and other applicable Federal law; and

‘‘(ii) a transportation plan for the metropolitan planning area has been approved by the metropolitan planning organization and the Governor.

‘‘(C) PENALTY FOR FAILING TO CERTIFY.—

‘‘(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

‘‘(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

‘‘(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

‘‘(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

‘‘(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

‘‘(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

‘‘(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

‘‘(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

‘‘(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

‘‘(*l*) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

‘‘(m) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

‘‘(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

**SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.**

Section 5304 is amended to read as follows:

**“§ 5304. Statewide transportation planning**

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a “Plan”) and a statewide transportation improvement program (referred to in this section as a “Program”) for all areas of the State subject to section 5303.

“(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

“(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

“(1) coordinate planning under this section with the transportation planning activities under section 5303 for metropolitan areas of the State and with other related statewide planning activities, such as trade and economic development and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration of projects, strategies, and implementing projects and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment, promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life;

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—The Plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(4) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

“(6) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—The Program shall cover a minimum of 5 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 5 years. An annual listing of projects for which funds have been obligated in the preceding 5 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in the first 5 years of each metropolitan transportation plan.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the initial 5 years of an approved metropolitan transportation plan; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

"(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved Program.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH POPULATIONS OF FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Projects carried out in areas with populations of fewer than 50,000 individuals shall be selected, from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or sections 5310 and 5311 of this title), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation.

"(B) CERTAIN PROGRAMS.—Projects carried out in areas with populations of fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title shall be selected, from the approved Program, by the State in consultation with the affected local officials with responsibility for transportation.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 5 years.

"(7) PLANNING FINDING.—Not less frequently than once every 5 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved Program in place of another project in the program.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a metropolitan or statewide transportation plan or the Statewide Transportation Improvement Program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(k) INTEGRATION OF PLANNING AND ENVIRONMENTAL STUDIES.—Section 5303(*o*) shall also apply to the planning process established under this section, except that the planning factors to be considered shall be those set forth in subsection (d).".

### SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

### SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.

### SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (*l*), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than one State or Commonwealth;

"(ii) the portion of the urbanized area includes only one State or Commonwealth;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000 as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area as determined by the 1990 decennial census of population; and

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and "(iii) each portion of any area not designated as an urbanized area under the 1990 Federal decennial census and eligible to receive funds under subparagraph (A)(iv) shall receive an amount of funds made available to carry out this section that is not less than the amount the portion of the area received under section 5311 in fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area under the 1990 decennial census and eligible to receive funds under subparagraph (A)(iv) shall receive an amount of funds made available to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000 as determined in the 1990 decennial census of population:

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area under the 1990 decennial census and eligible to receive funds under subparagraph (A)(iv) shall receive an amount of funds made available to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end:

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of not less than 200,000, will expend 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

**SEC. 3010. PLANNING PROGRAMS.**

(a) IN GENERAL.—Section 5308 is amended to read as follows:

**"§ 5308. Planning programs**

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; and

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303 through 5305 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303 through 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The amounts made available pursuant to subsection (g)(3)(B) shall be allocated to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

“(3) Administration.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

“(4) Use of funds.—

“(A) In general.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

“(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

“(ii) to conduct research, disseminate information, and provide technical assistance.

“(B) Grants, contracts, cooperative agreements.—In carrying out the activities described in paragraph (2)(B), the Secretary may—

“(i) expend appropriated funds directly; or

“(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

“(f) Government's Share of Costs.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interests of the Government not to require a State or local match.

“(g) Allocation of Funds.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

“(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

“(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

“(3) of the remaining amount—

“(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

“(B) 17.28 percent shall be allocated to carry out subsection (b).

“(h) Reallocations.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.”.

(b) Conforming Amendment.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

“5308. Planning programs.”.

### SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) Section Heading.—The section heading of section 5309 is amended to read as follows:

**“§5309. Capital investment grants”.**

(b) General Authority.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking “(1) The Secretary of Transportation may make grants and loans” and inserting the following:

“(1) Grants authorized.—The Secretary may award grants”;

(B) in subparagraph (A), by striking “alternatives analysis related to the development of systems,”;

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”; and

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”; and

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) Grantee requirements.—

“(A) Grantee in an urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(B) Grantee not in an urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

“(C) Subrecipient.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.”; and

(3) by adding at the end the following:

“(3) Certification.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.”.

(c) Defined Term.—Section 5309(b) is amended to read as follows:

“(b) Defined Term.—As used in this section, the term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(3) the selection of a locally preferred alternative; and

“(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.”.

(d) Grant Requirements.—Section 5309(d) is amended to read as follows:

“(d) Grant Requirements.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(2) the applicant has, or will have—

“(A) the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project);

“(B) satisfactory continuing control over the use of the equipment or facilities; and

“(C) the capability and willingness to maintain the equipment or facilities.”.

(e) Major Capital Investment Projects of $75,000,000 or More.—Section 5309(e) is amended to read as follows:

“(e) Major Capital Investment Projects of $75,000,000 or More.—

“(1) Full funding grant agreement.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

“(A) is authorized for final design and construction; and

“(B) has been rated as medium, medium-high, or high, as defined in this subsection.

“(2) Determinations.—The Secretary shall not award a grant under this subsection for a major capital project unless the Secretary determines that the proposed project is—

“(A) based on the results of an alternatives analysis and preliminary engineering;

“(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

“(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

“(3) Evaluation of project justification.—In order to make the determinations required under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

“(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

“(C) the direct and indirect costs of relevant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

“(E) reductions in local infrastructure costs achieved through compact land use development;

“(F) the cost of suburban sprawl;

“(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

“(H) population density and current transit ridership in the transportation corridor;

“(I) the technical capability of the grant recipient to construct the project;

“(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines appropriate to carry out this chapter.

“(4) Evaluation of local financial commitment.—

“(A) In general.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS LESS THAN $75,000,000.—Section 5309(f) is amended to read as follows:

"(f) MAJOR CAPITAL INVESTMENT PROJECTS LESS THAN $75,000,000.—

"(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(i) is authorized by law; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3).

"(B) CONTENTS.—

"(i) IN GENERAL.—An agreement under this paragraph shall specify—

"(I) the scope of the project to be constructed;

"(II) the estimated net cost of the project;

"(III) the schedule under which the project shall be constructed;

"(IV) the maximum amount of funding to be obtained under this subsection;

"(V) the proposed schedule for obligation of future Federal grants; and

"(VI) the sources of non-Federal funding.

"(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

"(2) SELECTION PROCESS.—

"(A) SELECTION CRITERIA.—The Secretary may provide financial assistance under this subsection for a proposed project only if the Secretary determines that the project is—

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—For purposes of making the determination under paragraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may advance from the planning and alternatives analysis stage to project development and construction only if—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as 'high', 'medium-high', 'medium', 'medium-low', or 'low' based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.".

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

"(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

"(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

"(1) IN GENERAL.—The Secretary shall estimate the Federal share of the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM FEDERAL SHARE.—

"(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (*l*);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (*l*), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

"(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and new major corridor improvements under subsection (f);

"(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $673,204,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) new major capital projects for corridor improvements, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) NEW FIXED GUIDEWAY SYSTEMS AND CORRIDOR IMPROVEMENTS.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

"(m) REPORTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

"(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (3), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.".

**SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.**

(a) IN GENERAL.—Section 5310 is amended to read as follows:

**"§ 5310. New freedom for elderly persons and persons with disabilities**

"(a) GENERAL AUTHORITY.—

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) FEDERAL SHARE.—

"(1) MAXIMUM.—

"(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b)(1) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

"(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) CERTIFICATION REQUIREMENTS.

"(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) STATE PROGRAM OF PROJECTS.—

"(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

### SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) RECIPIENT.—The term 'recipient' means a State that receives a Federal transit program grant directly from the Federal Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that receives Federal transit program grant funds indirectly through a recipient.".

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State;

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources; and

"(iii) amounts provided for projects on Indian reservations are not less than amounts attributable to the population and land area of Indian reservations in the State, as published under subsection (c)(5).";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) DATA COLLECTION.—

"(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) IN GENERAL.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (2); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (3).

"(2) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (1)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(3) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (1)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(4) PUBLICATION OF APPORTIONMENTS.—The Secretary shall publish the total amount apportioned to each State under this subsection and the amounts attributable to the population and land area to Indian reservation in each State.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking "AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation" and inserting ", PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) FEDERAL SHARE OF COSTS.—

"(1) MAXIMUM FEDERAL SHARE.—

"(A) CAPITAL PROJECTS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(b)(1) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(b)(1) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

### SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking “other agreements” and inserting “other transactions”; and

(B) in paragraph (5), by striking “within the Mass Transit Account of the Highway Trust Fund”; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking “public and private” and inserting “public or private”; and

(B) in paragraph (3), by striking “within the Mass Transit Account of the Highway Trust Fund” .

(b) Conforming Amendments.—

(1) Section heading.—The heading of section 5312 is amended to read as follows:

**“§ 5312. Research, development, demonstration, and deployment projects”.**

(2) Table of sections.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

“5312. Research, development, demonstration, and deployment projects.”.

### SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) In General.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking “(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title” and inserting “The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(b) Federal Assistance.—”; and

(3) by amending subsection (c) to read as follows:

“(c) Federal Share.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.”.

(b) Conforming Amendments.—

(1) Section heading.—The heading of section 5313 is amended to read as follows:

**“§ 5313. Transit cooperative research program”.**

(2) Table of sections.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

“5313. Transit cooperative research program.”.

### SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) In General.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) Availability of funds.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.”;

(B) in paragraph (2), by striking “(2) Of” and inserting the following:

“(2) ADA compliance.—From”;

(C) by amending paragraph (3) to read as follows:

“(3) Special demonstration initiatives.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.”; and

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(2) by amending subsection (b) to read as follows:

“(b) Federal Share.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.”.

(b) Conforming Amendments.—

(1) Section heading.—The heading for section 5314 is amended to read as follows:

**“§ 5314. National research programs”.**

(2) Table of sections.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

“5314. National research programs.”.

### SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) Establishment.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

“(b) Duties.—

“(1) In general.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(2) Training programs.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

“(A) intermodal and public transportation planning;

“(B) management;

“(C) environmental factors;

“(D) acquisition and joint use rights of way;

“(E) engineering and architectural design;

“(F) procurement strategies for public transportation systems;

“(G) turnkey approaches to delivering public transportation systems;

“(H) new technologies;

“(I) emission reduction technologies;

“(J) ways to make public transportation accessible to individuals with disabilities;

“(K) construction, construction management, insurance, and risk management;

“(L) maintenance;

“(M) contract administration;

“(N) inspection;

“(O) innovative finance;

“(P) workplace safety; and

“(Q) public transportation security.”; and

(2) in subsection (d), by striking “mass” each place it appears.

### SEC. 3018. BUS TESTING FACILITY.

Section 5318 is repealed.

### SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking “5307(k)” and inserting “5307(d)(1)(K)”.

### SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

### SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

### SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) In general.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.”; and

(B) in paragraph (2), by striking “(2)” and inserting the following:

“(2) Limitation.—”;

(2) by amending subsection (b) to read as follows:

“(b) Notice and Public Hearing.—

“(1) In general.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

“(A) provided an adequate opportunity for public review and comment on the project;

“(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

“(C) considered the economic, social, and environmental effects of the project; and

“(D) found that the project is consistent with official plans for developing the urban area.

“(2) Contents of notice.—Notice of a hearing under this subsection—

“(A) shall include a concise description of the proposed project; and

“(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.”;

(3) by amending subsection (c) to read as follows:

“(c) New Technology.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.”;

(4) by amending subsection (d) to read as follows:

“(d) Conditions on Bus Transportation Service.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

“(1) Charter bus service.—

“(A) In general.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

“(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

“(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

"(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) EXCEPTION.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to—

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) IRREGULARLY SCHEDULED EVENTS.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) VIOLATION OF AGREEMENTS.—

"(A) COMPLAINTS.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) APPEALS.—

"(i) IN GENERAL.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) STANDARD OF REVIEW.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) WRITTEN DECISION.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) CORRECTION.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) REMEDIES.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) PUBLIC NOTICE.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

"(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (*l*) to read as follows:

"(*l*) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (*o*), by striking "assistance or other financing under the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "a loan or loan guarantee under title 23"; and

(15) by adding at the end the following:

"(p) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

### SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

### "§5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property before the completion of the environmental reviews for any project that may use the

property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

“(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

“(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

“(C) recent appraisals reflect a rapid increase in the fair market value of the property;

“(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

“(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

“(2) Protection of public lands.—Property acquired in accordance with this subsection may not be developed in anticipation of the project unless the Secretary has complied with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

“(3) Limitation.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

“(4) Exemption.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

“(c) Railroad Corridor Preservation.—

“(1) In general.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) Protection of public lands.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

“(d) Consideration of Economic, Social, and Environmental Interests.—

“(1) In general.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

“(2) Cooperation and consultation.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.”.

(b) Conforming Amendment.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

“5324. Special provisions for capital projects.”.

### SEC. 3024. CONTRACT REQUIREMENTS.

(a) In General.—Section 5325 is amended to read as follows:

**“§ 5325. Contract requirements**

“(a) Competition.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

“(b) Architectural, Engineering, and Design Contracts.—

“(1) In general.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) Additional requirements.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(c) Efficient Procurement.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

“(d) Design-Build Projects.—

“(1) Defined term.—As used in this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) Financial assistance for capital costs.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

“(e) Rolling Stock.—

“(1) Acquisition.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(A) with a party selected through a competitive procurement process; or

“(B) based on—

“(i) initial capital costs; or

“(ii) performance, standardization, life cycle costs, and other factors.

“(2) Multiyear contracts.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

“(f) Examination of Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(g) Grant Prohibition.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

“(h) Bus Dealer Requirements.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

“(i) Awards to Responsible Contractors.—

“(1) In general.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) Criteria.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor's compliance with public policy;

“(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

“(D) the contractor's financial and technical resources.”.

(b) Conforming Amendments.—Chapter 53 is amended by striking section 5326.

### SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) Project Management Plan Requirements.—Section 5327(a) is amended—

(1) in paragraph (11), by striking “and” at the end;

(2) in paragraph (12), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”.

(b) Limitations on Use of Available Amounts.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) In general.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER-ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) FEDERAL SHARE.—Federal funds shall be used to".

### SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) APPROVAL OF DRAFT ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsections (e) and (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

### SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

**"§5329. Investigation of safety hazards and security risks**

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

### SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

**"§5330. Withholding amounts for noncompliance with State safety oversight requirements";**

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

### SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

### SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

### SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

### SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ", if—

"(A) the protective period does not exceed 4 years; and

"(B) the separation allowance does not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.".

### SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309-5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

### SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

### SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) Apportionments.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) Small Transit Intensive Cities Factors.—

"(1) Apportionment based upon revenue vehicle miles.—Of the amount apportioned under subsection (a)(1), one-third shall be apportioned to urbanized areas as follows:

"(A) The Secretary shall calculate a factor equal to the sum of revenue vehicle miles operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(B) The Secretary shall designate as eligible for an apportionment under this paragraph all urbanized areas with a population of under 200,000 for which the number of revenue vehicle miles operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under subparagraph (A).

"(C) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under subparagraph (A).

"(D) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle miles within that urbanized area less the amount calculated in subparagraph (C).

"(E) Each urbanized area qualifying for an apportionment under subparagraph (B) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under subparagraph (D) divided by the sum of the amounts calculated under subparagraph (D) for all urbanized areas qualifying for an apportionment under subparagraph (B).

"(2) Apportionment based upon revenue vehicle hours.—Of the amount apportioned under subsection (a)(1), one-third shall be apportioned to urbanized areas as follows:

"(A) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(B) The Secretary shall designate as eligible for an apportionment under this paragraph all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under subparagraph (A).

"(C) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under subparagraph (A).

"(D) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in subparagraph (C).

"(E) Each urbanized area qualifying for an apportionment under subparagraph (B) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under subparagraph (D) divided by the sum of the amounts calculated under subparagraph (D) for all urbanized areas qualifying for an apportionment under subparagraph (B).

"(3) Apportionment based upon passenger miles.—Of the amount apportioned under subsection (a)(1), one-third shall be apportioned to urbanized areas as follows:

"(A) The Secretary shall calculate a factor equal to the sum of passenger miles consumed within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(B) The Secretary shall designate as eligible for an apportionment under this paragraph all urbanized areas with a population of under 200,000 for which the number of passenger miles consumed within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under subparagraph (A).

"(C) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under subparagraph (A).

"(D) For each urbanized area qualifying for an apportionment under subparagraph (B), the Secretary shall calculate an amount equal to the difference between the number of passenger miles consumed within that urbanized area less the amount calculated in subparagraph (C).

"(E) Each urbanized area qualifying for an apportionment under subparagraph (B) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under subparagraph (D) divided by the sum of the amounts calculated under subparagraph (D) for all urbanized areas qualifying for an apportionment under subparagraph (B).

"(*l*) Study on Incentives in Formula Programs.—

"(1) Study.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) Report.—

"(A) In general.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) Contents.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

### SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

### SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

**"§ 5338. Authorizations**

"(a) Fiscal Year 2004.—

"(1) Formula grants.—

"(A) Trust fund.—For fiscal year 2004, $3,013,315,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $753,328,980 for fiscal year 2004 to carry out sections 5307, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307.

"(2) Job access and reverse commute.—

"(A) Trust fund.—For fiscal year 2004, $83,504,400 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) General fund.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $20,876,100 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $2,550,860,600 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $637,715,150 for fiscal year 2004 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2004, $58,055,440 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,513,860 for fiscal year 2004 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $42,149,840 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,537,460 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

"(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5339, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,262,600,000 for fiscal year 2005;

"(B) $6,577,629,000 for fiscal year 2006;

"(C) $6,950,400,000 for fiscal year 2007;

"(D) $7,594,760,000 for fiscal year 2008; and

"(E) $8,275,320,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.92 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,700,000 in fiscal year 2005;

"(ii) $3,900,000 in fiscal year 2006;

"(iii) $4,200,000 in fiscal year 2007;

"(iv) $4,600,000 in fiscal year 2008; and

"(v) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $839,829,000 for fiscal year 2005;

"(B) $882,075,000 for fiscal year 2006;

"(C) $932,064,000 for fiscal year 2007;

"(D) $1,018,474,000 for fiscal year 2008; and

"(E) $1,109,739,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,461,072,000 for fiscal year 2005;

"(2) $1,534,568,000 for fiscal year 2006;

"(3) $1,621,536,000 for fiscal year 2007;

"(4) $1,771,866,000 for fiscal year 2008; and

"(5) $1,930,641,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There are authorized available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $86,500,000 for fiscal year 2005;

"(2) $90,851,000 for fiscal year 2006;

"(3) $96,000,000 for fiscal year 2007;

"(4) $104,900,000 for fiscal year 2008; and

"(5) $114,300,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

### SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

**"§ 5340. Apportionments based on growing States and high density State formula factors**

"(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (c).

"(b) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

### SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (*l*).

### SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

**"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".**

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

**SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.**

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

**"§5316. Alternative transportation in parks and public lands**

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including-

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(*l*) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

### SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;
(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

### SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

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**SA 2270.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

### SEC. . FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated Appropriations Act, 2004) is repealed.

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**SA 2271.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 806, strike line 5 and insert the following:

### SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "It is hereby" and inserting the following:

"(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this title; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary"; and

(B) by adding at the end the following:

"(d) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this title; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

**SEC. 1515. REGULATIONS.**

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Thursday, February 5, 2004, at 10 a.m., in room 2141 of the Rayburn House Office Building to consider judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Madam President, I have a unanimous consent request from Senator BAUCUS for people to be on the floor. I ask unanimous consent that the following interns for the Senate Finance Committee be granted floor privileges for the remainder of the debate on the highway bill: Jane Bergeson, Shannon Augure, Jeremy Sieglitz, Tyson Hill, Simon Chabel, and Trace Thaxton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I also ask unanimous consent that Rich Steinmann and Kate Mattice, detailees from the Federal Transit Administration serving the Banking Committee, be granted floor privileges for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Peter Smallwood, a fellow in the office of Senator LIEBERMAN, be granted the privilege of the floor for the consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR FRIDAY, FEBRUARY 6, 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, February 6. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill, for the purpose of debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. INHOFE. Mr. President, tomorrow morning the Senate will resume consideration of S. 1072, the highway bill. There will be no rollcall votes tomorrow, but Senators are encouraged to come to the floor and speak on the merits of the bill. The majority leader will expand on next week's schedule during tomorrow's session.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. INHOFE. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:15 p.m., adjourned until Friday, February 6, 2004, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 5, 2004:

### DEPARTMENT OF DEFENSE

MARK FALCOFF, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE CORNELIUS P. O'LEARY, TERM EXPIRED.

### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

BRUCE M. QUINN, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

### DEPARTMENT OF COMMERCE

HORACE E. BURTON, OF NEW JERSEY
JAMES P. GOLSEN, OF MARYLAND

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

ERIC B. WOLFF, OF CALIFORNIA

### DEPARTMENT OF STATE

JAMES E. AGUIRRE, OF CALIFORNIA
PHILLIP C. ALLEN, OF VIRGINIA
VINSON A. ANDERSON, OF VIRGINIA
PETER DONALD ANDREOLI III, OF VIRGINIA
MATTHEW KAZUAKI ASADA, OF NEW JERSEY
KIMBERLY ELAINE BAKER, OF VIRGINIA
BENJAMIN STEPHEN BALL, OF CALIFORNIA
JAMES L. BANGERT, OF THE DISTRICT OF COLUMBIA
GEORGE DAVID BANKS, OF VIRGINIA
SUSAN L. BAUER, OF VIRGINIA
JEREMY HEYWOOD BEER, OF COLORADO
WYLITA L. BELL, OF VIRGINIA
KELLY ANNE BILLINGSLEY, OF FLORIDA
ALFRED MICHAEL BOLL, OF FLORIDA
QIANA BRADFORD, OF GEORGIA
MARY KATHERINE BREZIN, OF VIRGINIA
MOZELLA N. BROWN, OF THE DISTRICT OF COLUMBIA
THOMAS M. CALL, OF THE DISTRICT OF COLUMBIA
CHARLES M. CARRICO, OF VIRGINIA
NATHAN CHRISTOPHER CARTER, OF VIRGINIA
DONALD L. CONNER, OF THE DISTRICT OF COLUMBIA
WILFRED A. COTE IV, OF OHIO
AMANDA E. CURTIS, OF TEXAS
JENNIFER LEE DAVIS, OF GEORGIA
ALEXANDER PHILLIP DELOREY, OF FLORIDA
SEAN M. DOHERTY, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER HAYES DORN, OF VIRGINIA
ERIN MARIE DOTSON, OF VIRGINIA
MILES DUDLEY, OF VIRGINIA
ANA M. DUQUE-HIGGINS, OF VIRGINIA
JOANNE EDWARDS, OF CALIFORNIA
YAEL D. EISENSTAT, OF THE DISTRICT OF COLUMBIA
VICTORIA EWSUK, OF VIRGINIA
STEVEN B. FOX, OF THE DISTRICT OF COLUMBIA
LAUREN FUNKHOUSER, OF VIRGINIA
RODRIGO GARZA, OF TEXAS
ANDREA GOODMAN, OF CALIFORNIA
SIMONE LYNNETTE GRAVES, OF FLORIDA
KARYN M. GREEN, OF VIRGINIA
PATRICIA A. HALL, OF VIRGINIA
JOSHUA M. HANDLER, OF THE DISTRICT OF COLUMBIA
WILLIAM FORREST HARLOW, OF TEXAS
JOSHUA MATTHEW HARRIS, OF NEW JERSEY
TIMOTHY B. HEFNER, OF NORTH CAROLINA
GAIL A. HERRMANN, OF MARYLAND
RANDOLPH CHARLES HILLIARD, OF VIRGINIA
THOMAS R. HOBAN, OF VIRGINIA
CATHERINE H. HOLMBERG, OF VIRGINIA
KELLY MAURER HOLTHAUS, OF MARYLAND
JAMES R. JAMERSON, OF MARYLAND
MARA A. KAPLAN, OF VIRGINIA
KAREN YOUNG KESHAP, OF VIRGINIA
DONALD F. KILBURG III, OF MINNESOTA
MARK E. KISSEL, OF MARYLAND
JEREMIAH ANDRE KNIGHT, OF CONNECTICUT
MICHAEL K. KOSTICK, OF VIRGINIA
ANNEMETTE LAVERY, OF ARIZONA
DONNA L. LEE, OF VIRGINIA
JINNIE J. LEE, OF NEW YORK
MICHELLE ANNE LEE, OF OHIO
VAN-TRINH THI LEO, OF VIRGINIA
CAROLYN M. MANN, OF VIRGINIA
TELSIDE LOGAN MANSON, OF VIRGINIA
ROSEMARIE MARTIGNETTI HAYES, OF MASSACHUSETTS
TANDY KEALA REIKO MATSUDA, OF VIRGINIA
KIMBERLY M. MCCLURE, OF KENTUCKY
DAVID E. MCMULLIN, OF THE DISTRICT OF COLUMBIA
MARC J. MELLINGER, OF VIRGINIA
KURT MICHAEL MIHELICH, OF VIRGINIA
JAMES N. MILLER, OF CONNECTICUT
STUART WAYNE MINOR, OF VIRGINIA
WILLIAM S. MITCHELL, OF VIRGINIA
ANJANA J. MODI, OF PENNSYLVANIA
ARAM MOHAMED, OF VIRGINIA
CHARNAE L. MORRIS, OF NEW YORK
CHINH U. NGUYEN, OF VIRGINIA
KATHARINE B. O'CONNOR, OF VIRGINIA
REBECCA P. OWEN, OF UTAH
TUNISIA M. OWENS, OF CALIFORNIA
MICHAEL L. PAPP, OF VIRGINIA
WILLIAM JOSEPH PATON, OF NEW YORK
ANTHONY C. PATTON, OF VIRGINIA
JESSICA H. PATTERSON, OF VIRGINIA
LISA M. PHILLIPS, OF VIRGINIA
MARGO POGORZELSKI, OF NEW YORK
MUSTAFA MUHAMMAD POPAL, OF VIRGINIA
ANUPAMA PRATTIPATI, OF PENNSYLVANIA
FRANCISCA FLORENCIA QUINTANAR BERMUDEZ, OF CALIFORNIA
BRIAN J. RAYMOND, OF THE DISTRICT OF COLUMBIA
ANDREW H. READER, OF VIRGINIA
REBECCA ANNE REAM, OF VIRGINIA
CARSON R. RELITZ, OF INDIANA
CHARLES LEWIS RIDLEY IV, OF VIRGINIA
CURTIS RAYMOND RIED, OF CALIFORNIA
DAYNA RACHELLE ROBISON, OF VIRGINIA
SUSAN ELIZABETH SACK, OF VIRGINIA
JOY MICHIKO SAKURAI, OF HAWAII
MARISSA DENISE SCOTT, OF LOUISIANA
CRAIG M. SEHLHORST, OF FLORIDA
JOHN A. SIKO, OF THE DISTRICT OF COLUMBIA
RODNEY A. SNYDER, OF VIRGINIA
EDWARD W. SOLTOW, OF ARIZONA
JAMES REBER SOPP, OF VIRGINIA
PAUL J. STEFANSKI, OF VIRGINIA
DAVID STEPHENSON, OF TEXAS
BRADLEY K. STILWELL, OF WASHINGTON
LAURA TAYLOR-KALE, OF CALIFORNIA
ERIK N. THOMAS, OF VIRGINIA
MATTHEW A. THOMPSON, OF VIRGINIA
ANGELA TLUSTENKO-BROOKS, OF VIRGINIA
KENICHIRO TOKO, OF NEW JERSEY
MICHELLE NICOLE WARD, OF MARYLAND
ALISON E. WERNER, OF THE DISTRICT OF COLUMBIA
COLIN WILLETT, OF VIRGINIA
CARY M. WILLIAMS, OF VIRGINIA
BRIAN CHARLES WINANS, OF ILLINOIS
ANDREW VAUGHN WITHERSPOON, OF NEW HAMPSHIRE
JESSICA A. WOLF, OF NEW YORK
SUSAN W. WONG, OF NEW YORK
CHARLES BYRON WOODWARD JR., OF VIRGINIA
BRYAN DEAN WRIGHT, OF VIRGINIA
RAN XU, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED.

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

MICHAEL W. LIIKALA, OF TEXAS

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

*To be vice admiral*

VICE ADM. TERRY M. CROSS, 4308

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

*To be vice admiral*

REAR ADM. VIVIEN S. CREA, 9704

THE FOLLOWING NAMED CADETS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

*To be ensign*

CATHERINE A. ABELLA, 0863
JOEL A. ABER, 4080
WILLIAM C. ADAMS, 0779
LEAH M. ALBRECHT, 3328
JOHN M. ANDERSON, 8195
RYAN G. ANGELO, 9981
CHRISTOPHER S. ARMSTRONG II, 7978
MORGAN D. ARMSTRONG, 3025
PATRICK N. ARMSTRONG, 9713
STEVE B. ARNWINE, 9003
DANIELLE P. ARTHUR, 4622
PATRICK J. BALL, 0149
ARMELL V. BALMACEDA, 9679
ALEXANDER S. BARKER, 0082
MATTHEW M. BECK, 3608
KRYSTEN M. BENJAMIN, 5212
TIMOTHY J. BERNADT, 4812
TARA M. BERRIOS, 7814
JEANNIE A. BEYER, 2169
CARA J. BLASKO, 4582
JARRETT B. BLEACHER, 0712
TREVOR A. BLOUNT, 8411
JEREMY A. BOHN, 6456
NICOLE D. BONNEY, 3439
TIFFANY A. BRIGHT, 5682
EILEEN BROWN, 6993
TIMOTHY M. BROWN, 8029
ADAM C. BUCKLEY, 6247
LILLIAN R. BUTTERWORTH, 7277
EUSTACIA Y. CALDWELL, 3693
JANE N. CARLEY, 0879
ALEXANDER P. CARRILLO, 4616
ADAM T. CERNOVICH, 6866
ALEXANDRA K. CHERRY, 8844
ELAINE M. CHERRY, 6560
RICHARD M. CHMIELECKI III, 6063
KELLY R. CIMBER, 6765
CHRISTOPHER M. CONDIT, 2577
JAMES O. CONNER, 5846
MATTHEW D. CONNOR, 0600
NEAL A. CORBIN II, 4553
CHRISTOPHER K. CUMBERLAND, 3283
ELVIE A. DAMASO, 6148
LEO T. DANAHER, 5133
DAVID V. DEAL, JR. 6426
JON PAUL M. DEL GAUDIO, 3797
TODD R. DEVRIES, 2297
JESSE M. DIAZ, 2985
DANIEL A. DIIULIO, 6089
ANTONIO DONIS, 2511
MICHAEL J. DOUGHERTY, 5862
NORA K. DOUGHERTY, 6972
JOSHUA M. EATON, 5339
BROCK S. ECKEL, 7147
KRISTOPHER R. ENSLEY, 1054
PATTON J. EPPERSON, 8573
MICHAEL G. FAULKNER, 5948
JOHN A. FILIPOWICZ, 0739
DEREK B. FINE, 5413
SEAN T. FINNEGAN, 6636
JUSTIN M. FORBES, 8681
JENNIFER L. FRYE, 5021
ZACHARY D. FUENTES, 6725
THOMAS M. FULLAM, 7131
GAVIN V. GARCIA, 8503
MICHAEL S. GLINSKI, 9175
ANTHONY F. GOLDSTEIN, 4991
JUSTIN H. GORDON, 0229
ERICA R. GOVEDNIK, 1586
JOSEPH F. GRAHAM, 4207
CHRISTIANE D. GRANT, 2418
OLIVIA K. GRANT, 8210
DOUGLAS D. GRAUL II, 0910
JEREMY M. GREENWOOD, 9638
MICHAEL J. GROCHOWSKI JR., 6078
GLEN R. GROGAN, 5118
JONATHAN I. GRZYB II, 3599
MATTHEW A. GULLY, 9304
PETER K. HAHN, 5442
DEBORAH J. HAMELOTH, 1120
JAMES L. HELLER, 1152
CREIGHTON C. HELMS, 5011
ROBERTO R. HERRERA, 3936
COURTNEY A. HIGGINS, 0566
GREGORY E. HIGGINS, 3659
DAVID W. HOLDEN, 1887
BRANDON C. HORNE, 7196
JOSEPH A. HUNTER, 8166
ROBERT M. HUNTER, 0313
LAUREN U. HURLEY, 7964
CATHERINE B. ICKES, 1586
JEFF G. JANARO, 5885
JEROD P. JAZENSKI, 8847
CHRISTOPHER M. JETT, 9604
MATTHEW J. JEWCZYN, 1662
ERIC P. JOINSON, 9620
JENNIFER M. JOJOLA, 1666
RICHARD M. JONES, 1635
MICHAEL W. KARNOWSKI, 5193
RYAN P. KELLEY, 0168
ANDREW A. KENNEDY, 6441
KALEN M. KENNY, 7621
JEREMY A. KIME, 1775
AARON J. KOWALCZK, 2233
MARK A. KURCZEWSKI, 9306
MICHAEL P. LAMONICA, 3444
HEIDI S. LANDRY, 0547

ANDREW R. LAWRENCE, 3446
MATTHEW D. LAYMAN, 4870
JONATHAN H. LEE, 1218
ADAM G. LEGGETT, 3541
SEAN D. LENAHAN, 4743
JENNIFER E. LEONG, 2312
BRIAN S. LIED, 9887
KIRTLAND L. LINEGAR, 5932
JOHN M. LISKO, 6859
ASHLEY F. LOVEJOY, 2993
MICHAEL P. LUYET, 0411
GREGORY R. LYNCH, 2223
PHILLIP J. MACARTHUR, 4674
JODY J. MAISANO, 9313
THOMAS P. MARTIN, 6843
ROGER M. MASSON, 8662
CHARLES R. MATHIS, 0733
MARC R. MCDONNELL, 8465
MICHAEL S. MCGRAIL, 2385
GREGORY A. MCLAMB, 0376
SCOTT E. MELTON, 8680
AARON C. MEREDITH, 0246
GARRETT R. MEYER, 8592
WENDY E. MEYER, 0240
JAMES E. MILLER, 5858
JAMES R. MILLER JR., 2251
MICHELLE C. MILLER, 7989
MARIETTE C. MILLSON, 2930
JODI J. MIN, 9144
SCOTT C. MITCHELL, 3571
JASON G. MORITZ, 2354
FRANKLIN R. MORRISON III, 4228
KAREN R. MOSS, 0480
ELLEN M. MOTOI, 5145
LISA T. MOTOI, 2875
COLLEEN I. MULLEN, 3827
SEAN M. MURRAY, 2781
JUSTIN P. NADOLNY, 3099
KIDA L. NAMADA, 1125
BRIANNA M. NEASHAM, 7730
CHARLES L. NGUYEN, 8397
KEIDI M. NIEMANN, 0705
KRISTEN A. NIHILL, 1617
MICHAEL A. NINES JR., 1327
MICHAEL J. NORDHAUSEN, 9090
WAYNE T. O DONNELL JR., 4897
ANDERSON J. OGG, 1707
BENJAMIN R. OLIVER, 5879
JOHN A. OSCAR, 2294
JAMES H. PAFFORD, 1566
STARR E. PARMLEY, 9245
ANDREW L. PASZKIEWICZ, 7900
MICHAEL A. PATTERSON, 3263
JOAN V. PAVLISH, 1551
PIERO A. PECORA, 5682
SEAN M. PETERSON, 3143
ARIEL E. PIEDMONT, 8275
DAVID C. PIZZURRO, 0938
CHRISTIAN T. POLYAK, 4869
KELLY A. PONTS, 4086
JONATHAN H. POTTERTON, 9176
THOMAS E. PRZYBYLA, 1305
NICHOLAS O. RAMIREZ, 0274
MELINDA I. RODRIGUEZ, 5523
JAMIE L. RUSSELL, 3074
JOSEPH W. RUSSO, 3907
LAURA A. SALEMME, 6181
RICHARD W. SANZO, 4943
ASHLY L. SCHILLING, 8785
MAEGAN R. SCHWARTZ, 3872
MARK E. SEAVEY, 1570
BONNIE M. SHANER, 7271
ROBERT J. SHAYE, 7664
DAVID C. SHUCK, 9784
JARED L. SILVERMAN, 9634
STEPHEN M. SIMPSON, 0210
ELISHA F. SIVILS, 2295
JACK B. SMITH, 3256
MATTHEW B. SMITH, 4933
BAXTER B. SMOAK, 1101
DANIEL C. SPORER, 7425
PAUL A. ST. PIERRE II, 7882
KENT A. STEIN, 1034
KRYSTYN E. STENCEL, 2712
CHRISTOPHER W. STEPHENS, 4972
KRYSTAL A. STEVENS, 7937
MICHAEL J. STEWARD, 1439
DEREK G. STOROLIS, 5724
DANIEL B. SWEIGART, 7987
LAURA M. SWIFT, 0641
BRYAN J. SWINTEK, 7956
STANLEY A. TARRANT, 4350
MARIO B. TEIXEIRA, 1076
MAILE I. TESLER, 6529
TIMOTHY S. TILGHMAN, 0484
SEAN M. VALENTINE, 0800
KELLY A. VANDENBERG, 5257
PHILIP C. WADE, 7733
JONATHON R. WAECHTER, 9903
BRIAN L. WARD, 4117
CHRISTOPHER L. WEBER, 3003
STEPHANIE L. WEIDNER, 1510
ANDREW S. WEISS, 4551
KYLE A. WEIST, 8427
JONATHAN I. WELCH, 1514
JENNIFER L. WESCOTT, 9106
JUDSON B. WHEELER, 2182
BRIAN R. WHISLER, 2325
KEITH R. WILKINS, 4863
DESMOND T. WILLIAMS, 4391
BRADLY G. WINANS, 6867

## IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIG. GEN. HAROLD A. CROSS, 6940

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

### *To be colonel*

LARRY P. ADAMSTHOMPSON, 3492
DAVID E. BATES, 4892
JAMES S. BOELENS, 5983
PAUL P. BUCK, 7505
STEPHEN L. COOK, 0616
THOMAS L. DAY, 8983
DANNY R. FRANKLIN, 4728
JOHN P. HASH, 7640
RONALD B. HILL, 5025
JERRY L. JONES, 5419
KEITH I. JONES, 4139
DOUGLAS K. KINDER, 6867
GILLEY G. RICHARDSON, 9063
DAVID E. SMITH, 0385
MICHAEL D. TARVIN, 6731
VANCE P. THEODORE, 4314
TIMOTHY N. WILLOUGHBY, 6185

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

### *To be major*

JEREMY A. BALL, 4722
DOUGLAS J. * BECKER, 4427
ROSEANNE M. * BLEAM, 7682
ROBERT A. BORCHERDING, 7039
ROBERT A. * BROADBENT, 7977
STEVEN D. * BRYANT, 4584
MARY E. * CARD, 0183
ERIC R. * CARPENTER, 7091
GEORGE T. * CARTER, 7402
LINDA A. * CHAPMAN, 9588
JONATHAN E. * CHENEY, 2556
CHARLES C. * CHOI, 6871
JOHN H. COOK, 0103
DAVID E. * COOMBS, 3700
TAMI L. * DILLAHUNT, 7200
JAMES H. * DILLON, 6589
RICHARD P. DIMEGLIO, 7471
DANIEL M. FROEHLICH, 5598
DEON M. * GREEN, 5216
JOHN T. * HARRYMAN, 3025
JAMES G. * HARWOOD, 0799
MICHAEL R. HOLLEY, 3855
RUSSELL K. * JACKSON, 3822
MAUREEN A. * KOHN, 5435
ELIZABETH KUBALA, 5943
JONATHAN * LEHNER, 5948
RODNEY R. * LEMAY, 6207
DEAN L. * LYNCH, 0158
ROBERT L. * MANLEY III, 0116
ANDRAS M. * MARTON, 0813
SEAN T. * MCGARRY, 5351
OREN H. * MCKNELLY, 4148
VASCO T. MCRAE, 1138
BRAULIO * MERCADER, 2951
KEVIN J. * MIKOLASHEK, 9922
JEFFREY A. MILLER, 3746
JOSEPH B. * MORSE, 8662
CHARLES C. * ORMSBY JR., 6793
MAANVI M. * PATOIR, 3684
NICOLE E. * RAPONE, 2974
KENNETH J. * RICH, 0702
TRAVIS L. * ROGERS, 7277
BILLY B. RUHLING II, 5985
CARLOS O. * SANTIAGO, 0360
JENNIFER C. * SANTIAGO, 5583
DANIEL P. * SAUMUR, 8536
JOSHUA S. SHUEY, 7898
JAMES J. * TEIXEIRA JR., 4592
JAMES S. * TRIPP, 0877
ECK N. * VAN, 8899
CHRISTIE L. * VAULX, 1042
LISA C. * VIGNA, 6351
MARK A. * VISGER, 7862
SCOTT D. * WALTERS, 2126
MARTIN N. * WHITE, 5640
MICHAEL C. * WONG, 7969

## IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

### *To be major*

BALWINDAR K. RAWALAYVANDEVOORT, 7176
TROY A. TYRE, 7338

# HOUSE OF REPRESENTATIVES—*Friday, February 6, 2004*

The House met at noon and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*February 6, 2004.*

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro temproe on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Dr. Alan N. Keiran, Chief of Staff, Office of the U.S. Senate Chaplain, offered the following prayer:

Lord God, our Eternal Father whose majesty fills the universe, we give thanks for Your enduring mercy and steadfast love. We are mindful that every sunrise is a gift and every day an opportunity to honor You in thought, word, and deed.

Gracious Lord, we ask this morning for Your special blessing on our Nation's Representatives and those that so skillfully serve them here in our Nation's Capitol and in home districts. Grant them the wisdom, courage, discernment, and grace needed to nobly discharge their momentous duties.

Lord, may the radiant warmth of Your eternal providence continue to shine upon this great Republic. May all citizens of this noble land know the width, breadth, and depth of Your life-transforming presence.

I pray this in Your Holy Name. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1612. An act to establish a technology, equipment, and information transfer program within the Department of Homeland Security.

The message also announced that pursuant to Senate Concurrent Resolution 130 (One Hundred Sixth Congress), the Chair, on behalf of the President pro tempore, appoints the following individual to the Task Force on Slave Laborers:

Virginia Walden-Ford of Washington, D.C.

## ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. on Tuesday next for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Tuesday, February 10, 2004, at 12:30 p.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6649. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Hazelnuts Grown in Oregon and Washington; Established of Interim Final and Final Free and Restricted Percentages for the 2003-2004 Marketing Year [Docket No. FV04-982-1 IFR] received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6650. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Onions Grown in South Texas; Decreased Assessment Rate [Docket No. FV03-959-4FR] received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6651. A letter from the Administrator, Agricultural Marketing Service, Dairy Programs, Department of Agriculture, transmitting the Department's final rule — Milk in the Pacific Northwest Marketing Area; Interim Order Amending the Order [Docket No. AO-368-A30; DA-01-08-PNW] received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6652. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Almonds Grown in California; Decreased Assessment Rate [Docket No. FV04-981-1 IFR] received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6653. A letter from the Secretary, LOCAL Television Loan Guarantee Board, Department of Agriculture, transmitting the Department's final rule — LOCAL Television Loan Guarantee Program (RIN: 0572-AB82) received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6654. A letter from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting the Department's final rule — Agency Organization [Docket No. 00-033F] (RIN: 0583-AC78) received January 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6655. A letter from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

6656. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of Items to Iraq in the National Interest of the United States pursuant to section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003 (Transmittal No. DTC 01IZ-04); to the Committee on International Relations.

6657. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6658. A letter from the Secretary, Department of State, transmitting the Department's Performance and Accountability Report for FY 2003; to the Committee on Government Reform.

6659. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Employee Elections to Contribute to the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participants Statements, Calculation of Shared Prices, Methods of Withdrawing Funds from the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous — received December 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6660. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-19; Introduction — received January 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

6661. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's Fiscal Year 2005 Performance Budget, in accordance with the Government Performance and Results Act of 1993; to the Committee on Government Reform.

6662. A letter from the Director, Office of Personnel Management, transmitting the Office's Fiscal Year 2003 Performance and Accountability Report; to the Committee on Government Reform.

6663. A letter from the Director, Workforce Relations and Accountability Policy, Office of Personnel Management, transmitting the Office's final rule — Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (RIN: 3206-AJ93) received January 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6664. A letter from the Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting the Office's final rule — Information Technology Exchange Program (RIN: 3206-AK28) received January 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6665. A letter from the Secretary, Department of Transportation, transmitting the Seventeenth and Eighteenth Annual Reports of Accomplishments Under the Airport Improvement Program for Fiscal Years 1998 and 1999, pursuant to 49 U.S.C. 47131; to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1073. A bill to repeal section 801 of the Revenue Act of 1916 (Rept. 108–415). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GIBBONS:

H.R. 3781. A bill to amend the Elementary and Secondary Education Act of 1965 to authorize local educational agencies in rural areas to obtain a limited waiver of certain requirements relating to the employment of highly qualified teachers; to the Committee on Education and the Workforce.

By Mr. HYDE (for himself, Mr. LANTOS, and Mr. KIRK):

H.R. 3782. A bill to amend the State Department Basic Authorities Act of 1956 to increase the maximum amount of an award available under the Department of State rewards program, to expand the eligibility criteria to receive an award, to authorize nonmonetary awards, to publicize the existence of the rewards program, and for other purposes; to the Committee on International Relations.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

257. The SPEAKER presented a memorial of the Legislature of the Commonwealth of The Mariana Islands, relative to House Joint Resolution No. 13-20 supporting the President of the United States of America, the people of the United States, and their allies throughout the world in the fight against terrorism; to the Committee on International Relations.

258. Also, a memorial of the Legislature of the Commonwealth of The Mariana Islands, relative to House Resolution No. 13-185, requesting the United State Congress to provide for a nonvoting delegate in the House of Representatives to represent the Commonwealth of the Northern Mariana Islands; to the Committee on Resources.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. HOEKSTRA.

H.R. 290: Ms. WATSON and Mr. WAXMAN.

H.R. 742 Mr. EVERETT.

H.R. 857: Mrs. CHRISTENSEN.

H.R. 1063: Mr. ISSA.

H.R. 1425: Mr. STARK.

H.R. 2028: Mr. CRAMER.

H.R. 2823: Mr. INSLEE.

H.R. 3213: Mr. LEWIS of Kentucky, Mr. SESSIONS, and Mr. HOEKSTRA.

H.R. 3545: Mr. SCHIFF, Mr. LANTOS, Mr. FILNER, Mr. BERMAN, Mr. SHERMAN, Mr. BECERRA, Mrs. CAPPS, Ms. LOFGREN, Ms. ROYBAL-ALLARD, and Mr. STARK.

H.R. 3550: Mr. PAYNE and Mr. ROSS.

H.R. 3673: Mr. RANGEL.

H.R. 3771: Mr. TURNER of Texas.

H.J. Res. 22: Mr. CASE.

H. Con. Res. 218: Mr. LINCOLN DIAZ-BALART of Florida.

## PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

55. The SPEAKER presented a petition of Illinois Association of Chiefs of Police, relative to Resolution 2004-1, supporting legislation to reauthorize the existing ban on assault weapons and any technical amendments designed to correct oversights in the original law that weaken the effects of the prohibition on assault weapons; which was referred to the Committee on the Judiciary.

# SENATE—*Friday, February 6, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, You have been good to us beyond our deserving, surrounding us with light and music, beauty and friendships. Thank You for Your eternal love and for the little miracles You give us each day. Lord, You give us sunrises and sunsets. You provide us with air to breathe and heartbeats. We hear Your love in the roar of the oceans. We see Your sovereignty in the flight of the eagle.

You protect us from dangers, seen and unseen. You cause the weapons of our enemies to fail. Help us to show our gratitude by moving beyond rhetoric to deeds.

Empower our Senators to trust You to guide their steps. Bless them as they seek to transform dark yesterdays into bright tomorrows. Give them peace for turbulent moments and anchors for life's storms. We pray this in Your serene Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable LINCOLN CHAFEE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, February 6, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. CHAFEE thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate resumes consideration of S. 1072, the highway bill. As we announced last night, there will be no rollcall votes today. Chairman INHOFE will be on the floor this morning, and Senators are encouraged to come to the floor to speak on the bill. When we complete our business today, we will reconvene on Monday for more work on the highway bill. As I previously announced, we expect to complete this bill next week. I will be consulting with the chairman and the Democratic leader as to the specific schedule and will announce that later today.

## NEWS UPDATES

Mr. FRIST. Mr. President, I want to make a few comments on the news, and give a quick update on the events that have happened in my own mailroom earlier in the week.

First of all, just a few minutes ago, this morning, with regard to the employment situation, we have been given very good news. The unemployment rate is at 5.6 percent, which was little changed, but the nonfarm payroll employment increased by 112,000, with job gains in construction and several service-providing industries. Indeed, that is very good news. That is 112,000 new jobs in January.

If we look back to last August, we have seen a creation of 366,000 payroll jobs. These numbers are very good news. It demonstrates we have turned the corner. But, clearly, we have a lot more work to do as we go forward. So there is very good news today on the job front; the trends are in the positive, right direction. But, again, we have a lot more work to do.

The economy is doing well. I say that very quickly, and say we have a lot more work to do in job creation. But, again, that figure of 112,000 is very good news.

Mr. President, on another front but timely in terms of the news itself, I am delighted to report we are ahead of schedule in getting Senators back into their offices here on the Capitol grounds. As everyone knows, in response to the attack on my office with what is a deadly poison by the name of ricin, we immediately focused on the safety and welfare of the staff throughout the Capitol complex. Through a very comprehensive plan, a comprehensive response, even though I know it has not been handled just perfectly, and there are a lot of frustrations, I am delighted to report nobody has been hurt, everybody is safe, and that includes people here in my office, in the Dirksen building, the Senate office buildings, the Capitol complex, and, indeed, the postal system in this country.

All testing has been negative, with the exception of the testing right around where the discovery was made. The Russell Senate office building has been opened now for 2 days. The Hart Senate office building opened yesterday. The Dirksen office building we will be making announcements about over the course of the day.

On a third issue, Mr. President, I am delighted to see the response to the Medicare legislation we passed has been very positive in a number of ways. According to press reports, over 100 companies, agencies, and organizations have filed or are filing applications to participate in that prescription drug card that will be available to all seniors this summer.

To me, that demonstrates a real interest and a fierce sign of competition and a lot of people participating in addressing the issue of health care, health care costs, prescription drugs, and making prescription drugs more available to our seniors. This is a strong indication there will be a very positive and broad interest that this full benefit, once it is available, will be taken advantage of.

Also, earlier in the week we saw Medicare HMOs are, in response to this bill, slashing their premiums, making these premiums come down, therefore lowering that burden that falls on the senior in terms of out-of-pocket costs. At the same time, they are increasing their benefits in response to this bill, and expanding their service to more and more seniors, with the opportunity for more and more seniors to participate in integrated health care plans.

This is a real stark contrast to what we had seen in the past where there were shrinking choices. Now there are going to be expanding choices. We are already seeing that take place.

We began this Congress making the promise we would bring about strengthening the Medicare system and expanding the choices within the Medicare system and lowering the burden in terms of out-of-pocket expenditures and costs to individual seniors, and we have delivered on that promise. We made the promise that seniors would have access to better health care, and we have delivered on that promise by providing preventive care and prescription drugs for the first time really in Medicare today.

So the plan is working. The new discount cards will be available for our seniors later on this spring.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, on a related issue, I want to comment on a silent epidemic that is in this country and that affects a lot of people who are listening to me right now—my colleagues and others who are watching through the various media. It has to do with an epidemic that a lot of people don't recognize that is occurring that can affect your health care and my health care and that of our colleagues and our families. It can be brought to focus by a single question that I want to ask every American; that is, are you positively sure that you don't have high blood pressure right now? If you can't answer that question yes or no, then you need to find out. Are you positively sure that you don't have high blood pressure?

High blood pressure is hypertension. If you can't answer that question, just listen to me for a couple minutes on this important issue. The American Heart Association calls hypertension, or high blood pressure, "the silent killer." We call it hypertension, and it is high blood pressure just like the pressure in a tire. If you are pumping up a tire with too much air, a bicycle tire or an automobile tire, it gets higher and higher. And literally, when they put that blood pressure cup on your arm and they measure to get those two numbers, the one and the slash and then the other number, it tells you how much pressure is in your body.

The higher the pressure in your body, once it gets out of a certain range, the more likely you are to die, whether that be from heart disease, because it causes hardening of the arteries, or a stroke. It is as simple as that.

When a person's blood pressure is too high, the heart is having to pump too hard. The heart is a pump. You have the rest of the body and the resistance of the blood vessels themselves. If it gets too high, it is like too much pressure in a tire. Or you can think of taking a thin coffee stirring straw and you are trying to blow through that as hard as you possibly can and the pressure that builds up strains the heart, which is a pump, and the blood pressure. If that pressure builds up over a period of time, because it is that way all throughout the course of the day—heartbeat after heartbeat, day after day—it damages everything that is downstream from the heart and the blood vessels—the brain and all of the organs. That is my physiology lesson.

The point is, it is widespread. This is not just a few people. There are about 50 million people in the country today who have high blood pressure. Remember, if you have high blood pressure, you are going to have heart disease or a stroke or myocardial infarction, coronary artery disease, or atherosclerotic heart disease.

The interesting thing about that is that a third of those 50 million people don't know they have it. That is why I am taking time on the Senate floor to address it. Because if it is 50 million and a third of them don't know they have it, all you have to do is put a blood pressure cup on your arm and then we have treatment for it. We can save thousands of lives if people will just act.

I also want to relate that to what I just mentioned about Medicare itself. As legislation comes through this body, it is important for us to think like that, to take every opportunity to improve the legislation, if it can be as direct as that in terms of saving lives.

With the Medicare prescription drug bill this body passed, that the President signed in December, for the first time in the history of this great Medicare Program, once you hit 65, that blood pressure cup and that physical exam becomes part of the program. That is amazing to me.

Traditionally, people who came into Medicare didn't get that physical exam because it was not provided in the program. It is today. It was not 2 months ago. Thus, if you had hypertension throughout your life and you hadn't gone to the doctor because you hadn't been in a motor vehicle accident or you didn't like doctors, when you got to be 65 and on Medicare, at 70 and 75, and you have hypertension, it is never diagnosed. But in this Medicare bill, we included an entry physical exam so you make the diagnosis. That is step No. 1.

Also in this Medicare bill for the first time in the history of Medicare—a wonderful program, 40 years we have had this fantastic program; I just told you diagnosis is there for the first time—there is the treatment. Never before in the history of Medicare have prescription drugs, which is the way you treat most hypertension today, been available through the Medicare Program itself. Yet that benefit, that better health care, because we passed this prescription drug bill and Medicare bill, is available.

So those two things: Diagnosis is going to be made. Remember, 16 million people in the country don't know they have it. So we are going to make the diagnosis. And then after the diagnosis, we don't leave people high and dry. We give them help. We don't give them all their prescription drugs. We never promised we would give them all their prescription drugs, and we shouldn't give them all their prescription drugs. We probably can't afford it. But we have helped every senior who has hypertension who didn't have access to prescription drugs to get prescription drugs. We have helped every single one and low income. We have really helped.

We see why this Medicare bill was important. People argue $400 billion is too much, or it is too little. Everybody is getting it from both sides. The point is, for the first time we have preventive care, we have early detection, and we increase the likelihood that a senior can get treatment for this life-threatening disease.

I should also mention that African Americans, of that 50 million people with hypertension, are disproportionately affected. So they have this additional benefit both in terms of diagnosis and treatment. Look at hypertension and high blood pressure today. African Americans are disproportionately affected.

I am gratified for this major advance in the Medicare bill. There are lots of things in the Medicare bill such as this that we didn't talk very much about on the floor of the Senate, but because we made reforms like that to Medicare, lives will be saved. More Americans are going to get the care that they deserve, and more Americans are going to get the treatments they need. That is what is in this bill. Hypertension is a good example. More lives will be saved.

Let me go back to the question I asked: do you know what your blood pressure is? What is it? I know what my number is. I am a physician. I think about it all the time. But you need to be able to know. Is it high or low? No. 2, if you haven't had it checked recently, go have it checked. It is as simple as having a blood pressure cup put on your arm. Thirdly, if you are over the age of 65, because of the President's Medicare bill, you are going to receive more help to get the prescription drugs you need if you need them to help save your life. Are you positively sure you don't have high blood pressure?

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I have some remarks I wish to make. I know Senator DORGAN has an important meeting at 10. I will withhold my comments so that he may be recognized first.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from North Dakota.

## CREATION OF JOBS WITH S. 1072

Mr. DORGAN. Mr. President, I thank my colleague, Senator DASCHLE. I say to Senator FRIST, blood pressures rise from time to time actually on the floor of the Senate, depending on what we are doing. Mine relates to the issue of when we treat serious things too lightly or light things too seriously.

Speaking of that, most of us agree that a serious matter that ought to be treated seriously is the highway bill. This week was a disappointment because we had the difficulty of getting into our office buildings and the ricin issue here on Capitol Hill.

I know both the Republican leader and the Democratic leader share this view. This highway bill is critically important.

I recall a political campaign in an election that was waged a couple of campaigns ago where they had a sign on the wall that said, "It is the economy, stupid." That was their sign, just to remind them every day to focus like a laser on the economy.

With respect to this country's economy and jobs, at a time when more than 2½ million people lost their jobs in recent years and 8 to 10 million people are now looking for a job this morning, there isn't anything that we can do that is, in my judgment, more urgent than passing this highway bill. Why? Because this is a job generator. Instantly, people go back to work.

It means that contractors are out there with new contracts. They are hiring people. Everyone in this Chamber knows that the one formula for producing jobs now, immediately, is to pass this highway bill.

It has been a disappointment to me this week that we have had some—it was described in the National Journal or Congressional Quarterly as a small group of Republicans—who have decided to hold this bill up and stop it. That would not be in this country's interest.

We must get this done. I appreciate the strength of the majority leader and the strength of the Democratic leader, as well, to stay with it. I would say to Senator FRIST that I believe there is a broad, bipartisan consensus in this Chamber to produce a highway bill that helps us invest in the improvements necessary in roads and bridges across the country. Over 30 percent of them are in disrepair. But more important than that, in my judgment, is the ability to be a job generator, to expand this economy and put people back to work is job one.

There is not much more of importance we can do this year. I don't know of a more important bill this year that will be related to American jobs than this bill. So it is my hope that, even though there is some obstruction going on by a few in the Chamber on the other side, we stay here, stick with it, work late if necessary, and get this bill done. It is that important for this country. Frankly, I think there is a broad, bipartisan consensus on that point. When we have that, let's stick with it and do it, even if there are some in this Chamber who have decided they want to hold it up.

I thank my colleague from South Dakota, Senator DASCHLE, for giving me the time. I am about to go chair a hearing. It also relates to jobs. This jobs issue is so critically important. People got out of bed this morning in this country asking themselves: Where can I find a job? There are millions and millions of them. It is a big deal, a big issue. It is a serious matter for this country.

The bill we are considering now has the opportunity to allow us to address this in a very significant way, and we cannot and should not miss this opportunity.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Democratic leader.

## JOB CREATION

Mr. DASCHLE. Mr. President, I thank the Senator from North Dakota for his comments this morning. I share his view about the importance of this highway bill, in particular.

I wish to say a few things about both the highway bill as well as the budget this morning. We just received our report again this month about the economy and the jobs created. I think the good news is that we did see the creation of 112,000 new jobs in January. I think that is a positive development. The bad news is that it falls short of what was needed to keep us on a path to ensure that jobs are not lost during the President's first term.

Mr. President, 150,000 new jobs in January was the stated goal of the Administration. The figure released today indicates a substantial shortfall; this is nearly 40,000 jobs short of their stated goal. Of course, it is dramatically short—two-thirds short—of what the goal would be to reverse this unemployment debacle we have witnessed for the last 3 years. 300,000 new private sector jobs would have to be created each month to erase the decline we have witnessed the past 36 months. So while we made some progress this month with 112,000 new jobs, we are falling far short of the Administration's stated goal of 150,000 and even further short of the 300,000 jobs necessary to reverse the unfortunate trend.

There is another disturbing problem that we have not been able to address, and the administration has not been able to address. This is the 42nd month in a row that we have actually seen a loss of manufacturing jobs. For 42 straight months manufacturing jobs have declined.

The jobs issue may be the single most critical issue as we look at the economy. There is a long, long way to go before we can say with any confidence that we have turned this economy around, that people who have jobs will keep them, and people who don't have jobs will get them.

I think most of us would receive today's news about jobs this month with that sense of disappointment, but also with the realization that 112,000 jobs is better than what we had in December when only a thousand jobs were added.

## THE TRANSPORTATION BILL

Let me take a moment to talk about the transportation bill again this morning. I will not repeat my concerns about the delay and resulting loss of those jobs. I want to focus on the positive and, once again, compliment the managers of the bill who balanced divergent interests to bring us a finely crafted bill that certainly deserves our support. Chairman INHOFE and Senator JEFFORDS, Senator BOND and Senator REID deserve our praise for working in a bipartisan fashion, as do Banking Committee Chairman SHELBY and Senator SARBANES, and Finance Committee Chairman GRASSLEY and Senator BAUCUS. But I also especially thank the majority leader for scheduling the time it will take to get this bill done. When the leader and I met on Monday, I was impressed with his resolve and desire to bear down and get this critical work done for this country.

Our roads, our bridges, our transit system, our rail lines, and our ports all need assistance to ensure that our Nation has the first-class infrastructure needed to reinvigorate our economy and make our country strong and competitive. After having lost 3 million jobs over the last 3 years, there is nothing more important than passing this bill, which will provide hundreds of thousands of jobs.

Senator FRIST and Senator INHOFE suggested the other day that it might create nearly 2 million good jobs in engineering, construction, and administration. So I know that many of us would like to have made more progress on the bill this week than we have so far. But things really do seem to be coming together.

The Banking Committee approved transit provisions for the bill the other day. We had a discussion about those provisions yesterday on the Senate floor. The Finance Committee reported a bipartisan bill earlier in the week, and we have discussed many of these provisions on the floor throughout this week.

We also have had several amendments debated and discussed. There is no question about it, there is a lot of work to be done. But the work we are doing to provide jobs and assure first-class infrastructure is among the most important work the Senate could be doing. In fact, I cannot think of anything more important for us to be working on at this time than this bill.

To be frank, it is a good feeling to see us working on such an important issue in such a cooperative and bipartisan fashion. I salute Senator FRIST and his team for recognizing the importance of this bill. As Senator FRIST said on Monday, we need to move swiftly to pass this bill, which he so aptly said has broad support in the Senate, as well as across the country.

I also want to be abundantly clear that the firm and steadfast desire of every Democratic Senator I have spoken to is to stay with this bill, to be cooperative, and resolve differences, to complete the bill and move it forward so we can get it to the President's desk as soon as possible.

### THE PRESIDENT'S BUDGET

Mr. President, having talked about the highway bill, let me now move to the last matter I want to address this morning. The budget I have here was presented to us by the administration. It is the budget for fiscal years 2005 through 2009, containing 2,365 pages, and literally millions of numbers and figures.

This document cannot be taken seriously as a budget. As vast and extensive as this budget seems, the administration has actually omitted essential facts and data that will have enormous consequences for the fiscal future and our economy.

There is nothing in this budget—not a dime—to cover the costs of operations in Iraq and Afghanistan. What does that tell you? Well, it tells you one of two things: Either the President is going to announce within the next month or so a complete withdrawal of all troops and all American presence in Afghanistan and Iraq to coincide with his current budget proposal or he is hiding those numbers until a later date. In either case, this omission makes this budget totally meaningless when it comes to helping us understand the costs of the commitments we are making in two of the most important parts of the world today.

I don't understand how the Administration can leave out the funding for these operations at the same time it acknowledges we have tens of thousands of troops in these countries today and will have troops there for years and years to come.

CBO estimated the cost associated with our efforts in Iraq could reach $200 billion, yet there is not one dime in this budget—I am only holding up a piece of the budget—not one dime in this budget, this entire budget, to cover the costs of our ongoing operations in Iraq and Afghanistan for the current fiscal year or the four years after that. The charade, the sham, the misleading character of this budget makes me want to send it right back.

Or consider the alternative minimum tax. By 2009, the last year of the administration's 5-year budget plan, 30 million Americans will see their taxes increased as a result of the alternative minimum tax. Most of us agree that we will need to fix this tax to prevent it from falling on middle-class Americans.

The CBO estimates that the President would need to request at least $150 billion through 2009 and more than $600 billion through 2014 to prevent this tax increase caused as more Americans fall subject to the alternative minimum tax. Yet, other than a 1-year temporary patch for 2005, this budget does not address that this recognized problem either.

Let me make sure people understand. On the spending side, perhaps the largest military operations we expect to carry out over the course of the next several years, expenditures to directly pay for the activities of tens of thousands of troops in Afghanistan and Iraq, there is not one dime in this budget.

On the tax side, a collective realization, a bipartisan realization that we are going to have to change the alternative minimum tax before it hits middle-class Americans hard, a problem that is estimated to cost $150 billion over the course of the next 5 years alone, there is a one-year patch, after which the budget acts as if this problem doesn't exist.

Most egregiously, the budget stops after 5 years, just before the full cost of the President's tax breaks begins to be felt and just as the full cost of the baby boomer retirement begins to emerge. When you include the 5 years after the budget projections stop, the President's tax breaks will add trillions more to the national debt, an estimated $2 trillion.

So the President omits specific and known expenditures, ones to which we know we are going to have to commit resources—$200 billion, perhaps, in the case of our presence in Iraq and Afghanistan; $150 billion for AMT; and $2 trillion over the next 10 years for his tax cuts. Of course, if I had a $521 billion deficit already written into this so-called budget, I wouldn't put these costs in either, but I also wouldn't have called the document a budget. I would call it my wish list. I would call it my priorities. But you can't call this a budget.

It would be like a man and woman sitting at their kitchen table trying to make ends meet, and they say: You know that mortgage payment we have to make for the coming year, let's just not count that. And, oh, yes, the kids' college, that $500 check each month we have to pay, let's not count that. Oh, and the car payment, we better not count that either. Let's leave off the mortgage, college, and a car payment, and you know what, bingo, the budget balances. But in this case, the budget doesn't even balance with those omissions. In this case, we still have a $521 billion deficit.

We cannot predict every challenge our Nation will face in the coming years, but we do not need a crystal ball to know we have to commit resources to support our troops. We do not need a crystal ball to know that Congress will act to spare 30 million Americans from the alternative minimum tax. And we do not need a crystal ball to know that when you ask to make tax cuts permanent, the cost will be with us for a lot more than 5 years.

There is a credibility chasm, whether it is weapons of mass destruction, whether it is the budget, whether it is so many things that emanate these days from this administration, its credibility has eroded dramatically.

I can't imagine, for the life of me, a more irresponsible document than what we have been sent this week. If anyone—anyone—would do this in real life, they would be in bankruptcy court within a year. That is why we will see our national debt skyrocket from $5.6 trillion when President Bush took office, to $11 trillion by the end of the 5-year budget—just the 5-year budget he has proposed.

In the end, budgets are not about numbers, they are about choices. The first observation that is that these glaring omissions, these extraordinary misrepresentations have enormous implications not only for our fiscal future but also for this Administration's credibility. That is just the first piece of this.

The second piece is what this budget tells us about the choices the administration made as they were writing these numbers. When we look closely at this so-called budget, we learn something valuable about the administration's priorities and choices. We shouldn't be surprised.

They propose that the IRS cut back on enforcement of America's tax laws. Can you imagine, not only are we not going to provide some fairness in our tax system, but those who are given these tax breaks are also being sent the message: Maybe you don't even have to comply as much because we are going to drop enforcement, which means more corporate loopholes will be exploited and more will resort to tax cheating. What does that say?

When we also cut back the COPS Program as this budget does, at the same time we cut back funding to enforce our tax laws, what does that say about the desire, the determination on the part of this administration to go after those who break the law, whether it is by failing to pay their fair share of taxes or doing something illegal in our neighborhood?

The cutback in enforcement funding also means higher taxes for honest American taxpayers and larger debts passed on to our children and grandchildren. That is the choice the White House has made. The administration proposes that hundreds of billions of dollars be given to the biggest corporations and wealthiest among us. This means a more uncertain future for Social Security because $2 trillion will need to be taken out of the Social Security trust fund.

This also was a choice the administration has made. They insist that even in the face of massive deficits, a job crisis, and our ongoing activities in

Iraq and Afghanistan, we must continue their failed policies of tax cuts first, last, and always.

Another sad illustration of its poor choices, in addition to record deficits and debt, 2.4 million children are going to be left behind because of underfunded education priorities; 210,000 more veterans will not receive the health care they need; 1,200 fewer cops will be on our streets. What an amazing turnaround.

Less than 3 years ago, we were praising the cops of New York and Washington for their incredible response to 9/11, and now we tell many of them they are out of a job because we are not going to fund the programs that put them there in the first place. Thousands of firefighters and emergency personnel also praised less than 3 years ago will be fired as a result of the cuts in this so-called budget. These are the choices the White House has made. The President has chosen to provide huge windfalls for millionaires and giant corporations, and huge cutbacks for the programs that matter most to American families. Families who make and follow budgets should look at the administration's budget and be aghast, not just for the sleight-of-hand tricks that hide its true cost, but for the fact that the President has abandoned their priorities and their concerns. If this budget passes, Americans face a future with poorer schools, higher crime, and less secure retirements.

We have to do better than this. We must provide Americans with a budget that honors their choices, their priorities, and prepares our Nation to meet challenges of our future. And we must be as forthcoming and responsible with taxpayers' dollars as they are with their own family budgets sitting at that kitchen table.

Mr. REID. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. Through the Chair, I say to the distinguished Democratic leader, as someone who has worked on this highway bill to get it to the point where it is now, I very much appreciate the team work that has been shown with the majority and Democratic leaders. They have both spoken out strongly in favor of this legislation. That means a lot to Senator INHOFE, Senator BOND, Senator JEFFORDS, and to me, the two chairmen of the committee and subcommittee, and the two ranking members, who have worked to get this bill to the point where it is.

So I want to say again how much we appreciate the Democratic leader and the majority leader coming to the floor often and talking about the importance of this bill and especially acknowledging the fact that 90 percent of this bill is paid for through the trust fund, and a small percentage of it is through other taxes, no new taxes. So I thank the minority leader very much for his help.

Mr. DASCHLE. Mr. President, I appreciate very much the compliments of the distinguished assistant Democratic leader. He has worked diligently with the chairman of the Environment and Public Works Committee, coordinated the efforts, and while this week could have been more productive, I do think at the committee level it was all that we could have hoped for on a bipartisan basis. The Finance Committee did its work. On a bipartisan basis, the Banking Committee has done its work. After the divisive and partisan battles we have had on energy, Medicare, and on so many things as we closed the first session of this Congress, it is somewhat refreshing to see the bipartisan nature of our work on this bill.

Senator FRIST has made it abundantly clear it is his desire, and I would say I share it just as strongly, that we finish next week. I would love to see this bill completed by this time next week. I think if we work hard, accommodate each other's desire to entertain amendments, debate these amendments, have votes on the amendments, there is no reason we cannot finish this bill a week from today, prior to the Presidents' Day recess. That would certainly be my hope.

Again, I appreciate the leadership provided, especially by the Senator from Nevada, in reaching that goal.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could just ask one more question. I know how busy the leader is, but as I was reading my news clips today, and as I was listening to the distinguished majority leader talk about what a great bill this Medicare bill is and how that now people, if they are 65 years old, can have a high blood pressure cup placed on their arm and in a few seconds find out what their blood pressure is. I do not think that is very expensive. I, frankly, say that most people who go to doctors have that done automatically anyway. I apologize for this, but it will take only about 3 minutes. I want to read an article that was in Nevada's second largest newspaper, the Reno Gazette-Journal. This is what appeared in my news clips today: "Seniors Blast Medicare Prescription Plan." I am not making any of this up.

> Riley Waller is among many Washoe County citizens still angry over the Medicare prescription plan signed into law in December, saying it will gouge seniors and the taxpayers who'll pay for it.
>
> More than 100 senior citizens listened Thursday morning as Nevada Division of Aging officials explained how the new prescription drug program will work. Several seniors said they're unhappy with the new prescription program adopted by Congress and signed into law by President Bush, with the backing of the largest group representing older Americans.
>
> "It took away the opportunity for people to get drugs from Canada at half the price," said Waller, 77, of Reno. "It will not allow Medicare to negotiate lower prices. That's ridiculous."
>
> Robert Chamberlain, 67, a retired Reno lawyer, said he soon will be among 45,000 seniors to drop their membership in the American Association of Retired Persons.
>
> "When the AARP came out in favor of the Bush plan, they did a disservice to the elderly people who are in need of Medicare," Chamberlain said. "The AARP will profit from them in selling them insurance."
>
> Norma Herring, another Reno senior, said she doesn't take prescription drugs and will not pay a monthly premium to get them.
>
> "No way am I going to pay a monthly fee."
>
> The Medicare prescription program begins in January 2006, while a temporary discount card program starts this June. "How these programs provided by insurance companies will intertwine with the state's Senior Rx program has not been determined," said Betty Squires, Nevada Division of Aging Medicare adviser for seniors.
>
> People must sign up for both programs. Seniors will be given a six-month window to register for the Medicare drug program starting November 15, 2005. If they register later, they'll pay a penalty.
>
> Under the program, each year seniors must pay $420 in monthly premiums; buy the first $250 of medications; pay 25 percent of medication costs between $250 and $2,250; and all of the costs from $2,250 to $5,100—the so-called doughnut hole. After that, Medicare will pay 95 percent of prescription drug costs.
>
> In providing an example, Squires said a married man whose prescriptions total $4,850 a year would spend $3,370 to buy them while Medicare would pick up $1,080 of the cost.
>
> Individuals with annual incomes less than $9,600 and couples with incomes less than $13,000 would generally pay between $1 and $5 per prescription with no additional costs. Other low-income groups with few assets also would get discounts.
>
> Squires said some employers might drop prescription drug benefits for their retirees in anticipation of the new program.
>
> "Teachers in Las Vegas lost the benefit. It's already happening," she said.
>
> But her hope is companies will instead cover the premiums or provide coverage for the doughnut hole.
>
> In the last few weeks, a national liberal group called Moveon.org has spent $1 million on television commercials in Nevada, putting words in President Bush's mouth about the prescriptive drug program.
>
> The commercials say the Medicare bill has real drug benefits for the big drug companies, Bush contributors, in forbidding Medicare from negotiating lower drug prices and barring people from importing drugs from Canada.
>
> Squires said the drug companies won't be limited in how much profit they'll make from the new program.

I will not finish the article, and I am sorry to take the leader's time, but this is happening all over America. It is not just in Reno. The prescription drug benefit, no matter how it is painted with chocolate, is a program that is not good for the American people. The American people know this, as indicated by the group that met in Reno yesterday. This is a disaster waiting to happen.

Does the leader acknowledge the same thing is happening in South Dakota?

Mr. DASCHLE. Mr. President, I appreciate the most recent report from

Nevada with regard to how his constituents are viewing this new Medicare Program. I must say it is perfectly in concert with the sentiments expressed in similar articles in South Dakota. During the last break, when I was home holding meetings regarding this program, we had standing room only crowds in every single meeting, and those crowds were almost universally angered, frustrated, and concerned about their circumstances as a result of this legislation passing.

Much of their anger, as the Senator noted in the article, is directed towards the organization AARP, for their failure to stand up for citizens, and I think that is understandable. Their frustration and their anxiety goes deeper than just an organization. They are concerned about their own livelihoods and what it may mean for them and how troubling it is to them that the Government is actually forbidden from negotiating lower drug prices, which is what the goal was in the first place.

So it is their inability to get lower drug prices, their concern about having to pay exorbitant premiums and fees for a limited benefit, their concern about being pushed into an HMO, their concern about whether they can access drugs from other countries like Canada where prices are cheaper: all of those and many more concerns were reflected in these discussions. It is again reflected in the article the Senator has just read into the record.

So I share his consternation and his resolve to address these issues. We have to find a way to fix it, and the senior citizens of this country are demanding we do it now.

I yield the floor.

## SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, I commend my friend, the junior Senator from Oklahoma, Mr. INHOFE, for his steadfastness in attempting to move this most important bill that the Chair just reported. He has worked hard on this for months. This week he has worked hard on it. This has not been an easy week. I said many times before, as I said earlier speaking with the Democratic leader this morning, there is no other legislation we will consider this Congress that will do more for the American worker or have so great an impact on every facet of American life than the bill which was just reported by the Chair, the highway bill.

Since coming to Congress, I have been so impressed with what infrastructure development does for the entire community. It provides jobs, but the social benefits are significant. For every $1 billion invested in infrastructure, it has been established, and we heard it many times, we create more than 47,000 high-paying jobs, skilled jobs that generate more than $6.2 billion of economic activity. Again, for every billion dollars spent on infrastructure development—for example, highway or transit—we create 47,000 jobs. But the spinoff for this $1 billion is $6.2 billion in economic activity. Even by conservative estimates, funding our Nation's infrastructure program at the $311 billion Bond-Reid level will create hundreds of thousands, if not millions, of jobs.

I thank the two leaders again, Senators DASCHLE and FRIST, for their support and for their recognition of the importance of this measure. I wholeheartedly agree with the majority leader's statements earlier this week when he urged the Members of this body to focus their full attention on this legislation. I would say, however, that his focus should be on that side of the aisle. We, over here, are marching in lockstep toward completing this legislation. There has been a lot of stumbling taking place on the other side of the aisle. There has been roadblock after roadblock placed before this highway bill by the majority. The majority leader said:

> We cannot ask our fellow citizens to join the great American workforce and then stand idly by while our roads decay and that commute to work stretches from minutes into hours. It is a job issue. . . . Our highways, our bridges, our roads, our ports, and our trains are in fact very much the physical expression of the very name we bear, uniting the States of America.

I agree with the majority leader, but we need help. This bill is being held up by the majority. I don't know why, but some on the other side of the aisle have failed to recognize the wisdom of their leader, Senator FRIST. These Members continue to impede our progress on this. On the first thing we are doing this year in this session of the Legislature, there is a big roadblock, I repeat, on our highway bill. Progress is being impeded.

During last year's budget debate, 79 Senators—and there would have been more but we had some out running for President even then—79 Members of this body voted to support a $311 billion piece of legislation for highways and transit. Under the leadership of Senator GRASSLEY and BAUCUS, we have a funding package that meets this goal, enjoys bipartisan support, and meets the President's funding criteria.

I am always amazed at this bipartisan stuff we talk about here. McCain-Feingold is said to be a bipartisan bill, the great legislation done to improve campaign financing. It was bipartisan. OK, we had MCCAIN and HAGEL—and there may be a few other Republicans, and I apologize to those; I am sure the Presiding Officer was one of them—who favored McCain-Feingold. Basically, the Democrats pushed campaign finance reform.

On the highway bill, unless something changes, I don't know where the bipartisanship is. We know BOND and INHOFE support this legislation. But let's have this a truly bipartisan piece of legislation and move forward as we did during the budget process; 79 Senators supported what we are supposed to be doing in this. With the finance package having been completed, every piece of the puzzle is in place.

I remember I was always very bad working jigsaw puzzles. My little bother, he was great, but I, in my little-boy head, was envious of my brother Larry. He could do these puzzles. So, what I would do, I would hide the last couple of pieces of the puzzle so that way he couldn't complete the puzzle. He would come to me for the missing pieces and I would say okay, but I would always get something; he would have to carry the wood or do something to get the last few pieces.

We have the pieces to this puzzle. None of them are hidden. This is an important, complicated piece of legislation. It has very difficult components—highways, rail, mass transit, and the tax portion. Everything is done and everything is paid for. There are no new taxes. With this last piece of the puzzle now in place, we are ready to move forward.

As my friend from Ohio, Senator VOINOVICH, so passionately communicated last night, now is the time to act. Why would Senator VOINOVICH know? What basis would this man have to talk about this highway bill? It could be that GEORGE VOINOVICH was mayor of one of the largest cities in America, the mayor of Cleveland, OH. It could be that he was Governor of one of the most populous States in America, Ohio. He knows, from being a mayor and a Governor, how important this transportation bill is.

I think we should listen to GEORGE VOINOVICH, telling us, let's move on this legislation. It is important to Ohio. It is important to Nevada. It is important to Rhode Island. It is important to Texas. It is important to South Dakota. It is important to Tennessee.

Every State in the Union benefits from this. But we have some people saying: Oh, we can't do this, it's pork.

What in the world is that supposed to mean? Most of the bill is paid for out of the highway trust fund. Pork? I don't understand that. Is reconstructing a damaged bridge pork? Thirty percent of the bridges in America are in a state of disrepair. As has already been established here on the Senate floor, there are bridges in America where a school bus comes to the bridge, stops, lets the kids out, drives the bus across empty, has the kids walk across the bridge and jump back in the bus, and take off. Why? Because the bridge is dangerous. They can't have a bus full of kids go on a bridge that may collapse at any time.

Is that pork? One-third—almost one-third of all the bridges in America need something done: either be replaced or repaired or renovated in some fashion. The busiest two-lane road in Nevada is from a place called Railroad Pass to Searchlight, my hometown. It is a deathtrap. We are fortunate that half of that—18 miles of the 36 miles—now is a four-lane road. We are in the process of making the rest four lanes.

Is that pork? A busy two-lane road in Nevada, and people are killed and injured on that road all the time. Is that pork? I don't understand what the word means. I don't think so. Try to tell that to the truck drivers who are tied up in traffic, not being able to move their loads across this country because of the traffic on the road from Railroad Pass to Search Light. There are examples all over America that are the same. Is that pork because you want to move people more quickly?

As the majority leader mentioned in his statement, people are stuck in traffic. What does that do? It pollutes the air. There is no worse pollution than a car idling. It prevents people from getting to work so they can be productive. If it is a truck or a bus, it holds up the ability of commerce to move on, costing all of us more money.

Those folks who are talking about this bill having too much money need to reassess what their priorities are for the country. I personally believe this bill doesn't have enough money. It certainly doesn't have too much. A longtime Member of the other body, the chairman of the Transportation and Infrastructure Committee, the only Congressman from Alaska, believes what we have done here in the Senate isn't enough. He is over there working with the Republican majority in the House trying to get more money. I applaud him for doing that. We need more money for highways and transit—not less. This is a 6-year bill. I support it. If we can get it passed, I will be happy with it.

As Senator VOINOVICH said last night, we must seize this opportunity to act. I say it today. We must seize this opportunity to act.

According to a study by the American Association of State Highway and Transportation Officials, the current extension—and we should have done this bill last year—cost $2.1 billion in project delays and caused the loss of almost 100,000 jobs. The extension has interrupted State transportation officials' ability to do long-term planning.

I hope we will not do another 1-year extension. If we do, it would make things even worse. These projects are difficult. You cannot complete a major highway project in a year. You can't do it. The highway projects are multiyear projects. It is the same with transit projects. If you don't have multiyear funding, you can't plan, and it winds up costing more money. A project that costs $100 will wind up costing $300. Multiply that by millions, and we understand.

We now are fast approaching the busiest contracting season in the year. Right now the weather is bad. Look at how things have slowed down outside this Capitol building. This isn't the time contractors' work is done. In the West, you can do it almost every place, but not here in the East, and not in the Midwest. It is too cold.

Much of the major highway construction and contracting is done in the months of March, April, and May. Without a long-term bill and the corresponding guaranteed revenue streams, many vital transportation projects will be put on hold and others delayed, wasting more money and costing thousands more jobs, at a time when millions of willing and able Americans are looking for work. How can we let this happen?

The Democratic leader talked about the fact we created a little over 100,000 jobs this past month. We should be happy about that. But it is really pathetic. It is pathetic. We haven't looked at what happened during the month of December when normally lots of new jobs come on board. People were expecting 175,000 new jobs. This is what we got—a little over 100,000. We will take it. But we will never make up for the loss of 3 million jobs that were lost in the last 3 years with 100,000 jobs a month. It won't work.

People down at 1600 Pennsylvania Avenue should be beating down the doors saying pass this bill. What are they doing? They are carping, saying maybe we ought to take another look at this. They are beating up on Chairman YOUNG on the House side, saying don't even think about more money for highways.

I hope we can continue working on this. We need to do this. When millions of Americans are willing and able to work, shouldn't we provide jobs for them?

We spend a lot of time talking about deficits. But one we don't focus on nearly enough is the infrastructure deficit. Senator DASCHLE had his copy of the budget here. He talked about this swirling monetary debt we have, and the deficit we are going to have this year. But what we don't talk about very much is the deficit we have in the infrastructure.

When we were in charge of the Senate, I held a hearing and invited mayors from around the country to talk about the infrastructure deficit they have in their cities. I can remember Atlanta, GA. Their mayor said he was looking forward to getting out of office. He said, I am glad to be leaving because it is only a question of time before there will be a collapse of infrastructure such as water and sewer.

That is the way it is all over the country. This country is facing a growing infrastructure deficit. We are not keeping up with the infrastructure needs. That is an understatement. Congestion continues to get worse—forget about water and sewer. Americans will lose an estimated $67 billion in lost time and productivity, and we will waste almost 5.7 billion gallons of gas waiting in traffic this year.

In addition to the personal tragedy associated with traffic accidents, accidents cost $137 billion a year in property losses, losses in market productivity, and medical costs. How many of those accidents could be avoided by better traffic lights and better highways? We know we can do better.

While our transportation infrastructure has an estimated worth of $1.7 billion, much of this system needs an extensive overhaul and a lot of maintenance. Over a quarter of the Nation's bridges, as I have already stated in fact, it is 29 percent—are functionally deficient or obsolete. I have talked about that a lot. The Federal Highway Administration's 2002 Conditions and Performance Report estimates the Federal deficit in roads and bridges must be at least $35 billion a year just to maintain the current level of system performance. I say that is not very good. New investments to improve system performance will cost a lot more. We have a duty to close this infrastructure deficit.

A well-maintained national surface transportation system is essential to the free flow of people and goods so vital to a healthy and robust economy. We have a duty to the Nation to act now.

Again, I thank Senators INHOFE, JEFFORDS, and BOND for their commitment to move this most important legislation.

I again want to thank Senators FRIST and DASCHLE for their continued commitment and support in our effort to move a fully funded 6-year reauthorization through the Senate before the current short-year extension expires at the end of February. We must act, and we must act quickly.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak as if in morning business for such time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### DECISION OF THE MASSACHUSETTS SUPREME COURT

Mr. CORNYN. Mr. President, 2 days ago, the Massachusetts Supreme Court sent shock waves across America when it held that traditional marriage—a marriage between a man and a woman—would be eliminated by judicial fiat. It is no secret the American people support traditional marriage. Yet some who would criticize that support for traditional marriage accuse those who support it of being intolerant.

What I would suggest to you is the only ones guilty of intolerance are those who support the kind of judicial activism we have seen demonstrated by the Massachusetts court most recently—one that is fundamentally disdainful of democracy itself under the rule of law.

Most Americans instinctively and laudably support two fundamental propositions. First, that every individual is worthy of respect, dignity; and second, that the traditional institution of marriage is worthy of protection.

Some opponents of traditional marriage laws, however, have accused those who disagree with them of intolerance, even though support for traditional marriage reflects traditional values shared by the overwhelming number of Americans. These deeply held values deserve more respect than that.

Throughout history, mankind itself, humankind itself, has recognized the fundamental importance of marriage and its traditional definition as the union of one man and one woman. That understanding is reflected in the laws, traditions, and customs of all 50 States. Now I should say, apparently, 49 States—unless the Massachusetts Legislature and the Massachusetts people are able to somehow overcome this edict by the Massachusetts Supreme Court in their attempt to alter this historic institution and fundamental building block of our society.

Common sense and social science alike teach us that, even as we respect family relationships of all kinds, we must recognize that children are best raised by intact traditional families.

Accordingly, in 1996, this body, the U.S. Congress, recognized that fact by passing a law called the Defense of Marriage Act, a law that was supported by overwhelming bipartisan majorities in both the Senate and in the House, and ultimately signed into law by President Clinton, a law that reaffirms that marriage is defined as the traditional union of a man and a woman. Indeed, three-fourths of the States have approved similar legislation. In light of this popular and well-grounded national consensus, charging supporters of traditional marriage with intolerance is simply outrageous.

I agree with the Senator from Massachusetts, Senator KENNEDY, who said in 1996 as part of the debate over the Defense of Marriage Act that "there are strongly held religious, ethical, moral beliefs that are different from mine with regard to the issue of same-sex marriage which I respect and which are no indications of intolerance."

It was just last September that the Constitution Subcommittee of the Senate Judiciary Committee, which I chair, held a hearing to consider whether some recent U.S. Supreme Court decisions put the Defense of Marriage Act in jeopardy. To me it just made good sense that Congress itself, after having passed this law so overwhelmingly, would look to see whether judicial activism posed a threat to this democratic expression of the will of the American people through their duly elected representatives.

Indeed, there was some debate whether the Supreme Court decision in Lawrence v. Texas, which created not just an equal protection right but which created out of whole cloth this notion espoused by Justice Kennedy and a majority of the Court, to an individual right to autonomy in one's sexual relationships, such that government can never regulate or intrude.

Of course, they purported to put marriage, incest, pedophilia, and other things like that out of bounds or outside of their decision, but the fundamental basis for that decision, legal scholars at that time recognized, could easily be transferred to other cases where the very definition of marriage and family itself was at issue.

So it was with great concern that, just a short time after that September hearing, we saw the day when we would have to face this issue had come much faster than any of us could imagine. The Massachusetts Supreme Court, the first court in the Nation, held that—based on the very same rationale that the U.S. Supreme Court used in the case of Lawrence v. Texas—that Massachusetts could no longer limit marriage licenses to couples of the opposite sex.

In an apparent attempt to create a figleaf of an idea that democracy was still alive in Massachusetts and it would not forever be ruled by judicial edict, the Court granted the legislature 180 days to bring the laws of Massachusetts into line with this new found legal right to same-sex marriage. It was a newly discovered right, of course, being found primarily in the U.S. Supreme Court decisions of last summer.

So in an effort to find some way out of this dilemma, the legislature asked the Massachusetts Supreme Court whether civil unions would be sufficient under the court's ruling to meet the requirement of equality of treatment. It was the day before yesterday when the court, astoundingly, said "No."

The only thing that would satisfy the Court's decision, its edict, would be to give same-sex couples the same treatment as we recognize for traditional marriage between a man and a woman. Thus the people of Massachusetts, their Governor, their legislature, are now scrambling to try to figure out what alternatives are available to them. They hope to avoid this runaway train careening down this track—the establishment, at least in Massachusetts, of a right to same-sex marriage.

The thing that was impressed upon me so much about the Massachusetts decision when reading it, besides the fundamental holding which sent shockwaves across America, was the sheer contempt that the court held for traditional marriage. Its intolerance for traditions we have recognized in this country, certainly since its founding, and in identifying this new right based on no particular or specific text but indeed made up out of whole cloth by the court relying on Lawrence v. Texas.

The Massachusetts court did not stop at this enormous step, but proceeded to condemn traditional marriage outright, and they did so in rather startling terms. After acknowledging, as Senator KENNEDY had back in 1996 when we were talking about the Defense of Marriage Act, that deep-seated religious, moral, and ethical convictions are motivating traditional marriage supporters, the Massachusetts court said that it still found "no rational reason" for laws limiting marriage to a man and a woman. And, in fact, it went even further. It concludes the traditional marriage is "rooted in persistent prejudices."

I know that Members of this body and our colleagues across the Capitol, really no one in America, wants to engage in this debate. It is understandable. No one, frankly, wants to be painted with a brush of intolerance of somehow treating people badly. But as I said, this is not about treating others badly, failing to give them respect as individuals. This is about the intolerance marshaled by judicial activists on the Massachusetts Supreme Court and on benches around the country, the massive intolerance they have for fundamental democratic values. These are the values that say we, the people, are the judges of our own destiny, and no law will be made unless it is founded on the fundamental consent of the people, not on casual judicial edict.

The American people are left in shock when, occasionally, courts come out with rulings that defy all logic and all common sense—rulings that dramatically conflict with our traditions and our fundamental values. These are cases not only like the Massachusetts case, but like the case decided by the Ninth Circuit not too many months ago where, for the first time in American history, a court has held that to allow schoolchildren to say the Pledge of Allegiance and recite "one nation under God" violated the Constitution. Again, another decision totally at odds with common sense, totally at odds with our values and traditions, and one that certainly the American people would not support. Instead, a handful of judges who appear to consider themselves smarter, wiser than the common man, are telling the American people what they think is good for them.

After all appeals are exhausted, if in fact the American people are left with a decision like this Massachusetts decision, make no doubt about it, if it stands, it will then be used in a variety of different ways.

Lawsuits will proliferate all across the country, citing the Massachusetts decision, based on this U.S. Supreme Court decision Lawrence v. Texas last summer as a basis to recognize same-sex marriages in other States. Because they will be challenging on a constitutional basis, State statutes will then be scrutinized to see if they pass muster under this new-found constitutional right made up by the Massachusetts court. They will be argued as a basis upon which to overturn traditional marriage laws in other States as well. And that will happen in State and Federal courts, all across the country.

The second thing that will happen is that same-sex couples who receive marriage licenses in Massachusetts will begin to move to other States, and they will file lawsuits in those States and say: Under the full faith and credit clause of the U.S. Constitution, I have a right, under the U.S. Constitution, to have my marriage, which is valid in Massachusetts, recognized in Texas or Kansas or Maine or California, Oklahoma, Florida—you name it.

We will begin to see these sorts of lawsuits and claims proliferate around the country. And that causes me a great deal of concern when a court of law, supposedly—but really a court that is acting more like a superlegislature, a legislature wearing black robes, ruling by edict and the gavel—makes statements such as this, such as the court in Massachusetts did when it called traditional marriage a "stain," a "stain" on our laws that must be "eradicate[d]."

I am just baffled at how people, who put their hands on the Bible and pledge to uphold the laws and the Constitution of their State and of the United States, can find a right that no one else has found to exist in the Constitution. I am baffled that they are so openly contemptuous of American values and American families and our traditions that they would call traditional marriage a "stain" that must be "eradicate[d]" from our laws.

The choice is up to us, whether to live with the dictates or the edicts of judges. Judges in other States cannot be held directly accountable to us, because we cannot vote on them, we cannot seek any sort of redress against those decisions. Yet we have to live with this sort of judicial adventurism and judicial activism that challenges the basic precepts upon which our society is based.

The choice we are left with is to decide whether a Federal marriage amendment to the U.S. Constitution is the appropriate response.

As I said just a few moments ago, last September I held a hearing in the Constitution Subcommittee of the Judiciary Committee, asking the question: Is the Defense of Marriage Act in jeopardy? As I said, we had a debate. Some said, well, yes, they thought courts had all the tools they needed in order to hold that act unconstitutional, and it was just a matter of time before they did that. And there were others who candidly said: No, there is no way, no how, that it was never going to happen.

Well, we have learned something since that September hearing. Not only has a court shown its willingness to attack the fundamental institution of traditional marriage in such a contemptuous, anti-democratic way, but the day on which other courts are more likely to do the same has become incredibly accelerated.

I believe we are now engaged in a battle over whether this land, when it comes to traditional marriage, will be ruled by the whim of judges or whether we, the people, will determine our fate and our values and the outcome of this very important controversy.

I believe we stand by and do nothing at our own peril. Because if we do nothing, this decision will redefine and trivialize the institution of marriage. If you can take the label of "marriage" and apply it not just to the traditional relationship between a man and a woman—one that has been found over countless years to benefit children, to provide a stable emotional and economic foundation for children so they can then prosper and become responsible, productive adults—if we allow a court, making it up as they go along from the sweet mysteries of life, to attack an institution as fundamental as marriage—and our response is to do nothing about it, then shame on us—shame on us.

I never imagined in a million years when I ran for this body, the United States Senate, in 2002, that I would be coming to the Senate floor and defending traditional marriage. And I bet my colleagues here, on both sides of the aisle, in both Chambers, are scratching their heads and wondering: What has the world become? Has the world gone crazy? What happened to our understanding of what American values are, and our tradition, and our respect for democracy, and our respect for the different branches of Government that perform different functions, with the Legislature passing laws, the courts interpreting the laws, and the President, the executive branch, executing those laws?

We stand by and do nothing at our own peril. So I believe the time has come for the appropriate committees in this body, as well as in the House of Representatives across the Rotunda, to convene hearings to determine how best we can respond to this startling display of judicial activism that so threatens our fundamental institutions and our values. As the chairman of the Constitution Subcommittee of the Judiciary Committee, I intend to work with Chairman HATCH to do just that.

The day that some speculated would come has now come upon us so much more quickly than any of us ever dreamed—the day has come, I believe, to confront this challenge to democracy and to the rule of law itself face to face.

We must not flinch. We must not back down. We must not allow people to paint our motivations as hateful or hurtful because, indeed, they are not.

No, what we are about is preserving our law, preserving the separation of powers where the legislature makes the law and the judiciary interprets the law. We are about preserving the fundamental building block of our society and the well-being of families and the welfare of children. That is what we are for. That is what this debate will be focused on.

I believe the institution of marriage deserves better than it has received at the hands of the Massachusetts Supreme Court. Our institutions of democracy deserve better. The American people deserve better. They deserve respect. Our Constitution deserves respect.

Traditional marriage laws have served as the underpinning of civilized society for countless generations. Opponents of traditional marriage should demonstrate greater tolerance and respect toward others by respecting democracy and the will of the people, and ceasing their judicial war against marriage.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, it has been our intention to get as many of the obstacles out of the way and as many amendments here as possible relating to the highway bill. The leader told us he wants to have the highway bill completed by late next week. I think we can do that. If Members have amendments they would like to have considered by the managers, our staff will be available this afternoon and Saturday afternoon from noon until 5 p.m. in Hart-415.

If you have any amendments you would like to work out, I strongly advise you to bring them down today or tomorrow instead of waiting until next week. Again, that will be in Hart, room 415, and anytime today or tomorrow, Saturday, between noon and 5 p.m.

I also note we have been inviting people to come and speak on the bill. No one has come down yet. It is now 11:15. In the event that no one wants to speak on the bill by noon, we will probably shut down.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, it feels as if we have been away a long time. This was an unpleasant respite and it goes to the issue of how safe our country can be. This, the people's property, is not exempt from terror or the threat of terror. It does not matter whether we define terrorists as someone coming from Afghanistan or the Middle East or some faraway place. Terrorism is not different if it comes from an individual or a dissatisfied or disgruntled American. We have to fight against it with everything in our means. Unfortunately, we see the result of this fight within our society, within the Capitol. It is not the glorious place it used to be from the outside. We still have the responsibility, for the glory of our country, to carry on from the inside.

To our majority leader, we extend our feelings that it could not have been an uglier manifestation of differences. He is someone who we all know has had experiences. I am sure he finds challenges on his trips to Africa and doing the work he has done in flying a single-engine plane to go places to perform services for those less fortunate.

I thank the majority leader for bringing up this bill. I know there have been concerns or maybe even disputes from other parts of Government not to move ahead with this, to try and reduce it to less worthiness. While I have the floor and there is apparently no rush for others to follow, I want to say that for my staff, from the Lautenberg office, and I think it is probably fair to say those on the staff of the entire Capitol who perform as they always do under pressure, they manage to get their work done. They are willing to be inconvenienced. They are willing to do whatever they have to do to perform their tasks, and we greatly respect it.

That is why I get upset when I hear talk about reducing Government until it withers on the vine when we have people here who work so hard and diligently to keep things going on behalf of our society and across this country.

I am pleased we are finally taking up S. 1072, the bill that reauthorizes our Nation's Federal Surface Transportation Program. I do not think there is any other bill we are going to pass this year that is as important or more important, let's say, than the highway bill. We have to be able to move people and goods efficiently, economically, and safely. Otherwise, our economy would choke.

It is a peculiar anomaly that even as things have slowed down in this period of recession, I did not see any less traffic on our roads, or any less pollution coming from congestion. So it is important we get on with this, and I hope we are not going to get any resistance to what appears to be a bill that takes care of needs across this country.

I hope the President is not approaching this with an objection in mind. Whether that objection extends as far as a veto or not, we do not know, but I hope he will see this is an essential part of our functioning as a society and encourages us to make these investments which are talked about so glibly. As the saying goes, when it comes to where the rubber meets the road, we do not see it happening. We hope it is going to happen now, and the bill will pass—and I think it is inevitable we will pass this bill—that it moves along at least at a pace that it leaves us with the amounts of funding we are looking at.

S. 1072 is a complex bill. The major titles come from four different authorizing committees. There are lots of Members who deserve credit for bringing it to the floor. I think of Senator INHOFE and Senator JEFFORDS and Senator BOND and Senator HARRY REID who had the primary responsibility for this measure in the Environment and Public Works Committee. Also, Senator SHELBY and Senator SARBANES worked so hard to craft a transit title which falls under the jurisdiction of the Banking Committee. This title is particularly important to the residents of my home State, New Jersey, over 11 percent of whom rely on public transportation to get to and from work.

Senator GRASSLEY and Senator BAUCUS and the rest of the Finance Committee had to figure out how to pay for the bill.

Last but not least, the committee on which I serve, the Commerce Committee, reported out its title, which deals with many important safety programs, under the able leadership of Senator MCCAIN and Senator HOLLINGS.

This past Monday, the groundhog, Punxsutawney Phil, saw his shadow. It suggests we face 6 more weeks of winter weather, the kind of dreary weather we have grown accustomed to—the kind that we have seen in these last several weeks and we did not like any of it. We did not like it when it was raining and we did not like it when it was snowing. We like to see some rain to make sure we have enough water, but the accompanying misery was not pleasant at all. I know I speak for everybody when I say that.

There was another shadow, however, we saw on Monday last, the shadow cast by record-breaking deficits in the President's budget request for fiscal year 2005. Because of these budget deficits, the President is requesting, sadly, inadequate funding for our highways, mass transit, intercity and freight rail transportation, safety programs and environmental protection. When it comes to the future of our surface transportation system, the President, with his proposal, is forecasting 6 more years of traffic congestion, air pollution, wasted fuel, unnecessary fatalities, and a stagnant economy.

The Department of Transportation expects freight traffic to double in this country over the next 2 decades. Meanwhile, more and more Americans will need to use our roads, rails, and runways to travel to their jobs, to school, to medical appointments, to worship, to vacation. We are already straining capacity as we follow those pursuits.

The needs of our transportation system are well documented and I am disappointed President Bush has declined to acknowledge these needs in his vision of America's future. S. 1072 would authorize a program that is 25 percent bigger than the Bush administration's current proposal. The House of Representatives may consider one that is even 50 percent bigger than the Bush administration's proposal. We are on the right track, and the President is on the wrong track. I am hopeful we can all agree on a final proposal which truly addresses the needs of our national transportation system this is something the American people deserve.

A bigger, better highway bill is not just about reducing traffic congestion and repairing bridges, as important as those things are. The Secretary of Transportation, Norman Mineta, has stated that $1 billion invested in transportation infrastructure supports 47,000 good-paying jobs, jobs which are located in America. When it comes to trade, we do not need to export any more jobs. We have to curb that, and we can do it by investing in transportation. One billion dollars invested equals 47,000 good-paying jobs. We ought to look at it from that aspect very seriously.

Transportation needs vary across the country. I can assure you, when it comes to need, my State, New Jersey, is near the top of the list. New Jersey is home to some of the oldest transportation routes in the country. Roads, bridges, rail tracks, and airports built decades ago are in need of repair or replacement. Our portion of the national transportation system includes 420 miles of interstate highway and 6,300 bridges, 1,580 miles of class 1 railroad tracks. There are 49 public use airports and the largest seaport on the east coast.

I point this out just to indicate the needs of one State, and I know the needs of other States are also acute. This infrastructure makes a significant contribution to our national economy. Over 375 million tons of general cargo move through the State, mostly on trucks and railcars, to and from the Port of New York and New Jersey.

Newark Liberty International Airport is the eighth largest cargo airport in the country. And, mind you, we are only a very small State, about 47th in size, and we have the eighth largest cargo airport in the country, the 20th biggest in the world, handling over 78,000 tons of cargo annually.

New Jersey lies along the busiest travel routes for freight and passenger travel in the country: The New Jersey Turnpike, the Northeast corridor, the Port of New York and New Jersey, Newark Liberty International Airport, and Interstate 95. There is a very good chance that the goods you use have traveled along these routes, or you yourself have traveled along these corridors in the last few years.

While supporting the commercial movement of these goods and passengers in the support of our Nation's economy, New Jersey's transportation infrastructure must also support over 4 million automobiles registered in the State, almost 2 million light-duty trucks and sport utility vehicles, lots of buses, and over 100,000 motorcycles. These vehicles owned by New Jersey residents must share the road with all the freight traffic moving through our State, and we must do it in a safe, environmentally-conscious, and efficient manner.

The same goes for rail travel along the Northeast corridor, which extends from Boston to Washington, DC. New Jersey commuter trains must share the rails at the biggest chokepoint on the entire coast, the tunnels under the Hudson River. Right now, during peak travel periods, New Jersey commuter trains run every 3 minutes and pretty soon at the rate they are expanding it will be every 2 minutes. It is hard to believe. This sounds like a subway train, but I am talking about commuter trains, each of which carries some 1,200 passengers.

Because New Jersey's transportation infrastructure is used so heavily, both in interstate commerce and by our resident commuters, it is important that it remains in a condition sufficient to support all this traffic.

Unfortunately, much of it isn't. I can't overstate this.

The current condition of our transportation infrastructure is terrible. Thirty-nine percent of urban interstate roads in New Jersey are reported as being in "mediocre" or "poor" condition, according to the Federal Highway Administration; 24 percent of our rural interstate roads are in "mediocre" or "poor" condition; 37 percent of New Jersey's 6,000 bridges are considered to be "structurally deficient" or "functionally obsolete."

On top of all that, there is at least a $4 billion backlog of rail maintenance on the Northeast Corridor. We desperately need to repair existing infrastructure and add capacity. The average commuting time for New Jersey residents is over 30 minutes, and it is the third longest average commute in the country. So New Jersey desperately needs a new highway bill and I am pleased the bill the Committee on Environment and Public Works has reported authorizes funding levels for the core highway and transit programs that are higher than the funding levels contained in the legislation that it is replacing, TEA 21, and far more than what the President has proposed.

Under the Committee's proposal, New Jersey is a donor State. That means that motorists in New Jersey pay more in gasoline taxes than the State receives from the Federal Highway Trust Fund under the allocation formulas. New Jersey is not alone in that category. Texas, Florida, Wisconsin, California, and many other States are currently contributing tens or hundreds of millions of dollars to our Nation's transportation system while other States get a windfall—in some instances many times over the amount of their contribution.

Formula fights are unpleasant and difficult to resolve—those fights to discuss who gets what under a given formula. Senators who represent States that reap more from the Highway Trust Fund than their citizens pay in gasoline taxes are understandably reluctant to lose ground, especially when their departments of transportation plan the financing for large, long-term projects. I think the allocations in this bill are a good start but still could use some tweaking. New Jersey, as I said, is a donor State and under the Committee's proposal the State will do better than it has under TEA-21.

I look forward to the day when we get 100 cents back on the dollar and stop this raid on what I see as New Jersey's contribution to places that really don't have the nexus to us that is needed to get to our system. I say that, not out of anger and malice, but I am so tired of hearing about contributions to Washington, how hard we have to fight to get our contributions honored and respected. We don't have a large military installation. That is not our choice; that is the way the defense establishment was created. But we are 50th in receipt of Federal funds compared to what we send out.

That is not a very welcome fact, I can tell you, in my State or with those of us who represent the State of New Jersey.

New Jersey's motorists will continue to donate tens of millions of dollars more than the State receives over the life of the bill. So while there is some improvement over the status quo, our State needs to do better, and we will continue that fight, given our transportation needs.

I make one final point and that concerns the addition of an intercity rail title to this bill. I think it is not only appropriate to have such a title in this bill, it is imperative. Intercity rail service is an essential part of our national transportation network. That is one of the lessons we learned on 9/11, that fatal day, that fateful day in American history, when our aviation system was crippled and some 5,000 airplanes had to be grounded.

That is one of the reasons I fight so hard to protect FAA in its present format as part of the Government, just like we have our military units as part of the Government. I think of the FAA as the fifth branch of our defense. Those airplanes had to be grounded on 9/11. The controllers in the towers and centers, the people who control the flight service stations—they did this with the skill of a physician doing brain surgery. Everything was precise. These airplanes, filled with thousands of people—hundreds of thousands of people—were in the air, and they were sent to destinations they didn't plan to be. Yet they could rely on the FAA to bring them all home safely. I make that point as an aside.

The fact is, the aviation system was turned off and we had to rely on other means of transportation. Highways were jammed with cars and trucks that couldn't move. Many Americans found another way to get to their destinations, and that was passenger rail service.

There was a group from Washington, legislators, who came up there very soon after 9/11 to see what had happened and to see if we could do things that would prevent it from ever happening again. They had to come up by Amtrak. That was the only possible way they could reach their destination—they couldn't fly.

For this country to have a decent passenger rail service we need to make the same commitment to rail infrastructure, the same kind of commitment that we have to building highways and runways. It is essential. It is not just essential for New Jersey and New York and that region or the Northeast corridor, it is essential across the country.

I am not necessarily just talking about long-distance rail. I am also talking about those centers and cities where there are numerous connections—200-, 300-, or 400-mile-long corridors—that could be so well served by more efficient high-speed rail.

One need only look at what happens in Europe. If you want to go from Brussels, Belgium, to Paris, France, you take a train that runs about 1 hour 20 minutes to cover 200 miles. Imagine if we could go from Washington to New York City or vice versa in 1 and a half hours, let us say, or 1 hour 40 minutes. It would make life considerably easier than now with the crowding we have at the airports and on our highways.

This is a good bill for the most part. I think it can be improved, and I intend to offer some amendments to do just that. I will discuss them at the appropriate time.

I congratulate the managers of this bill for bringing it to the floor, Senator INHOFE and our good friend from Vermont, Senator JEFFORDS. I look forward to working with them and the rest of the Senate to make a good bill even better and get it to President Bush. I am pleading with him now as much as we can in front of the American people to say, Mr. President, we have to take care of our infrastructure. Everybody knows that. We can define those needs perhaps a little bit differently, but we can't deny that that is the major responsibility at the moment. But we don't make things happen here domestically without investing what we have to. Making things better here at home with our infrastructure is a perfect example of that. I plead with the President openly: Mr. President, please sign this bill when it comes to you.

I am hopeful that we will work out something with the House that is not dissimilar to what we have here in the Senate bill. If it is better, we will take that. But we want to be at least as good as the Senate bill. We hope there is not going to be a campaign that puts this highway and interstate funding on a back burner.

I hope the President will have the wisdom to sign it, notwithstanding the fact that we will likely authorize more spending for high-speed transit and intercity rail than he wants.

As I said at the beginning of my remarks, the country desperately needs increased spending on our surface transportation infrastructure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, let me begin by expressing my appreciation for the Senate leaders for their strong support in reauthorizing the Nation's transportation program, and also my good friend from New Jersey who lends his participation and expertise in coming up with a good bill. He has worked very hard. I deeply appreciate what he has done. Senators FRIST and DASCHLE have spoken forcefully to the vital nature of S. 1072, its potential to create jobs and spur the economy.

The American people are counting on us to advance this important legislation. With the stellar bipartisanship of leaders Senators FRIST and DASCHLE, I am confident we will succeed. Having worked now for many months with my good friend from Oklahoma, I know we will succeed.

As we consider this massive surface transportation bill, there is a tendency to focus on the State-by-State funding matter, overlooking the important policy initiatives and broad implications that attend to the investment of hundreds of billions of dollars.

I do not question the importance of the funding formulas. We spent countless hours examining options and developing an approach that benefits all States and balances competing interests.

But today, and through the course of our debate on S. 1072, I want to discuss the many forward-looking refinements that my colleagues and I have put forward for consideration.

Transportation investment is a means to an end. Our Nation has grown and prospered through strategic development of ports, trails, roads, rails, airports, highways, subways, and byways. In almost every case, our great cities can trace their origins—their very existence—to the logistics of transportation as one of the many eras of our Nation's expansion.

The form and expanse of our cities and towns are an outgrowth of surface transportation technology and investment. In my State of Vermont, even today, the distance between village centers reflects historic travel times by horse and wagon.

Older suburbs in the eastern and midwestern United States are located along early twentieth century trolley lines—lines later abandoned and now being renewed.

Our great sprawling sunbelt and western cities are a product of many key technologies, not the least of which is the modern highway. And it is the greatest highway network in the world—the Eisenhower Interstate Defense Highway System—that has tied our Nation and its many regions so closely together as we move into the twenty-first century.

Transportation investment truly forms our Nation and its communities. That is why our decisions on transportation policy and program structure—both in Congress and at home in our States and communities—must be balanced, well-informed, and forward-looking. I am proud that S. 1072 reflects this understanding.

We are probably coming to a conclusion for the week. I thank all of those who have succeeded in making sure this bill is proceeding properly, especially my good friend from Oklahoma, with whom I have worked. I know he will assist us in making sure this bill becomes a reality in the not-too-distant future.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. INHOFE. We will be shutting down here shortly, so I will repeat the announcement I made earlier. We are going to try to have this highway bill completed by the end of the week. To do that, there are several things that need to happen. One is that we get these amendments in. We have announced before, and we want to make sure the offices know, if Members have amendments they would like to have considered by the managers, our staff will be available this afternoon and Saturday—this afternoon, all afternoon and Saturday from noon to 5 o'clock—in Hart room 415. We would like to have amendments looked at. I strongly urge you to come down. We are going to stay on our timetable to try to have this completed.

I appreciate the comments by the Senator from Vermont and the Senator from New Jersey. It is very important we get this done.

We are beyond the point of turning back and changing things. We have spent a year working out all the elements—the environmental portion of the bill, the safety portion of the bill, the formula portion—and we have probably the best bill we have had during my time, and I go back to ISTEA when I was in the other body and TEA-21 here.

We have considered more than the other formulas and we have now abandoned the idea of percentages that will get 60 votes and then walking. That is not the way we should be doing it. I think we are doing it a lot better.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. DOLE. Mr. President, I rise to salute a woman who has just completed a stellar tour serving our Nation as Ambassador to the Republic of Finland, Bonnie McElveen-Hutner. I am proud to call Bonnie, and her husband, Bynum, my friends. Today, the President of Finland, Tarja Halonen, will award Bonnie the Commander Grand Cross of the Order of the Lion, an honor recognizing her exceptional and outstanding services. Bonnie McElveen-Hunter is truly worthy of this distinction.

I first met Bonnie in 1999, and was immediately impressed with her intelligence, her drive, her confidence, her spirit, and without a doubt, her Southern charm. She is the eldest of three children born to John T. McElveen, a former Air Force U2 pilot and Madeline, a school teacher. In fact, even to this day, though retired, Madeline is the ever present teacher and is known to impart her "pearls of wisdom" upon her daughter.

Bonnie's credentials are impeccable. She is a serious, successful CEO who serves as head of Pace Communications in Greensboro, NC, one of the top women-owned businesses in the country. The company's impressive client list has included United Airlines, Delta Air Lines, Holiday Inn, Radisson Hotels, and Toyota. Under Bonnie's leadership, the company became the largest custom publishing company in America, based on revenue. Bonnie's successes led President Bush to call her a "trailblazer among female entrepreneurs." How true indeed.

Bonnie's service as ambassador has been as successful as her endeavors in the private sector. Following the terrorist attacks of 9/11, she forged close relationships with Finland's leaders. During this trying time of international tension, Bonnie not only promoted unity between Finland and the United States in the face of terrorism, she helped to improve commercial ties between the two nations.

After the change of government in Finland, Bonnie worked to foster strong bonds with the new Finnish leadership. She developed a close relationship with Prime Minister Vanhanen, helping to ensure continued warm relations with the Finnish leadership. She met with every new minister in the Cabinet to emphasize the importance of our bilateral ties and to explore ways to enhance our partnership on key issues.

While serving as ambassador, Bonnie also worked on several "non-traditional" diplomatic items, including collaboration with Secretary of State Colin Powell to organize The Helsinki Women's Business Leaders Summit. This summit brought together American, Finnish, Russian, Estonian, Latvian, and Lithuanian entrepreneurs to share their business ideas across international borders. And she helped broker an arrangement that allowed women from Finland, the Baltics and Russia to shadow fifty of our country's top female business leaders.

Bonnie McElveen-Hunter has always had a keen interest and concern for her fellow man. As ambassador, she advanced the "child of Karelia" project, which helps Finnish and Russian charities assist children who are at risk for drugs, crime HIV/AIDs, and trafficking in the transborder region of Karelia. Bonnie is also one of the United Way's most effective fundraisers. And, when she and Bynum moved into a new home, they raised $1 million for Habitat for Humanity as part of their housewarming.

I love a story Bonnie tells about her childhood When she was 9 years old, her mother had her write the word "can't" on a piece of paper and bury it in a shoe box in the backyard of the home. She has not used the word since.

Bonnie McElveen-Hunter epitomizes the American spirit through her compassion and sense of entrepreneurship. She serves as an inspiration for us all. Congratulations, Madame Ambassador.

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## THE IMPORTANCE OF STATE AND FEDERAL FREEDOM OF INFORMATION LAWS

Mr. LEAHY. Mr. President, "We're just everyday people," said Linda Raymond of herself and her husband, Mike, of Woburn, MA. "But we stopped a landfill from expanding and raised environmental awareness. Any community can do what we did."

The Raymonds live in a blue-collar suburb of Boston where they both work in the public school system. Three years ago, while walking on a wooded trail in their neighborhood, they discovered that the city's landfill, which had been dormant for 15 years, was bustling with truck traffic. They had cause for alarm. Woburn is the setting of the events that were described in the book, "A Civil Action." After rates of leukemia shot upward, local industries were sued in the 1980s for polluting the area water. The Raymonds, who had not previously been involved in environmental activism, sprang into action, determined to discover what was being planned for the landfill and how this would impact the community's public health.

The Raymonds' story was recounted in the January 25, 2004, issue of Parade magazine. "When Linda Raymond contacted town officials to find out what was going on, she hit a stone wall. 'I couldn't get a straight answer from anyone,' she says. 'It was very frustrating.'" The article describes what the Raymonds did next: "To get answers—and action—the Raymonds turned to a powerful set of tools: Federal and State Freedom of Information (FOI) laws."

With the information the Raymonds collected under Massachusetts State FOI laws, they educated the community and held public officials accountable. Their actions ultimately led to the city shelving plans to expand the size of the landfill by over a million tons of waste—plans that had been developed without public knowledge or debate, and which had not been evaluated for environmental or health impacts.

The Raymonds' triumph highlights the power of Government sunshine laws. It also demonstrates one of the most common uses of such laws by citizens and local community groups—that is, reliance on FOI laws to ensure that schools, neighborhoods and local industries are safe and secure. Our FOI laws are in danger, however, especially in the post-9/11 era. As noted by Parade, "Some journalists and civil liberties defenders believe that fences have gone up around FOI laws in the aftermath of 9/11. 'Freedom of Information is under threat,' says Woburn Daily Times Chronicle columnist Marie Coady. 'Across the country, it's becoming harder to access documents.'"

One of the most significant threats to American citizens' right to know about health and safety issues was enacted by Congress in 2002 in the form of a broad exemption to the Federal sunshine law, the Freedom of Information Act, FOIA. The Homeland Security Act of 2002, HSA, contained a subtitle purportedly designed to protect "critical infrastructure information." That broadly defined term applies to information regarding a variety of facilities—such as privately operated power plants, bridges, dams, ports, or chemical plants—that might be targeted for a terrorist attack. In exchange for the cooperation of private companies in sharing information with the government regarding vulnerabilities in the Nation's critical infrastructure, those companies would not have to share certain information with the public.

Encouraging cooperation between the private sector and the Government to keep our critical infrastructure systems safe from terrorist attacks is a goal we all support. Unfortunately, rather than increasing security by encouraging private sector disclosure to the Government, the law guts FOIA at the expense of our national security and public health.

The HSA created a new FOIA exemption for "critical infrastructure information." In HSA negotiations, House Republicans and the administration promoted legislative language that they described as necessary to encourage the owners of such facilities to identify vulnerabilities in their operations and share that information with the Department of Homeland Security, DHS. The stated goal was to ensure that steps could be taken to ensure the facilities' protection and proper functioning.

In fact, such descriptions of the legislation were disingenuous. These provisions, which were eventually enacted in the HSA, shield from FOIA almost any voluntarily submitted document stamped by the facility owner as "critical infrastructure." This is true no matter how tangential the content of that document may be to the actual security of a facility. The law effectively allows companies to hide information about public health and safety from American citizens simply by submitting it to DHS. The enacted provisions were called "deeply flawed" by Mark Tapscott of the Heritage Foundation. He argued that the "loophole" created by the law "could be manipulated by clever corporate and government operators to hide endless varieties of potentially embarrassing and/or criminal information from public view."

In addition, under the HSA, disclosure by private facilities to DHS neither obligates the private company to address the vulnerability, nor requires DHS to fix the problem. For example, in the case of a chemical spill, the law bars the Government from disclosing information without the written consent of the company that caused the pollution. As the Washington Post editorialized on February 10, 2003, "A company might preempt environmental regulators by 'voluntarily' divulging incriminating material, thereby making it unavailable to anyone else."

Last March, I introduced a bill to repeal this dangerously broad FOIA exemption and to replace it with a balanced measure that will protect our Nation's critical infrastructure without obliterating public oversight. The Restoration of Freedom of Information Act—Restore FOIA—would protect legitimate records pertaining to critical infrastructure safety, but would remove the free pass given by the HSA to industry for any information that a facility chooses to label "critical infrastructure."

Perhaps most important to people like the Raymonds, who relied on State FOI laws to obtain information on the Woburn landfill, the Restore FOIA bill also allows local authorities to apply their own sunshine laws. Unlike the provisions of the HSA, the Restore FOIA bill does not preempt any State or local disclosure laws for information obtained outside the Department of Homeland Security. Likewise, it does not restrict the use of such information by State agencies.

By enacting Restore FOIA, we can protect the Nation's critical infrastructure without cutting the public out of the loop. James Madison said, "A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy or perhaps both." I urge my colleagues to support Restore FOIA so that this basic and fundamental principle is upheld.

I ask unanimous consent that the Parade article describing the Rayburns fight for open and accountable Government be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Parade Magazine, Jan. 25, 2004]

### HOW THEY UNCOVERED THE TRUTH

(By Micah Morrison)

At first glance, they don't look like activists. Mike and Linda Raymond of Woburn, Mass., a blue-collar community north of Boston, are both in their mid-50s. They have been married 35 years, with two grown sons and four grandchildren. Mike teaches computer and fitness classes at the local high school. Linda is a secretary with the public school system. But these self-described "everyday working people" took on City Hall in a battle to protect their community.

Family pictures are on proud display in the Raymonds' comfortable home on North Maple Street in one of Woburn's many close-knit neighborhoods. "It's a good place to raise kids," Mike Raymond says of his town. "It has excellent schools and a good health-care system." Yet, on an autumn day three years ago, the Raymonds discovered something about their community that troubled them deeply.

The Raymonds took a walk down the wooden path at the end of their street. Past small ponds and a rise of trees, they came upon an astonishing sight: Trucks loaded with debris were rumbling up the 60-foot slopes at the Woburn Landfill. The 40-acre mountain of trash had been dormant for more than 15 years—now, mysteriously, it was growing again.

"I worried," Linda Raymond recalls. "Who had opened the landfill? Was it toxic? Why hadn't people in the neighborhood been told?"

Given Woburn's history, the Raymonds had reason for concern. In the 1980s, the town was rocked by a lawsuit against local industries claiming that water pollution had led to an increase in leukemia deaths. The story was revived in the '90s with the book and movie A Civil Action. Today, Woburn Mayor John Curran says the city "has worked hard to overcome the Civil Action stigma. Our drinking water has been of the highest quality for over 20 years."

Getting no answers. But when Linda Raymond contacted town officials to find out what was going on, she hit a stone wall. "I couldn't get a straight answer from anyone," she says. "It was very frustrating." So, to get answers—and action—the Raymonds turned to a powerful set of tools: federal and state Freedom of Information (FOI) laws.

As the Raymonds discovered, FOI requests can be made by anyone. "There are a million ways the public can use FOI laws," says Robert Freeman of the New York State Committee on Open Government. "When property taxes are raised, you can review the assessment rolls to ensure that you've been treated fairly. You can find out if your child's teacher is really certified to teach math. You can find out if a restaurant has health-code violations."

First steps. After researching FOI laws, Linda Raymond figured that her first letter should go to the Massachusetts Department of Environmental Protection. She wrote asking for "any and all documents pertaining to the Woburn Landfill," noting that she was making the request under the state's Freedom of Information laws. The agency quickly complied, inviting Linda to come review the files.

Speeky cooperation from government agencies is not always the norm. "There will be delays," Linda says. "Something you have to be persistent. And it's important to know your rights—including the right to an appeal when documents are denied."

Looking over the files, Linda made some important discoveries. Under state law, the city was required to bring in material to "cap" the landfill and close it with a protective lining of topsoil, loam and netting. She found that, to pay for the multimillion-dollar project, Woburn had hired a private contractor who was hauling in soil and debris from construction sites to cover the capping costs. In reading through the documents, Linda also discovered that the bottom of the landfill did not have a protective lining.

That's when the Raymonds really began to worry, because the landfill sits on top of a watershed feeding into the nearby Aberjona River. "We found medical waste, coal ash, construction debris and oil seeping into the wetlands," Mike recalls. Were contaminants polluting the watershed?

Digging deeper. The Raymonds zeroed in with more specific requests. A second FOI petition went to the Woburn city clerk for the contract the town had signed with the waste-management firm. The response brought some startling news: "The original contract called for 300,000 tons of waste to be brought in," Mike explains, "but the town was looking to expand the landfill by another million tons."

A third request, to the Woburn Board of Health, brought documents revealing that the former mayor had quietly assembled a panel to advise him on landfill issues, with no public input. The documents also showed discussions of plans for the future of the site, including turning it into a picnic area or police shooting range.

"We got very angry," Linda recalls. "We felt the politicians were making plans without anyone knowing about it. And there were possible health risks."

Taking action. The Raymonds swung into action. They organized their neighbors, contacted the media and raised the issue at public meetings. "The documents we obtained under FOI educated us," Linda says. "And we in turn were able to educate the community."

At first, their aims were modest. "We wanted to postpone the capping until the landfill could be tested and deemed environmentally safe," Mike says. But the Raymonds had hit a nerve. Under mounting pressure, plans for the landfill were shelved.

"Without FOI laws," Linda says, "we couldn't have done it."

A threat to access? Next time, it might be more difficult. Some journalists and civil liberties defenders believe that fences have gone up around FOI laws in the aftermath of 9/11. "Freedom of Information is under threat," said Woburn Daily Times Chronicle columnist Marie Coady. "Across the country, it's becoming harder to access documents."

On the federal level, "there has been a major change in atmosphere since 9/11," says Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press. Federal officials "are not releasing information they would have provided five years ago."

Still, thousands of Freedom of Information requests continue to be routinely processed every year. And with legal challenges under way, ultimately the courts will decide whether the new restrictions are a reasonable response to a changed world.

The Raymonds say they'll keep using FOI laws. Although the state of Massachusetts has given the Woburn Landfill a clean bill of health, the couple plan to closely watch the results of the elaborate pollution-monitoring procedures established at the site.

"We're just everyday people," Linda says, "but we stopped a landfill from expanding and raised environmental awareness. Any community can do what we did."

Mike agrees. He cites his favorite quote, from anthropologist Margaret Mead: "Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has."

### A POWERFUL TOOL EVERYONE CAN USE

It's not difficult to use Freedom of Information laws, and there's no telling what you might turn up. Here are some tips on getting the information you want:

Research First.—Who has the information you're seeking? Identify your targets. Ask your local librarian for help. Check municipal, state and federal Web sites. Most states have a designated office to help with public-records searches. Federal agencies have FOI officers. The Reporters Committee for Freedom of the Press (www.rcfp.org) publishes guides to using state and federal Freedom of Information laws.

Put It in Writing.—While some states allow oral requests, it's best to write a short letter stating what information you're seeking. Note that you're making the request under a State or Federal Freedom of Information statute. Be as specific as possible. The Reporters Committee for Freedom of the Press has a helpful sample letter at its Web site.

Show Them the Money.—Often there will be a photocopying fee and other costs related to your request. You can speed the process by stating in your letter how much you're willing to pay and asking to be notified if costs exceed that amount. You also can request a fee waiver. In some cases, you can go to a government office to view the documents and do your own copying.

Exemptions and Appeals.—Many public records are exempt from FOI laws. The U.S. Congress did not make itself or the courts subject to the statute. Most documents impacting minors, criminal investigations, trade secrets and personal privacy are off-limits. But you also may be denied documents that you have a right to see. If you are denied access, be sure to use the FOI appeals process. A brief letter to the agency head requesting a review of the decision will get the ball rolling. Meanwhile, make photocopies of everything you send out. Above all, be patient and persistent. You may be pleasantly surprised!

### THERE'S MORE YOU CAN DISCOVER

There's a common belief that FOI laws are used mainly in environmental cases. Not true. Here are examples of other uses of this powerful tool:

In Grand Rapids, MI, a high school government class used Freedom of Information laws to expose flaws in the county's jury-selection system.

In Fulton, MO, a concerned citizen used State open-government laws—kissing cousins to FOI statutes—to force disclosure of town-council discussion about building a golf course at taxpayer expense.

In Washington, D.C., a women used FOI laws to find out about the ownership of some drug-infested, abandoned buildings. The owner? The District of Columbia government!

The U.S. Department of Agriculture—as a result of an FOI request—revealed accounts of the mistreatment of circus elephants.

## GUN SAFETY REPORT CARDS

Mr. LEVIN. Mr. President, earlier this month, the Brady Campaign to Prevent Gun Violence, united with the Million Mom March and the Nation's leading State-based gun violence prevention groups, published the annual gun safety report cards for every State in America. The report cards are the culmination of a comprehensive analysis of each State's gun safety laws.

The report cards rate each State on seven types of laws that protect children from gun violence. Extra credit and demerits are also assigned for other State gun laws. The Brady Campaign includes in its analysis such questions as: is it illegal for a child to possess a gun without supervision? Is it illegal to sell a gun to a child? Are gun owners held responsible for leaving loaded guns easily accessible to children? Are guns required to have child safety locks, loaded-chamber indicators and other childproof designs? Do cities and counties have authority to enact local gun laws? Are background checks required at gun shows? Is it legal to carry concealed handguns in public?

The report awarded 10 States with Sensible Safety Stars for protecting children from gun violence. Nine other States were sent to the "Time-Out Chair" for weakening State gun laws. Unfortunately, 31 States received grades of D or F in this year's report cards. Not surprisingly, according to the report, States receiving Ds and Fs tend to have child and teen firearm death rates that are higher than the national average. For example, the average firearms death rate of youth in the 8 States that received an F grade was 33 percent higher than the average firearms death rate for the 10 States that received an A or a B.

I applaud the efforts of the Brady Campaign to Prevent Gun Violence to keep the pressure on State and local legislators to enact sensible gun safety legislation, and I encourage my colleagues to review this report.

## OBJECTION TO S. 1896 AND H.R. 1664

Mr. WYDEN. Mr. President, last November, I announced my intention to object to any unanimous consent request for the Senate to take up S. 1896, the Tax Relief Extension Act, and H.R. 1664, the Armed Forces Tax Fairness Act. I did so because these bills were the only relevant amendable legislation expected to be taken up in the Senate before the end of the last session and, therefore, they provided the only opportunity to extend unemployment benefits before Federal unemployment benefits expired at the end of the year.

Oregon currently has the second highest unemployment rate in the Nation with an unemployment rate of 7.3 percent. Extension of unemployment benefits is critical for many Oregonians who have or will soon run out of unemployment.

In order to restore or continue benefits to unemployed workers in Oregon and many other States, I will be pushing for passage of S. 2006, the Emergency Unemployment Compensation Act. S. 2006 restores Federal unemployment benefits and reforms a "look back" rule that affects Oregon and other high unemployment States as part of the legislation.

Because there is now legislation before the Senate to restore Federal benefits for unemployed workers in Oregon and other States, I will no longer object to any unanimous consent request for the Senate to take up S. 1896 or H.R. 1664.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Houston, TX, on January 26, 2002. Hugo Barajas was found dead from multiple gun shot wounds to the neck, arm and chest in a club that caters to the gay, lesbian, bisexual, and transgender community. Barajas, a man, was dressed as a women at the time of the murder.

I believe that Government's first duty is to defend its citizens, to defend them against the harm that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself, Mr. WYDEN, and Mrs. FEINSTEIN):

S. 2053. A bill to reduce the costs of prescription drugs for medicare beneficiaries, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON:

S. 2054. A bill to require the Federal forfeiture funds be used, in part, to clean up methamphetamine laboratories; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 489

At the request of Mr. DEWINE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 489, a bill to expand certain preferential trade treatment for Haiti.

### S. 1946

At the request of Mr. CORZINE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1946, a bill to establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

### S. 1993

At the request of Mr. WARNER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1993, a bill to amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

### S. 2007

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2007, a bill to provide better protection against bovine spongiform encephalopathy and other prion diseases.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2272. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2272.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 880, between the item following line 6 and line 7, insert the following:

**SEC. 16 . AIR QUALITY CAPACITY BUILDING INITIATIVE.**

Section 104 of title 23, United States Code (as amended by section 1607(b)), is amended by adding at the end the following:

“(o) AIR QUALITY CAPACITY BUILDING INITIATIVE.—

“(1) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration and the Administrator of the Federal Transit Administration and in consultation with the Administrator of the Environmental Protection Agency, shall establish an air quality capacity building initiative to support State, regional, and local governments in—

“(A) assisting air quality regions in developing the technical capacity to perform air quality conformity analysis;

“(B) providing training in areas such as modeling and data collection to support air quality planning and analysis;

“(C) developing materials to explain air quality issues to decisionmakers and the public; and

“(D) carrying out other activities necessary to assist State, regional, and local governments in better achieving clean air requirements.

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection may be used for—

“(i) research;

“(ii) program development;

“(iii) information collection and dissemination;

“(iv) technical assistance; and

“(v) training.

“(B) COOPERATION.—To carry out this subsection, the Secretary may—

“(i) use funds under this section independently; or

“(ii) make grants to, enter into contracts or cooperative agreements with, and carry out other transactions involving—

“(I) Federal, State, and local agencies;

“(II) federally-recognized Indian tribal governments and tribal consortia, authorities, associations, and nonprofit and for-profit corporations; or

“(III) institutions of higher education.

“(3) FUNDING.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $20,000,000 for the period of fiscal years 2004 through 2009, to remain available until expended.

“(B) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out using funds made available under subparagraph (A) shall not exceed 100 percent.”.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 546 through 552, and all nominations on the Secretary's desk. These are military promotions reported by the Armed Services Committee on Wednesday. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

### IN THE AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. George T. Lynn, 5342

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brigadier General Richard W. Ash, 2052
Brigadier General Russell C. Axtell, 1784
Brigadier General John W. Clark, 9977
Brigadier General Roger E. Combs, 7932
Brigadier General Thomas G. Cutler, 0206
Brigadier General Gerald E. Harmon, 6527
Brigadier General David K. Harris, 6248
Brigadier General George B. Patrick, III, 8518
Brigadier General Fred R. Sloan, 5168

*To be brigadier general*

Colonel Craig E. Campbell, 3178
Colonel George N. Clark, Jr., 9284
Colonel Robert M. Cockey, 5781
Colonel William R. Cotney, 5188
Colonel Norman L. Elliott, 0048
Colonel Michael L. Harden, 2360
Colonel Robert D. Ireton, 8365
Colonel Emil Lassen, III, 1505
Colonel Thaddeus J. Martin, 2444
Colonel Robert B. Newman, 1651
Colonel William P. Robinson, Jr., 2364
Colonel Raymond L. Webster, 8145

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brigadier General Robert E. Duignan, 8409
Brigadier General Michael K. Lynch, 7075
Brigadier General Keith W. Meurlin, 1682
Brigadier General Mark A. Pillar, 9547
Brigadier General Richard D. Roth, 8023
Brigadier General Peter K. Sullivan, 2189
Brigadier General Floyd C. Williams, 8603

*To be brigadier general*

Colonel Robert B. Bartlett, 5618
Colonel Edward F. Crowell, 1279
Colonel Anita R. Gallentine, 3368
Colonel Stephen P. Gross, 9611
Colonel Elaine L. Knight, 8340
Colonel Charles L. O'Toole, Jr., 9688
Colonel Frank J. Padilla, 8474
Colonel Loren S. Perlstein, 3269
Colonel Charles E. Reed, Jr., 2522
Colonel Neil A. Rohan, 9158
Colonel James T. Rubeor, 3527
Colonel Richard R. Severson, 9313
Colonel Michael N. Wilson, 5392

### IN THE ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brigadier General Lloyd J. Austin, III, 5848
Brigadier General Martin E. Dempsey, 8511
Brigadier General Barbara G. Fast, 1763

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Conrad W. Ponder, Jr., 4071

*To be brigadier general*

Col. George J. Smith, 7542

### IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. (Selectee) Albert M. Calland, III, 0101

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. James D. McArthur, Jr., 9260

### NOMINATIONS PLACED ON THE SECRETARY'S DESK

### IN THE AIR FORCE

PN1240 Air Force nomination of Vincent T. Jones, which was received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1241 Air Force nomination of Richard H. Villa, which was received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1242 Air Force nominations (7) beginning Robert J. Bernard, and ending Oba L. Vincent, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1243 Air Force nomination of Harris H. Brooks, which was received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1244 Air Force nominations (7) beginning Paula C. Gould, and ending John J. Winkopp III, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1245 Air Force nominations (203) beginning Jeffrey S. Alderfer, and ending Sandra L. Yope, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

### IN THE ARMY

PN1181 Army nominations (79) beginning Constance A. Bell, and ending Yang Xia, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1226 Army nomination of Margot Krauss, which was received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1227 Army nominations (20) beginning Mark S. Ackerman, and ending Richard M. Whitaker, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1228 Army nomination of Timothy G. Wright, which was received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1229 Army nominations (6) beginning Ida F. Agamy, and ending Kary B. Reed, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1230 Army nomination of David J. King, Jr., which was received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1231 Army nominations (2) beginning Michael G. Gray, and ending Paul M. Saltysiak, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1232 Army nominations (2) beginning Terry R. Moren, and ending Christopher Wodarz, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1255 Army nomination of Amy E. Preen, which was received by the Senate and appeared in the Congressional Record of January 22, 2004.

### IN THE NAVY

PN1234 Navy nomination of Todd E. Bailey, which was received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1235 Navy nominations (4) beginning Jennifer R. Flather, and ending Marie E. Oliver, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1236 Navy nominations (31) beginning Wing Leong, and ending Timothy R. White, which nominations were received by the Senate and appeared in the Congressional Record of January 21, 2004.

PN1258 Navy nominations (20) beginning Jonathan Q. Adams, and ending Stacey W. Yopp, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## ORDERS FOR MONDAY, FEBRUARY 9, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. Monday, February 9. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 1072, the highway bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, if I could say before we leave, Senator INHOFE, Senator JEFFORDS, Senator BOND, and I want people to know our staffs are going to be available all weekend to work on any problems anyone has regarding the bill. If people have amendments, they can ask to meet with our staffs. We will go over the amendments to see if they are acceptable. The offices are open now. There is no reason not to be able to have the resources they need to go over this bill with our staffs.

The point I am making is we are open for business and we want to make sure everyone has the opportunity to talk to our staffs about any problems they have with the bill and ways it can be made better.

Anyway, please work with our staffs. They will be in their offices this weekend. I hope when Monday morning comes, people will also recognize the offices will be open. At 1 o'clock, we will be open for business. The leader indicated there won't be votes on Monday—will there be?

Mr. FRIST. No.

Mr. REID. So there will be no votes, but that doesn't mean we cannot do a lot of work. We hope everyone will cooperate with us. If there are problems, let us know. We want to move this bill as quickly as possible. It is important to everyone.

Mr. INHOFE. Mr. President, I might be a little more specific. In Hart-415 they are going to be open today and from noon until 5 o'clock on Saturday to work on amendments.

Mr. REID. Yes. I simply say I am confident there will be adequate time to take care of everything. I hope nobody wants to come in on the Sabbath. But, if necessary, we have someone who will work on the Sabbath.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, I will restate what you just heard. We will resume consideration of S. 1072, the highway bill on Monday. It has been a challenging week in lots of different ways. We have had this incident in my personal office and a lot went on here on the floor, with progress.

I know the ranking member and the managers of this bill have been frustrated in that we have not made as much progress as they would have liked. They would like to have this bill signed, sealed, delivered, and done. We did have good debate on the highway bill. Important points have been made throughout the week. We have the foundation to complete action on this bill next week. You just heard that we will be working through the afternoon. There will be people working tonight and people will be working tomorrow, as you have just heard, on Saturday and Sunday, in preparation for coming back in at 1 o'clock on Monday.

We have a lot to cover next week on this bill. It is an important bill. I argue that it is a vital bill to support the infrastructure we are all so dependent upon each and every day in our activities, whether it is during the weekends, or going to school or work, or as part of our business. We have an obligation to continue to address it and to complete this next week.

Since we are closing down for the week, it has been only 5 days since this letter with this toxic substance was directed at this institution. As I have said before, I have been very pleased with the response in terms of the coordination, the communication. It is not perfect; it can be better; but I assure people we will take each incident and do our very best to communicate as well as we can, review procedures, and review systems, and we are doing just that.

I just finished a conference call for 30 minutes with the 40 employee staff members affected most directly from my office and from the EPW office and Senators JEFFORDS' and INHOFE's office, answering questions. There are a lot of unanswered questions. We will answer those and meet with them and come up with different and better procedures as we go forward.

The fact that the chairman could say the Hart Building is open tomorrow is music to my ears. We were able to open it ahead of schedule. The Russell Building got opened and the Dirksen Building, which is still closed, will be opened Monday morning. It is right on schedule.

I thank everybody for coming together and working through a broad range of both national agencies and agencies here on the Hill. First and foremost is the safety of our Senate employees, and we responded in such a way that I am happy to say nobody has been hurt. Everybody is OK, in spite of the fact we had this assault.

Also during this week, in Chairman GREGG's HELP Committee, we passed S. 1879, an extension of the mammography quality provision. In Chairman COLLINS' committee, we worked on S. 1612, which established a technology equipment and information transfer program with the Department of Homeland Security. We passed that this week. The Senate confirmed a U.S. district judge this week for the Northern District of Illinois. We will be back in Monday. The chairman encourages members to have amendments and contact him. His staff will be working through the weekend.

As the assistant Democratic leader mentioned, we will not be voting on Monday, but we will be working. I will consult with Senator INHOFE and the Democratic leadership as we go forward. I hope we will be prepared for a vote early Tuesday morning. We will keep people posted in that regard.

I did mention this earlier. Do you know what your blood pressure is? Fifty million people have hypertension, which causes stroke and heart attacks. A third of the people don't know they have it. If you know you have it, we have ways to treat it these days. The Medicare bill we passed means you can diagnose it because, for the first, in an entry level physical exam which is part of Medicare, you are going to be able to have hypertension treated. If you don't know what your blood pressure is, go home tonight and think about that and have it checked.

Mr. REID. Mr. President, it is called the silent killer.

Mr. FRIST. Yes. People don't know they have it. Probably about a fourth of the people listening to me have hypertension, and a third don't know it, and they will die prematurely. It is pretty interesting.

Mr. REID. It doesn't make you sick, does it?

Mr. FRIST. It is silent. You don't feel it until you have a stroke or heart attack. There are ways to prevent it. It is the silent killer. That is what the American Heart Association says. February is heart month, and right now the First Lady has a real initiative for women's heart disease. More women die of heart disease than men. I bet you didn't know that. A lot of people think it is more men.

## ADJOURNMENT UNTIL MONDAY, FEBRUARY 9, 2004, AT 1 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:38 p.m., adjourned until Monday, February 9, 2004, at 1 p.m.

## NOMINATIONS

Executive nominations received by the Senate February 6, 2004:

### DEPARTMENT OF DEFENSE

DIONEL M. AVILES, OF MARYLAND, TO BE UNDER SECRETARY OF THE NAVY, VICE SUSAN MORRISEY LIVINGSTONE, RESIGNED.

### DEPARTMENT OF STATE

THOMAS BOLLING ROBERTSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA

### THE JUDICIARY

CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE HENRY A. POLITZ, RETIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

## CONFIRMATIONS

Executive nominations confirmed by the Senate February 6, 2004:

### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. GEORGE T. LYNN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL RICHARD W. ASH
BRIGADIER GENERAL RUSSELL C. AXTELL
BRIGADIER GENERAL JOHN W. CLARK
BRIGADIER GENERAL ROGER E. COMBS
BRIGADIER GENERAL THOMAS G. CUTLER
BRIGADIER GENERAL GERALD E. HARMON
BRIGADIER GENERAL DAVID K. HARRIS
BRIGADIER GENERAL GEORGE B. PATRICK III
BRIGADIER GENERAL FRED R. SLOAN

*To be brigadier general*

COLONEL CRAIG E. CAMPBELL
COLONEL GEORGE N. CLARK, JR.
COLONEL ROBERT M. COCKEY
COLONEL WILLIAM R. COTNEY
COLONEL NORMAN L. ELLIOTT
COLONEL MICHAEL L. HARDEN
COLONEL ROBERT D. IRETON
COLONEL EMIL LASSEN III
COLONEL THADDEUS J. MARTIN
COLONEL ROBERT B. NEWMAN
COLONEL WILLIAM P. ROBINSON, JR.
COLONEL RAYMOND L. WEBSTER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL ROBERT E. DUIGNAN
BRIGADIER GENERAL MICHAEL K. LYNCH
BRIGADIER GENERAL KEITH W. MEURLIN
BRIGADIER GENERAL MARK A. PILLAR
BRIGADIER GENERAL RICHARD D. ROTH
BRIGADIER GENERAL PETER K. SULLIVAN
BRIGADIER GENERAL FLOYD C. WILLIAMS

*To be brigadier general*

COLONEL ROBERT B. BARTLETT
COLONEL EDWARD F. CROWELL
COLONEL ANITA R. GALLENTINE
COLONEL STEPHEN P. GROSS
COLONEL ELAINE L. KNIGHT
COLONEL CHARLES L. O'TOOLE, JR.
COLONEL FRANK J. PADILLA
COLONEL LOREN S. PERLSTEIN
COLONEL CHARLES E. REED, JR.
COLONEL NEIL A. ROHAN
COLONEL JAMES T. RUBEOR
COLONEL RICHARD R. SEVERSON
COLONEL MICHAEL N. WILSON

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL LLOYD J. AUSTIN III
BRIGADIER GENERAL MARTIN E. DEMPSEY
BRIGADIER GENERAL BARBARA G. FAST

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. CONRAD W. PONDER, JR.

*To be brigadier general*

COL. GEORGE J. SMITH

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. (SELECTEE) ALBERT M. CALLAND III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JAMES D. MCARTHUR, JR.
AIR FORCE NOMINATION OF VINCENT T. JONES.
AIR FORCE NOMINATION OF RICHARD H. VILLA.

AIR FORCE NOMINATIONS BEGINNING ROBERT J. BERNARD AND ENDING OBA L. VINCENT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

AIR FORCE NOMINATION OF HARRIS H. BROOKS.

AIR FORCE NOMINATIONS BEGINNING PAULA C. GOULD AND ENDING JOHN J. WINKOPP III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

AIR FORCE NOMINATIONS BEGINNING JEFFREY S. ALDERFER AND ENDING SANDRA L. YOPE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

ARMY NOMINATIONS BEGINNING CONSTANCE A. BELL AND ENDING YANG XIA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATION OF MARGOT KRAUSS.

ARMY NOMINATIONS BEGINNING MARK S. ACKERMAN AND ENDING RICHARD M. WHITAKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

ARMY NOMINATION OF TIMOTHY G. WRIGHT.

ARMY NOMINATIONS BEGINNING IDA F. AGAMY AND ENDING KARY B. REED, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

ARMY NOMINATION OF DAVID J. KING, JR.

ARMY NOMINATIONS BEGINNING MICHAEL G. GRAY AND ENDING PAUL M. SALTYSIAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

ARMY NOMINATIONS BEGINNING TERRY R. MOREN AND ENDING CHRISTOPHER WODARZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

ARMY NOMINATION OF AMY E. PREEN.

NAVY NOMINATION OF TODD E. BAILEY.

NAVY NOMINATIONS BEGINNING JENNIFER R. FLATHER AND ENDING MARIE E. OLIVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

NAVY NOMINATIONS BEGINNING WING LEONG AND ENDING TIMOTHY R. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 21, 2004.

NAVY NOMINATIONS BEGINNING JONATHAN Q. ADAMS AND ENDING STACEY W. YOPP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

# EXTENSIONS OF REMARKS

## HONORING THE FOX CHASE CANCER CENTER

### HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Fox Chase Cancer Center for its 100 years of outstanding effort and achievement in the fields of cancer treatment and research.

Chartered in 1904, the Fox Chase Cancer Center was the Nation's first cancer hospital. Since its inception, the hospital has provided quality care for patients and has developed and refined methods of cancer treatment. The Fox Chase Cancer Center has been recognized for integrating strong basic and clinical research programs with programs of cancer treatment and detection, cancer control and community outreach efforts, and cancer prevention research and services. These efforts have earned the center various honors including a Nobel Prize for medicine, a Lasker Clinical Research Award, memberships in the National Academy of Sciences, and American Cancer Society Medals of Honor.

Founded on a spirit of optimism and determination, the center remains a national leader in cancer care. I congratulate the Fox Chase Cancer Center on its 100 years of dedicated service to the community.

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## H.R. 2264 CONGO BASIN FOREST PARTNERSHIP ACT OF 2003

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. TANNER. Mr. Speaker, I rise today in support of H.R. 2264, the Congo Basin Forest Partnership Act of 2003, that the House passed on October 7, 2003. As I said in my statement on that day, I have personally visited some of the areas that this bill will help to protect, and I highly recommend it to the House and hope that we adopt it again today with the other body's changes.

The International Conservation Caucus, of which I am a founding member and cochair, was formed in order to build support for the Congo Basin Forest Partnership initiative and to help with other international conservation efforts around the world. As members, we share a conviction that the United States has the opportunity and the obligation to advance the protection of the worldwide environment for current and future generations. The mission of the caucus is to act on this conviction by providing the strong U.S. leadership necessary to conserve the world's most biologically rich and diverse places. The Congo Basin Forest Partnership Act is one of the first steps in achieving our mission.

Our contribution under the act will focus on providing field-based conservation activities within 25 million acres in Cameroon, the Central African Republic, and the Democratic Republic of the Congo, Equatorial Guinea, Gabon, and the Republic of Congo, Rwanda, Burundi, and Sao Tome/Principe. It is estimated that forest areas in the Congo basin are being depleted at a rate twice the size of Rhode Island every year.

Mr. Speaker, I ask my colleagues to vote in favor of H.R. 2264, the Congo Basin Forest Partnership Act.

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## HONORING RON YANKE

### HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. OTTER. Mr. Speaker, I rise today with great personal sadness to note the passing of Ron Yanke, a dear friend who left us too soon and whose life and contributions truly made the world a better place.

Ron was a brilliant businessman with boundless energy and passion. He was a visionary philanthropist with unending kindness and generosity. He was a community leader who deflected attention from his many civic achievements. And he was a role model whose honesty, integrity, humility, and positive disposition set the standard for everyone he met.

But more than anything, Ron Yanke was a warm and loving husband, father, grandfather, and friend. I had the joy and privilege of knowing Ron well for much of my life and will forever miss his friendship and counsel. There are few men more deserving of recognition for their accomplishments and few less disposed than Ron was to seek or accept it.

His entrepreneurial talents helped create jobs for thousands of people in Idaho and throughout the Intermountain West with companies like Micron Technology, Yanke Machine Shop, RY Timber, Boise Mobile Equipment, YMC Inc., and Nashua Homes.

His selfless nature advanced such worthy causes as the Peregrine Fund, the Rocky Mountain Elk Foundation, the Boys and Girls Clubs, and Saint Alphonsus Regional Medical Center.

His personal charm and compassion enriched the lives of everyone fortunate enough to have known him. Mr. Speaker, I am blessed to be counted in that number, and Idaho is blessed to have been home to Ron Yanke. I hope you will join me in extending the sympathies of the House of Representatives to his wife, Linda, and his family.

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## TRIBUTE TO ANDY DIVINCENZO

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Ms. SLAUGHTER. Mr. Speaker, I rise to pay tribute to a great man who will be sorely missed: Andy DiVincenzo of Buffalo, New York.

Some people seem to have a special talent for success, a kind of Midas touch. Andy DiVincenzo was one of those people. Whether in his business and culinary endeavors, his charitable work, or his family life, Andy imbued everything he did with a special charm, energy, and passion.

Andy was the founder, head chef, and owner of the famed restaurant Billy Ogden's, which opened in the Lovejoy area of Buffalo in 1989. Since opening, both Andy and Billy Ogden's have received numerous four-star reviews. For 10 years running, Andy was selected to represent the Buffalo Bills at the Super Bowl's famous Taste of the NFL, where the Nation's finest chefs, as well as NFL legends, volunteer their time in support of hunger relief efforts throughout the country. Though busy with his restaurant and catering business, Andy also dedicated himself to numerous charitable causes. He devoted time to the Kids Escaping Drugs program and served on the board of the famous Camp Good Days and Special Times, which serves children with cancer and other life-threatening illnesses.

Within the local community, Andy was adored, known for his big heart and willingness to help people. He believed everyone deserved a second chance and worked to help provide it. Buffalo, Western New York, and, indeed, the world are better places for having had Andy DiVincenzo among us.

Tragically, Andy has been taken from us too soon and too young. He passed away in his sleep on January 25 at the age of 52. He left behind a loving family, including his wife, Eleanor, daughters Tara and Adriana, and mother, Viola. These were the women in his life to whom he could never deny anything and for whom he would do anything to please. His siblings, Frank and Donna, as well as cousins, nieces, nephews, and others all join in mourning his death.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the remarkable life of Andy DiVincenzo and in extending our sincere condolences to his family.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## FLOOR ANNOUNCEMENT BY THE HON. DAVID DREIER ON THE AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of February 9 to grant a rule which could limit the amendment process for floor consideration of H.R. 1561, the United States Patent and Trademark Fee Modernization Act of 2003. The Committee on the Judiciary ordered the bill reported on July 9, 2003, and filed its report with the House on July 25, 2003.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Rules Committee in room H–312 of the Capitol by 2 p.m. on Tuesday, February 10.

Members should draft their amendment to the text of the bill as reported by the Committee on the Judiciary.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

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## ON THE UNITED NATIONS GENERAL ASSEMBLY SESSION CONCERNING ISRAEL AND THE INTERNATIONAL COURT OF JUSTICE

### HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. AKIN. Mr. Speaker, December 8, 2003, the General Assembly of the United Nations, sitting in an emergency special session, adopted Resolution ES 10/14, requesting the International Court of Justice to render an advisory opinion on the legal consequences of Israel's security fence.

The placing of this issue before the ICJ as the result of a political campaign within the U.N. General Assembly is a highly unsatisfactory means of dealing with a profoundly complex and contentious issue. If successful, this initiative portends an increasingly political and divisive use of the ICJ.

There is an increasing concern by many countries that the use of the ICJ to obtain an advisory opinion will undermine the stature of the court as well as the role of international law. It is also important that the ICJ continue to abide by the principle of not addressing such contentious issues without the consent of all parties involved. To do otherwise could set a precedent that could serve to weaken the stature of the U.N. by encouraging a new level of politically oriented activity.

This requested abuse of the ICJ would raise the threshold of politically oriented activity. It is important to note that this controversial initiative has not garnered the support of even a majority of U.N. members. Only 90 states, none of them democracies, voted in favor of the resolution.

Israel is a small democratic nation with myriad adversaries bent on its destruction. The undeniable truth remains that Israel, as with any other nation, has the right and responsibility to protect the lives of its innocent civilians from brutal terrorist attacks. Consequently, the question of the preservation of due process with the General Assembly and the preservation of the integrity of the ICJ is essential.

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## 125TH ANNIVERSARY OF THE FIRST UNITED METHODIST CHURCH IN LEWISVILLE, TX

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. BURGESS. Mr. Speaker, I rise today to congratulate The First United Methodist Church of Lewisville on its 125th anniversary. The First United Methodist Church is dedicated to developing a haven for Christian believers to be able to explore their professions of faith in Jesus Christ.

Through its constant growth over the last 125 years, FUMC-Lewisville has helped the extended Lewisville community to live a more active lifestyle of worship, education, spiritual, mental, and physical development. FUMC-Lewisville serves as an example of a long-standing organization that seeks to help others while continuing growth within the church itself.

The Lewisville chapter currently has diverse groups for every member of the community. The motivated individuals who continue these on-going ministries are the reason that the church is able to celebrate its 125th anniversary today. By sponsoring programs such as Trinity Troupe for actors of all ages, 11 music groups, 8 Bible studies, Covenant group for women of the church, My Brother's Keeper for men to meet every month for breakfast and fellowship, marriage intimacy classes and athletic programs, the church has made an effort to ensure that everyone who wants to be at FUMC-Lewisville is welcomed with open arms and has a place to feel at home in fellowship with other believers.

The church was established on January 25, 1879, with Reverend J.S. Sherill as an equal to a District Superintendent, along with three preachers: G.W. Jackson, L.E. Joshua and L.D. Addington. The first building was not constructed until 1881, but the church thrived for three years without an actual place of worship. By 1887, Lewisville had the only Sunday school in the area with a steady attendance of 75. By 1910, the church had moved to a new building, where it survived the wars and depression. With one last move, FUMC-Lewisville found its present home.

We congratulate the efforts of this church and hope to increase the participation of others in the community who wish to follow the example of FUMC-Lewisville. Through this church, the members are able to make a difference in the lives of people of all ages throughout the community by helping them to begin a walk of growth and love that will remain constant throughout their lives. The church should take pride in its hard work and commitment to civic involvement that has spanned the past 125 years. We wish the best for the future of FUMC-Lewisville and hope that the next 125 years will be as blessed as these 125 years have been.

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## TRIBUTE TO ARTHUR ELLIOTT

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to pay tribute to Arthur Elliott, a dear friend and mentor of mine who passed away.

Art attended Michigan State University and fought for our country during World War II in the U.S. Army for 5 years. Following his education and service, he continued an expansive career in real estate development and building. Holding in high regard civic responsibilities, Art led by example, actively engaging himself in Michigan's political affairs.

Art served as the chairman of the Republican Party for both Oakland County and the State of Michigan. In 1960 and 1964 he represented Michigan Republicans as a delegate to the party's national conventions. Also, Art was a delegate at the Michigan State Constitutional Convention. In addition, he played an instrumental role in the election of Michigan Governor George W. Romney.

Art was an admired counselor and advisor. He shared his wisdom, good judgment, and advice with many, and his political instincts were unparalled. Still, his reputation transcended political lines because of the relationships he fostered with all individuals he knew and worked with.

An advocate of community service, Art served as president of the local chapter of the Rotary International, of which he was a lifelong member. He sat on the board of directors of Lake Superior State University and Trout Unlimited. He was also president of the committee that renovated Traverse City, Michigan's Park Place Hotel.

Art had a passion for traveling, fly fishing, photography and family life. As a husband, father, grandfather and friend he will be remembered for his integrity, dedication, and guidance.

Mr. Speaker, Art was a dear friend who had a strong regard for the individual and Republican ideals. He was admired and will be remembered by all those he knew.

## THE COUNTER-TERRORIST AND NARCO-TERRORIST REWARDS PROGRAM ACT

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. HYDE. Mr. Speaker, today I am very pleased to introduce, along with TOM LANTOS, the Ranking Democratic member of the House International Relations Committee, and my colleague from Illinois, MARK STEVEN KIRK, a bill, the "Counter-Terrorist and Narco-Terrorist Rewards Program Act." This bill makes some major changes and modifications to the long-established U.S. State Department Rewards Program.

The State Department Rewards Program has clearly prevented acts of terrorism in the past, has helped bring to justice long-sought terrorists, such as the individual who fled to Pakistan after assassinating our CIA employees in Virginia, and has served as a valuable intelligence and information tool in the global war on terrorism. The Rewards Program could do even more, if we enact this bill, with its reforms.

After our experience with the efforts to date to capture Osama bin Laden and to reinvigorate and expand the reach and flexibility of the Terrorist Rewards Program, it's time for a renewed, expanded reward authority in the State Department, one that tackles and contends with the growing links, as recently reported in the press, of the illicit drug trade and the financing of terrorism. Our global terrorist enemies may very well be changing their methods and means, and we need to be even more flexible and creative than they are.

Our statutory changes to the State Department Rewards Program, 22 U.S.C. 2708, as proposed in this bill, would be as follows:

First, a name change, so that the program is hereafter known as the "Terrorism and Narco-Terrorism" Rewards Program, reflecting the growing links between illicit drugs and the financing of terrorism, whether in places like Colombia, Afghanistan, or others around the globe.

Second, clarification that any information provided that disrupts the terrorist financing networks, including information related to illicit narcotics production or international trafficking, is eligible for reward monies. This information need not be tied to any specific act of terrorism, as the State Department now seems to require before any reward for information on illicit drugs can be paid out. We need clarity in the law concerning any link in illicit drugs to terrorism, and more explicit authority for the State Department to pay rewards to those pursuing or reporting the drugs that "support" or help "sustain" global terrorism.

Third, added flexibility in the forms of payment, by providing authority for the Secretary of State to give rewards other than money for useful information related to terrorism and drugs related to terrorism, such as vehicles, appliances, commodities, and other goods and services. In places like Afghanistan, a motorcycle or transport vehicle may be just as valuable as cash in gaining cooperation in the fight against terrorists. The changes more clearly authorize this new kind of reward.

Fourth, added authority for the Secretary of State to conduct media surveys, analyses of media markets and the best means of communication, as well as literacy levels of proposed foreign audiences for the Department's reward efforts. We create the authority to find the best means to get rewards messages out for widest dissemination and effect. We also add authority to create media ads after market analyses and literacy level analyses has been completed.

Fifth, in addition, clear authority is given for the Secretary of State to buy radio, TV, and newspaper ads, and procure any other media means abroad, including public service announcements for the rewards program. For example, the match books and wanted posters we have used in the effort to find Osama bin Laden may be of limited value in some rural areas of Pakistan or Afghanistan where there is 30 percent literacy, but a BBC radio slot with a rewards offer might just reach the audience we need. The authority is now there to pursue greater exposure for these rewards.

Sixth, statutory change is made to reflect a current optional reward set administratively for Osama bin Laden at $25 million today. Current law is raised by the bill from $5 million to $25 million for these terrorist and narco-terrorist rewards. We also provide the Secretary of State the added option to raise to a maximum of $50 million the reward for Osama bin Laden, if events warrant it and it might facilitate his capture. Bin Laden deserves such a high price on his head, and we would welcome the chance to pay this amount for the capture of this global terrorist.

Seventh, finally, we require, 90 days after enactment, that the administration submit a plan to the Congress that maximizes the publicity surrounding the reward for Osama bin Laden's capture.

The bill's text follows, and I asked that it be included in the RECORD with these introductory remarks as well.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Counter-Terrorist and Narco-Terrorist Rewards Program Act".

**SEC. 2. DEPARTMENT OF STATE COUNTER-TERRORIST AND NACRO-TERRORIST REWARDS PROGRAM.**

(a) PROGRAM NAME.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) in the section heading by inserting "**COUNTER-TERRORIST AND NARCO-TERRORIST**" after "**STATE**"; and

(2) in subsection (a)(1) by adding at the end the following new sentence: "The program shall be known as the 'Department of State Terrorist and Narco-Terrorist Rewards Program'.".

(b) DISRUPTION OF TERRORIST FINANCING NETWORK.—Subsection (b) of such section is amended—

(1) in paragraph (5) by striking "or" at the end;

(2) in paragraph (6) by striking the period and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(7) the disruption of financial mechanisms of a terrorist organization, including the use by the organization of illicit narcotics production or international narcotics trafficking—

"(A) to finance acts of international terrorism; or

"(B) to sustain or support any terrorist organization.".

(c) MAXIMUM AMOUNT OF REWARD.—Subsection (e)(1) of such section is amended—

(1) by striking "$5,000,000" and inserting "$25,000,000";

(2) by striking the second period at the end; and

(3) by adding at the end the following new sentence: "The Secretary may authorize a reward of up to $50,000,000 for the capture or information leading to the capture of Usama bin Laden.".

(d) FORMS OF REWARD PAYMENT.—Subsection (e) of such section is amended by adding at the end the following new paragraph:

"(6) FORMS OF PAYMENT.—The Secretary may make a reward under this section in the form of money, a nonmonetary item (including such items as automotive vehicles), or a combination thereof.".

(e) MEDIA SURVEYS AND ADVERTISEMENTS.—Such section is amended—

(1) by redesignating subsections (i) and (j) as (k) and (l), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) MEDIA SURVEYS AND ADVERTISEMENTS AUTHORIZED.—

"(1) SURVEYS CONDUCTED.—For the purpose of more effectively disseminating information about the rewards program, the Secretary may use the resources of the rewards program to conduct media surveys, including analyses of media markets, means of communication, and levels of literacy, in countries determined by the Secretary to be associated with acts of international terrorism.

"(2) CREATION AND PURCHASE OF ADVERTISEMENTS.—After the surveys authorized under paragraph (1) have been conducted and in accordance with their findings, the Secretary may use the resources of the rewards program to create advertisements to disseminate information about the rewards program among populations in countries identified under paragraph (1). The Secretary may purchase radio or television time, newspaper space, or make use of any other means of advertisement, as appropriate.

"(3) ADVERTISEMENT FOR CAPTURE OF USAMA BIN LADEN.—Not later than 90 days after the date of the enactment of the Counter-Terrorist and Narco-Terrorist Rewards Program Act, the Secretary shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report documenting a plan to increase advertising to maximize awareness of the reward available for the capture or information leading to the capture of Usama bin Laden.".

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## BOY SCOUTS OF AMERICA

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Boy Scouts of America on their 94th anniversary. The Boy Scouts of America was founded on February 8, 1910 through a National Charter from Congress.

The Boy Scout movement was founded in England by British Lord Robert Baden-Powell who would later author and illustrate scouting's first manual in 1908. The Boy Scouts of America would be founded from the good deeds of a British Scout.

In an ironic twist, in 1909 Chicago publisher William Dickson Boyce became lost in London. He was soon approached by a boy of 12 who offered to guide him to the address he was seeking. Boyce offered to pay the boy a shilling for his help, but the boy replied, "No Sir, I am a Scout. Scouts do not accept tips for good turns."

Later in his stay, William Dickson Boyce, and the unknown scout, went to British Scout headquarters to meet Baden-Powell, the founder of the Scouting movement. From that meeting forward, Boyce became determined to start Boy Scouting in America

On February 8, 1910 Boyce filed incorporation papers for the Boy Scouts of America in the District of Columbia. He stated that the purpose of this organization "Shall be to promote, through organization and cooperation with other agencies, the ability of boys to do things for themselves and others, to train them in Scoutcraft, and to teach them patriotism, courage, self-reliance and kindred virtues, using the methods which are in common use by Boy Scouts."

Today, millions of young men aged 6–18 have been involved in Cub Scouts, Boy Scouts and Venturing.

We congratulate the Boy Scouts of America on this "Scout Sunday" for striving to instill high values and strong leadership skills in the young men of our nation. These men should be celebrated for their high ideals and dedication to their communities. We take pride in the Boy Scouts' hard work and commitment to civic involvement.

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## IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

SPEECH OF

### HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements.

Mr. WU. Mr. Chairman, I held a town hall meeting in Scappoose, Oregon on Monday night. Scappoose is in Columbia County, which has a double-digit unemployment rate.

The first person to speak at that event was a woman who told me that her unemployment benefits will run out this month, she is terrified of losing her health insurance, and she is considering taking a job in California, leaving her children and family behind.

Time after time in Oregon, I hear the heartbreak of a jobless economic recovery.

Oregon has a jobless rate of 7.2% and we have lead the nation in unemployment for most of the past two years. And, it is estimated that as I speak, there are over 34,000 Oregonians who have exhausted all forms of unemployment assistance without finding a job.

These are not just statistics. Each one of these 34,000 people risks losing their car, their home, or being unable to afford college for their children, or vital health care for their family.

Mr. Chairman, all Oregonians hope for an improved economy that creates permanent high paying jobs.

But today, these new jobs do not yet exist in Oregon. And so today, we must show compassion and extend unemployment assistance.

At the end of that same town meeting in Scappoose, a gentleman also talked about the pain of being unemployed and asked me a straight question, who can change this?

I gave him a straight answer. If the President picked up the phone and asked for an unemployment extension we would get it done this week.

I said that before I knew we would be asked to vote the Miller amendment today. So today, I want to say to the President, sir I challenge you to feel the passion, the anger, and the pain of the millions of Americans who are out of work.

Pick up the phone Mr. President, and let's extend unemployment benefits this week.

I call on my colleagues on both sides of the aisle to join me in supporting the Miller amendment and I yield back the balance of my time.

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## IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

SPEECH OF

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 4, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3030) to amend the Community Service Block Grant Act to provide for quality improvements.

Ms. DELAURO. Mr. Chairman, I rise in strong support of this amendment. Today the House must once again come together to provide relief to America's unemployed. Much like a year ago, the President says that the economy is improving, but those words are cold comfort to those who have not only lost their jobs but also their unemployment benefits in recent weeks.

It is always the same story with this administration—the recovery is right around the corner. We have been hearing that now going on 3 years. Already this month, 375,000 unemployed Americans have exhausted their state benefits. In my State alone, nearly 26,000 people will have neither a paycheck nor extended unemployment insurance benefits. That is the second highest number of workers who have exhausted their benefits on record. These folks have been left with no job or assistance and believe me—they are struggling to provide for their families this winter.

This amendment extends unemployment benefits for workers for another 6 months retroactively to December 20th, when Congress failed to act before adjournment. Of course, we learned last month that only 1,000 new jobs had been created—despite administration estimates that said a quarter million new jobs would be created that month.

Mr. Chairman, this majority acts as if unemployment benefits were some kind of handout—welfare for working families. But their inability to find work is hardly due to a lack of trying. If anything, it is due to the failed economic policy of this administration, which promised a million-and-a-half new jobs with its last round of tax cuts. That those jobs have not materialized seems apparent to everyone but them.

Mr. Chairman, this amendment is the least we can do. Too many families were left out in the cold this holiday season due to the Republicans' refusal to address this issue. This amendment is not enough, but it is better than nothing, which until now is all this majority has supported.

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## HONORING GIVE KIDS A SMILE NATIONAL CHILDREN'S DENTAL ACCESS DAY

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. STARK. Mr. Speaker, I rise to commend the American Dental Association for organizing the 2nd Annual Give Kids A Smile National Children's Dental Access Day. Today, dentists from across the country will be generously volunteering their time to provide free screening and dental care services to children in need.

In its inaugural year last year, dentists participating in Give Kids A Smile National Children's Dental Access Day provided free care to an estimated 1 million disadvantaged children nationwide. Beyond providing free dental services and dental health education, this annual effort is aimed at raising awareness about the large number of children that go without dental care each year and the impact this can have on their overall health and wellness.

Give Kids A Smile Day provides a tremendous opportunity for parents who lack adequate health or dental coverage to get needed dental care for their kids. There is a clear need for this. According to a recent report on health care quality, only 38 percent of children in poor health and less than half of all children between the ages of 2 and 17 have seen a dentist in the past year.

Access to good health care is synonymous with access to good dental care and too many children and families are being left behind. Given the impact untreated dental disease can have on a child's health, school performance and overall quality of life, there is no question that we need to improve awareness about and access to dental care.

I applaud the American Dental Association for spearheading this effort. I commend the California Dental Association for their participation and the many dentists in my district from the Southern Alameda County Dental Society and the Alameda County Dental Society for performing this public service. Their contributions now and in the future will go a long way in improving the health of many needy children.

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## UNIVERSITY OF NORTH TEXAS "50 YEARS OF PROGRESS AND OPPORTUNITY"

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the University of North Texas for celebrating 50 years of desegregation on their campus. In the summer of 1954 the University of North Texas accepted doctoral student A. Tennyson Miller as the first African-American student admitted into the university.

Since 1954 African-American students have been scholars, athletes, both homecoming kings and queens, and most importantly leaders. They have shaped and molded the identity and character of the University of North Texas. The excellence of UNT today is directly linked to the diversity of its students.

The year of 1954 was a turning point for civil rights and in particular, for the African-American community. Literally, the doors of opportunity began to open up in America's history. The landmark Supreme Court decision of Brown v. Board of Education sent public institutions in an uproar when it aimed to desegregate public schools.

Within this tumultuous and controversial time, of the beginning of the Civil Rights Movement in the 1950s, the University of North Texas took a giant step forward by opening its doors to African-American students. And it is only appropriate, that during February, Black History Month, that UNT celebrates their own turning point in history with the 50 Years of Progress and Opportunity, 1954–2004 culminating in a celebration on Saturday, February 14, 2004.

In 2004, the UNT is commemorating its desegregation as well as the incredible progress made in during those 50 years. I congratulate the African-Americans who overcame barriers to pave the way for others at the University of North Texas. I also applaud the university's former and current African-American students, faculty and staff for their continued dedication to the Mean Green of UNT.

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## SUPPORTING TAIWAN

**HON. DAVID SCOTT**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. SCOTT of Georgia. Mr. Speaker, I am pleased to support Taiwan, a democracy and a dependable friend of the United States. In fact, the United States is Taiwan's largest trading partner, while Taiwan is the seventh largest United States trading partner. In the year 2000, total U.S.-Taiwan trade was approximately $65 billion, with a Taiwan surplus of approximately $16 billion. Taiwan's chief exports to the United States include clothing and footwear, toys, and various electronic products. In recent years, Taiwanese government officials have attempted to accommodate increased United States pressure on trade issues. They met many U.S. demands for greater market access for U.S. goods and services and responded to U.S. complaints by taking stronger measures to protect U.S. copyrights and other intellectual property rights.

At the same time, Taiwan's political system had undergone dramatic changes, including a transition to democratic political pluralism. The combination of these developments led to subtle changes in U.S.-Taiwan ties, including deepening economic, military, social, and other contacts. Today, the United States is an important investor and trading partner for Taiwan, with United States markets receiving about 25 percent of Taiwan's exports. Taiwan continues to enjoy Export-Import Bank financing, Overseas Private Investment Corporation (OPIC) guarantees, most-favored-nation status, and ready access to U.S. markets.

Beijing regards Taiwan as a renegade province of China, and PRC officials have grown particularly upset over the statements and positions taken by Taiwan's democratically elected president, Chen Shui-bian, who increasingly has referred to Taiwan as a sovereign independent country. These statements and positions have contributed to an intense domestic debate in Taiwan over its national status. President Chen also has been a strident proponent of using the scheduled March 20, 2004 presidential elections to hold an unprecedented national referendum on several policy issues. Beijing strongly opposes a referendum in Taiwan, fearing it could be used to gauge support for—and possibly to declare—Taiwan independence.

In recent years, the PRC has steadily increased its missile build-up along the south China coast opposite Taiwan, now deploying close to 500 missiles. As Taiwan faces military threats from China, the people of Taiwan plan to express concern over their wellbeing and security in a proposed referendum on March 20, 2004. Therefore, as the world's leading democracy, we must support the people of Taiwan and their right to hold this referendum.

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## TRIBUTE TO LINDA WEST

**HON. JOHN P. MURTHA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, February 6, 2004*

Mr. MURTHA. Mr. Speaker, I would like to share with you and my colleagues a tribute to a lady from southwestern Pennsylvania who has made a difference in the lives of countless veterans.

When Linda West was in junior high school in Uniontown, in Pennsylvania's 12th Congressional District, she began visiting the homes of housebound veterans as part of a community-service project. This effort marked the beginning of a mission that would lead a coalition of veterans and community organizations in Las Vegas, NV, to honor her with a Lifetime Achievement Award last December.

As a student at the University of Cincinnati, Linda worked with veterans in Uniontown during semester and summer breaks. After graduation, she relocated to Las Vegas and formed new relationships with veterans there to match those she had found so rewarding in Uniontown. She visited veterans in hospitals, delivered food to their homes, assisted with burials and arranged honor guards. In recognition of her efforts, the Chapel of Four Chaplains more than 20 years ago confirmed her as an assistant Nevada State chaplain, the first female lay clergy in the organization. She receives no pay or reimbursement for expenses.

She is a national service officer of Veterans of the Vietnam War, where she has helped veterans with their medical, spiritual and health-care benefits needs for more than 15 years. When necessary, she has practiced suicide intervention with these veterans, especially those suffering from the effects of Agent Orange.

She worked with a Vietnam veteran to ensure passage of the first increase in Nevada's veterans' property tax exemption in the 48 years since the bill was passed in 1953. The legislation, including added benefits for veterans who were more than 60 percent disabled as a result of their service, was intended as a thank-you to the State's veterans but had become nearly meaningless over the years.

She also worked with a veteran to derail legislation that would have ended the teaching of American Government and history in Nevada's public schools, instead adding a mandate for the teaching of the Bill of Rights and the Declaration of Independence.

Here in the 12th Congressional District, we're grateful to Uniontown native Linda West Myers for the generous contributions she has made to our Nation's veterans.

# SENATE—*Monday, February 9, 2004*

The Senate met at 1 p.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, help us to trust You more fully and to accept our responsibility to bring peace on Earth. Thank You for loving Your creation and for giving us strength for life's burdens. Thank You for protecting us in these dangerous times. And thank You also for listening to our prayers and for guiding our steps.

Lord, help each of us to see the unfinished work that is ours to complete. We lift to You our Senators. Their tasks require more than human abilities. Whisper to them words of instruction to help them find wisdom for these challenging days. Make their words fountains of life. We pray this in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, February 9, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the State of Virginia, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. ALLEN thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, today the Senate resumes consideration of S. 1072, the highway bill. We had a good debate on the highway bill last week. Although I know the chairman hoped we would have progressed further, I believe we remain on track to finish this week. Chairman INHOFE and his staff worked with several Senators over the weekend on possible amendments and are making good, steady progress. I appreciate the efforts of the bill managers to work through the weekend in the interest of keeping the bill moving on track. I will consult with Senator INHOFE and the Democratic leadership as we go forward, but I hope we will be prepared for a vote relative to an amendment prior to our recess for the policy luncheons on tomorrow, and Senators should be available accordingly.

This is the last week prior to the scheduled Presidents Day recess. I will be asking for all Senators' cooperation in allowing us to work our way through various issues pertaining to the highway bill.

Again, last week was a challenging week for our Senate community in many different ways, but we are open for business and expect to continue our work throughout this week.

With regard to the closing of the Senate office buildings last week, I am pleased to announce that all the Senate office buildings are back open and fully operational this week.

## MEDICARE

Mr. FRIST. Mr. President, I wish to comment on the recent Medicare bill we passed. Last year—this being February—President Bush and Congress made good on our promise to strengthen and expand Medicare for today's seniors and individuals with disabilities. The bill, called the Medicare Modernization Act of 2003, does represent the most significant improvement to Medicare in two generations.

The reason I wish to comment on it today is that as a product of the debate and passage of this legislation, we are starting to see, even right now, impressive results.

Very simply, we said the program would give seniors better health care at lower out-of-pocket cost and give seniors and individuals with disabilities more choices. That is exactly what the bill is doing.

We said the bill would strengthen the program and increase flexibility and choice, and, indeed, that is exactly what is happening.

Dozens of Medicare, managed care companies just recently announced—about 10 days ago—that in 3 short weeks, they are going to increase benefits, enhance benefits; that they are going to reduce or even eliminate premiums altogether; and that they are going to expand their service areas. They tell us they are doing all of this as a direct result of this Medicare bill.

For example, Aetna plans to cut its Medicare+Choice premiums by up to 50 percent to seniors. The action by Aetna will reduce inpatient care fees and physician copayments.

In New York City, Oxford Health Plans is boosting its annual limit on brand-name drug coverage from $250 and $500 up to $1,200. That is more coverage.

Colorado's three Medicare HMOs, meanwhile, will drop monthly insurance premiums by as much as 50 percent. That is less out-of-pocket costs for seniors.

Colorado's PacifiCare, for example, will offer prescription drug coverage to seniors who didn't have it before. That is new coverage, better health care, and then they will add brand-name coverage to many policies.

In Miami, FL, Blue Cross/Blue Shield plans to double its coverage for brand-name drugs. In Broward County, it will add brand-name coverage to its current generic-only plan, and it will drop its monthly premium altogether: Better coverage, lower out-of-pocket expenditures.

When it comes to more comprehensive coverage care, seniors in Tampa with private plans can expect to get new benefits, such as free dental care and reimbursement for transportation to the doctor.

I mention all this because it is only the beginning. Nationally, 5 million seniors with HMO coverage are expected to enjoy better benefits, lower out-of-pocket costs, and expanded options. And this will only grow with time. This is only the beginning.

Not only are these improvements on the way but also we have the prescription discount card that will be available in just a very few months, in June. This spring, seniors will be able to use these new discount cards to get discounts of 10 percent, 15 percent, 20 percent, or 25 percent off their prescription drugs.

For seniors living around the poverty level or up to 135 percent of the poverty level, they will get, in addition to the prescription drug card, an additional $600 in coverage to help pay these drug bills. That is on top of the discount. This is immediate help. This is immediate help to those who need it the most.

Already, private companies have submitted more than 100 applications to be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

able to participate in the discount drug card process. Immediate relief from high medication costs is only months away.

I mention this because we hear a lot of the opponents to the bill grumble. Even in the various elections and campaigns going on across the country, we look at what appear to be attempts of very partisan politics trying to gain political points in an election year. I wanted to mention this real progress that is already being made because it shows that at least the concept of the approach of a public/private partnership—which is what this Medicare law is all about—is beginning to work, where we take the very best of the public sector and marry it to the very best of the private sector.

Older Americans who are happy with their immediate care coverage do not need to do anything. They can keep exactly what they have today. In the bill, those who need it the most are going to get the most help. Lower income seniors, people at the lowest income brackets, and individuals with disabilities will pay almost nothing for their prescription drug coverage. Seniors who have very high catastrophic costs, costs that for the most part they did not expect, will no longer have to go bankrupt to get those prescription drugs, the most powerful tool in American medicine today.

Millions of seniors with no current coverage will see their prescription drug costs reduced, on average, by about 50 percent. So we see better health care and lower out-of-pocket costs for seniors who are listening to me at this juncture, and they will see more choices of coverage that better suit their individual needs.

Yes, the Medicare Modernization Act is expanding these choices and opportunities to obtain quality health care. This bill includes preventive care in a substantive way for the first time in the history of Medicare. For the first time ever in Medicare, we are offering disease management for chronic illnesses such as Parkinson's and Alzheimer's disease. It also takes a number of steps to improve the overall quality of care available to seniors.

We do need to continue to educate both ourselves and the American people about the progress that is being made to date. We will continue to work with organizations such as AARP and organizations of nurses, doctors, hospitals, and patients to really get the news out as this program unfolds. We will make sure that every senior who is entitled to these new drug discounts I mentioned, and who have the availability of that improved access, find out about it so that they indeed can take advantage of these improvements.

From time to time, I will come to the floor to comment on the progress that is being made as this program unfolds.

I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

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## PROGRESS ON THE HIGHWAY BILL

Mr. DASCHLE. Mr. President, I will comment briefly on the current status of the highway bill and the related debate about the budgetary implications of it and the budget proposal made by the administration over the course of the last week.

This is our second week of debate on the highway bill. I find myself expressing the hope, as the majority leader just did, that we can finish our work on the bill this week. This bill is long overdue. Many of us hoped we could have passed it last fall. We are told that the result of not having passed it means a loss of over 90,000 jobs so far.

We are also told that if we pass this bill soon, we could create nearly a million new jobs. So the economic implications could not be more consequential.

We also understand the difficulties our country faces with regard to its own infrastructure. We are told we have an infrastructure deficit of hundreds of billions of dollars, which is causing more congestion, more pileups, more time en route, more commuting, than at any other time in our Nation's history.

So with the infrastructure deficit, and with the need to create jobs, I cannot think of a more important bill than this one. I hope we can continue to demonstrate some real movement as we work to complete this debate sometime soon.

The bill's managers are in the Chamber and we are prepared to entertain amendments. I hope we can get on with the substantive discussion and consideration of whatever amendments could be offered.

I am troubled by those who argue that this bill is too expensive. I did not hear that debate when we were discussing how much to commit to Iraq over the course of this fiscal year. This country has now spent $167 billion in Iraq, with no offsets. I did not hear one comment from people on either side of the aisle about how expensive that bill was.

There are proposals in the President's budget to make the tax cuts for those at the top of our income scales permanent. CBO estimates that will double the size of our deficit over the course of the next 10 years. We now expect a deficit of $600 billion and we are told we are going to be ringing up a debt of a million dollars a minute. According to the Budget Committee, the debt will increase at $1 million a minute. So there is legitimate concern for how much we are spending and how much we are not taking in.

I find it amazing, this selective process of deciding which ought to be pared back and which ought to be provided without any offsets whatsoever. There are tax cuts of $2 trillion over 10 years with no offsets. Iraq, as important as it is, a commitment to this country and to our efforts abroad, has no offsets. Highway construction, creating a million new jobs, has to be pared back. We are told all of the discretionary spending in this year's budget could be eliminated, every single dollar, with no money for education, health care, highways, or infrastructure of any kind, and we would still have a $150 billion deficit in this year's budget.

As I look at the decisions and the choices made by this administration, there is a $140 million loss in the funding for conservation efforts, which, in a State with fragile lands such as South Dakota, is a big deal. We lose thousands of acres every year to wind erosion. Conservation is vital, and to cut back $140 million in 1 year alone means we are going to lose a lot more. This budget the President proposed a week ago represents a $3.9 billion cut in aid to small towns and rural communities, $3.9 billion in losses that would otherwise go to improving the economic circumstances of small town main street. That, too, in the interest of balancing a budget that is lopsidedly in favor of foreign policy, tax policy, and against the priorities of policies at home. Even the basic programs to provide water and sewer services have been cut in the President's budget.

About two hundred million dollars in grants, to small cities and towns, that provide water and sewer assistance were cut in this budget. So I simply say that the priorities represented by some during the debate on the highway bill, as well as the priorities reflected in this budget, are not the priorities I hear when I go home to South Dakota, not the priorities I hear when I talk to those who are concerned, as I am, about the implications of the extraordinary deficit created over the course of the last 3 years.

The debt, and the incredible debt service we are paying, will be something my children and grandchildren will pay. We had a projected surplus of over $5.5 trillion 3 years ago. Now we have a projected debt of over $3.9 trillion, a shift of about $9 trillion in 3 years.

We are told that to pay it back requires $3 for every $1 we have borrowed. What is amazing is we have gone to the Social Security bank and we have taken all of that, we have gone to the Medicare bank and we have taken all of that, so now we are going to the banks of the Chinese and the Japanese and the Taiwanese and South Koreans and we are borrowing at rates unprecedented to make up for the debt that we are accruing at $1 million a minute.

We ought to have a good debate about the budget. We ought to get this job done, this highway bill, so we can move on to other important matters. But I must say, I can't think of anything more important than finishing this bill, than committing the resources to create those jobs, to deal with at least one of the deficits we have in this country, the infrastructure deficit. If we do that well, we can turn, hopefully in a bipartisan way, to address these other challenges before the end of this session.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1072, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me thank all the Members who had their staff come down, and some Members came down over the weekend, brought their amendments, and met with my staff and met with Senator JEFFORDS' staff and I believe with Senator REID's staff. We got into a good discussion on the various amendments. We discussed with them our amendments. I am pleased with the response of those Members who understand how important it is to pass this legislation and have come to us in the week that this bill has been on the floor.

To date, I believe we have met with about 30 Member offices. We are all looking forward to working hard to accommodate the needs of these offices with as many amendments as possible. I encourage anyone out there who has amendments to bring them down, talk about them, and let's get some of this debate started.

The chairman, ranking member of the full committee of the Transportation Subcommittee—we are all ready to work with those Members.

I wish to take a moment to congratulate Senator GRASSLEY and Senator BAUCUS for their work on the finance portion of this legislation. They have done a tremendous job in meeting the financial needs of this bill without increasing taxes or deficit spending. They have also brought integrity back to the highway trust fund and to the commitment we made to the American people.

The trust fund is, in essence, a user-fee-based program. You pay a gas tax and that money is then used for transportation purposes. Unfortunately, the trust fund has been used for many years for other purposes, including shifting the burden of tax policies from the general revenue to the trust fund. These tax policy benefits have nothing to do with highway use and should not burden the trust fund.

I look at this, and I have said it many time before, as a moral issue. We tell people when they pay—and they don't mind paying new taxes, even higher taxes. They are willing to pay the taxes because they want to have better roads and they assume that money is going to go into building roads. But it is not. They have been raiding the highway trust fund now for as long as I can remember.

So the Finance Committee sought to fix this unfairness to the taxpayer and has come up with a proposal to right this wrong.

Included in these proposals is a repeal of the partial exemption for ethanol-blended fuels. The tax benefit for ethanol, like nearly all energy production incentives, is transferred to the general fund through a tax credit. The same effect is applied to refunds for special categories of users such as State and local governments. These are changes that never should have been necessary. We should no more raid the highway trust fund than we should raid the Social Security trust fund. These are commitments made to the American people.

However, by bringing integrity back to the trust fund, the general fund lost a source of revenue, albeit a source that never should have been used in the first place. So in order to avoid deficit spending, Chairman GRASSLEY closed a number of loopholes in the Tax Code and kept the general fund whole—in other words, no deficit spending.

There are those who have questioned the manner in which this was done, but I trust the chairman and the ranking member of the Finance Committee and take them at their word. They should be congratulated. I am here to thank both of them.

Because of the work of the Finance Committee, we have a bill before us that will provide over 2 million new jobs to repair our Nation's infrastructure and do so without deficit spending.

I think it is very important to keep talking about this. There is not a Member in here who cannot remember at one time or another raiding the trust fund, to take some of this money to put it in toward reducing the deficit. That was done in the 1990s.

This is an opportunity we have, not just to pass a very aggressive highway bill and provide the jobs that go with that but also correct this wrong that has been out there for a long period of time.

Let me emphasize, we invite Members to come down and bring their amendments. While we cannot be introducing them and voting on them right now, we can still get a lot of the discussion out of the way. I think it is very important we do so, now.

Let me defend the formula. There have been a lot of people coming down and objecting to the way it was put together. I remind my colleagues what happened in TEA-21. I was here for TEA-21, here in the Senate, here in the committee working with my good friend, Senator JEFFORDS. We watched the way that formula worked.

In that, they had a minimum guarantee program. A minimum guarantee program is nothing but a chart: it is called section 1104. It took all the States and put a percentage down. As soon as they got 60 people happy, they figured: there is our 60 votes—and this is no way to do it.

Instead of that, we looked at donor status. We have several States such as my State of Oklahoma that have been in a donor status for many years. We looked at States that are fast growing States. We put a ceiling in there, so they could not get so much of the money there would not be anything remaining for other States. We have a floor in there. I think we have done something that is very good.

I guess you could say there are four goals that interest a lot of people, one being the donor States, those of us who have been donor States for so long we can remember when we were 70, 75 percent donors. ISTEA came along and brought the floor up to 80. Then TEA-21 brought it to 90.5. This is going to bring every State, all 50 States, at the end of this 6-year period, or by the end of that period, up to 95 percent. That is very reasonable. It is a very ambitious goal but one with which I think most of us, I am absolutely convinced, agree.

We have introduced streamlining measures in this bill that will allow us to use the dollars we have and use them to build more roads, to do more in a shorter period of time.

We are concentrating on safety. We have not concentrated on safety as much as we should have in the past. I know the senior Senator from Virginia is one who has been concerned about safety for a long period of time and is very pleased with a lot of the provisions that we have in this bill.

We haven't really focused on freight movement until this bill came along. So we are getting into all of these areas.

I just hope our colleagues understand that Senator JEFFORDS, Senator REID, Senator BOND, and I have been working on this bill for over a year. That is a long time. Obviously, you will never have a formula that makes everybody happy but you can certainly have one that is fair. And we have achieved for the first time in the history of this process what I consider to be a very fair formula.

I would like to ask if Senator JEFFORDS has any comments he would like to make at this time.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President. I do.

Mr. President, S. 1072 will send billions of dollars to the States. It provides the resources to maintain the transportation infrastructure that we use and enjoy every day. Literally hundreds of thousands of jobs are at stake. It is imperative that we pass this bill this week.

Our staff has worked diligently for many months to prepare this comprehensive proposal. They have addressed concerns raised by various Members. It is time for us to complete this bill and send it to the House.

I would like to continue the discussion I began last week and speak for a few minutes about some of the key provisions of the transportation bill. As I have mentioned in earlier statements, our Environment and Public Works Committee conducted a very thorough hearing process as part of our preparations of S. 1072.

A consistent theme from those hearings was that the national transportation program has worked well over the last 12 years, following the principles set forth in ISTEA and enjoying the funding guarantees established in TEA-21.

We therefore sought to refine rather than revise the program. A key reflection of that decision is the pattern of resource allocation in the bill.

We grew each of the core programs—interstate maintenance, national highway system, bridge, surface transportation, and congestion mitigation and air quality improvement—in proportion to its funding in current law. We could have played politics with these funding allocations, but we chose to maintain the overall balance of the program.

Also based on consistent testimony from our many witnesses, we retained the flexibility that has become a hallmark of the surface transportation program.

Rather than make political adjustments in Washington to suit the needs of an individual State or region, we yield to State and local officials, working through an open planning process, to move funds among the core programs as best fits their unique and individual needs.

Further, under current law and reinforced in S. 1072, we permit money to be "flexed" among the various transport modes—highways, transit, bicycles, pedestrians, intermodal transfers, and rail.

By maintaining balance among the core programs along with flexibility on program and modal spending at the State and local level, we seek to foster a more balanced and "right fit" outcome on the ground.

The right combination of investments will vary from place to place. And a single solution—roads only or transit only—is likely to be a poor fit for a diverse and dynamic modern American community.

As I traveled our Nation over the past 2 years, I saw intermodalism on the rise. In place after place, the solution to traffic congestion and the solution to freight mobility combined roadway and rail investments with improved operations.

The balance and flexibility in S. 1072 will be essential to support these complex and ambitious solutions.

I yield the floor.

Mr. INHOFE. Mr. President, first let me thank the ranking member of the committee for all the hard work and effort he has been put into this bill.

I remind Members that we spent the weekend working on amendments. We actually had an office in the Hart Building that was open and staffed by both the majority and the minority. They waded through a lot of amendments.

To move this bill along, I again encourage Members to bring their amendments down. I will not mention the names of the Senators because it may not be appropriate. I encourage Members to come down to speak on the amendments which are going to require some discussion.

We have an amendment to clarify the travel reimbursement for troops retroactive to September 25. We have an amendment on seatbelts which imposes sanctions on States that don't have primary seatbelt laws. We have amendments such as one on sanctions relating to drunk drivers, an amendment on changes to the Indian roads program, an amendment to clarify the new highway safety core program dollars which can be used for additional lanes or two-lane roads, and one to grant exemptions for 90,000 pounds on Federal aid highways—to a higher level to allow for lumber trucks and garbage trucks going to landfills.

We have a lot of amendments. I think there are about 35 amendments because staff came down and worked over the weekend on those amendments. I think it would be appropriate for them to come down right now, and not to offer their amendment but to discuss their amendment.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THOMAS. I ask unanimous consent to speak for 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I will discuss a subject other than what is before the Senate, but before I do that I am pleased we are moving forward with the highway bill. I am on both committees, the Environment and Public Works Committee, as well as the Finance Committee, and we have spent a great deal of time on this. Taking care of our infrastructure and seeking to provide more jobs in a short period of time is one of the most important issues we have. I certainly hope we can move forward and do so quickly.

### ENDANGERED SPECIES ACT

Today I will comment on an issue in which I have been very interested, and as a matter of fact, I have a bill pending regarding the Endangered Species Act. I suppose most everyone favors the idea of protecting endangered species. That is something we all like to do. However, it has been in place now for more than 20 years, and frankly it has a different impact in different parts of the country.

I come from a State where 50 percent of the State belongs to the Federal Government. We have a lot of conflicting issues, both with the Federal Government and with the State government. It becomes quite difficult from time to time. Like many programs that are in place, I wish, when we pass them, we would say it has to be reviewed again in another 8 or 9 years to see if it is working and make necessary changes. This program needs some changes. It has not worked the way we would like to have seen it work. We need to review programs after there has been time to try them out and see how they will work.

What has happened, to a large extent, the emphasis has been on listing, rather than the recovery aspect. As a matter of fact, we have listed nearly 1,500 various species. plant and animal. We have recovered about 12. So the idea and emphasis ought to be, it seems to me. on the recovery of these species and not simply on the listing of them and letting them go on forever being endangered and having to be managed in that way.

Part of the problem, of course, has been the idea that anytime somebody is making decisions or regulations with regard to natural resources—in this case, endangered species—they end up in court. Instead of doing it on the basis of science and what is the best decision to be made, we end up in court and then letting the court manage it. It becomes a very difficult situation.

I sympathize with those people who are involved in the management of these programs. In everything they do, they can think about what is good for the program—in this case. what is good for endangered species—but, wait a minute: We have to take a look over here to see how we are going to get by the court.

I might add as an appendix. one of the difficulties in our case is, we are in the Tenth Circuit Court. and when things happen in Wyoming or Yellowstone Park, or wherever, then they go to court in Washington. There ought to be some sort of limitation to where the issue can go. If the issue occurs in a particular circuit, that is where the judge ought to be, that is where the court case ought to take place. At any rate. that, again. is one of the problems.

One of the other problems for States such as ours. where we have lots of public lands—and we have some unique problems that follow along the Rocky Mountain Ridge; and there are 10 or 12 States that have a lot of things in common. And I understand if you are on the east coast or even on the west coast, you don't have much interest in what is happening in our area, but our issues are sometimes unique, so there needs to be a good deal of local input into these kinds of issues to make them workable because there are different kinds of circumstances that appear.

One of the listings we had some experience with recently is the so-called jumping mouse in part of the southern part of our State and part of Colorado. It turns out, after about 5 years. that they really did not have the scientific basis for listing these critters at all, and they were not even in the same family of mice that they thought they were. Now we are in the process of going away from that whole thing after this whole problem of people having to manage their lands differently. So obviously there needs to be something done differently.

One of the issues we are dealing with at the moment is grizzly bears. What you generally do with an endangered species listing is you try to figure out how many there are, and then you put forward some goals as to how many you would like to achieve in the recovery. We have passed the recovery numbers for almost 10 years in Yellowstone Park—and, of course. the grizzly bears do not stay in Yellowstone Park—but still we have not gotten them delisted. It just seems as if it takes forever to do this.

Actually, however, the current specie we are dealing with is the gray wolves. Wolves, of course, were there years ago; then they were not there for a while; and they came back in the 1990s. There was a reintroduction of wolves from Canada into Yellowstone Park. Again, nobody would have guessed they were going to stay in Yellowstone Park, and surely they did not.

So now we are in a circumstance where the wolves have moved into Idaho, Montana, and Wyoming, as well as the park, and there finally has come a time when they have exceeded the numbers substantially to where there is a plan in effect, and hopefully moving into effect, where the three States would set up their own management plan, and then the wolves would be delisted and managed by the States, with certain agreements in there.

What we have now is Wyoming has put together a plan—as have Idaho and Montana—and they have been really very tough to deal with. I think last year we had 47 cattle that were proven to be killed by the wolves and at least that many that were suspected to have been killed by the wolves. But the Fish and Wildlife Service does not agree with the plan Wyoming has, so now we are waiting to see if we can get some agreement on that. As a matter of fact, part of the plan was passed by the Wyoming Legislature, but it does not seem to be acceptable. We have met with the Secretary and with the head of the Fish and Wildlife Service to see if we can find some flexibility there, and it is mostly over the semantics of what is in the plan. But the fact is. we do need to get them delisted so the State can have control over their management. That is really where we are.

I guess my point is, we have a program that all of us would like to maintain. We like the idea, but it is not working very well, and yet it seems to be very difficult to do anything about it. Sometimes it seems to me when we pass a bill, we ought to say it ends in 5 years and has to be renewed so that we can take another look at it at that time. First of all. times change; secondly, sometimes it is not managed properly and it could be changed. Anyway, we have not done that.

I have a bill introduced—introduced for several years, as a matter of fact which we have not been able to move. Oversimplified, it simply says when you list a critter or a species, you have to have scientific information. You have to have a real basis for doing it, and the people who list it have to provide some scientific data so that a jumping mouse is really a jumping mouse. And the second part is that at the time of listing, there also has to be a plan for recovery. That really has become the problem.

It is easy to list. People can send in recommendations for listing, and suddenly it happens, but there is no real plan as to how the recovery is going to take place. there is no area that it is designed to cover, and those kinds of things, and it becomes really very difficult to get this done.

I am going to push once again to get this done. Senator CRAIG and Senator HAGEL are cosponsors of the bill. We are going to try again to see if we can get this done. This is designed not to do away with the Endangered Species Act but indeed to strengthen the program so that it will work in more places than it does now. So that is an issue in which I am very much involved.

In closing, we have a lot to do this year. It seems a little frustrating sometimes that we have difficulty in moving forward. I wish we could really take a look at where we are, to try to set some priorities as to the kinds of issues with which we want to move forward.

We end up with endless debate, which really keeps anything from happening. We end up with unrelated amendments being put on bills that keep us from moving forward. I think everyone here would say: Hey, our job is to accomplish some objectives. I understand there are different views. and that is why we vote. But the idea of just simply resisting moving forward, the idea of resisting going to conference, for example, certainly is not a good way to manage here in the Chamber.

Of course, politics in this place is not a brand new idea, but we have gotten so that everything we talk about is related to the 2004 Presidential election. Well, that is not really why we are here. We have different views. We ought to reconcile those views or at least decide what the majority seeks to do here and do that.

Also, I think most of us generally have the notion that we ought to try to make the Federal Government smaller rather than having it growing. Yet that does not seem to be what we do. We resist talking about competitive outsourcing, doing any of these kinds of things. We need to have some rules related to our spending so we are limited in what we do. We are facing a deficit now that none of us like. I think it is justifiable because of all the emergency things we have been in, but now is the time to do something about that.

We need to do something about adding issues to bills when they go to conference committee that have not been passed by either House. This is not the way things ought to be done.

So I hope—and I know our leadership is working on this—we can see if we can move forward some more on the priorities of things we ought to be doing and ought to have done. We are in the midst of one now that everyone agrees we need to do. We need to move forward and do the things that are before us that we all want to do, and that is to make this a stronger country, and not have an overbearing Federal Government but have an equal division of responsibility in determining what the role of the Federal Government is as opposed to local and State governments.

So, Mr. President, thank you very much for the opportunity to speak as in morning business.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE.) Without objection, it is so ordered.

Mr. REID. Mr. President, as Senator INHOFE has already stated, our staffs worked hard over the weekend on amendments people have to this most important legislation. We have gone over many amendments, but have approved 34 amendments we would accept. These are good amendments. They have been reviewed closely by both the majority and minority. A lot of progress has been made. We hope people who have problems with the substance of this legislation, who want to offer amendments, will come and talk to us about it today. We are arriving at a point where there is not going to be a lot of time. Tomorrow we hope to be in a position to do the managers' package—the finance, transit, and EPW aspects of the legislation—and move forward, but we hope Senators who have concern about the legislation will come forward so we can move more quickly. We are running out of time on this very important legislation.

## MEDICARE AND PRESCRIPTION DRUGS

Mr. REID. Mr. President, in 1965, when Congress created Medicare to provide health care security for our senior citizens, it took less than a year for that to be considered and then put into full operation; in fact, 11 months. That was back before we had computers. All we had then were slide rulers and some adding machines.

On the legislation with which we are dealing now, the new Medicare prescription drug benefit, the new Medicare revision, we have a different situation. We are told this legislation we passed—and that was signed by the President and deals with our senior citizens—is going to have to wait for more than 2 years before it can be implemented. Today our senior citizens need help with soaring drug prices. They deserve the security of knowing they will be able to buy the medicine that can keep them healthy and happy. The American people want to know that when their Government wants to get things done, it can act quickly.

This law is a bad deal for senior citizens. That is why the main provisions of this legislation won't take effect until after the election. That is wrong. I suppose the administration thought our senior citizens would be grateful a bill passed, no matter what was in it, and that they wouldn't bother to find out what was in it. But they did find out. They already know. The President has underestimated our seniors.

I have met with seniors throughout the State of Nevada, and they know what is in this law. They don't like it. I read on the floor last week a meeting that was held by people from the State of Nevada to describe what is in this bill.

More than a hundred people showed up and all hundred were there to complain about this legislation. They don't like the fact that this will make many of them pay more for their drugs than they already have to pay. They don't like the fact that many who have drug coverage under private plans could lose their benefits because of this legislation. They don't like the provision in the law that forbids Medicare from negotiating with drug companies to get better prices. Insurance companies can do it and HMOs can do it. But Medicare—the largest health care delivery unit in the world—cannot negotiate with the drug companies to get lower prices.

Instead of working with Congress to address these and other concerns, the President has threatened to veto any change. Then he turned to his reelection campaign and asked them to help polish the image of this new Medicare law. So a company that is part of the President's reelection campaign is now doing the ads even with Medicare.

Fair enough, you might say. That is politics. Except the President is waging this ad campaign at taxpayers' expense. Simply, that is not fair. I am told he is planning to raise $200 million for his campaign this year. But apparently that is not enough because the administration is spending as much as $22 million of the taxpayers' money for this publicity campaign.

I have no doubt that senior citizens need information about this new Medicare law, and education and awareness about a new program is a legitimate use of taxpayer dollars; but these ads they are pushing are misleading. They don't tell seniors what they need to know about the bill. These ads don't shoot straight with the American people. They give our senior citizens false assurances, not facts.

For example, the ads reassure seniors that they can keep their Medicare coverage and the right to choose their own doctor. But the fact is many seniors, including many in Nevada, could be forced into demonstration programs that will make them pay higher premiums if they want to stay in traditional Medicare, and they will not be able to choose their own doctor.

In the same fashion, the ads don't mention that seniors will be prohibited from using their own money to purchase supplemental coverage to fill the gaps in the new law.

As part of this advertising campaign, the administration is also running print advertisements. I was surprised and perplexed when I saw an ad in the newspaper that runs on Capitol Hill, Roll Call. This newspaper is aimed at Senators, House Members, and Capitol Hill staff, and it is also aimed at lobbyists and so-called Washington insiders. If the President is trying to educate senior citizens about this new law, why would they place ads in Washington newspapers where less than 3 percent of the readership is over age 65? It is for obvious reasons.

The last straw was when I learned these ads are being produced by the same company that makes President Bush's campaign commercials. But that makes sense because they are simply campaign commercials—except his campaign isn't paying for them; you are, the American taxpayers.

These ads are political and that is clear. They are not intended to help seniors understand this complicated Medicare law. They are intended to offset the negative public reaction to this bad law.

The President has every right to defend this law, which he urged Congress to pass, but he doesn't have the right to make the taxpayers pay for it.

Mr. President, again, I see my friend from North Dakota, who has an amendment, and he has been waiting to get a vote on it. I hope the Senator from North Dakota will get a vote on it soon.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have just talked to the managers of the bill. My understanding is there is nobody waiting to speak on the bill. As a result of that, I ask unanimous consent to speak as in morning business for 15 minutes, with the understanding that I will relinquish the floor if the managers have Senators who wish to offer an amendment to the bill. I don't want to delay the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRADE AGREEMENTS AND JOBS

Mr. DORGAN. Mr. President, I wanted to speak for a moment about the issue of jobs. There has been an especially vibrant debate recently about the number of jobs that are being created in this country and the number of jobs that are moving overseas from the U.S. to other countries. I wanted to talk about jobs specifically today because there was an announcement that the U.S. has finished a trade agreement with the country of Australia.

We have already had the completion of the Central American Free Trade Agreement, CAFTA; we have had NAFTA, the North American Free Trade Agreement with Canada and Mexico; we have had GATT, the General Agreement on Tariffs and Trade; and the WTO. We have all of these agreements and the fact is they are not working out well.

Despite that, instead of correcting the problems in previous trade agreements, our negotiators are continuing to move ahead to negotiate new trade agreements.

Let's consider NAFTA. NAFTA was negotiated with Mexico and Canada. Prior to NAFTA being negotiated, and then approved by the Congress, the United States had a very small trade surplus with Mexico, nearly a $2 billion trade surplus with Mexico. Now, 10 years later, we have a $40 billion deficit with Mexico. I will say that again. In 10 years, with the North American Free Trade Agreement, we took a small surplus with Mexico and turned it into a very large deficit.

Again, when we negotiated the trade agreement with Canada—it was with Canada and Mexico—we had a $10 billion trade deficit with Canada, and that is now $50 billion.

With Mexico, we took a small surplus and turned it into a big deficit. With Canada, we had a modest deficit and quintupled it, from $10 billion to $50 billion. We still have people walking around this town thumbing their suspenders, between puffs of their cigars, and saying this trade agreement was wonderful for our country, it has worked well.

I decided to check which companies certified to the Federal Government the movement of jobs, or the loss of jobs, as a result of NAFTA. I have just received the information from the Congressional Research Service. It is the first time anybody has catalogued this job loss, in this level of detail, as far as I know. But here is what you have.

Now, NAFTA allows for transitional trade adjustment assistance. That is a fancy way of saying, if you are going to lose your job because of this trade agreement, we will give you some supplemental income to help you over the tough spot. The anticipation was people would lose their jobs, and we would try to provide some help, transitional trade adjustment assistance.

In order to get transitional trade adjustment assistance, the employer has to certify that jobs are going to be lost in their company as a result of this trade agreement. That certification goes to the Department of Labor, which keeps track of those certifications.

Let me describe what we found with this Congressional Research Service study, based on Department of Labor data. This is the first time a study has been done in this level of detail.

It says the No. 1 company that certified jobs certified they had 16,095 jobs that they lost either because they moved the jobs to Mexico, in most cases, or because of additional imports from either Mexico or Canada that displaced their workers here.

No. 2. Levi Strauss: 15,676 jobs over this nearly 10-year period. Levi Strauss, now, that is everything that is American, right? Just go buy some Levis. Levis used to be made in the United States. Not anymore. Levis left, and the workers who used to make Levis in this country were able to get some transitional trade adjustment assistance. That is a fancy way of saying: By the way, we are going to sew those Levis in Mexico, and we will give you a few bucks as your job leaves and goes to Mexico. That is what it said to American workers.

There is a whole series of companies, as one might imagine. Fruit of the Loom is seventh on the list, 5,350 jobs. I remember when I saw the actual notice in the paper that Fruit of the Loom was shutting down its U.S. manufacturing plants. I spoke on the floor of the Senate. I said: It is one thing to lose your shirt, but Fruit of the Loom is gone. They are making shirts and shorts and underwear in Mexico. I understand even now that labor costs are too high, and now it is moving to Asia, in some cases.

How about Fig Newton, Kraft Foods? Eat a Fig Newton and you think you are eating a Fig Newton cookie from the U.S. I am sorry, think again. It is Mexican food; Fig Newtons made in Mexico. It left this country, and the resulting layoffs of U.S. workers meant they received transitional trade adjustment assistance.

What does that mean? It means they got laid off. They made a good Fig Newton cookie, but they don't make it here anymore. American employees lost their jobs, and Fig Newtons are now made in Mexico.

This is a list of 100 companies from the Congressional Research Service. This list can be derived from Labor Department data because the companies had to certify job loss. This is slightly over 200,000 employees who lost their jobs. In fact, if you included in the list all who certified, it would be over 400,000 American workers who lost their jobs because of NAFTA, the free trade agreement with the United States, Canada, and Mexico.

Some say other jobs were created. Maybe so. Ask yourself this: If we took a small trade surplus with Mexico and turned it into a very large deficit, and a modest deficit with Canada and turned it into a very large deficit, isn't it inevitably the case that we will have lost a lot of jobs? The answer is clearly yes. It doesn't matter what all the other folks say. We have lost a lot of jobs, and all of these folks—these are just numbers on a chart, but of these 200,000 people, every one of them had to come home, perhaps some evening after work, and say to their spouse: Honey, I lost my job. I did good work. I had good evaluations all of my career with this company, but they have decided to shut the doors in this country and move to Mexico.

The reason I wanted to point this out is to say there is precious little attention paid these days to the question of what is happening with jobs being so-called "outsourced." I recently visited with a fellow who is founder and CEO of a very substantial company. He said to me: All of my competitors have now moved offshore. All of my competitors have moved offshore, and I have not. He said: I am not going to at this point, but I want you to know it puts me at a dramatic competitive disadvantage because I am paying American wages, and they are in India or Bangladesh or Sri Lanka or China, and they are paying pennies on the dollar for those wages and it makes them much more difficult to compete with.

I said: Good for you for keeping your jobs in this country.

He said: Yes, but somebody has to do something.

The question of this globalization is not just about whether we are globalizing, whether the economy is becoming increasingly global, because it is. The question is, Are there rules attached to globalization? What will the rules be for globalization? Is it OK to move jobs to a country where you pay them 16 cents an hour and work them 16 hours a day and 7 days a week? Is that something we should aspire to have American workers and American companies compete with? Yet that is exactly the case today. The answer so far has been, yes, that is fair trade.

It is not fair trade where I come from. This economy will not be the economy that produces jobs and represents the economy of the world's biggest and most vibrant economic engine if it does not retain a strong manufacturing base. No country will remain the dominant economy in the world without a dominant and strong manufacturing base.

For 42 straight months, we have had reductions in the manufacturing job base. Why? Because of outsourcing; moving jobs overseas where you can hire people for pennies on the dollar.

Let me go through a couple of charts that show where we are with trade.

This chart shows trade with Mexico. We can see where we were just before our trade agreement. What has happened since that time? A flood of red ink every single year; more and more trade deficits with Mexico.

This chart shows our trade deficit with Canada. I mention both of these only because this is NAFTA, the North American Free Trade Agreement. There is a flood of red ink. We negotiated the trade agreement in 1993, and we can see what is happening. And we still have people saying this has been a great free trade agreement.

This chart shows our trade deficit, which is completely out of control. The President's budget last week asked the Congress to approve a budget that has a dramatic budget deficit. In it, he predicts in the fiscal year in which we now work, the budget deficit will be roughly $530 billion, roughly $530 billion. But in order to get to that, he had to take the Social Security trust funds for the year and use them as other revenues to make the deficit look lower than it really is.

The budget deficit this year is going to be about $660 billion. That is the budget deficit. Add to that a nearly $500 billion trade deficit, and we can see where this is going—higher, higher, and higher. We have a Government with a combined budget deficit and trade deficit that is over $1 trillion, and people walk around as if nothing is going on. This is serious for this country. This is a burden that must be repaid.

Let me talk for a moment about a couple of specific trade issues to show the absurdity of what is happening. This chart shows cars to Korea. Korea sent to the United States 620,000 cars to sell in our marketplace, and we sold to Korea 2,800.

Let me say that again, Mr. President, 620,000 Korean cars came to the U.S. We were able to sell 2,800 in Korea. Why? Because the Korean government doesn't want U.S. cars sold in Korea.

Beef? We can't sell beef in Europe. Why? Because $100 million of beef is banned from the EU each year due to bogus reasons, and we have a very large trade deficit with the EU. Here is the way they characterize U.S. beef: A cow with two heads because of growth hormones.

Guess what. We said to Europe: If you are going to take that action against us, we are going to take action against you. And in the first small semblance of direct action on trade, the U.S. Government decided to take action against Europe.

What did we do? We are going to slap Europe around. We decided to slap Europe around by imposing duties on Roquefort cheese, goose liver, and truffles.

That will strike fear into our trade adversaries, and I say adversaries because when they take unfair action against us, we have a right to take action against them. What do we do? We slap import duties on truffles and goose liver. I am sorry, that does not seem to me to be the kind of action that is very effective against trade partners that are engaged in unfair trade.

I could go on at great length about the issue. The issue, to me, comes down to the subject of jobs. This is a BusinessWeek article of February 3, last year. It talked about U.S. jobs moving offshore. They talked about the official estimate of 3.3 million white-collar jobs moving offshore in the near future. They are talking about in the coming 10 to 12 years an additional 3.3 million jobs. These are not factory jobs, manufacturing jobs. These are white-collar jobs that will be moving offshore.

On the cover of BusinessWeek Magazine recently, it states: "Is Your Job Next?" A new round of globalization is sending upscale jobs offshore. They include chip design, engineering, basic research.

Recently, in the last couple of weeks, a Wall Street Journal article talking about documents from the IBM Corporation gives a rare look, they say, at "sensitive plans for offshoring."

They got ahold of IBM documents that show the company is acutely aware of the sensitivities involved when they ship jobs overseas. These are white-collar jobs. They say:

> Do not be transparent regarding the purpose/intent, and cautions that the terms "onshore" and "offshore" should never be used. The memo—

Which talks about moving jobs offshore—

> suggests that anything written to employees should first be "sanitized" by human-resources and communications staffers.

In the draft prepared for managers at IBM they suggest workers be told:

> This action is a statement about the rate and pace of change in this demanding industry. . . . It is in no way a comment on the excellent work you have done over the years. . . . For the people whose jobs are affected by this consolidation, I understand this is difficult news.

It is a rare look at companies that are now moving high-skilled, high-wage, white-collar jobs overseas.

We have some serious problems to deal with. This issue of the movement of American jobs overseas is a very serious issue. We can talk about the issue of globalization, and I am somebody who believes this is an increasing economy—I understand that—but I also believe there needs to be standards: What is the admission price to the marketplace of a developed country, a country that fought, for example, for the right of workers to organize, a safe workplace, the ability to prohibit the dumping into streams and waters and the air, poisons and effluents?

We fought for years about those things: Child labor laws, fair labor standards, minimum wages. Now, with just an airplane ride and a decision memo by a company which said we will just pole vault over all of that, we do not have to worry about that, they move our jobs to Bangladesh or Sri Lanka, or to a place where they can hire 12-year-olds, pay them 12 cents an hour, and work them 12 hours a day, 7 days a week. And they do. Then they will ship the product back to Toledo, Pittsburgh, Los Angeles, and Fargo. They say that consumers will be advantaged by that because they will get lower priced commodities.

I conclude by telling one story that I have told previously. It is about Huffy bicycles. Most people are familiar with Huffy bicycles, 20 percent of the American marketplace sold at Wal-Mart, Sears, Kmart. They used to have an American flag as a decal between the handle bar and the front fender. That was when they were made by workers in Ohio who made $11 an hour producing a Huffy bicycle.

I do not know any of those workers, but I am sure they were proud because they had good jobs and produced a good bicycle. They were all fired. Huffy bicycles are now made in China. The workers in Ohio were making $11 an hour. That was too much, according to the company. So Huffy bicycles are made in China for 33 cents an hour by people who work 12 to 14 hours a day for 7 days a week.

No, there is not a flag anymore. That little tin decal between the fender and the handle bar is not an American flag. It is now a picture of the globe.

The question for this country is: Are we going to have any manufacturing jobs left? Is it fair competition to ask an American worker to compete against 33-cent-an-hour labor? We have to answer these questions.

I am not suggesting it is not an increasingly global world, but we need rules for globalization. What is fair competition for the American worker and for American businesses? That is something the Congress has been unwilling to deal with and recent trade agreements have ignored. In fact, the trade agreements have been fundamentally incompetent, the ones with China, NAFTA, and others.

I have spoken about those agreements at great length previously. Today, what I wanted to do was simply show the chart that shows the 100 companies that have exported jobs, and they have certified that the export of these jobs came about as a result of our trade agreement. This certification is not some speculation on my part. This is certification by each of these companies about the number of jobs that no longer exist in this country because they either moved to Mexico or they displaced imports coming into this country.

This certification that has been made and the CRS has compiled for me is on my Web site, Dorgan.Senate.gov. if someone wants to see the list of companies. I think it is important for people to understand this is what is happening. The question is: Does it matter? For me, it does.

If we are going to have a strong manufacturing base, we have to worry about this. No country will remain a dominant economic power without a strong manufacturing base, in my judgment.

I have more to say about trade. I will do it at a more appropriate time. I understand my colleague wishes to speak on the bill, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. First of all, I thank the Senator from North Dakota for yielding. He will have ample time to come back and do that. I appreciate him allowing us to get back to the bill.

The Senator from Ohio has an amendment to talk about, but I encourage all Members to come down to the floor. We have time now. Later on, time is going to become very precious. As I said last Friday, come to the floor. We stayed open all weekend to work with Members on their amendments. We are doing that as we speak. We would encourage Members to come down and talk about their amendments—now that we have worked out amendments—so when the appropriate time comes, if they wish to file those amendments and to debate them and get votes on them, they will be light-years ahead if they come down now.

I want to issue that as a very strong suggestion to those members who have amendments. I thank some 30 Members who brought their amendments down over Saturday. A lot of those have been accepted in the managers' amendment.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. I will be glad to yield.

Mr. JEFFORDS. I have been here a long time, as the Senator from Oklahoma has. Have we had anybody come down?

Mr. INHOFE. Senator DEWINE is waiting to speak now on his amendment, although I think the Senator is making a very good point. We have been talking about this since Friday, and we encourage people to come down.

Mr. JEFFORDS. Well, I hope the Senator from Ohio will get such enthusiasm created with his speech that we can spend the rest of the time making some progress.

Mr. INHOFE. I can assure the Senator he always does.

Mr. JEFFORDS. Yes.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I come to the floor today to thank the leaders of the Environment and Public Works Committee, Chairman INHOFE, Ranking Member JEFFORDS, as well as Senators BOND and REID, for all the hard work they put in to produce this transportation bill. This is really a transportation bill that does a number of different things, but one thing it does do is stress the importance of safety programs.

The bill before us today is a revolutionary bill. It is known as SAFETEA. That is what we are calling it. In many respects it certainly deserves this title. I salute my two colleagues, whom I see on the floor, and thank them for their fine work in this area.

A strong emphasis on safety programs is vital because in the year 2002, the last year for which we have complete records, over 42,000 of our fellow citizens—in fact, the exact number is 42,815—were lost in this country. That is how many fellow citizens were killed in auto fatalities.

The No. 1 killer of Americans between the ages of 4 and 34 in this country is auto fatalities. That is an amazing thing when you think about it. Think about all the other diseases and problems there are in this country, whether it be cancer, all the other things someone could die from, but the No. 1 killer of our young people today is auto fatalities.

If you look at the age group of 16, 17, 18, 19, the figures go off the charts for that age group. That is what is killing our young people today—automobiles.

In the next 12 minutes, to be precise, at least 1 person will be killed in an automobile accident in this country, while nearly 6 people will be injured in just the next 60 seconds. Tragically, within the last 2 weeks, in my home State of Ohio, two of our soldiers were killed in automobile accidents, one of whom was just back from Iraq on a 2-week pass.

Sadly, though, it seems these deaths are something we as a society take for granted. We tolerate it. We put up with it. Frankly, we don't pay much attention to it. How many times every night when we turn on the news do we hear about someone being killed? Unless they are from our local community, unless we know them, we don't think a thing about it. We tolerate it.

If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone has said these automobile deaths are the equivalent of a 747 going down every 2 days in this country. If that were happening, it would, of course, be on CNN. It would be breaking news. We would be literally up in arms. We would be demanding the President of the United States and this Congress do something about it. Yet these auto fatalities that occur hour by hour, day by day, minute by minute, go on and on and for some reason we have become immune to it, hardened to it, really. Tragically these deaths just continue.

That is why I am so pleased the bill before us does go a long way to help to address several safety concerns that can make a difference and can save lives on our roads. The EPW Committee leaders deserve praise for elevating safety programs to core status among highway programs. In the past, safety programs were of a derivative nature, drawing their funding as a percentage of one of the core programs. This framework enabled some States to overlook safety and focus funding and efforts on other areas. With the new core designation, safety will take its proper place at center stage. The EPW Committee leadership deserves praise for taking this quantum leap forward.

Let me again thank Senators INHOFE, JEFFORDS, BOND, and REID for making their staffs available this weekend for work on my amendments. I am pleased with the progress that has been made so far, trying to work on these amendments. One of my amendments has already been accepted. I thank them for that. That amendment has been integrated into the proposed managers' package.

I have another amendment relating to traffic signals that I believe we will have cleared in the near future.

I wish this afternoon to take a few minutes to share with the Members of the Senate what these amendments will do, because I believe they will help put us even further down the field in terms of saving lives and promoting greater emphasis on safety.

I have further additional safety-related amendments I will be offering to the Commerce Committee portion of the highway bill, and I will be offering those in a future speech when we get to that section of the bill, we hope later in the week. I thank Senator MCCAIN for his leadership. I look forward to working with him and the Commerce Committee on that section of the bill.

The first amendment the EPW Committee has accepted contains two parts. First, it would require the States to identify and rank and disclose their most dangerous intersections. That might not sound like a revolutionary thing to do, but not every State is doing that now. It is the right thing to do: to rank them, to identify them, and then to make that information public so the consumers, the citizens will know what that information is and will then be able to act upon it.

A second part of our amendment we are still negotiating with the leadership would increase the timely and efficient expenditure of Federal safety dollars by the States.

Let me first talk about the dangerous roads and intersections amendment. The Environment and Public Works Committee bill focuses some resources on these problem areas and this amendment builds on the committee's fine efforts. Most States, fortunately, do take steps to identify and track the dangerous roads and intersections. They keep a list of the bad ones, the ones with high fatalities and high accident rates. But, amazingly, there are many States that keep this information secret and do not tell the public or, in some cases, do not even keep this information at all.

My amendment is very simple. It requires States to systematically rank and disclose their most dangerous roads and intersections. It requires them to do so in terms of dangers to human beings, in other words, in terms of the number of deaths and the number of injuries that occur on these specific roads.

Further, my language asks the States to disclose at least the top 5 percent of the most dangerous roads and intersections in their States, and that they identify to the Secretary of Transportation this information and therefore ultimately to the driving public.

We need to get information on dangerous roads and intersections out to the public and to the people we are charged to protect. My amendment would help assure that this in fact happens.

Consumers have a right to know this information. As a parent, I might tell my 16-year-old or 17-year-old not to go a certain way to a movie. Don't go on that dangerous intersection. Don't go by that dangerous curve. At least, if I had that information, I could make an intelligent decision about it. It is wrong for a State department of transportation to have that information and to deny me, as a citizen of that State, that same information. I should be able to tell my child, "Don't go that way. It may take another 10 or 15 minutes, but go a different way—be safe."

I would like to briefly tell my colleagues about a woman by the name of Sandy Johnson and her mother Jacqueline. On October 5, 2002, Sandy and Jacqueline were killed. They were killed in a car crash at a dangerous intersection near Columbus, OH.

What they did not know as they drove into that intersection—and what countless other area residents who used the roads that cross through it did not know at the time—was this particular intersection was known at that time by the State department of transportation to be a very dangerous area. In fact, the State department of transportation had indeed known that information for quite some time. Perhaps if Sandy Johnson had known that she would have taken a different route that day. We will never know. Perhaps she might have slowed down to see traffic coming from the other direction. Tragically, we simply will never know.

This particular intersection was dangerous because of the close proximity of a house to the intersection, making it difficult for drivers coming from each direction to see those approaching from the other way. The fix to this problem, the installation of four-way stop signs and ultimately removal of a house to improve sight lines, took quite some time to be implemented. But eventually, these steps were in fact taken.

Following the tragic death of his wife and his mother-in-law, Dean Johnson initiated a campaign to tackle the issue of dangerous roads and dangerous intersections, not just in Ohio but across the country. He has tried with varying results from State to State to get information on dangerous roads and intersection locations out to the public so tragedies like the one involving his wife could be prevented.

Today on the Senate floor, I thank Dean Johnson for his dedication to this very important public safety issue and for the progress he has made in my home State of Ohio and elsewhere in terms of getting critical lifesaving information out to citizens through the Sandy Johnson Foundation. I must say to him that his work is a real tribute to his love for his wife and for her memory.

Clearly, tragedies like the one involving Sandy Johnson can be prevented in many cases through means as simple and as inexpensive as disclosure to the public of what State departments of transportation already know—the disclosure of where the dangerous roads and intersections are located. The States should provide this information. They already know it. They simply should provide it.

The second part of our amendment focuses on how States spend their safety money. In this respect, my staff is working with the committee to develop additional mechanisms for the timely and efficient expenditure of Federal safety dollars. In the past, there have been problems with getting States to spend their safety money on safety. The EPW Committee bill goes a long way towards helping ensure those safety dollars do in fact get spent on safety. My efforts in this area are aimed at further strengthening this portion of the bill. It is simply so very important that these dollars be spent on safety—to straighten the road that is killing people or to change a dangerous intersection. This money can be very well spent and should be spent on things that will save lives. It is very cost effective.

Let me talk about another amendment. My staff and I are continuing to work with the managers and their staff on accepting the second amendment that has to do with keeping our intersections safe with regard to the safety of first responders as they engage in their daily work. This amendment is derived from legislation I introduced last year called the Safe Intersections Act of 2003, S. 1825.

This amendment would prohibit the unauthorized sale or possession of traffic signal preempting devices, commonly known as MIRTs. This type of device is a remote control for changing traffic signals. Members of the Senate may have read about these. They have been used for years by ambulances, police cars, and firetrucks, allowing them to reach emergencies faster. As an ambulance approaches the intersection where the light is red, the driver engages a transmitter. That transmitter then sends a signal to a receiver on the traffic light which changes the light from red to green within a few seconds. It is a very useful tool when properly used in emergency situations by someone in an emergency vehicle.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with these sensors—in other words, equipped with sensors that can be triggered by emergency vehicles.

In my own home State of Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughby, and Westerville. In Ohio and across the country, law enforcement offices, fire departments, and paramedics are investing in this technology to make their communities safer.

So what is the problem? Recently, it has come to light that this technology is being sold to unauthorized individuals—who use this technology in their own private cars and private vehicles to bypass red lights during their commute to and from work or just in their everyday driving. Clearly, preemptive devices were never intended for this type of use. This technology in the hands of unauthorized users could result in traffic problems such as gridlock or, much worse, accidents in which people are injured or killed. We know of at least one incident in Modesto, CA, where paramedics on an emergency run used a preemptive device to clear the way through a busy intersection only to see the light change back to red in their direction due to use of a MIRT by a nearby driver.

My amendment is simple. It would restrict the sale of preemptive devices to government-authorized users such as ambulance drivers, firetruck drivers, and police. Clearly, these devices should not be available to casual drivers wishing to make a total end run on civil order by changing traffic signals to make their commute a little bit shorter. It is a very simple amendment.

The two amendments I am offering will go a long way towards improving transportation safety. They are commonsense, they are practical, and they will in fact make a difference.

These efforts are a continuation of my work in this area—something I have been interested in for many years, going back to a time in the early 1980s when I was in the Ohio State Senate. A little boy named Justin—I think Justin was 7—was killed right outside his school in my home county of Greene County. We decided at that time that Justin had been killed by a driver who had been drinking, a driver who had a very bad previous record of drinking and driving. We decided, frankly, we had had enough of this and we had to do something about it. I introduced a very tough drunk driving billing in Ohio. I researched the law and saw what other States and foreign countries had been doing. Ultimately, the bill became Ohio's tough drunk-driving law. I have been interested in highway safety issues ever since. I have worked in the Congress with many of my colleagues. I have worked in the State Senate. I saw this firsthand when I was county prosecutor. I used to go into county courts and prosecute drunk drivers. I saw the carnage and horrible tragedy drunk drivers cause. I have been interested in highway safety issues for many years. I know many of my colleagues are as well.

I again thank Senator INHOFE for his great work in this area to make this a very strong highway safety bill. It has some very strong highway safety components.

I think the amendments I have talked about today will go a long way to help make this an even better bill in regard to highway safety. I will be back on the floor later this week as the bill continues to progress with some additional amendments in regard to highway safety. I will be talking more about them.

I thank my colleague for his great work on this bill, and Senator JEFFORDS, as well, for his great work.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Mississippi.

Mr. LOTT. Madam President, I appreciate the comments of the Senator from Ohio and his interest in safety issues. I share his concerns. When you have lost a loved one in an automobile accident—in the case of my father, because of a narrow, two-lane road—and you know that such a tragic accident could have been avoided and lives saved through things such as safety striping, laws, or additional safety devices at railroad crossings, you can fully appreciate the need for the attention the Senator has given to this important issue.

I also thank Senator INHOFE from Oklahoma, chairman of the Environment and Public Works Committee, for his leadership. Producing a highway bill is not an easy process. I have dealt with transportation issues closely as a Member of the Senate for several years now. I can remember when TEA-21 was on the floor how difficult it was to pull together the bill with the divergent committees—the Finance Committee, the Appropriations Committee, the Budget Committee, and the Banking Committee all had a say in the outcome of the bill. All the Members of the Senate had their oars in the water and we had to have bipartisan meetings in the various committees to produce a bill that could get through the process and be signed into law.

It is not easy to get the reauthorization bill to this point. I commend Senator INHOFE for the work he has already done on SAFETEA, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003. Coming up with that good title alone deserves commendation.

I also thank the Senator from Vermont for his efforts. As a member of the Finance Committee, as well as the Environment and Public Works Committee, he has worked with Senator INHOFE to try to get this bill done. He has made it a point in the Finance Committee that we need to complete action on this legislation because it is important for our country.

We do need to come up with an acceptable financing plan for the costs of this bill. It will take cooperation and teamwork to get it done. I know Members of the Democratic leadership support this legislation and I believe we are getting off on the right foot. But we spent a week positioning and making speeches. I hope now the Senate will begin to have some votes and conclude action on the bill as soon as possible so that we are not faced with another extension. We need to move this legislation through the Senate, show leadership, and be prepared to go to conference with the House of Representatives.

In my opinion, there may not be a more important bill we can pass this year. This is not going to be a prolific year in terms of monumental legislation. Frankly, that is not all bad. Some of what we passed last year we should have left unpassed. Sometimes we should get credit for what we do not do. But this bill is one we need to complete this year for a variety of reasons.

First of all, SAFETEA is about jobs. Very few bills we pass in the Senate actually produce something. This is a bill that is actually going to produce jobs, not just next year but year after year. There are projects in North Carolina, Oklahoma, Vermont, Mississippi, and all over this Nation, ready to go right now. We need to get this legislation passed as soon as possible so that the funding it provides can be fully utilized during the construction season. If we wait too long and let this drag out, if we get stuck in the Senate or get stuck in conference, we will lose another construction season.

This bill will create jobs. Not all of the jobs will be high-paying, but they will be jobs just the same. There are very few Federal programs that create more jobs, from engineers down to the guy shoveling the gravel or moving around the dirt, all of which are very important.

We need to pass this legislation for its job creation impetus. We talk about how we need more jobs in this recovery; this is one way to get them.

SAFETEA is also about infrastructure. When you get through, you have something you can see—an interstate highway, a bridge, a safety device. Maybe even mass transit facilities in some of the larger cities. But we have a product we can look at.

I found out through my 31 years in Congress, there are few things we do for our constituents that are more important than highways and infrastructure. If you do not have roads, if people cannot get there, they will not come. That is a brilliant statement when you think about it, but if companies do not have access to good roads and bridges, railroads, airports, ports and harbors, they will not locate a plant and create jobs anywhere in this country. When you are dealing with a major international corporation, they want to know: Are we going to be on an interstate highway? Are we going to be close to an international airport? Do you have good schools? It starts there. Then you work from there to questions such as: Is the geology good? Will we have water and sewer systems? Do we have access roads or existing buildings?

My poor State of Mississippi has been making some progress. Why is that? Because we finally figured out that we were trying to fix everything and we were actually fixing nothing. We were shooting shotgun blasts and trying to do good things up and down the economic spectrum to help our State. It was not working because the money was disappearing. People were not getting better off. So we decided to focus. And we focused on education, particularly higher education and community colleges, to create workforce training programs for local communities. And we worked to improve our elementary and secondary education systems, as well.

Second was highways. Highways is a code word for infrastructure. It is the whole package: The industrial site, water, sewer, railroad spur. If a community does not have good highways, economic development will not happen. We have a major industry right now in my State, Viking Range Corporation, that makes the best ranges and some of the best kitchen equipment in the world. But to get to their manufacturing plant, visitors actually have to travel on a dirt road. This is severely hampering the company's growth.

The third thing we focused on in my State is economic development. We decided to aggressively go out and pursue jobs. This bill is an important component of that effort. SAFETEA is about jobs, it is about infrastructure, it is about quality of life, and it is about safety.

I don't want to demean this title. We talk about safety on the highways, safety on the roads, safety on our bridges. We have bridges all over America crumbling and being shut down. I admit, some of them are local or county bridges, which, in an ideal world, should be maintained by the counties. But at a minimum, shouldn't we continue the policies that started way back in the 1950s—actually back in the 1800s, with Henry Clay, to develop and federally maintain an Interstate Highway System.

I urge my colleagues to support this legislation and to give the leaders of this committee the support to which they are entitled. Someone asked last week: We have all these problems, what do we do? I said, support the chairman and ranking member. They have a tough job, an important job. We should help and support them and try to shape the legislation with them, not just because we want projects in our State. Yes, we all do. But if we did not get one earmarked project in our States, we ought to support this legislation because of what it means for our country.

Now, there is a lot of pontification developing, as often happens with the highway bill, but even more so this time. People are showing up, all of a sudden, worried about the costs of this bill. Lots of people are saying: Wait a minute, this may add to the deficit. Where have they been over the last 2 or 3 years? Where were they on the prescription drug bill when we were developing a bill that would cost $600 billion or $800 billion or who knows how many billions of dollars? They were not worried about the deficit until the highway bill came up. And they said, wait a minute, the highway bill may cost too much.

The Finance Committee has struggled with how to pay for this bill. Is it perfect? No. But it was a major effort and we are within a close enough range where we can continue to make some adjustments as we go through the legislative process. Some people say: Once it goes through the process, we may have to vote. That is exactly right. And we will have to look at the final product. Is it something the Republicans, Democrats, Senate, House, labor unions, the White House can live with? We will never know until we move forward on it.

So we have people now saying that after ignoring the amount of spending last year—in bill after bill after bill—we are going to plant our flag on this hill, and we are going to fight excessive spending on the highway bill. They picked the wrong bill. This is a positive bill, and we will make it work as the process goes forward.

People will say: Well, wait a minute. There may be some earmarking in some of these bills before it is over. Yes, there may be. Fine. And I am going to fight for my own State to get its share because I do not necessarily believe that all wisdom reposes in the Department of Transportation in Washington, DC. I happen to know a little bit about some of the real crises, projects, and problems in my own State, and I trust Senators—men and women—from their own States to identify some of the needs that must be addressed in their home states.

Then there will be those who will say: This bill doesn't put enough funding into mass transportation or it doesn't put enough funding into one project or another. Let me point out a couple of things we are dealing with.

Our Interstate Highway System is nearly 50 years old. Thirty-two percent of our major roads are in poor or mediocre condition. Twenty-nine percent of our Nation's bridges are structurally deficient or functionally obsolete. If we do not complete action on this legislation, we will wind up with a 1-year extension and we will be back next year. Some people would say, maybe we could do a better job in a nonelection year.

But I believe we need a carefully thought out, multiyear, multifaceted federal highway and transportation program, and we need it now. We are having difficulty on other bills, such as the energy bill. We are trying to decide, what bills can we get done this year? Well, there is one thing we should not leave undone this year, and it is this highway bill.

I urge my colleagues to work together to try to come to a conclusion this week. If we have to have a cloture motion filed in order to make progress, let's do that. I believe it will pass with a bipartisan vote. It should. And then we can make progress on this bill and be ready to go to conference with the House of Representatives where we can get the job done.

I know we are going to be getting calls with suggestions of delays. Some people do not like the formula. It is tough to come up with a formula that is fair to everybody, especially if you have been a big donee State. If you are a small State or a big State that has been getting back $1.21 for every $1 you pay into the highway trust fund, you don't want to lose any funding. But if you are from a poor State that has been getting only 50 or 75 cents on the dollar that your constituents pay into the Highway Trust Fund, you want a fairer deal. But it is not easy to try to come up with a formula that is fair to Texas and New York and Rhode Island and Oklahoma all at the same time. It is really a balancing act.

I looked at the formula. I don't think the formula is as good as it ought to be for Mississippi. We are just kind of in the middle. And when your state has been neglected for 138 years it needs to do a little better than being in the middle. But I prefer the progress we make on this bill, to nothing. It is progress. So I do not think I have any more room to complain than anybody else.

But, again, we have some people who do not want to move toward a fairer formula for everyone. They do not want to give up anything they have. But I think the formula Chairman INHOFE and Senator JEFFORDS have come up with is good enough. Can they still tweak it a little bit as the bill moves forward through the process? Yes, they can; and I am sure they will.

So I hope my colleagues will not start blocking this bill with procedural motions because they do not like the formula. I hope they will keep working with the chairman and ranking member, as I will. I am going to curry favor with the chairman of the committee until the last dog dies to try to complete action on this bill in a way that will be fair to my constituents and good for the country. But I hope my colleagues will not use the formula as an excuse to block the bill. I hope they will not use this newfound fiscal responsibility to hammer out the worst possible bill. If we will proceed together, working with the chairman and ranking member, we will complete action on this bill, and it will be one of the best things we can do this year.

I thank the Senate for the opportunity to comment on this bill. I thank the leadership for what they are doing. I was growing concerned that too many people were possibly trying to conjure up some way to block this legislation.

So let's keep the process moving. It is not just for the sake of the process, no. It is for better and safer infrastructure in this country. It is for jobs. I wish the leadership of the committee the best, and I am going to be here trying to help them every step of the way.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, that was a great statement by the Senator from Mississippi. I appreciate it very much. It is a recognition that a lot of people will think all of a sudden we came up, last week, with a bill and a formula. They don't realize we have spent a year—a year of our lives—working on a formula, looking into the same things the Senator is talking about.

I am from a donor State. We have been a donor State as long as I have been up here. The Senator talked about working on TEA-21. You also worked on ISTEA in the beginning because I was there with you. Those formulas were not as good because they were based on minimum guarantees. A minimum guarantee is you figure, how do I get 60 votes, and then we don't care what happens to the rest of you. We did not do that.

We considered the donee States, donor States, the fast-growing States, because there is a ceiling in there for them, and then there is a floor for some of the States that have either a low population or are low-yield States. All these things were taken into consideration.

So anything that is as complicated and long as this is, you can pick it apart. But I can tell you right now, we spent a lot of time on it. There are people who are interested in the transit part of it. There are some, such as the Senator from Ohio, who have been very much concerned about and made great contributions to safety. Some of them are concerned about freight and the obstacles that are out there. But we have it all in this one.

I feel good about this bill. It has taken a year to get where we are today. Frankly, you just cannot start readjusting a formula of which you took every consideration in putting together. You have something that is fair. You cannot then start readjusting it. If you change one State, it changes all the other States, and then you have to go back and start all over.

I think there are those who would prefer we would have to do that because they don't want to have a bill. But we are not going to operate on extensions, and I have every expectation we will get a bill this week.

People say: What about the House? They are going to want an extension. They are not where we are. Well, you are not going to get them to do anything until we do something, in my opinion.

I appreciate very much the Senator from Mississippi making his comments about this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I also add to the accolades to my good friend from Mississippi for putting in perspective where we are and what we must do to make this a reality. This Nation cannot wait much longer to have the funds that will be available under this bill in order to enhance the employment growth as well as the needs of this Nation to be more efficient and effective in all categories of life. We must work together. We must work quickly. And we should start today.

I thank the Chair.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Madam President, while the Senate began debating S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, known as SAFETEA, nearly 1 week ago, I am not sure some of my colleagues have been informed about how this bill would impact their State's highway funding. While perhaps we have all taken a look at the tables distributed by the committee of jurisdiction a few weeks ago, these tables omit some very important facts, including the fact that the number of donor States would actually increase under the pending legislation compared to the last reauthorization bill, TEA-21.

Instead of giving greater parity, it appears to be going in the opposite direction, as I will explain in a few minutes. Before I go too much further, I understand that after my colleague from Arizona was on the floor last week in opposition to this legislation, the Senator from Oklahoma went through some routine about how Arizona would do well under this legislation. Rather than subject my colleague from Oklahoma to that again, I would suggest we swap formulas between Oklahoma and Arizona. If the Senator from Oklahoma is not willing to do that, then please don't waste my time and his in trying to convince me this is a good deal for the State of Arizona.

First, I think it might help to put the bill in context by quickly reviewing the history of the Federal highway program, which I briefly mentioned on the floor last Monday evening. Nearly 50 years ago, the Federal Aid Highway Act of 1956 was enacted. As you can see, it was a deceptively inconspicuous-looking piece of legislation. It was 29 pages, but what it accomplished truly changed this country. The 1956 act created programs that constructed the interstate highway system, the largest civil works project ever undertaken by the United States. The act established the highway trust fund, financed by taxes paid by motorists—financed by taxpayers, not by general revenue—which is an important aspect to look at as we consider this legislation. It required that the interstate be built using a uniform design that would be safe within most U.S. highways in existence at that time.

The program to construct the interstate was first proposed by President Eisenhower in 1954 and signed into law in 1956. Today we are all the beneficiaries of the foresight of President Eisenhower and a Congress that helped to shepherd this bill through to enactment. The interstate system is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstate, and it has obtained a record being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation currently before the Senate, I don't think history will be as kind. We reauthorize the multiyear highway transit safety programs about every 6 years. We last reauthorized these programs in 1998 with enactment of TEA-21, the Transportation Equity Act for the 21st Century, following extensive debate in the Senate. The highway program reauthorization measure is a bill second to none in terms of attracting Members' interests. We all want to know how much our States will receive in highway funding under the byzantine formula distribution being proposed during each authorization debate. Therefore, because of its significance, it is important that each and every Member have an opportunity to know what the bill would do and how it would do it.

At this point, what exactly do my colleagues know about the real impact this bill would have on their States? I recognize the difficulties this reauthorization poses for the bill managers. I would prefer to be in a position to support their legislation. But in its current form, I cannot.

The bill would increase highway funding by over $60 billion over the TEA-21 enacted level, again, over $60 billion, for a total of $255 billion. At the same time, the bill not only perpetuates the donor/donee discrepancy that we donor State representatives have battled during every highway bill reauthorization, but it actually expands it. The 28 donor States under TEA-21 will have the company of another three States—New Hampshire, Oregon, and Wisconsin—if this proposal is approved.

I guess I could say something about misery loving company, but I don't want more States to be shortchanged. Instead, I want all States to be treated more fairly. It amazes me that an additional $60 billion still can't enable the authorizing committee to develop a fairer formula but, as demonstrated by EPW's funding tables, they cannot or perhaps simply will not. Where will this extra $60 billion go?

While the EPW Committee argues its bill would get every State to a 95-percent rate of return by 2009, the sixth year of the authorization, I remind my colleagues that under TEA-21, the formula increased the minimum rate of return from 85 percent to 90.5 percent in the first year, and it continued throughout the authorization period. Yet, again, the EPW bill we are considering doesn't raise the floor to 95 percent until the sixth year. So, again, where exactly will this $60 billion go?

The committee proposes a new so-called formula. I say that because it is not actually a formula but instead is a series of five calculations consisting of funding caps and floors. This Rube-Goldberg-like funding contraption is grossly unfair and would result in 31 States getting back significantly less funding than they contribute to the highway trust fund. Further, while a number of the current bottom-of-the-barrel donor States would receive an immediate step up from the smallest of

90.5 percent rate of return, including a number of donor States with members on the committee, six States would receive almost no percentage increase until the last year of the authorization in 2009.

Under this formula, Arizona, California, Colorado, Florida, Maryland, and Texas would be held at the very bottom, while many other States also would continue to get shortchanged.

This is not the right approach. It is unfair. We should do everything we can to try to ensure that any bill voted on is more equitable for all States. Again, it isn't just these six States that I mentioned that are being asked to contribute more to the highway trust fund than they will get back. I asked the Department of Transportation to provide an analysis of the formula. I thought it would be revealing to first learn how much each State would receive if the formula funds in the EPW bill were distributed proportionately back to each State based on their contributions to the highway fund.

According to the Department of Transportation, 31 States are donor States under this formula, while 19 get back more than they pay in, according to this chart.

Let me give some examples. The people of California are being asked to send almost $2 billion to Washington, DC, so that it can be redistributed through some arcane funding scheme to the lucky 19 States that would get back more than they put in.

For Arizona, $364 million of its contributions would be sent away to the 19 States. You know, it is interesting, Arizona and California, neighboring States, have something in common that, frankly, neither Vermont nor Oklahoma have, which is high growth. Obviously, it puts on greater pressure when you have a high-growth population, which actually argues for increased funding. Instead, we are being shorted.

But here are other examples of funding. Florida, another high-growth State, would send away a billion dollars; Georgia would send away $643 million; Illinois would send away $403 million; Kentucky would send away $304 million; Michigan would send away $383 million; Missouri would send away $286 million; New Jersey would send away $547 million; Ohio would send away $517 million; and Texas would send away $1.7 billion.

The list goes on and on. It is remarkable.

I fully realize that during the era when the Federal Government was building the Interstate System, a redistribution of funding between the States may have made sense. Clearly, it would have been difficult for Montana, for example, with fewer than a million people, to fully pay for building its share of the Interstate System. But that era is over.

Congress declared the construction of the interstate complete in 1991. Yet here we are, 13 years later, and donor States are still being expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States, regardless of the already enormous transportation needs in donor States. Why?

I am sure we will hear about the great transportation needs of the States that receive more than they contribute. I have no doubt that those States do in fact have such needs. But how is it determined that California should have nearly $2 billion of its funding redistributed? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of New York, for example, which will receive $989 million more than it contributes over 6 years? Where is the logic? I am afraid there is none.

Let's consider New Hampshire and Vermont. These are two very similar sized neighboring States. Both have about the same total road and street mileage—around 15,000 miles. But under this EPW formula, New Hampshire is a donor and Vermont is a donee, getting a windfall of almost $500 million, or almost 190 percent of what it contributes. In fact, Vermont would even receive more in total dollars than New Hampshire. There can be no policy rationale for that—none.

I will admit that I have a certain affection for the State of New Hampshire—a great deal of affection for the State of New Hampshire. But to have this kind of disparity between two States is rather remarkable.

Madam President, this bill is suspect. In fact, the tables that have been circulated by the EPW Committee actually raise more questions than they answer. For example, what affect will new air quality standards have on State allocations? The new formula included in the EPW bill for the congestion management and air quality improvement program, a program totaling $13 billion, is not reflected in the tables.

What happens to State allocations if the bill is not fully funded? The promise that your State, if you are a donor, will finally achieve a 95-percent return by 2009 may be empty. In order to achieve a 95-percent rate of return for all States in 2009, it would require a 1-year increase of $5.5 billion in 2009. How likely is that to occur, taking into consideration the projected fiscal year 2005 budget deficit of $1½ trillion continued budget deficit projections well beyond 2009?

Here is a fundamental question, one I think the President is seriously considering: Are we really paying for this bill? The Finance Committee has proposed what many of us consider to be accounting gimmicks to make the highway bill appear to be fully paid for. But appearances are often deceptive, as several colleagues have already discussed on the floor. How will the Finance Committee's proposed accounting changes for gasohol taxation impact your State's share? I am told it will be dramatic for some States. Should the EPW Committee's funding tables not be updated to reflect any and all changes so that we all know the real impact of what we are being asked to vote on?

What affect will provisions in a potential managers' amendment have on your State's funding? Last Friday, on this floor, the chairman of the committee announced that Members' staff should bring all of their amendments to the committee staff on Saturday to determine if they will be incorporated into the managers' amendment. Today, it was announced that the EPW Committee staff met with 10 Members' offices over the weekend. The Democratic bill manager announced this afternoon that 34 amendments have been accepted by the managers. What amendments are being accepted? I am sure we will know when we read the CONGRESSIONAL RECORD. Should we not all be informed? Clearly, the managers' amendment needs to be made available for review prior to us being asked to vote on it. And will the EPW Committee distribute tables showing the impact of any funding changes that will occur under the managers' amendment? Again, we should all want to know exactly what is being proposed and how it will impact our State's funding.

I strongly support a long-term reauthorization of the Nation's surface transportation programs and understand the vital nature of this funding to our States. This legislation only comes before the Senate every 6 years. I urge my colleagues to start asking some questions and ensure that they fully understand how the safety legislation would impact their State before it is allowed to pass the Senate.

We also have been told that at some point in the next few days, before we vote cloture on this bill, we will add a "slimmed down" energy bill to the highway bill. Now, I will freely admit—in fact, I will testify to the fact—that many times in our Nation's Capital we either are immune to, or insensitive to, the concerns of the American people. Here we are looking at massive deficits, massive overspending, massive growth of Government, unseen in the history of this country, and what are we going to do? We are going to add a "slimmed down" energy bill.

I understand that it has gone from $31 billion to $18 billion or $13 billion—you know, only in the teens of billions of dollars. This is a remarkable exercise. Adding an energy bill that was basically rejected—thank God—by this Senate, because of its hooters, looters, and polluters provisions, and now we are going to stick it on to the highway bill.

What does the energy bill have to do with the highway bill? Nothing. Do we have no shame? Is there no embarrassment whatsoever about the way we are doing business around here?

Madam President, I will continue to struggle and fight to see that for these 19 States, the percentage of what they are getting, as opposed to what they donate, is also important, as opposed to the 31 States which will be donating, and that we try to correct this inequity. Really what we should do is have a 1-year extension of the existing legislation and go back at this again next year. I think that would probably be of benefit to the taxpayers of America, who are deeply concerned about our overspending.

I also point out that I think the attention of the President of the United States is on this issue. I have heard—not directly but indirectly—that he would contemplate a veto of this legislation. I can think of no single act that might be more important or popular with the American people than for him to veto this bill, because at least the funding should come out of users fees, which was the fundamental principle behind the original highway bill.

If this Congress, in its wisdom, because we need more money for highways, thinks we need to increase the gas tax, I think that is a subject for discussion and debate. The American people are getting a little weary of this smoke and mirrors of passing a $400 billion Medicare prescription drug bill and finding out within weeks that it is $130 billion more expensive, to see our deficit skyrocket from surpluses of several trillion dollars and deficits of several trillion dollars. And no one—no one—no economist believes we are going to have the deficit within the next several years because, guess what, Madam President. We are going to be coming back—among other overspending, including this one—we are going to be coming back next year for another emergency supplemental for our operations in Iraq which will probably be in the range, at minimum, of about $50 billion.

I am hopeful that the American people will call a halt to this overspending. I am hopeful that the American people, particularly in these 31 States, will recognize that for every dollar in taxes they are paying when they go to the fuel pump, they are getting less than that back because it is being funneled through Washington, DC, to the benefit of States for which no rational argument can be made that it would be more beneficial to them than other States, including those that are experiencing very rapid growth.

I will continue, as some of my colleagues will, as long as we can to prevent the passage of this legislation. It is not only our obligation to our individual States that are not getting their money back for the funds they send, but also to all the taxpayers of America who are being victimized by this back-room, porkbarrel spending process which is really remarkable.

Again I want to show my colleagues, in 1956, this was the highway bill, and now we all know what rests on our desks.

Madam President, I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, I was in this Chamber just a few days ago singing the laurels of my friend from Arizona and saying what a fine man I thought he was, what great work he did on campaign finance reform. I was basically talking about my deep respect and admiration for the senior Senator from Arizona.

Having said that, it does not mean I have to agree with everything he says. I have to say, with the deepest respect, that on this issue he is simply wrong.

There are certain things we have to do in this country that are logical and, over the long term, make a great deal of sense. We have a national highway transportation system started by President Dwight D. Eisenhower. The simple fact that the interstate system has been completed, meaning all of the interstate system is finished, all the connecting points have been made in this great puzzle, does not mean we have obligations that cease with highways in this country.

We not only have a national highway transportation system, we also have a national security system. The State of Nevada contributes greatly to the security of this country. We have Nellis Air Force Base, which is the largest and most important fighter training center in the world for our Air Force. We have in the northern part of the State the Fallon Naval Air Training Center, which is the most important part of the fighter training facility for our U.S. Navy. It is so important. People in that desert learn to fly landing on carriers.

We started in Nevada the great work that has been done on unmanned vehicles, military vehicles, the drones, at Indian Springs. We store thousands of tons of ammunition at Hawthorne Ammunition Depot. People from all over the country—the State of North Carolina, the State of Arizona, the State of Vermont, the State of Oklahoma, all over the country—contribute to taking care of those military facilities. The State of Nevada cannot afford to do it all. The taxpayers in Nevada do not pay for those bases even though there is a cyclical spinoff that is important to the State of Nevada. The State of Nevada depends on the American taxpayers to make sure those civilian and military employees at those most important bases are taken care of.

I am the only Member who is in the Chamber who is on the Appropriations Committee. When we work for military construction projects at Nellis Air Force Base, Fallon, and other bases I mentioned, those construction projects are paid for by American taxpayers. People from all over the country make their tax payments. It comes to this Congress, and it is decided that Nellis Air Force Base needs new hangars or needs to buy some new land so that the people around the base are not bothered. That is all paid for by American taxpayers. It doesn't come equally from Nevada. The Congress does not say: As soon as you get enough money in taxes to come from the State of Nevada, we will build that new hangar for the F-20s. That isn't how it works. The same applies to our National Highway System.

I am disappointed that the staff of the good Senator from Arizona did not at least listen to what I said. Senator INHOFE said, Senator JEFFORDS, and Senator BOND said last Monday. I talked at that time about how this bill is so much more fair than bills in years past.

Just a few years ago, there were some States that were only able to keep 75 cents out of every dollar they contributed into the highway trust fund for their own States. The rest of it went to other places. But a decision was made, and it was not an easy decision—the Senator from Arizona knows around here you count votes, and when you have enough votes to get something passed, you pass it. In years past, people counted votes around here. When they found they could get to 60 votes, sometimes 51, the legislation was jammed through this body. That is why some States wound up not getting very much on the money they paid into the highway trust fund.

When the Senator from Arizona talks about this being pork—and we have talked about that here quite a bit—this bill is basically paid for by the highway trust fund. It is paid for by the fact of when people go to buy a gallon of gasoline, they put money into a trust fund, and we are using those moneys now to distribute among the States. We were a little bit short to cover everything that needed to be done in this bill, so in conjunction with the majority and the minority and members of this administration, we said, we are not going to raise any taxes but we are going to readjust some of the taxes that are already in existence, and we did that to make up a small part of our highway bill.

To talk about pork and people are sick of money being spent—I didn't vote for the Medicare bill. I agree with him, that was a bad deal. You cannot come out here with one big paintbrush and paint everything the same. Why is this country in such deep trouble with deficit? It has very little to do with domestic discretionary spending. We could today eliminate the FBI, close all the prisons in the country, close the Department of Agriculture, Environmental Protection Agency, close the Congress, close the Supreme Court, close the Executive Office of the President, and we would still be in deficit. We simply do not have enough money coming into the Government to cover the expenses. Domestic discretionary spending—you can eliminate it all, and we still could not balance the budget.

The fact is, because of the tax cuts that have taken place over the years, we don't have enough money coming in to cover this. That is why last year we had a budget deficit in excess of $500 billion. This next year will be higher than that. It is not domestic discretionary spending. Especially don't pick on the highway trust fund, don't pick on the highway bill.

From everything I have understood, all of the President's statements about not liking the highway bill have nothing to do with the Senate version of the bill. It is what they are talking about doing in the House. They want to spend more money than what we are spending. The President has not directed any of his comments to the Senate version of the bill, as far as I know, and I think I pretty much know.

I know the good Senator from Oklahoma was on Fox News today explaining that point.

Mr. McCAIN. Will the Senator yield?

Mr. REID. I will yield for a question.

Mr. McCAIN. I think it is well known that the President sent over three criteria, one of which was funding has to come strictly from the trust fund and not from general revenues. It is well known. It is published everywhere. I am sorry the Senator from Nevada missed it.

Mr. REID. Was that a question?

Mr. McCAIN. Yes.

Mr. REID. I am sorry. I missed the question.

Mr. McCAIN. Does the Senator know that the President sent over very explicit principles concerning the bill?

Mr. REID. Absolutely. I would respond to my friend, yes. I have been in on the negotiations, yes. This is not something that has taken place over the last 2 weeks. This committee—Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator REID has spent months working on this bill. Of course, the administration was in on every one—not every one of them but a lot of those conversations. Yes, we originally wanted a bill much bigger than this one, but because of the pressure we got from the White House and other places we have the bill now the number that it is.

So I absolutely have followed this very closely. This bill is extremely important. This is the fourth or fifth highway bill I have worked on.

Before I was interrupted, I was talking about how much better this bill is than the bills in the past when States gave away 25 percent of the money that came into their States. It was determined, when the so-called four managers started this, what we would like to do with legislation. What we wanted to do was to try to work it out so that every State of the 50 States would get 95 cents out of every dollar they put into the trust fund.

Keep in mind this was a big leap forward because some States were getting less than that. Let me just briefly go over, so that people who are watching this—staffs, Senators—understand how difficult this bill has been. Let's go back to the bill of 1982 called the Surface Transportation Assistance Act. This bill established the mass transit account of the highway trust fund. What this is all about is a determination was made to do everything we could do to keep people off of our highways, which saves the highway trust fund money. Therefore, we would work to help with mass transit because if we had good bus service, if we had monorail like we have in Las Vegas, if we have subways like we have in various places, including Washington, DC, it keeps people off the streets and saves us money out of the highway trust fund. So that was the first time we established that. That was in 1982, the first year the Senator from Arizona and I came to Congress.

It contained an 85-cent minimum return provision, meaning that all of those States were getting in the seventies before they would get a minimum of 85 cents for every dollar they put into the trust fund. The Federal gas tax was increased from 4 cents to 9 cents back in 1982. So that took care of that bill.

In 1987, this was a difficult year. That year President Reagan vetoed our bill. We had to override the President's veto. We did that. We did it by one vote in the Senate and they overrode it by a significant number in the House. It was a good bill. It was a bill that changed the speed limit above 55 miles per hour. It included a provision requiring States to be more concerned about the environment as they were doing the road work.

Then 1991 was the first so-called ISTEA bill, Intermodal Surface Transportation Efficiency Act. Earlier, all of us talked about the importance of Senator Moynihan and Senator CHAFEE and having a highway program in this country that was reflective of the changes to the Interstate Highway System that had been constructed. What we did in the 1991 act was create the CMAQ; that is the Congestion Mitigation Air Quality Program. This was extremely important so that there would be transportation conformity, air quality. With the Interstate System largely complete, as I indicated, ISTEA shifted the Federal program from capital construction to focus on people and goods movement. There were a lot of things we looked at in that bill that simply had not been looked at before. We realized just building new roads was not the answer to all of our highway problems, our congestion problems, our transportation problems in the country. We came to the realization that we talked a lot about that the whole country suffers when there is a traffic jam.

Millions of gallons of fuel are wasted as cars sit and idle. They are the most inefficient when they idle. We also came to the realization, talked a lot about it, that when people are stuck in traffic they can no longer be productive workers. They cannot deliver their goods. They cannot be on their computers at work. They cannot be going to court. They cannot be taking care of their patients. When traffic is stopped, it stops people from being productive. So we talked about that in the 1991 ISTEA bill.

We also expanded the transportation decisionmaking process to include local officials, and even citizens.

Now, in 1998, we did TEA–21 which continued the basic policy structure established in ISTEA. The reason that was important, from 1982 to 1998 we had not changed the minimum requirements States would receive. Six years ago when we took this bill up we said every State will get 90.5 percent of the money they put into a program. That was a big step forward involving a changing of formulas and billions of dollars changed. We did that. We thought it was fair.

In the bill we are taking up this year, we have even gone further. We have said it is important that after we pass this legislation, States at the end of this bill will get 95 percent of what they put in.

My friend from Arizona is right; States that are getting 90.5 percent now would rather get 95 percent tomorrow rather than at the end of this 6-year period. But we are moving this ball down the line toward the goal line, and I think we are scoring a touchdown. Even though the Senator from Arizona talks about how bad this bill is and how he does not like it because of all the pork in it, I do not know what his definition of pork is. I really have some trouble understanding that.

This is a highway bill. There is some money spent for doing work on bridges. As was stated just a few days ago by the Senator from Florida, actually 29 percent of all bridges in this country are substandard. What we have done in this bill, S. 1072, is to try to make sure there is growth among the core programs of this bill, and we have created a new program which is called the safe routes to school program. This has been accepted across the country as being important. We believe children should walk and ride bicycles to school as much as they can. In some places they cannot do that because the traffic patterns are such that they cannot. So part of this money would be spent building bicycle paths and in effect making it easier for children to walk and ride to school.

This reduces the rate of return gap between donor and donee States. So I think we are doing the right thing in this bill. As I indicated. I cannot envision why my friend from Arizona complains about this being pork. It is a highway bill. Is building a highway something that is bad? Is repairing an outdated, dangerous bridge bad? I do not think so. Is trying to improve air quality while doing construction bad? I do not think so. So I do not know why my friend from Arizona is so angry and is talking about all of these bad things. This is a good bill.

As I indicated, the situation in dealing with our national defense system it is not based upon how much money a State pays into a program. It is based on where we need the defense program. Using the theory of my friend from Arizona, what would the State of Idaho do? Idaho is a big State. It is a bridge State. It helps one get to California. If they only got back the money they paid into the program, the roads in Idaho would be a mess. What about Wyoming? What about South Dakota? What about North Dakota? What about Alaska? If one takes off from Seattle and goes to Miami, that is how big the State of Alaska is. Now, they do not have any people there. They do not pay much money into the gas fund. They need help. Their roads are very difficult to maintain.

Wyoming also has no people in it, basically. My friend from Arizona wants Wyoming to get the money they pay into the program, and that is all? This is the United States of America. We are a central whole divided among self-governing parts, and we have a central government that helps make these States not independent, saying every penny they pay into the tax system is all they get out. It will never work that way.

My friend from Arizona, as much as I respect and understand what great contributions he has made to the country, on this debate has added nothing. He has added nothing. He is just off base. I don't know how else to say it.

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. REID. I will be happy to yield.

Mr. JEFFORDS. I would like to take you back to when the highway program was started by President Eisenhower. As I remember, one of the big concerns at that time was the inability of this Nation to defend itself, some real problems that were created for the defense of this Nation, because the highway system from East to West and North to South was so poor that in the event we did get an invasion in different areas, we would have little or no chance to get the troops there and mobilize them on the scene. We recognized at that time we had serious defense problems unless we improved the infrastructure of the United States. Am I correct in my understanding of that?

Mr. REID. I would say, through the Chair to my friend from Vermont, yes. Major Eisenhower was asked to bring a caravan of military vehicles across the country. He did it, but it was not easy because the roads were impassable on occasions. The people in the convoy had to work on roads as they came across the country. This young officer decided at the time if he ever had the ability to change the condition of the highways in our country, he would do it.

Lo and behold, Eisenhower is elected to be President of the United States and one of the first things our Republican President does is to propose this program that is loaded with pork, that builds roads. President Eisenhower is responsible for the Interstate Highway System more than any other person, and he did it because it met the needs of this country.

As we said, the actual construction of the roads has been completed. One of the last places it was done was in the State of Nevada. Actually it was in California, but it connected Mesquite, NV with St. George, UT. But they had to go through this terrible hard rock to finish the Interstate Highway System. It took a long time and it was extremely expensive to do that, but there were a few little places like that which hung on for years until we could say we completed the system. We did that. Now we have come up with programs that are so important. There are roadways in the country that are just as important as the Interstate Highway System. That is why we have a program, the National Highway System. What this talks about is the offshoots of the Interstate System.

I have talked about this on the floor today. To get to my hometown of Searchlight is not easy to do. There are a couple of ways you can get there. But this bill takes into consideration places such as Searchlight, NV. They are entitled to good roads also. You are not entitled to good roads just because you are on the interstate system.

This bill has gone such a long way to making the playing field more level. I commend my friend from Vermont and my friend from Oklahoma. We didn't have to do this. We could have gotten enough votes to pass this legislation without raising it to 95 percent at the end of this bill. But it was believed by the committee we should do that, that we would raise every State to a minimum of 95 percent. We have done that. It was hard to do, but it benefits a lot of States and certainly the American people and makes a system that is easier to explain and understand.

Mr. JEFFORDS. Do we not have other problems, in the sense of trying to move freight across the country and making the highways safe? We took the intermodal transportation systems we had, and a lot of that takes funds we would normally use, is that not true? Mr. REID, yes. That is why it was called intermodal transportation system—ISTEA.

The reason, as I said before, is we learned a few bills ago that just simply pouring more asphalt is not the way to solve all the problems in this country. What this bill takes into consideration is ways to more efficiently move people and products across our country. We have done the best we can on this.

Again, I don't see how this, in any form or fashion, can be pork. This is different than our regular appropriations bills. I think people are overly critical of those, but this is not even in the same category.

Mr. JEFFORDS. I also go back to some of Senator Moynihan's concerns years ago. Now looking at what is going on in China and other places, with the development of intermodal systems or the ability to travel at much faster rates of speed, to move—in their case—millions of people who want to travel, is that not also something we are trying to look at, trying to make sure we will not lose our position in the world with respect to our transportation methodology?

Mr. REID. Yes. When I served in the House of Representatives, I was on the Foreign Affairs Committee. I was dumbfounded. We have all this surplus food and we would take it to other continents, for example, to Africa, and the food would never get where it was supposed to go. Why? Simple. There was no way of hauling it to the places where it was needed. They had an insufficient transportation program in many of these countries. People were starving to death and they couldn't get the food where it was needed.

We don't have anything like that, but it does illustrate why we have to have the ability to move things easier. Each year that goes by, we have to make it easier because we have competition around the world. The more people who are tied up in traffic, in trucks and trains and in personal vehicles, the less competitive we will be. That is what this bill is all about.

For my friend to suggest let's just extend this for a year, come back and look at it again—we have already done that once. The State of Nevada and the other 49 States were grousing when we did that. Why? Because these highway programs, many of them, are multiyear programs. If they can't enter into a multiyear contract, it wastes a lot of money. It wastes money. Something that would have cost $3 million, if we extend this now for an extra year, by the time we finish it could wind up costing $6 million, twice as much as it ordinarily would cost. Without what we have in this bill, we would get a lot less product. Extending this bill for a year's time is not the way to go.

Mr. JEFFORDS. Also, isn't this a job creation bill and is this not a time when this Nation is in dire need of improving the employment of people who desire to have work?

Mr. REID. The former majority leader and minority leader of the Senate, the distinguished junior Senator from Mississippi, was on the floor today and that is one of the things he talked about.

We talk about job creation. Here it is actually taking place. This bill will be responsible for hundreds of thousands, if not millions, of jobs in this country—millions of jobs. For every $1 billion we spend in infrastructure, we create 47,000 jobs.

In addition to those 47,000 jobs we will create spending $1 billion here, the spinoff of this, according to Senator FRIST, the majority leader of the Senate, is $6.2 billion that flows from that. This bill is a win-win for everyone.

I am at a loss as to why my friend from Arizona would come and try to throw this into the same pot as: Boy, we are spending too much money around here. This is like Medicare.

It has nothing to do with that. These moneys come from the highway trust fund with the exception, which we have already acknowledged, that some moneys are coming from the reshuffling of taxes that are already in existence. There are no new taxes.

I hope the ship is not tilted even a little bit from these statements made by my distinguished friend from Arizona because they should be accorded very little weight.

Mr. JEFFORDS. Madam President, I appreciate the contributions of the Senator in helping us better understand the need for and also the great benefits of this legislation. I am sure when Members go to a vote—if we ever get to a vote—we will overwhelmingly accept the Senator's concept of what should and could be done. I appreciate what the Senator has done to make this bill as good as it is.

Mr. REID. Madam President, I close by saying again I want the Senator from Vermont and the Senator from Oklahoma to understand how much I appreciate their work on this legislation. We have to keep our eye on the prize. This is, as Senator LOTT said, probably the most important piece of legislation we will pass all year. He said that an hour ago, and he is absolutely right. This could be the most important legislation we pass all year to stimulate the economy, to create jobs, to help States become and remain competitive, and to ease traffic burdens and congestion which we have throughout our country.

Mr. JEFFORDS. Madam President, I would like to make one further statement. The Senator from Arizona indicated we dramatically changed the highway formula. The bill reported out of the EPW Committee, in fact, does not change the underlying formulas for interstate bridges, national highways, and air quality. The only change we made was to increase the return to donor States while ensuring growth to each and every State. The EPW Committee wanted to put forth a bill that achieved fair balance and growth in every State. As in all of our national programs, we direct resources in our bill to the 50 States in order to maintain a national system. If we only sent funds to programs on a State-by-State basis, and then based it only on the ratios of the taxes paid from each State, we would be balkanized and disunified.

I believe our bill is fair, balanced, equitable, and national in scope. As States grow, donor States grow. Every State is equipped to carry the share of the burden it is supporting on the national transportation system.

This is a good bill. Let us get it done.

Mr. INHOFE. Madam President, I believe it is always very difficult when we get a complicated formula. We have been talking about how complicated the formula is when you take into consideration the growth of States. We are dealing with low-population States. We have a floor. We have donor States and donee States. But the Senator from Arizona is right when he said we actually have more donor States than we had under TEA-21. The disparity amount is far less between the donor and donee States. We are calculating that now. I think the point needs to be answered, and I think we are going to be prepared to do it.

A State such as New York, for example, has gone from $1.25—in other words, $1.25 for every dollar that has been put in—down to 99.75. That is down to getting back everything they have put in, but it is dropping down substantially from the amount in the previous bill.

I have looked at States to try to defend myself in being fair on this. If you look at TEA-21—that was Senator Moynihan, Representative Schuster, and Senator Chafee—Moynihan's State went up to $1.25; Schuster, $1.20; Chafee, $2.16, and mine—and I am chairman of the committee—is only going to go up to $.95. And we are still going to be a donor State. I think that should demonstrate we are being fair on this.

To suggest that Colorado is getting a raw deal, they have the highest rate of return of any State. But formulas are complicated. I am not critical of the Senator from Arizona. There will be others down here who do not want this bill to pass, and it might not have anything to do with the formula. No one can argue that this formula is the only fair formula we have.

How many times on the floor of the Senate in previous years have Members waited until they got 60 votes and took care of 60 Members and then turned around and not cared what happens to the rest? We don't do that. It would be easy if we did that. We talk about countervotes, and go back and get it passed.

As far as the Finance Committee, I think they have done a good job. They don't have their final product out. But I know the criteria on which they are working, and I am very proud of Senator GRASSLEY and Senator BAUCUS for the work they have done. It might be that there is some money being taken out of the general fund which is being put back into the highway trust fund. But that is replacing money that came out of the highway trust fund which went into the general trust fund. In one fell swoop, $8 billion went out of the general fund. These are raids on the highway trust fund.

I believe this is a moral issue. If a State pays the money, they anticipate that money being paid because they use their roads. It is going to go into road maintenance and road construction and bridge construction.

Our State of Oklahoma is still number 50 in condition of bridges. There is a lot to be done all around the country. There will be some people who do not like this bill for reasons having nothing to do with formula. But you can always take a formula and pick it apart and make it sound unfair. This is not unfair. This is a fair way to approach it. I believe it is real equity.

As I say, we are now calculating this. The States that went from a donee status to a donor status are a very small amount. But it is closing that disparity between the donee and donor States. This is precisely what we have been trying to do.

If the Senator from Nevada and the Senator from Vermont were talking about job values in this bill—look at any State and you can see the job opportunities. There is not one piece of legislation we are going to be dealing with during this entire year which is going to have the effect on jobs this is going to have. Pick out any State. You can see the total amount of new jobs. It is close to 3 million jobs—and job opportunities. We have a jobs chart, and then we have a jobs opportunity chart. We know there will be construction jobs. We know that is going to happen. But keep in mind every time you hire someone to do more construction, that person is also going to go out and buy more goods and services. They will have to manufacture more, and that is going to employ more people. We have calculated that. That is a very accurate figure.

I know there are a lot of Members who are going to be opposing this because they may not like some of the freight provisions. Perhaps their States are not treated in a way that other States are treated because they do not happen to be a poor city or they do not happen to be a terminal city. Nonetheless, I think Senator REID made a good statement when he said this is not just one State but it is the United States of America.

Again, on the particular State of Arizona, that is a 40-percent increase, which I think is very fair. In fact, that is a greater increase than the average increase States have.

Let me say to the Senator from North Dakota that he has been very kind in working into our schedule at times when we were not working on the highway bill. I do appreciate it very much.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2276

Mr. DORGAN. Madam President, I have just informed the staff of the managers of the bill that I intend to offer an amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2276.

Mr. DORGAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the penalty for nonenforcement of open container requirements)

At the appropriate place insert the following:

**SEC. 1409. OPEN CONTAINER REQUIREMENTS.**

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

| "For: | The applicable percentage is: |
|---|---|
| Fiscal year 2008 | 2 percent. |
| Fiscal year 2009 | 2 percent. |
| Fiscal year 2010 | 2 percent. |
| Fiscal year 2011 and each subsequent fiscal year | 2 percent. |

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

Mr. DORGAN. Madam President, this amendment very simply deals with the question of open containers of alcohol in automobiles and moving vehicles on the roadways. Some perhaps will not believe this, but there are some locations in this country where it is still legal to put one fist around the neck of a bottle of whiskey, use the other hand to put the key in the ignition, and then with a hand on the steering wheel and a hand on a bottle of whiskey drive off down the road. And it is perfectly legal. Some would say that can't be. Yes. It is. It is the case. In some parts of this country, you can't be drunk while you drive, but you still can drink while you drive, and you are perfectly legal.

I don't think there is any intersection in any part of this country where you or your family or your neighbors ought to meet a vehicle, an automobile, that is being driven by someone who is drinking alcohol, in a circumstance where it is legal for them to drink alcohol while meeting you at that intersection. That is unforgivable, in my judgment. I have been trying, I suppose for 10 or 12 years, to get this done. I offer this amendment again. It simply says to the States: You must have a prohibition on open containers of alcohol in State law. If not, you lose 2 percent of your highway funds. And for up to 4 years you can get the funding restored if you pass the prohibition, but you must have a prohibition of open containers that meets the Federal requirement.

We have that federal requirement. I was instrumental in getting it passed into law. It says you must have a prohibition on open containers of alcohol, and if you do not, some of your highway money goes to hazard mitigation. So we have 36 States that have actually passed statutes that prohibit open containers of alcohol; 14 States have not passed statutes that meet this test. A number of them still get the same amount of highway money, but because money is fungible, they use it for hazard mitigation and use the money on the other side and there is no pain involved at all.

The result is that we have States in this country where it is, one, legal, or, two, illegal but not enforced, where people are driving while they are consuming alcohol. I don't think it ought to be the case anywhere in America for it to be legal to drink and drive.

Every 30 minutes someone receives a call in this country that their loved one has been killed due to a drunk driver. I received that call at about 10:30 one evening, a moment I will never forget. My wonderful mother was killed by a drunk driver. She, like so many others, was driving down the street 30 miles an hour, coming from the hospital at 8 o'clock at night, and a drunk was coming in the other direction, witnesses say at speeds between 80 and 100 miles per hour, in a high-speed police chase, and ran into my mother's car and she was killed.

This carnage on America's highways that is caused by someone drinking and driving is not some mysterious illness or disease for which we do not know the cure. We know what causes this, and we know how to stop it. The way to stop it is to say to people all across this country: You cannot drink and drive. Just that simple. You just cannot do it. Yet there are still States in this country in which it is legal to drink and drive. And there are other States in which it is legal, if the driver does not drink, that other passengers in the car can have open containers of alcohol.

It is long past the time for us to stop it. We have passed legislation that tries to coax the States into doing this, and many have complied by passing legislation that prohibits open containers of alcohol. Now I say let's go the next step, to say to the States: It does not matter where you are driving in this country. We expect, as policymakers, never to have to meet someone at an intersection where the driver or the passengers in that car are drinking, and doing so legally. We know better than that.

Again, every 30 minutes someone receives a call that some member of their family was killed by a drunk driver. That simply means that someone took a drink of alcohol, took too much alcohol, got drunk, got behind the wheel, and turned the automobile into an instrument of murder. We can do better than that in this country. I suggest this piece of legislation is long overdue.

It is interesting to note that the States that do not have a prohibition of open containers of alcohol on the books have alcohol-related fatalities that are higher than the States that do have that prohibition. So the evidence exists that the prohibition works.

It is true that I grew up in a State that is not going to be affected by this because North Dakota has never allowed anyone to have an open container of alcohol in the vehicle. I grew up understanding you do not do that; no one ought to do that. If you are old enough to drink and you want to drink and it is legal for you to drink, you do not drink in a vehicle. There are places for you to drink—in your home or perhaps in an establishment somewhere, but not in a vehicle, not in a car.

It is also the case that those States that have prohibitions on open containers of alcohol have a lower rate of hit-and-run accidents. That is a fact. The Department of Transportation has that information. It is just common sense for a State to say to people, you cannot do this, No. 1, by law; and, No. 2, in enforcing the law, you will have fewer deaths as a result of drunk drivers.

Let me finally say something about an organization called Mothers Against Drunk Driving. It was not too many years ago that a drunk driving charge by the neighbor had others giving him kind of a knowing wink and a nod and a grin and a pat on the back, saying: Well, tough luck, Charlie; you got caught. Not anymore. Now it is serious business. Drunk driving is not a joking matter. Do you know what changed that? Mothers Against Drunk Driving—all across this country, that organization, started by mothers who had lost children and lost loved ones to drunk drivers and decided they were going to make a difference. They went statehouse to statehouse, capital to capital, and they put in place some tough laws. But it is still not enough. I am pleased to say Mothers Against Drunk Driving have supported what I am trying to do in the Senate today for some long while.

They have made a difference. We can help them make an even greater difference by passing this amendment and saying to the States: We are not fooling around. This is serious business. This is life or death for thousands of people.

As I indicated previously, I have offered this amendment prior to this time, I suppose on three or four other occasions. Each time I have offered the amendment, I have been told: Those sanctions are too tough. So they got changed, so that it attempts to coax the States to do the right thing. But the fact is, coaxing is not enough. This Congress, this Senate, ought to say to every State in this country, ought to say to every State, reflecting every jurisdiction, there should be not one corner, not one highway in this country, in which it is legal for people to drink and drive at the same time. That is the policy that ought to come out of this Senate.

A mandate? It is a mandate, no question about that. We propose a number of mandates from time to time on a bill such as this. It is not a mandate that will hurt any State. No State will lose money if only the States decide as a matter of common sense that in their State it shall never be appropriate and never be legal for people to have an open container of alcohol in the vehicle, it shall never be allowed in their State for people to be able to drink and drive simultaneously.

People will shake their heads and say it cannot possibly be the case that that would exist today, but it is, long after the time that should have been changed in some little corners of this country.

That is the amendment I offer. I know my colleagues from Oklahoma and Vermont have pleaded with people to come and offer amendments. I hope they will approve this in 5½ or 6 seconds, but perhaps it will require more discussion because, as is always the case, I understand, there are some who have heartburn when I propose a significant mandate. And this mandate is 2 percent of highway funds, although no State, in my judgment, would ever lose it and no State need ever lose the highway funds if only they decide, as we have decided, that it ought not be permissible to drink and drive at the same time anyplace in this country and it ought not be permissible to have an open container of liquor in a passenger vehicle on America's highways.

That is a devastatingly simple concept and one that I hope before we finish this highway bill will be approved by this Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, first, I say to the distinguished manager and chairman of the Environment and Public Works Committee, on which I have been privileged to serve some 16, 18 years, I commend him for his diligence and commitment to try to get this highway bill through the Senate and hopefully enacted into law. I had much the same responsibility some 6 years ago. I know the complexity of this particular piece of legislation.

I have worked with the distinguished chairman and the distinguished Senator from Missouri in the preparation of this particular measure. It is badly needed by America. I hope we can work our way through this situation.

I send to the desk an amendment.

The PRESIDING OFFICER (Mr. CORNYN). The amendment is already at the desk.

Mr. WARNER. I address the distinguished manager of the bill and ask unanimous consent to have this amendment called up and possibly agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, the distinguished manager had the courtesy to advise me that he would object. Given the situation which I think I understand, I would just like to speak to the bill and develop a record for today and hopefully eventual consideration of this amendment in the not distant future can be arranged.

This amendment is cosponsored by the distinguished Senator from New York, Mrs. CLINTON, and my dear friend and colleague, the Senator from Ohio, Mr. DEWINE. It is an amendment to increase our national seatbelt use rate to some 90 percent. This amendment is identical to the text of legislation I introduced last year, S. 1993.

If my colleagues examine the highway bill and what it means to each of our States, our foremost responsibility, in my judgment and in the judgment of many, and in the judgment of the President of the United States, must be to improve highway safety for the driving public.

Today we had a very impressive press conference. I will give further details about it shortly. We must have had a dozen or so representatives who spoke on behalf of their respective organizations endorsing this bill.

I ask unanimous consent to print in the RECORD a list of organizations endorsing this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### Organizations Supporting S. 1993, The National Highway Safety Act of 2003—Sponsored by Senator John W. Warner and Senator Hillary Rodham Clinton

Advocates for Highway and Auto Safety, Alaska Injury Prevention Center, Alaska Safe Kids, Alliance of Automobile Manufacturers, Allstate Insurance Company, American Academy of Pediatrics, American Academy of Pediatrics CT Chapter, American College of Emergency Physicians, American Insurance Association, American Medical Association, American Public Health Association, American Trauma Society, Arizona Consumers Council, Arizona Emergency Nurses CARE, Association for Safe International Road Travel (ASIRT), Automotive Coalition for Traffic Safety, Inc., Automotive Safety Program (IN), Benedict College/Project Impact (SC), Black Women's Health Imperative, Brain Injury Association of America.

Buckle Up 4 Meghan, Butler County Safe Kids (OH), Cedar Rapids Police Department (IA), Central Maryland Regional Safe Communities, Champaign County Safe Kids Coalition (IL), Chattanooga—Hamilton County Health Department, Children and Nutrition Services, Inc. (WY), Children's Mercy Hospital (MO), City of Madison (WI), Coalition for American Trauma Care, Columbus Health Department (OH), Community Alliance for Teen Safety, Concerned Americans for Responsible Driving, Consumer Federation of America, Consumers for Auto Reliability & Safety, Consumers Union, CRASH—Citizens for Reliable and Safe Highways, DEDICATEDD—Drive Educated, Drive Informed, Commit and Totally End Drunk Driving, "Do Buckle, Don't Booze" Campaign (ND).

Downers Grove Police Dept. (IL), Driscoll Children's Hospital (TX), Drive and Stay Alive, Inc., East Windsor Township Police Department (NJ), Eastern Panhandle Safe Community (WV), Eastern Shore Safe Communities (MD), Effingham County Sheriff's Department (IL), Elizabeth Police Department (NJ), Emergency Nurses Association, Focus on Safety (IN), Epilepsy Foundation, Franke Publicity (MN), General Federation of Women's Clubs, Green River Area Development District (KY), Hamilton County Health Dept. (TN), Holmes County Health Department (OH), Houston Safe Communities (TX), Illinois Traffic Safety Leaders, Independent Insurance Agents & Brokers of America, Injury Free Coalition for Kids of Atlanta, Injury Prevention Center of Greater Dallas, Injury Prevention Center (RI), International Association of Fire Chiefs, Joliet Police Department (IL).

Keep Kids Alive Drive 25, Kemper Auto & Home Group, Inc., A Unitrin Company, KIDS

AND CARS, Louisiana Safe Kids, Loyola University Burn & Shock Trauma Institute, Macoupin County Public Health Department (IL), Mothers Against Drunk Driving (MADD), MADD (FL), MADD (NY), MAKUS Buckle Up! Drive Safely!, Maryland Kids in Safety Seats, Maryland State Police, Massachusetts State Police, Mayo Clinic Hospital (AZ), Meharry Medical College, Milledgeville Junior Women's Club (GA), Missouri State Safety Center, Montgomery County Child Passenger Safety Program (MD).

National Alcohol Enforcement Training Center, National Association of Professional Insurance Agents, National Association of Public Hospitals and Health Systems, National Black Caucus of State Legislators, National Center for Bicycling and Walking, National Coalition for School Bus Safety, National Conference of Black Mayors, Inc. (NCBM), National Fire Protection Association, National Latino Council on Alcohol & Tobacco Prevention, National Parent Teacher Association, National Peer Helpers Association (MO), National Safe Kids Campaign, National Safety Council, New Kent County Sheriffs Office (VA), New York Coalition for Transportation Safety, North Alabama Highway Safety Office, Northeast Colorado Health Department, 100 Black Men of Augusta, Inc. (GA), Operation Student Safety on the Move (OR), Office of Highway Safety (MS), Pennsylvania Traffic Injury Prevention Program, P.A.T.T.—Parents Against Tired Truckers, Phelps Memorial Health Center (NE), Preventing Alcohol Related Crashes (WI), Professional Insurance Agents of Ohio, Providence Safe Communities Partnership (RI), Public Citizen.

R. Adams Cowley Shock Trauma Center, University of Maryland Medical System, Rehabilitation Institute of Chicago, Remove Intoxicated Drivers (RID) USA, Richland County Safe Communities (OH), Riverside County Sheriff's Department (CA), St. Louis Fire Dept. (MO), St. Mary's Highway Safety (MD), SADD (NY), Safe and Sober Law Enforcement (MN), Safe Communities Coalition Augusta (GA), Safe Communities of Miami County (OH), Safe Communities Salisbury State University (MD), Safe Communities Southwest Coalition, Safer New Mexico Now, Safety Council of Southwestern Ohio, SAFE—Seatbelt Awareness for Everyone, Safe Traffic System, Inc. (IL), State Farm Insurance Companies, STOP DUI, Surface Transportation Policy Project, Think First of Ark-La-Tex, Think First Missouri, Think First National Rehabilitation Hospital, Trauma Foundation, USAA, Utah County Health Department, Virginia Association of Chiefs of Police, Williams County Health Department (OH).

Mr. WARNER. Mr. President, this is a list of 135 organizations across America that advocate their support for this particular piece of legislation.

This chart is an enumeration of those organizations. It is not readable, but the list is in the RECORD for all to see.

Simply by increasing the number of Americans who will buckle up is the most effective step that can be taken to save their lives and the lives of others. That is the single most important step.

I am privileged to serve on this committee, as I said, that has the primary responsibility for reauthorizing TEA-21. The bill addresses, as it should, highway safety measures, such as how to build safer roads or how to use new technologies to improve safety. But—and I underline "but"—statistics show that the greatest measure of safety again to drivers, passengers, and possibly third parties, many of them innocent third parties, not connected with the bill is through the use of the seatbelt. It is remarkable the lives that have been saved through the use of this simple device over the years.

America has about a 79-percent use rate of seatbelts. That has been translated into the saving of tens of thousands of lives and injuries in automobile accidents, but we can do better. Those are the facts. Are we just going to have a standstill or are we going to move forward? Senators CLINTON, DEWINE, and myself think we should move forward with a firmer approach with achievable goals and funding.

We have debated the benefits of seatbelt use on many occasions in this body and elsewhere across America. Whether it is in the town forums we conduct, the town meetings, or on the floor of the Senate, there is always that individual who comes back: Don't tell me what I have to do. What does it matter to you—they will often say, or to any other colleague with whom I have had the privilege to serve—what does it matter to you whether I buckle up? It matters a great deal to me and to all those who share the joys but often the burdens—the increasing burdens—of driving and using our road system and the risks.

Let's take a look. No one disputes that the absence of wearing a seatbelt causes more loss of life and serious injury. Statistics solidify that assumption. The statistics show that the impact associated with a crash, to the extent a driver can maintain control of the vehicle in those fatal seconds, the severity of the crash, and perhaps the loss of life can be reduced significantly by the use of the safety belt. It is as simple as that.

Accidents involving unbelted drivers result in a significant cost. Many people are rushed from the accident scene to various emergency facilities. All of that has the initial cost of the law enforcement and the rescue squads that respond, and eventually the cost to the emergency room or whatever medical facility you might have the good fortune to be taken to hopefully save your life. That does not come free. How well we know that.

There is a cost. It is borne by the local community often or the county or the State. Regrettably, a number of persons who suffer these types of injuries are uninsured. Again, the cost often devolves down on the good old hard-working taxpayers and, in most instances, the taxpayers who otherwise would buckle up.

That is lost time for your mission on the road, be it for business, family, or pleasure. That is lost time in productivity. Behind you are often trucks and other vehicles involved in commerce. That is lost time in delay due to the serious occasion of injuries and accidents from the lack of use of seatbelts. It is simple as that. Often the highway is shut down, and it is just incalculable the inconvenience and cost to others while your safety and perhaps your survivability is attended to more often than not by volunteer fire departments or others who come to the rescue.

The legislation that we three Senators are introducing today will take an important step for the States to adopt either a primary safety belt law or take steps of their own devising to meet a 90-percent seatbelt use rate, not the Warner amendment or the legislative measure put forth by the administration upon which Senator CLINTON and I draw for concepts of certain portions.

The States can decide for themselves—I wish to underline, we are challenging the States to decide for themselves how they achieve a 90-percent goal of the use of seatbelts in their respective States. They could have a far better idea than we have. That is the purpose of this legislation, to move every State to a 90-percent use rate for safety belts.

In a letter dated November 12, 2003, to Chairman INHOFE of the Committee on Environment and Public Works, on which, again, I am privileged to serve, Secretary Mineta states:

> President Bush and I believe that increasing safety belt usage rates is the single—

I repeat, the single—

> most effective means to decrease highway fatalities and injuries.

That is explicit and clear. The Secretary goes on in that letter to say:

> . . . the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.

I have had this debate with Governors, former Governors, even in this Chamber with former Governors. I think they would all say that a primary safety belt law is tough legislation to pass solely on its own in the State legislatures. Those in this Chamber who have been members of State legislatures know best. Those of us who have worked with State legislatures, as I have over the 25 years I have been privileged to be a Senator, I have some idea of how those legislatures operate. Certainly, those who have been Governors—and many of my colleagues in this Chamber have been Governors—know full well the difficulty confronted at the State level in getting this type of law through.

Frankly, it needs the cover, one might say the political cover, the impetus, given by the Congress—that is us, Uncle Sam—of the United States to move that process in the States forward.

So the local politicians can shake their fists at old JOHN WARNER, they can shake their fists, hopefully, at those who will join in passing this legislation and say it is Washington that has done it again—more regulation, more direction. We know the arguments. We have all heard them. But lives and injuries and costs to the community can be saved.

I think quietly, in the hearts of those State legislatures, is the thought that we will improve safety in our State. We will improve the chances of survivability on the roads of our State.

I ask unanimous consent the full text of Secretary Mineta's letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. As provided in our amendment, States can increase seatbelt use by enacting, as I said, a primary seatbelt law. Everybody knows what a primary seatbelt law is and how it works.

I want to explain the basic laws as shown on this chart. The white State has a primary enforcement seatbelt law. Those are the existing States. The red State needs a primary enforcement seatbelt law. So my colleagues can see the magnitude.

Here is my State, Virginia. Twice now that primary seatbelt law has gone through the legislature up to the point of a final vote, and by one vote only, twice, the General Assembly of Virginia has rejected that primary seatbelt law. That is a clear reason that impetus by the Federal Government can help achieve that one vote and hopefully many more.

Now, let's talk about the mechanics. It means a law enforcement officer can literally stop a vehicle if they observe that the individual is not wearing his or her seatbelt. It is as simple as that. But a State, if they decide not to enact a primary seatbelt law, can, by implementing their own strategies, whatever they may be—and there is a lot of innovation out in the States—that would result in a 90-percent seatbelt use rate. So that is a challenge to the States.

It can be achieved by other means other than having the officers under law be given the right to stop the vehicle when he observes that the driver is not using a seatbelt.

The current national seatbelt use, as I said, is 79 percent. But many States, those that have the primary law, are sometimes at 90 or even above 90, but those that do not have the primary seatbelt law are down somewhere in the 60 percentile. Just think, only 60 percent of the drivers in some States utilize that seatbelt. It is the weight of the primary States that carries the percentile and brings it up to 79 from those States that do not have an effective law. States with their primary safety belt law have the greatest success for drivers wearing seatbelts.

On an average, States with the primary seatbelt law have a 10 to 15 percent higher seatbelt use compared to those with a secondary system. This demonstrates that secondary seatbelt laws are far more limited in their effectiveness than a primary law.

Essentially, the secondary laws say if a law enforcement officer has cause other than a perceived or actual seatbelt violation, namely the driver did not have it buckled, if they have cause to stop that car, for example, for a speeding offense or a reckless driving offense or indeed an accident, and they observe there has been no use of the seatbelt, then in that circumstance, in the course of proceeding to enforce the several laws of that State as regards speeding and reckless driving or whatever the case may be, they can add a second penalty to address the absence of the use of the seatbelt in that State.

Drivers are gamblers, unfortunately, but that is the way it is. They say: Oh, well, don't worry. I will not buckle up—State law does not require it—unless they stop me, and they are not going to stop me today.

It is that gambling attitude that more often than not will cause an accident. Then it is too late.

So we come forward today to build on our national program. We are building on what we did in TEA–21. I was privileged to be on that committee at that time. I was then, as I said, chairman of the subcommittee 6 years ago. I worked with the late Senator John Chafee. What a distinguished and able Senator he was, and those who were privileged to serve with him have fond memories of working with him. He was chairman of the full committee. We drove hard to make progress for the seatbelt laws, and we did it. This chart shows the result.

We basically put aside a very considerable sum of money to encourage States, again, by using their own devices, to increase usage. As a direct consequence of what we did in TEA–21, there has been an 11-percent increase in these 6 years in the use of seatbelts. Now, that is significant, but it could be much greater and stronger.

Sadly, traffic deaths in 2002, just one fiscal year, rose to the highest level in over a decade. It is astonishing. Of the nearly 43,000 people killed on our highways, over half were not wearing their seatbelts. Now, that is a considerable number of individuals. That is according to the National Highway Traffic Safety Administration. In the judgment of the people who responded to the accidents, they considered that 9,200 of these deaths might have been prevented if the safety belt had been used.

Those are the alarming statistics. Automobile crashes are the leading cause of death for Americans aged 2 to 34. Stop to think of that, age 2. That means a child. That means a parent neglected to buckle up the child. Automobile crashes are the leading causes of death for Americans age 2 to 34. That is our Nation's youth. So many of them are in the Armed Forces of the United States. Passage of this will be helpful to the Armed Forces.

Do we have a higher calling in the Congress than to do everything we can to foster the dreams and ambitions and the productivity of our Nation's youth? I think not. And this is one of the most effective means to do it.

Last year, 6 out of 10 children who died in car crashes did not have the belt on; 6 out of 10. That is over half. I plead with colleagues to join me, join with the President of the United States, join with the Secretary who has taken this initiative.

My primary responsibility in the Senate—and this is one of the reasons I got interested in this subject—is the welfare of the men and women of the Armed Forces, as I mentioned. I say to colleagues again, the statistics are tragic. Traffic fatalities are the leading noncombat cause of death for our soldiers, our sailors, our airmen, our marines. They are in that high-risk age category, 18 to 35. I repeat, it is the largest noncombat cause of death.

Someone even took a look at the statistics and totaled the fatalities last year and said that represents in deaths the size of an average U.S. Army battalion. That is a lot of folks. That is one of the principal incentives I have. I cannot think of any reason why we all cannot join behind this effort. That alone is the driving impetus for this Senator.

The time is long overdue for a national policy to strengthen seatbelt use rates. I said a national policy, and that is what this bill represents, either through States enacting a primary seatbelt law of their own conception and devising or passing this law, giving far greater attention to public awareness programs that result in more drivers and passengers wearing safety belts. Our goal is 90 percent for the Nation.

I have been privileged to serve on this committee 17 years and I, together with many others, notably my dear friend, the late chairman, Senator John Chafee, addressed this issue. Our committee is rich in the history of focusing revenue from highway trust funds on effective safety programs. It goes back through many chairmen and members of the Environment and Public Works Committee.

With jurisdiction over the largest share of the highway trust fund, our committee has had the vision to tackle important national safety programs. The legislation before us does provide more funding to help build safer roads. That is a step forward. But it does not have, in my judgment, that provision which represents a step up from what we did in TEA–21, that provision that would represent a recognition for the President's initiative.

The President has taken a decidedly strong initiative to increase the use of seatbelts. It is absent from the bill, and that is why we need a provision, by virtue of this amendment, to strengthen and move forward the position of the Congress on the position of increased use of safety belts on America's highways and roads. That is the purpose of this amendment.

It is just unfortunate that those with reckless intent quickly disregard responsible behavior and drive unbelted at excessive speeds, and many times with the use of alcohol. So no increased dollars for improving road engineering, which is in this bill—and I commend them for that, but that alone cannot defy, in many instances, the type of personal conduct that results in reckless behavior. In other words, engineering can quickly be overcome by the reckless driving, and particularly that associated with alcohol.

Automobiles now come equipped with crash avoidance technologies and are more crashworthy than ever before. But these advances are only a very small part of the solution. In repeated testimony before the Environment and Public Works Committee from the administration, from our States, safety groups, and the highway insurance industry, we are told three main causes of traffic deaths and injury are unbelted drivers, speed, and alcohol.

The formula we have devised in this legislation does have a reduction in the amount which the State receives under the proposed bill that we will consider next year when they fail to achieve the 90 percent safety belt use rate. It is as simple as that. But the formula is patterned directly after the law that is on the books now with respect to the .08 legal blood alcohol content level.

In other words, the formula we have in this amendment is identical, in terms of that what I call inducement—carrot/stick type of legislation—that we did for the .08 legal blood alcohol.

The net effect of this legislation is simply to recognize we are asking the same type of sanction policy with regard to one of the three major causes of death—alcohol—be equated to a second cause of death and injury, and that is the absence of the use of seatbelts, bringing into parallel two of the three principal causes of death and injury on the highways: .08 and mandatory use of seatbelts.

The administration put forward an innovative safety belt program, as I said, under the leadership of the President, and that was a major component of a new core transportation program, the Highway Safety Improvement Program, submitted to the Congress. Our amendments incorporate the administration's bill and include additional incentives for States to increase seatbelt use rates.

I ask unanimous consent to have printed in the RECORD today a deeply moving statement delivered by the representative of the American Medical Association, strongly in support of this legislation, and a letter from the Virginia Association of Chiefs of Police, strongly in favor of this legislation. Of course, the letter to the distinguished chairman, Mr. INHOFE, from the Secretary of Transportation is already a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
*February 9, 2004.*

### AMA APPLAUDS LEGISLATION TO PROMOTE SEAT BELT ENFORCEMENT AND SAFETY

AMA SPEAKS AT CONGRESSIONAL PRESS CONFERENCE TO URGE SEAT BELT AMENDMENT PASSAGE

On behalf of the American Medical Association, I'm proud to stand here with Senator Warner in support of enforcing seat belt use. Preventing deaths and injuries on our nation's roadways has been a priority of the AMA for many years. In fact, over the last seven years the AMA has distributed more than 16 million brochures on protecting children in motor vehicles, and just last year we released a physicians' guide to assess and counsel older drivers. Requiring all states to enact a primary enforcement seat belt law or achieve a seat belt use rate of at least 90 percent will help protect Americans on the road.

We know that wearing seat belts saves lives. Over half of the 43,000 people killed on America's highways in 2002 were not wearing seat belts. Tragically, six out of 10 children who died that year in motor-vehicle collisions were also not wearing seat belts. Just taking one moment to buckle-up could make a life-or-death difference to the thousands who needlessly die on our roadways every year.

For those lucky enough to survive a devastating auto crash, the health care costs can be staggering. On average, hospitalization costs for unbelted traffic crash victims are 50 percent higher than for those who buckled-up. The needless deaths and injuries that result from not wearing seat belts cost society an estimated $26 billion annually in medical care, lost productivity and other injury-related costs.

These deplorable statistics are reversible. We can significantly reduce deaths and serious injuries from motor-vehicle crashes by enforcing seat belt use nationwide through a primary enforcement law like the one Senator Warner is now proposing.

In my home state of Michigan, a primary enforcement law has been in effect for three years. In that time, nearly 200 lives have been saved, and over 1,000 serious collisions have been averted because of this change in the law.

As a physician, it is a rare blessing to be in a situation where we can easily identify the solution to a public health threat. Passage of the primary enforcement seat belt law will save lives. It's that simple.

RON DAVIS,
*AMA Trustee.*

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VIRGINIA ASSOCIATION
OF CHIEFS OF POLICE,
*Richmond, VA, February 9, 2004.*

The Virginia Association of Chiefs of Police (VACP) endorses S. 1993, a bill to create incentives for the states to enact primary safety belt laws. In 2002 in Virginia, we had 913 automobile fatalities. Of those 913 fatalities, 438 (62.7%) were not wearing a safety belt. In those 913 fatality crashes, 9,912 injuries were sustained by unbuckled occupants.

Under our current secondary enforcement law, Virginia's front seat safety belt use is 74.6%, which includes drivers and front seat passengers. Research tells us that front seat occupants of vehicles involved in potentially fatal crashes in states with primary safety belt laws have a 15 percentage point higher belt use than persons in states without primary laws.

The VACP supports the passage of primary safety belt laws as a proven tool to increase safety belt usage and reduce serious injuries and fatalities in the event of a traffic crash. Public education and enhanced traffic enforcement efforts have failed to increase Virginia's safety belt usage rate much beyond 75%. States with primary safety belt laws consistently experience safety belt usage rates up to 90%. The VACP believes that the passage of a primary safety belt law in Virginia will increase belt usage and save the lives of countless Virginians.

DANA G. SCHRAD,
*Executive Director,*
*Virginia Association of Chiefs of Police.*

EXHIBIT 1

THE SECRETARY OF TRANSPORTATION,
*Washington, DC, November 12, 2003.*

Hon. JAMES INHOFE,
*Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: With almost 43,000 people dying every year on our nation's highways, it is imperative that we do everything in our power to promote a safer transportation system. The Bush Administration's proposal to reauthorize surface transportation programs, the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA), offers several bold and innovative approaches to address this crisis.

President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries. As a result, SAFETEA's new core highway safety program provides States with powerful funding incentives to increase the percentage of Americans who buckle up every time they get in an automobile. Every percentage point increase in the national safety belt usage rate saves hundreds of lives and millions of dollars in lost productivity.

Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law. States with primary belt laws have safety belt usage rates that are on average eight percentage points higher than States with secondary laws. Recognizing that States may have other innovative methods to achieve higher rates of belt use, SAFETEA also rewards States that achieve 90% safety belt usage rates even if a primary safety belt law is not enacted. I urge you to consider these approaches as your Committee marks up reauthorization legislation.

While safety belts are obviously critical to reducing highway fatalities, so too is a data driven approach to providing safety. Every States faces its own unique safety challenges, and every State must be given broad funding flexibility to solve those challenges. This is a central theme of SAFETEA, which aims to provide States the ability to use scarce resources to meet their own highest priority needs. Such flexibility is essential for States to maximize their resources, including the funds available under a new core highway safety program.

I look forward to working with you on these critically important safety issues as development of a surface transportation reauthorization bill progresses.

Sincerely yours,

NORMAN Y. MINETA.

Mr. WARNER. I am pleased to say Senator MURRAY has asked to join as a cosponsor and I so request that be noted on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## "WE THE PEOPLE . . ." PROGRAM

Mr. LEVIN. Mr. President, more than 1200 high school students from across the Nation will come to our Nation's capital this summer to enhance their knowledge and understanding of the history and philosophy of our Nation's most important documents: the Constitution and Bill of Rights. These ambitious students will be participating in the annual national competition of "We the People: The Citizen and the Constitution." This laudable effort, which is federally funded, is the most extensive educational program in the country designed specifically to educate young people about the U.S. Constitution and the Bill of Rights. At a time when a study by the National Association of Educational Progress shows that three-quarters of America's students are not proficient in either American history or civics, the importance of this program is unquestionable.

"We the People . . ." helps our students not only appreciate our constitutional democracy, but it allows them to "participate" in it. Students start with an instructional program where they learn about our Government's primary institutions while they discover the relevance of our Constitution and Bill of Rights to their daily lives. Their lessons then simulate real-life when the students participate in a "Congressional hearing" where they "testify" before a panel of judges. By using the principles and knowledge they've learned in the classroom to role play, these students have the opportunity to delve into and appreciate both historical and contemporary issues facing our Nation.

This program is not just reserved for high school students. "We the People . . ." recognizes that civic education should not wait until the students are almost able to vote. Teachers are encouraged to engage their students in simulated hearings at the elementary and middle school levels. In fact, more than 24 million students and 75,000 educators have participated in the "We the People" program since its inception in 1987. Throughout the years, several of my staff members have served as judges in the State competition.

This year, I am proud to inform the Senate that East Grand Rapids High School will represent Michigan in this prestigious event. These students demonstrated their exceptional command of issues relating to the Constitution and the Bill of Rights in the state competition held in Lansing.

The "We the People . . ." program continues to be one of the best efforts to counteract the feelings of political apathy and cynicism amongst our Nation's youth. I wish the students at East Grand Rapids and all the students across the Nation who will be competing in this year's competition the best of luck. I know my colleagues will join me in recognizing the contributions the "We the People . . ." program has provided to students across the country.

## CELEBRATING AFRICAN-AMERICAN HISTORY MONTH

Mr. SARBANES. Mr. President, I am pleased to join in commemorating African-American History Month and in recognizing a crucial part of our diversity: the vast history and legacy that African Americans have contributed to the founding and building of our Nation.

In 1915, Dr. Carter Godwin Woodson founded the Association for the Study of Negro Life and History, which shortly after its creation, began a campaign to establish Negro History Week. In 1926, the second week of February was chosen to recognize the contributions of African Americans to American society. In 1976, this week of observance was expanded to a month and became African-American History Month.

Each year, the Association, now known as the Association for the Study of African American Life and History, designates a theme for the Black History Month observance. This year's theme, "Before Brown, Beyond Boundaries, Commemorating the 50th Anniversary of Brown v. Board of Education of Topeka" marks one of the most seminal moments in the fight for equal rights in this country—the Supreme Court's May 15, 1954 ruling that "[i]n the field of public education, the doctrine of 'separate but equal' has no place."

It was a ruling that was met with violent resistance and created enormous upheaval. A number of States adopted policies of "massive resistance" seeking to avert compliance with the Court's decision. Many went so far as to adopt resolutions calling for the State Government to interpose itself, parens patriae, between its citizens and the Federal government's efforts to impose desegregation.

But in the years that followed Brown, inspired by the framework for progress that the Court had provided, our civil rights leaders and the movement they created never backed down. They instead redoubled their heroic efforts often in the face of great risk of personal harm.

From the refusal by Rosa Parks to move to the back of a public bus, which ignited the Montgomery bus boycott, to efforts of the Rev. Martin Luther King, Jr. and many others to secure civil rights and desegregate public facilities, to efforts of the NAACP to clarify and expand the First amendment's protections related to free association, Brown's effects were felt across the Nation and beyond the sphere of public education.

And, of course, Thurgood Marshall—who I should note was born in Baltimore and attended Frederick Douglass High School—was at the center of these efforts. After graduating at the top of his class at Howard Law School, Marshall came back to Baltimore and, after working with NAACP to accomplish the landmark result in Brown led the legal fight thereafter to extend its precedent throughout the civil rights arena. After leaving the NAACP, Marshall put his convictions, determination, and legal prowess to work as a Federal judge, then Solicitor General, and ultimately the first African-American Justice on the Supreme Court. There, he was, as Justice William Brennan remembered him, the "voice of authority . . . the voice of reason . . . [a]nd a voice with an unwavering message: that the Constitution's protections must not be denied to anyone and that the Court must give its constitutional doctrine the scope and sensitivity needed to assure that result."

At the beginning of the last century, our Nation was a vastly different place than it is today. The country was divided along racial lines and racism was accepted and institutionalized. African Americans were not allowed to vote, and the opportunities available to African Americans were few.

Today, thanks to the visions of a few and the sacrifices of many—and in significant part thanks to the lasting effects of Brown—that situation has changed. After much hardship, African Americans have made great strides in many areas and now participate in every sector of our society. Throughout the past 100 years, African Americans have made remarkable contributions to the Nation and the world as mathematicians, scientists, novelists, poets, politicians, and members of the armed services.

Through the lessons and struggles of the last century and the trying first few years of this century, Americans have shown the world how people of all races, colors, religions and nationalities create the fabric of our Nation, a fabric that is richer because of our differences. This month, we honor the special contribution African Americans have made to that fabric.

But there is much work left to be done. When in 1981 the City of Baltimore unveiled a statue to Marshall, the Justice told the gathered crowd "I just want to be sure that when you see this statue, you won't think that's the end of it. I won't have it that way. There's too much to be done." So we take the occasion of African-American History Month to celebrate the steps that we have taken toward equality, but also to remind ourselves of how far we have to go.

## HONORING OUR ARMED FORCES

### PRIVATE DWAYNE TURNER, 101ST AIRBORNE DIVISION, U.S. ARMY

Mr. BAYH. Mr. President. I rise today to honor the heroic service of Pvt Dwayne Turner, 23, a combat medic in the United States Army, from Indianapolis, IN. Private Turner is a member of the U.S. Army's 3rd Battalion, 502nd Infantry Regiment, 101st Airborne Division, which came under grenade and small arms attack in Baghdad, Iraq on April 13, 2003.

According to U.S. Army Sgt Neil Mulvaney, the convoy was under a heavy amount of fire from Iraqi resistance forces. During the attack, a grenade struck the Humvee in which Private Turner was riding, seriously injuring both his legs with shards of shrapnel. Ignoring his injuries, Private Turner bravely fulfilled his duty as a combat medic, selflessly putting the lives and comfort of others before his own. While treating 18 other soldiers' injuries, Private Turner was shot in the arm and leg before Sergeant Mulvaney had to physically restrain him to administer medical treatment for Private Turner's increasingly severe injuries.

When asked by the Associated Press to reflect upon the events of the attack, Private Turner humbly said, "I don't consider myself a hero at all. I just figured everybody was going to go home and nobody was going to die on my watch." However, BG Frank Hemlock's description of Private Turner's actions seems much more fitting: "He is a bona fide hero. He saved two lives without question and patched up 16 other lives."

In honor of the lives he saved through his unhesitating valor, Private Turner has been awarded the Silver Star, an award earned by nothing less than true sacrifice. May this award stand as a reminder to Private Turner that neither his comrades nor their grateful loved ones will soon forget his heroic actions.

As I reflect on Private Turner's service, I am reminded of a quote by Douglas MacArthur: "The soldier, above all other people prays for peace, for he must suffer and bear the deepest wounds and scars of war." The United States will be eternally grateful for the courage and bravery Private Turner exhibited on the field of battle.

I know that all Hoosiers share my deep sense of pride in Private Turner and all of the men and women of our Armed Forces from Indiana who safeguard our country's freedom. My thoughts and prayers are with him as he continues his recovery and begins to make his new goal to become a civilian physician a reality.

### INDIANA STATE TROOPER SCOTT A. PATRICK

Mr. BAYH. Mr. President, today I rise to pay tribute to and honor the remarkable life of Scott A. Patrick, an Indiana State Trooper who was killed in the line of duty.

During the early morning of December 22, 2003, Trooper Patrick stopped to assist what appeared to be a stranded motorist. Shortly thereafter, Trooper Patrick was gunned down by the assailant and passed away. He was 27 years old.

Trooper Patrick graduated from Kankakee Valley High School in 1995 with an academic honors diploma. While in high school, Trooper Patrick excelled in football and wrestling, earning numerous awards. Those who knew him remember Trooper Patrick as intelligent, industrious, and kind. He attended the University of Southern Indiana on both academic and carpenter's scholarships. While at USI, Trooper Patrick was active in a variety of sports and was a starting member of the rugby team. He also worked at the university library to supplement his scholarships.

Trooper Patrick met Melissa Clark in 1996 while attending USI. They were engaged in February of 1999 and wed on a July afternoon during the Summer of 2000. In January that same year, Trooper Patrick was offered and accepted his position with the Indiana State Police. He was assigned to the Lowell Post.

Trooper Patrick was a devoted family man who relished his time with loved ones. When he learned that his wife was pregnant, just days before his death, he could not have been more excited and full of joy. May his child be brought into the world and raised knowing that his or her father was a brave, hard-working and loving man who was proud to be a father.

Trooper Patrick was a role model not only for his family, but for all who knew him and whose lives he touched. He dedicated his life to the noblest of causes: his family, his job and keeping others safe.

It is my sad duty to enter the name of Scott A Patrick into the CONGRESSIONAL RECORD. As Trooper Patrick rests with God in eternal peace, let us never forget the courage and sacrifice he displayed when he laid down his life on December 22, 2003.

## ADDITIONAL STATEMENTS

## TRIBUTE TO LARRY MYOTT

• Mr. LEAHY. Mr. President, I am pleased to recognize the long and distinguished career of Mr. Larry Myott, one of our Nation's most respected maple syrup specialists and a longtime friend. After nearly three decades with the University of Vermont Extension Service, Larry retired last week. Known by many as "Mr. Maple," Larry has played an integral role in growing the Vermont maple industry into a $220 million a year industry. His educational work with Vermont farmers and his maple syrup promotion efforts have played a key role in expanding markets for producers, allowing more producers to make a living in the maple industry. While Vermont is the largest producer of maple syrup in the United States, Larry's work has transcended the State of Vermont. He has traveled throughout the United State and into Canada to assist maple producers and promote Vermont's maple syrup.

I offer my gratitude for Larry's friendship and his great work on behalf of the State of Vermont's maple industry. I ask that an article on Larry's career be printed in the RECORD.

The article is as follows.

[From the Associated Press]

### "MR. MAPLE" RETIRES FROM UNIVERSITY OF VERMONT EXTENSION SERVICE

(By Lisa Rathke)

MONTPELIER, VT.—Larry Myott just got an e-mail from Taiwan asking him when Vermonters "squeeze" sap from their trees.

The inquirer wanted to visit Vermont during the height of the maple season.

Myott, the maple specialist for the University of Vermont Extension Service gets letters from school children, from maple syrup buyers and from producers all over the world. They ask how to store maple syrup, if it's pure and what to do about crystals that form in the syrup.

"I'm often called 'Mister Maple,'" says Myott, 59, who will retire in January after 28 years with the Extension Service. Gov. James Douglas and others will pay tribute to the maple man at a dinner Saturday.

Myott has educated and assisted maple producers across Vermont and promoted Vermont's maple products throughout the world.

He travels to Minnesota, Nova Scotia and Virginia to learn what's new, share his expertise and spread the word about Vermont's products.

"Larry has a love for the maple industry that is hard to surpass," says Jacques Couture, president of the Vermont Maple Sugarmakers Association, who was making maple candy at his farm in Westfield Wednesday. "He's a real promoter of maple syrup, and he's done it actually by promoting maple syrup to helping producers on the educational side.

"It's been a life pursuit for him to see the maple industry by the best it can be."

Myott became the maple specialist in 1988, after serving as Chittenden County Extension agent, and working with vegetable growers and dairy farmers.

And the maple industry today doesn't look anything like it did then.

"Very seldom do you see buckets in the woods any more. You don't see horses anymore," he says from his Ferrisburgh home, where he is recovering from a stroke earlier this month.

Sugaring has grown from a side business for dairy farmers to a year-round profitable operation for large producers, he says.

In 1988 the average producer had 1,000 taps and generated 250 gallons of syrup a year. Ten years later, the average size grew to twice that.

Now a large-scale sugarer might produce as much as 40,000 to 50,000 gallons a year, he says.

New technology such as a system that uses a vacuum to pull sap out of trees; reverse osmosis, which removes water from sap without heat by using a high pressure filter system; and super-efficient evaporators that boil sap with less heat, have made sugaring far more efficient.

Producers have expanded to meet the demand, and prices are now high enough for them to make a living, he says.

"Sugarmakers are able to make a living in the maple business today," he says.

The syrup is also better than it used to be. "The quality has changed tremendously," he says.

And efforts by the state to promote the Vermont image and products and draw tourists have increased sales of maple products.

Vermont sugarmakers made 430,000 gallons of syrup last year, bringing in an estimated $18 million to $20 million, Myott says. According to the Vermont Agency of Agriculture, the entire maple industry generates over $200 million a year.

The annual Maple Festival, a local fair started in 1937 in St. Albans, now draws as many as 50,000 people from around the world, Myott says.

Vermont, the largest producer of maple syrup, is one of only a few states to have a maple specialist. But Myott's reputation stretches far beyond the Green Mountains.

"Because he's articulate, because he writes a lot, because he'll take telephone calls from anyone at anytime. That reputation spans not only Vermont and the region but also internationally," says Gary Deziel, Northwest regional chair of the UVM Extension Service.

Although he's retiring Jan. 30, Myott says he will remain involved in the maple industry. He will continue to write about maple for Farming Magazine, Maple Views, Country Folks Magazine and Country Magazine. And he will always take questions from Taiwan.●

## LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On November 14, 2001, Milwaukee resident Pablo Parrilla was charged with first-degree intentional homicide in connection with the death of his lesbian sister's girlfriend, Juana Vega. The shooting occurred when Vega went to the home of her girlfriend's family to reconcile an argument. Instead, Parilla confronted her outside the house and shot her repeatedly. Parrilla apparently told Vega "I'm going to kill you because you are gay" and "because you turned my sister gay."

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

## HONORING THE GIRL SCOUTS' WILDERNESS ROAD COUNCIL

● Mr. BUNNING. Mr. President, today I take the opportunity to honor the Girl Scouts' Wilderness Road Council for all the work they do to shape Kentucky's young women. This year the Girl Scouts in central and eastern Kentucky are taking on a new challenge with their annual cookie drive. They have started "Operation Milk and Cookies," a program sponsored by the Girl Scouts' Wilderness Road Council that aims to give a box of Girl Scout cookies to families that can't afford them.

The Girl Scouts have always afforded a young women the unique opportunity to enhance her communication and social skills, to develop a strong sense of self, to participate in innovative programs, and to foster her creative side. But by participating in Operation Milk and Cookies, these young women are learning how to be productive and proactive citizens, who will some day have the chance to change the way the world works. They are learning at an early age how important it is to help others that are less fortunate and how to be selfless contributing members to the community.

Mr. President, the citizens of Kentucky are proud to have Girl Scouts' Wilderness Road Council's troops living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth. The Girl Scouts' Wilderness Road Council have found a successful way to bring out the best in its young women, and I personally thank the leaders and supporters of this great organization for continually producing strong and bright young women committed to making Kentucky a better place to live.●

## HONORING EDWARD N. FRIESZ ON HIS 80TH BIRTHDAY

● Mr. DORGAN. Mr. President, I recognize a North Dakotan who is celebrating a special birthday this weekend. On Saturday, February 14, 2004, friends and family will gather in Mandan, ND to celebrate and honor Edward N. Friesz on his eightieth birthday.

Edward Friesz was born on February 14, 1924 to Adam and Magdalena Friesz on a farmstead near Fellon, ND. The oldest of nine children, Edward worked on his parents' farm before moving to Mandan to live and work. He worked at various places before retiring in 1989 from the Morton County Courthouse.

In 1951, Edward met Elsie Frohlich, a friend and coworker of his sister, Irene. Edward and Elsie were married on September 30, 1953 in Bismarck. Last fall, the couple celebrated their 50th wedding anniversary.

Mark Twain once wrote, "Wrinkles should merely indicate where smiles have been." Edward's greatest joy in life—the origin of many of those smiles—is his family.

Edward and Elsie started their family in 1954 with the arrival of their first child, Delphine. Their family would grow to include three daughters, Delphine, Sharon and Annette, and three sons, Kennard, Gerard and Maynard.

Edward and Elsie are also proud grandparents. They have 10 grandchildren ranging in age from 25 to 1. They include: Trever, Anton, Maria, Elizabeth, Alec, Jakob, Brett, Rachael, Ryan and Adam.

While the family has spread throughout the country, they remain very close. The family comes together for birthdays, anniversaries, holidays and special occasions. Twelve years ago, the family started a new tradition: a summer campout. Armed with tents and campers, sleeping bags and lanterns, the Edward and Elsie Friesz family embark each year on a weekend campout to share food, fun and fellowship.

Over the past 12 years, they have camped in North Dakota, South Dakota and Minnesota. They have endured rainstorms, thunderstorms, and cold and hot temperatures. As the family has grown, so have the annual campouts. One year, they even designed t-shirts to commemorate the family tradition.

This Valentine's Day, February 14, 2004, the family will get together again this time to celebrate their patriarch's 80th birthday.

I extend a warm birthday greeting to Edward Friesz and wish him well on his 80th birthday.●

## HERMAN A. MACDONALD, OREGON VETERAN HERO

• Mr. SMITH. Mr. President, today I rise to honor an Oregon veteran who has gone above and beyond the call of duty in service to his country and to his State. Herman A. "Mac" MacDonald was born in 1929 in Boston, MA and has lived in Oregon since the 1978. Mac's entire life has been dedicated to serving America, its veterans, and citizens.

Mac's military career began shortly after he graduated from high school in 1948, when he joined the United States Coast Guard Reserves while attending Bryant College. After graduation, Mac joined the United States Marine Corps, as an officer. Mac's military career sent him to distant lands to defend America's interests. He served in combat on the main line of resistance in Korea; he was stationed in Virginia, Hawaii, Illinois, California and Japan. He served as the Commanding Officer of Force Reconnaissance at Camp Pendleton. He also served in Vietnam as part of the top-secret Studies and Observation Group, SOG. Along with the team, Mac served with Marine Reconnaissance, Navy SEALS, and the Green Berets.

After Vietnam, Mac was transferred to Marine Headquarters in Washington, DC, where he became a military aide for Secretary of Housing and Urban Development, George Romney. Mac's military background provided Secretary Romney with important insight for policy decisions. Following his service with the Secretary, Mac moved to Toronto, Canada, where he was an instructor at the Canadian Forces Command and Staff College. He returned to the United States in 1976, and retired from the military in 1978. Upon retirement, he had earned a total of 24 ribbons, five of which were personal decorations, in addition to Presidential Unit Citations from the U.S. Army and U.S. Marine Corps.

For Mac, retirement meant a chance to follow a new dream. His compassion for children brought him to the classroom, where he became a teacher. From 1978–1985, Mac taught in the Salem School District in Oregon, where he worked with troubled teenagers. He became the principal of the Woodburn Gervais alternative high school and retired in 1999.

Mac continues to serve veterans today as an advocate for Oregon veterans' organizations. He is also the curator of the Oregon Military Educational Display, a collection of uniforms, medals, and artifacts from various wars throughout history. The items are put on a display for a month each year at the Oregon State Capitol.

Mac has lived in West Salem since 1978 and is proud to call himself an Oregonian. He's been marred to his wife Vi for 46 years and has two grown children, and two grandsons.

For his selfless service to others, and to the United States in times of war, I salute Herman A. "Mac" MacDonald as an Oregon Veteran Hero.•

## RUSSELL H. PHELPS III, UNITED STATES NAVY

• Mr. BOND. Mr. President, I rise today with friends and family to recognize the efforts and dedication of CDR Russell H. Phelps III, an outstanding American. Commander Phelps began his military career in 1980 as an Arabic linguist assigned in Athens, Greece. Working in a national airborne reconnaissance program, he supported U.S. military missions to Lebanon, Egypt, and Saudi Arabia. Honorably discharged in 1985, he graduated Magna Cum Laude from the University of Northern Iowa in 1988 with a Bachelor of Arts in International Relations.

He earned a Naval commission as a Special Duty Officer (Cryptology) upon completion of the Officer Candidate School in September 1988, whereupon he was assigned to the Naval Security Group Activity (NSGA) Rota, Spain. During that tour, he was assigned to the staff of the Commander, Middle East Force, Bahrain, and aboard USS *O'Bannon* (DD–987) and USS *Aubrey Fitch* (FFG–34) in support of Operation Earnest Will, the escort of re-flagged Kuwaiti oil tankers in the Arabian Gulf. Between 1989 and 1991, Commander Phelps was additionally assigned to the USS *Wainwright* (CG–28), USS *Baton Rouge* (SSN–689), USS *Silversides* (SSN–679), USS *Providence* (SSN–719), and to the USS *Pittsburgh* (SSN–720) during combat support operations throughout Operation Desert Storm.

Commander Phelps next assignment was to the USS *Oldendorf*, where he served as the Cryptologic Officer, Tactical Action Officer, and for 6 months as the Operations Officer, culminating in his qualifications as a Surface Warfare Officer. Detaching in 1994, he reported to Menwith Hill Station, Harrogate, England, and served as a Deputy Division Chief and member of the Regional Security Operations Center (RSOC) transition team. A plank owner of NSGA Menwith Hill, he simultaneously served in operations and as its first Executive Officer from 1995 to 1996. Commander Phelps next served at the Tactical Training Group Pacific, San Diego, CA, where he provided training to Battle group and warfare commanders in Cryptology, Information Warfare, and space systems operations. From 1999 to 2001, Commander Phelps served on the Staff of Commander, Carrier Group Seven as the Flag Cryptologist and deployed to the Middle East as the Cryptologic Resources Coordinator for John C. Stennis Battle Group and Bon Homme Richard Amphibious Ready Group.

Commander Phelps' most recent assignment was at U.S. Naval War College, Newport, RI, where he earned a Master of Arts (with Distinction) in Strategy and National Security Decision Making.

Military decorations include the Defense Meritorious Service Medal, Air Medal (4 oak clusters in lieu of 5th award), Navy and Marine Corps Commendation Medal (two gold stars in lieu of third award), Navy and Marine Corps Achievement Medal (gold star in lieu of second award), as well as several unit and campaign awards.

Commander Phelps is married to the former Ms. Diana Weetman, of North Yorkshire, England.

Mr. President, I stand with all those whose lives are richer for having known Commander Phelps to commemorate and recognize his efforts and dedication on this Sixth day of February, Two-thousand and Four.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## ECONOMIC REPORT OF THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

*To the Congress of the United States:*

As 2004 begins, America's economy is strong and getting stronger. Over the past several years, this Nation has faced major economic challenges resulting from the decline of the stock market beginning in early 2000, a recession that began shortly after, revelations about corporate governance scandals, slow growth among many of our major trading partners, terrorist attacks, and the war against terror, including in Afghanistan and Iran. These challenges affected business and consumer confidence and resulted in hardship for people in many industries and regions of our Nation. Americans have responded to each challenge, and now we have the results: renewed confidence, strong growth, new jobs, and a mounting prosperity that will reach every corner of America.

This Report, prepared by my Council of Economic Advisers, describes the economic challenges we faced, the actions we took, and the results we are seeing. It also discusses our plans to continue growing the economy and creating jobs.

In May 2003, I signed a Jobs and Growth bill that focused on three key goals. First, we accelerated previously passed tax relief and let American households keep more of their own money to save, invest, and spend. Second, we increased incentives for small businesses to invest in new equipment and plant expansions. Third, we enacted important tax relief on dividend income and capital gains to help investors and businesses. These actions were designed to promote investment, job creation, and income growth. By all three measures of performance, we are seeing signs of success.

Since May 2003, we have seen the economy grow at its fastest pace in nearly 20 years. Consumers and businesses have gained confidence. Retail sales are strong, and Americans are buying, building, and renovating houses at a record pace. Investment has strengthened, with spending on business equipment the best in 5 years. The unemployment rate has fallen from its peak of 6.3 percent last June to 5.7 percent in December, and employment is beginning to rise as new jobs are created, especially in small businesses. Productivity growth has been strong, leading to higher incomes for workers, while the tax relief we passed means that American families keep more of their money instead of sending it to Washington.

We are moving in the right direction, but have more to do. I will not be satisfied until every American who wants a job can find one. I have outlined a six-point plan to promote job creation and strong economic growth. This plan includes initiatives to help manage rising health care costs to make health care more affordable and accessible for American workers and families, reduce the burden of junk lawsuits on the economy; ensure a reliable and affordable energy supply; simplify and streamline government regulations; open foreign markets for American goods and services; and allow businesses and families to keep more of their hard-earned money and plan with confidence by making our tax relief permanent. This year, I will work with the Congress to achieve these goals.

I will also continue to work with the Congress on another important shared goal: controlling federal spending and reducing the deficit. The federal budget is in deficit, foremost because of the economic slowdown and then recession that began in 2000 and the additional costs of fighting the war on terror and protecting the homeland. We are continuing to take action to restrain spending and bring the deficits down. By carefully evaluating priorities and being good stewards of the taxpayer's money, we will cut the budget deficit in half over the next five years.

The task of reducing the deficit will become easier because America's economy is growing. We have taken the actions needed to restore growth, and we are pursuing additional policies to help create jobs for American workers and families. I'm optimistic about the future of our economy because I know the values of America and the decency and entrepreneurial spirit of our people.

GEORGE W. BUSH.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6198. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2, A300B4, A300B4-600, A300B4600R, A300F4-600R, A310, A330, and A340 Airplanes Doc. No. 2001–NM–154" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6199. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–200–2C10 (Regional Jet Series 700 and 701) Series Airplanes Doc. No. 2003–NM–159" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6200. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–400 and 400F Series Airplanes Doc. No. 2003–NM–140" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6201. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes Doc. No. 2003–NM–249" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6202. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. Model PC–6 Airplanes Doc. No. 2003–CE–01" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6203. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Model 1900, 1900C, and 1900D Airplanes Doc. No. 2003–CE–16" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6204. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileria de Aerunautica S.A. (EMBRAER) Model EMB–13 and 145 Airplanes Doc. No. 2002–NM–336" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6205. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC130B4 Helicopters Doc. No. 2003–SW–41" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6206. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hamburger Fugzeubau G.m.b.H Model HFB 320 HANSA Airplanes Doc. No. 2002–NM–185" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6207. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes Doc. No. 2003–NM–05" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6208. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–600, 700, 800, 757–200, and 757–300 Airplanes Doc. No. 2001–NM0374" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6209. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere-Falcon 200 Series Airplanes Doc. No. 2003–NM–247" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6210. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211–22B Series, RB211–524B, 524C2, 524D4, 524G2, 524G3, and 524H Series and RB211–535C and 535E Series Turbofan Engines Doc. No. 2003–NE–12" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6211. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes Doc. No. 2001–NM–165" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6212. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 11 and 11F Airplanes Doc. No. 2001–NM–167" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6213. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 and

11F Airplanes Doc. No. 2001–NM–161" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6214. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas MD–11 and 11F Airplanes Doc. No. 2001–NM–164" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6215. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) and CL–600–2D24 (Regional Jet Series 900) Airplanes Doc. No. 2003–NM–209" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6216. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS 365 N3 and EC 155B Helicopters Doc. No. 2001–SW–61" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6217. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas MD–11 Airplanes Doc. No. 2001–NM–57" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6218. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS332C, L, L1, and L2 Helicopters Doc. no. 2001–SW–07" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6219. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW4000 Series Turbofan Engines; Doc. No. 2002–NE–15" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6220. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model SA–365N, N1, AS–365N2, and AS365 N3 Helicopters Doc. No. 2003–SW–09" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6221. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc (RR) RB211–22B, RB211–524 and RB211–535 Series Turbofan Engines Doc. No. 2001–NE" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6222. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes Doc. No. 2003–NM–55" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6223. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 441 and F406 Airplanes Doc. No. 2002–CE–18" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6224. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA 1767SO or SA1768SO Doc. No. 97–NM–232" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6225. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate ST00015AT Doc. No. 97–NM–234" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6226. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA1368SO, SA1797SO, or SA798SO Doc. No. 97–NM–233" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6227. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA1444SO, SA15090SO, SA1543SO, or SA1896SO Doc. No. 97–NM–235" (RIN2120–AA64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6228. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Mount Pleasant, IA; Doc. No. 03–ACE–82" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6229. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Mapleton, IA; Doc. No. 03–ACE–80" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6230. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace: Calverton, NY; Doc. No. 03–AEA–16" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6231. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace: Columbus, MS; Doc. No. 03–ASO–10" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6232. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Mapleton, IA; Doc. No. 03–ACE–80" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6233. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Milford, IA; Doc. No. 03–ACE–81" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6234. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E5 Airspace: Augusta, GA; Doc. No. 03–ASO–5" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6235. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Maryville, MO; Confirmation of Effective Date; Doc. No. 03–ACE–62" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6236. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Springfield, MO; Doc. No. 03–ACE–100" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6237. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Milford, IA; Confirmation of Effective Date; Doc. No. 03–ACE–81" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6238. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Ashland, OH; Doc. No. 01–AGL–19" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6239. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (3): Amdt. No. 446" (RIN2120–AA63) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6240. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Revision of Restricted Area 2202C, and the Establishment of Restricted Area 2202D; Big Delta, AK; Doc. No. 03–AAL–007" (RIN2120–AA66) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6241. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Special Federal Aviation Regulation No. 36, Development of Major Repair Data, Direct Final rule, Request for Comments; Doc. No. FAA–2003–16527" (RIN2120–AI09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6242. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Enhanced Flight Vision System; Doc. No. FAA-2003-14449" (RIN2120-AH78) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6243. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Doc. No. FAA-2002-11301" (RIN2120-AH14) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6244. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Repair Stations: Service Difficulty Reporting; Request for Comments; Doc. No. FAA-2003-16772" (RIN2120-AI07) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6245. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Amendment; Doc. No. FAA-2003-14766" (RIN2120-ZZ64) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6246. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "FMVSS No. 208 Occupant Crash Protection, Temporary Alternative Compliance" (RIN2127-AJ30) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6247. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 2 Regulations): [COTP Houston-Galveston 03-005], [COTP Houston-Galveston 03-004]" (RIN1625-AA00) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6248. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities [USCG-1998-4302" (RIN1625-AA07) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6249. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD07-02-141] Caloosahatchee River Bridge (SR29), Okeechobee Waterway, Labelle, Florida" (RIN1625-AA09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6250. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 5 Regulations): [CGD05-04-002], [CGD05-04-010], CGD13-04-001], [CGD08-03-050], [CGD08-04-003]" (RIN1625-AA09) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6251. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 5 Regulations) (Including Final Rule Correction): [CGD09-03-277], [CGD13-03-018], [CGD01-03-036], [CGD01-03-012]" (RIN1625-AA00) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6252. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Salvage and Marine Firefighting Requirements; Vessel Response Plans For Oil" (RIN1625-AA19) received on February 4, 2004; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany S. 1545. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents (Rept. No. 108-224).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. COLEMAN:

S. 2055. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. GRAHAM of South Carolina):

S. 2056. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language; to the Committee on Commerce, Science, and Transportation.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 2057. A bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel; to the Committee on Armed Services.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAYTON (for himself and Mr. COLEMAN):

S. Res. 297. A resolution congratulating the Saint John's University, Collegeville, Minnesota, football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship; considered and agreed to.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. AKAKA, Mr. ALLEN, Ms. COLLINS, Mr. KENNEDY, Mr. DURBIN, Mr. DAYTON, Mr. LEVIN, Mr. JOHNSON, and Mrs. MURRAY):

S. Con. Res. 88. A concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States; to the Committee on Governmental Affairs.

## ADDITIONAL COSPONSORS

### S. 68

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

### S. 333

At the request of Mr. BREAUX, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

### S. 968

At the request of Mr. SESSIONS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 968, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

### S. 983

At the request of Mr. CHAFEE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

### S. 1101

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1101, a bill to provide for a comprehensive Federal effort relating to early detection of, treatments for, and the prevention of cancer, and for other purposes.

### S. 1103

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1103, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards.

### S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr.

SMITH) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1703

At the request of Mr. SMITH, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1781

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1781, a bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

S. 1786

At the request of Mr. ALEXANDER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1906

At the request of Mr. SESSIONS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1906, a bill to provide for enhanced Federal, State, and local enforcement of the immigration laws, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1946

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1946, a bill to establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

S. 1961

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 2018

At the request of Mr. BUNNING, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2018, a bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes.

S. 2038

At the request of Mr. BAYH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2038, a bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 2047

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2047, a bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the compensation program established by that Act.

S. 2049

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 80

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Con. Res. 80, a concurrent resolution urging Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COLEMAN:

S. 2055. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill I introduce today, the Hearing Aid Assistance Tax Credit Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2055

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hearing Aid Assistance Tax Credit Act".

**SEC. 2. CREDIT FOR HEARING AIDS FOR SENIORS AND DEPENDENTS.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**"SEC. 25C CREDIT FOR HEARING AIDS.**

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the amount paid during the taxable year, not compensated by insurance or otherwise, by the taxpayer for the purchase of any qualified hearing aid.

"(b) MAXIMUM AMOUNT.—The amount allowed as a credit under subsection (a) shall not exceed $500 per qualified hearing aid.

"(c) QUALIFIED HEARING AID.—For purposes of this section, the term 'qualified hearing aid' means a hearing aid—

"(1) which is described in section 874.3300 of title 21, Code of Federal Regulations, and is authorized under the Federal Food, Drug, and Cosmetic Act for commercial distribution, and

"(2) which is intended for use—

"(A) by the taxpayer, but only if the taxpayer (or the spouse intending to use the hearing aid, in the case of a joint return) is age 55 or older, or

"(B) by an individual with respect to whom the taxpayer, for the taxable year, is allowed a deduction under section 151(c) (relating to deduction for personal exemptions for dependents).

"(d) ELECTION ONCE EVERY 5 YEARS.—This section shall apply to any individual for any taxable year only if such individual elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year. An election to have this section apply may not be made for any taxable year if such election is in effect with respect to such individual for any of the 4 taxable years preceding such taxable year.

“(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Credit for hearing aids.”.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 2057. A bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the memers in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel; to the Committee on Armed Services.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2057

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.**

The Secretary of Defense shall reimburse a member of the United States Armed Forces for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 297—CONGRATULATING THE SAINT JOHN'S UNIVERSITY, COLLEGEVILLE, MINNESOTA, FOOTBALL TEAM FOR WINNING THE 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION III FOOTBALL CHAMPIONSHIP

Mr. DAYTON (for himself and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 297

Whereas Saint John's University defeated Mount Union College of Alliance, Ohio, by a score of 24-6 in Stagg Bowl XXXI on Saturday, December 20, 2003;

Whereas Saint John's University finished the season 14-0, with the football program holding the all-time record for victories in Division III at 508-213-24 in 93 seasons;

Whereas the 2003 Championship is the first National Championship won by the Saint John's University football team since 1976 and the fourth in the history of the school;

Whereas the 2003 Championship capped a season in which Coach John Gagliardi of Saint John's University became the winningest football coach in the history of the National Collegiate Athletic Association;

Whereas Blake Elliott, the senior wide receiver of Saint John's University, was the recipient of the 2003 Gagliardi Trophy as the most outstanding Division III football player in the United States in 2003;

Whereas the Saint John's University Johnnies, by winning the championship game, cracked Mount Union's National Collegiate Athletic Association-record winning streak of 55 games in a row;

Whereas loyal fans of Saint John's University, enough to fill 3 chartered planes, were among the crowd of 5,073 who attended the 2003 Amos Alonzo Stagg Bowl in the freezing cold of Salem, Virginia, with many more watching the nationally televised game; and

Whereas all of the players of the Saint John's University team showed tremendous dedication throughout the season to realize the goal of winning the National Championship: Now, therefore, be it

*Resolved,* That the Senate—

(1) commends the Saint John's University football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff of the team and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Saint John's University for appropriate display.

### SENATE CONCURRENT RESOLUTION 88—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD CONTINUE TO BE PARITY BETWEEN THE ADJUSTMENTS IN THE PAY OF MEMBERS OF THE UNIFORMED SERVICES AND THE ADJUSTMENTS IN THE PAY OF CIVILIAN EMPLOYEES OF THE UNITED STATES

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. AKAKA, Mr. ALLEN, Ms. COLLINS, Mr. KENNEDY, Mr. DURBIN, Mr. DAYTON, Mr. LEVIN, Mr. JOHNSON, and Mrs. MURRAY) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 88

Whereas members of the uniformed services of the United States and civilian employees of the United States make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining the Nation's defenses;

Whereas civilian employees of the United States play a crucial role in the fight against terrorism, as exemplified by—

(1) the civilian employees of the Department of Homeland Security and the Department of Defense who are working to ensure the security of the United States;

(2) the civilian employees of the Central Intelligence Agency and the Federal Bureau of Investigation who are investigating the September 11, 2001, terrorist attacks and working to prevent further terrorist attacks;

(3) the numerous skilled trade and craft civilian employees of the Federal Government who work side-by-side with the men and women of the armed forces to maintain and deploy our air and sea fleet safely and swiftly; and

(4) the employees of the Centers For Disease Control within the Department of Health and Human Services who work every day protecting Americans from bioterrorism and those at the Department of Agriculture who strive to keep the Nation's food supply safe;

Whereas civilian employees of the United States will continue to support and defend the United States during this difficult time;

Whereas in fiscal year 2004 Congress again reaffirmed its long-standing commitment to parity in pay adjustments for members of the uniformed services and all civilian employees in both the annual budget resolution and the Transportation, Treasury and Independent Agencies Appropriations Act, 2004; and

Whereas for fiscal year 2005, the Administration proposed a 3.5 percent pay raise for members of the uniformed services but only a 1.5 percent pay raise for the dedicated civilian employees of the United States, a disparity in adjustments that violates the traditional principle of parity of pay adjustments: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that rates of pay for all civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of pay for the uniformed services.

Mr. SARBANES. Mr. President, I am pleased to join with Senators MIKULSKI, WARNER, AKAKA, ALLEN, COLLINS, KENNEDY, DURBIN, DAYTON, LEVIN, JOHNSON, and MURRAY in submitting a resolution expressing the sense of the Congress that parity between Federal civilian pay and military pay should be maintained.

Disparate treatment of civilian and military pay goes against the long-standing policy of parity for all those who have chosen to serve our Nation—whether that service is in the civilian workforce or in the armed services. In fact, a comparison of military and civilian pay increases by the Congressional Research Service finds that in 16 of the last 18 years military and civilian pay increases have been identical.

Indeed, the Fiscal Year 2004 Consolidated Appropriations Act Conference Report passed by Congress included a pay parity provision that would provide a 4.1 percent average pay adjustment to military and all civilian employees.

Federal civilian and military employees work side-by-side doing the important work of the Nation, including protecting U.S. citizens from terrorism. As a prime example, during last week's response to the discovery of ricin in the Dirksen Senate Office

Building, civilian employees from agencies such as the Environmental Protection Agency, Centers for Disease Control and Prevention, the Coast Guard, the U.S. Capitol Police, the FBI, and the Marine Corps Chemical Biological Incident Response Force from Indian Head, Maryland responded jointly to the crisis and collaborated in the cleanup of the affected Senate Office Buildings. Now more than ever, an efficient and effective Federal Government requires this kind of civilian/military collaboration. We should not undermine the morale of our dedicated public civil servants by failing to bring their pay in line with that of the military personnel they work along side of every day.

Moreover, both the uniformed services and the Federal civilian workforce need to address critical retention and recruitment problems. Our Federal Government is facing a "human capital" crisis as a result of attrition that threatens institutional experience and knowledge at every level. By the end of 2005, one out of every three current Federal workers will be eligible for optional retirement and by 2007 an estimated 53 percent of the Federal workforce will be eligible to retire. These vacancies will occur in an era in which those entering the workforce are far less likely to join public service. As evidence of this, a 2002 survey commissioned by the Partnership for Public Service reveals that only one in four college-educated workers expressed significant interest in working for the Federal Government.

Inequitable pay only serves to perpetuate this lack of interest. Congress has continually asked Federal employees to make significant sacrifices for the sake of our Nation's fiscal health, including more than $200 billion in deficit reduction contributed by Federal employees and retirees in lost and delayed compensation. In addition, FEPCA—legislation passed in 1990 to bring the pay of Federal employees in line with that offered in the private sector—has never been fully implemented. Nonetheless, Federal employees have continued to provide high quality service to the American public, usually with fewer resources and personnel.

One way to ensure the Federal Government is able to attract and retain qualified public servants is to ensure parity between civil service employees and members of the uniformed services. I urge my colleagues to join me in support of this important resolution.

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## AMENDMENTS SUBMITTED AND PROPOSED

SA 2273. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 2274. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2275. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2276. Mr. DORGAN proposed an amendment to the bill S. 1072, supra.

SA 2277. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2278. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2279. Mr. WARNER (for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

SA 2280. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, supra; which was ordered to lie on the table.

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## TEXT OF AMENDMENTS

**SA 2273.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . LIMITATION ON THE APPLICATION OF THE DAVIS-BACON ACT.**

The provisions of subchapter IV of chapter 31 of title 40, United States Code (40 U.S.C. 3141 et seq.), commonly known as the Davis-Bacon Act, shall not apply to projects that receive funding under this Act (or an amendment made by this Act).

**SA 2274.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 880, before line 7, insert the following:

**SEC. 16 . FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.**

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

**"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.**

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, in areas in which biodiesel is available, the Federal agency purchases biodiesel-blended diesel fuel that contains at least 5 percent biodiesel (or the highest available percentage of biodiesel), rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, in areas in which biodiesel is available, the Federal agency purchases biodiesel-blended diesel fuel that contains at least 10 percent biodiesel (or the highest available percentage of biodiesel), rather than nonbiodiesel-blended diesel fuel, for use in vehicles used by the agency.".

**SA 2275.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. ___. INCENTIVES FOR BIODIESEL.**

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following new section:

**"SEC. 40A. BIODIESEL USED AS FUEL.**

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel in such mixture.

"(2) QUALIFIED BIODIESEL MIXTURE.—

"(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 4041(n) or section 4081(f).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL DEFINED.—

"(A) IN GENERAL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

"(B) REGISTRATION REQUIREMENTS.—Such term shall only include a biodiesel which meets—

"(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(ii) the requirements of the American Society of Testing and Materials D6751.

"(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

"(A) IMPOSITION OF TAX.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2013.".

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A.".

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d) of such Code is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) of such Code is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A.".

(C) Section 6501(m) of such Code is amended by inserting "40A(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) TAX PRIOR TO MIXING.—

"(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate, reduced by the amount determined under subparagraph (B).

"(B) APPLICABLE REDUCTION.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the biodiesel mixture rate for the qualified biodiesel mixture to be produced from the diesel fuel, divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

"(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 of such Code is amended by adding at the end the following new subsection:

"(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40A(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)).".

(B) Section 6427 of such Code is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40A(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)) with respect to such fuel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2003, and before January 1, 2014.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section. Such transfers shall be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made to subsequent transfers to reflect any errors in the estimates.

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**SA 2276.** Mr. DORGAN proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the appropriate place insert the following:

**SEC. 1409. OPEN CONTAINER REQUIREMENTS.**

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

| **"For:** | **The applicable percentage is:** |
|---|---|
| Fiscal year 2008 | 2 percent. |
| Fiscal year 2009 | 2 percent. |
| Fiscal year 2010 | 2 percent. |
| Fiscal year 2011 and each subsequent fiscal year. | 2 percent. |

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

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**SA 2277.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs0, and transit prorams, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, after line 7, add the following:

**SEC. 3044. INDEPENDENT TRANSPORTATION NETWORK GRANT PROGRAM.**

(a) IN GENERAL.—Chapter 53, as amended by this Act, is further amended by adding at the end the following:

**"§5341. Independent transportation network grant program**

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to plan and implement community-based, non-profit transportation services (referred to in this section as a 'service') to provide affordable transportation for elderly individuals and individuals with visual impairments.

"(2) MAXIMUM AMOUNTS.—

"(A) PLANNING GRANTS.—The Secretary shall not award a planning grant under subsection (b) in an amount which exceeds $25,000.

"(B) IMPLEMENTATION GRANTS.—The Secretary shall not award an implementation grant under subsection (c) in an amount which exceeds $500,000.

"(3) ELIGIBLE ENTITIES.—States, units of local government, and non-profit organizations are eligible for grants under this section.

"(b) PLANNING GRANTS.—

"(1) APPLICATION.—

"(A) IN GENERAL.—Each eligible entity desiring a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

"(i) the economic sustainability of the proposed service;

"(ii) community participation in the development of the service; and

"(iii) need for transportation services within the geographic area of the service.

"(2) USE OF FUNDS.—Planning grants awarded under this section shall be used to—

"(A) assess the transportation needs of elderly individuals and individuals with visual impairments within the geographic area of the service;

"(B) identify the resources available within the community to meet the needs described in subparagraph (A); and

"(C) develop a detailed business plan for the implementation of a service.

"(c) IMPLEMENTATION GRANTS.—

"(1) APPLICATION.—

"(A) IN GENERAL.—Each planning grant recipient shall submit an application for an implementation grant to the Secretary that contains a detailed business plan for the implementation of a service.

"(B) SELECTION CRITERIA.—The Secretary, in consultation with the Federal Transit Administrator, shall authorize ITN*America* to periodically convene a diverse panel of experts who are familiar with the ITN business model, which shall select successful grantees based on—

"(i) the economic sustainability of the proposed service;

"(ii) community participation in the development of the service; and

"(iii) need for transportation services within the geographic area of the service.

"(2) USE OF FUNDS.—Implementation grants awarded under this section may be used to—

"(A) recruit transportation volunteers;

"(B) acquire and repair used automobiles; and

"(C) provide transportation services for elderly individuals and individuals with visual impairments within the geographic area of the service.

"(d) MATCHING REQUIREMENT.—Not more than 50 percent of the amount expended on any activity funded through a planning grant or implementation grant under this section may be derived from government funds.

"(e) ITN*America*.—

"(1) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Secretary shall award a grant to ITN*America* to provide administrative and technical support to the other grantees under this section.

"(2) ANNUAL CONFERENCE.—ITN*America* shall convene a conference during each of the fiscal years 2007, 2008, and 2009 to provide an opportunity for service directors to share ideas and strategies.

"(3) REPORTING REQUIREMENTS.—Not later than 60 days after the end of each fiscal year for which it received financial assistance under this subsection, ITN*America* shall submit a report to the Secretary regarding any activities funded under this subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PLANNING GRANTS.—There are authorized to be appropriated to the Secretary for planning grants under subsection (b)—

"(A) $2,500,000 for fiscal year 2005;

"(B) $1,350,000 for fiscal year 2006;

"(C) $1,100,000 for fiscal year 2007;

"(D) $1,000,000 for fiscal year 2008; and

"(E) $800,000 for fiscal year 2009.

"(2) IMPLEMENTATION GRANTS.—There are authorized to be appropriated to the Secretary for implementation grants under subsection (c)—

"(A) $1,000,000 for fiscal year 2005;

"(B) $2,350,000 for fiscal year 2006;

"(C) $2,800,000 for fiscal year 2007;

"(D) $3,200,000 for fiscal year 2008; and

"(E) $3,600,000 for fiscal year 2009.

"(3) ADMINISTRATIVE AND TECHNICAL SUPPORT.—There are authorized to be appropriated to the Secretary for the administrative and technical support grant under subsection (e)—

"(A) $1,500,000 for fiscal year 2005;

"(B) $1,300,000 for fiscal year 2006;

"(C) $1,100,000 for fiscal year 2007;

"(D) $700,000 for fiscal year 2008; and

"(E) $600,000 for fiscal year 2009.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5341. Independent transportation network grant program.".

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**SA 2278.** Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

### SEC. 1409. COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Commercial Truck Highway Safety Demonstration Program Act of 2004".

(b) FINDINGS.—Congress makes the following findings:

(1) Public safety on the highways of the United States is a paramount concern of all who use the highways and all who prescribe public policy for the use of those highways, including public policy on the operation of heavy commercial trucks on highways.

(2) Federal highway funding law effectively imposes a limit of 80,000 pounds on the weight of vehicles permitted to use Interstate System highways.

(3) The administration of this law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling into Maine from neighboring States and Canada to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

(4) The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads.

(5) Permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways in Maine—

(A) would enhance public safety by reducing—

(i) the number of heavy vehicles that use town and city streets in Maine; and

(ii) as a result, the number of dangerous interactions between those heavy vehicles and such other vehicles as school buses and private vehicles; and

(B) would reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

(c) DEFINITIONS.—In this section:

(1) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term "covered Interstate System highway" means a highway within the State of Maine that is designated as a route on the Interstate System, except as provided in subparagraph (B).

(B) EXCEPTION.—The term does not include any portion of highway that, as of the date of the enactment of this section, is exempted from the requirements of subsection (a) of section 127 of title 23, United States Code, by the last sentence of such subsection.

(2) INTERSTATE SYSTEM.—The term "Interstate System" has the meaning given that term in section 101(a) of title 23, United States Code.

(d) MAINE TRUCK SAFETY DEMONSTRATION PROGRAM.—The Secretary of Transportation shall carry out a program, in the administration of this section, to demonstrate the effects on the safety of the overall highway network in the State of Maine that would result from permitting vehicles described in subsection (e)(2) to be operated on the Interstate System highways within the State.

(e) WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.—

(1) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to the State of Maine under section 104(b)(1) of such title for any period may not be reduced under such section 127(a) on the basis that the State of Maine permits a vehicle described in paragraph (2) to use a covered Interstate System highway.

(2) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle referred to in paragraph (1) is a vehicle having a weight in excess of 80,000 pounds that—

(A) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(B) does not exceed any vehicle weight limitation that is applicable under the laws of the State of Maine to the operation of such vehicle on highways in Maine not in the Interstate System, as such laws are in effect on the date of the enactment of this section.

(3) EFFECTIVE DATE AND TERMINATION.—

(A) EFFECTIVE DATE.—

(i) DATE OF SATISFACTION OF ADMINISTRATIVE CONDITIONS BY MAINE.—The prohibition in paragraph (1) shall take effect on the date on which the Secretary of Transportation notifies the Commissioner of Transportation of the State of Maine in writing that—

(I) the Secretary has received the plan described in subsection (f)(1); and

(II) the Commissioner has established a highway safety committee as described in subsection (f)(2) and has promulgated rules and procedures for the collection of highway safety data as described in subsection (f)(3).

(ii) PERMANENT EFFECT.—After taking effect, the prohibition in paragraph (1) shall remain in effect unless terminated under subparagraph (B).

(B) CONTINGENT TERMINATION.—The prohibition in paragraph (1) shall terminate 3 years after the effective date applicable under subparagraph (A) if, before the end of such 3-year period, the Secretary of Transportation—

(i) determines that—

(I) operation of vehicles described in paragraph (2) on covered Interstate System highways in Maine has adversely affected safety on the overall highway network in Maine; or

(II) the Commissioner of Transportation of the State of Maine has failed faithfully to use the highway safety committee as described in subsection (f)(2)(A) or to collect data as described in subsection (f)(3); and

(ii) publishes the determination, together with the date of the termination of the prohibition, in the Federal Register.

(4) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under paragraph (3)(B)(i)(I), the Secretary of Transportation shall consult with the highway safety committee established by the Commissioner in accordance with subsection (f).

(f) RESPONSIBILITIES OF THE STATE OF MAINE.—For the purposes of subsection (e), the State of Maine satisfies the conditions of this subsection if the Commissioner of Transportation of the State of Maine—

(1) submits to the Secretary of Transportation a plan for satisfying the conditions set forth in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State of Maine that have responsibilities related to highway safety;

(ii) municipalities of the State of Maine;

(iii) organizations that have evaluation or promotion of highway safety among their principal purposes; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in subsection (e)(2) on covered Interstate System highways have on the safety of the overall highway network in Maine, including the net effects on single-vehicle and multiple-vehicle collision rates for such vehicles.

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**SA 2279.** Mr. WARNER (for himself, Mrs. CLINTON, Mr. DEWINE, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 733, between lines 10 and 11, insert the following:

"(3) PRIMARY SAFETY BELT LAW.—The term 'primary safety belt law' means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

On page 733, line 11, strike "(3)" and insert "(4)".

On page 733, line 23, strike "(4)" and insert "(5)".

On page 734, line 4, strike "(5)" and insert "(6)".

On page 741, strike line 7 and insert the following:

"made available under this section shall be 90 percent.

"(h) USE OF FUNDS.—

"(1) PROJECTS UNDER SECTION 402.—For fiscal year 2005 and each fiscal year thereafter, 10 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

"(A) has in effect a primary safety belt law; or

"(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

"(2) WITHHOLDING.—

"(A) IN GENERAL.—For fiscal year 2007, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

"(i) have in effect a primary safety belt law; or

"(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

"(B) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

"(C) LAPSE.—If, by the date that is 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.".

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**SA 2280.** Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

After title IV insert the following:

## TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

### SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Trust Fund Reauthorization

### SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—With respect to projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended such sums as are necessary for highway use tax evasion projects.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

### SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

### SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS"' in the heading for paragraph (3) and inserting "4 YEARS"'.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

## Subtitle B—Volumetric Ethanol Excise Tax Credit

### SEC. 5101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

### SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

### "SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

“(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

“(B) is used as a fuel by the taxpayer producing such mixture, or

“(C) is removed from the refinery by a person producing such mixture.

“(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

“(5) Other definitions.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

“(6) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

“(d) Mixture not used as a fuel, etc.—

“(1) Imposition of tax.—If—

“(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

“(B) any person—

“(i) separates the alcohol or biodiesel from the mixture, or

“(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

“(2) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

“(e) Coordination With Exemption From Excise Tax.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.”.

(b) Registration Requirement.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended by inserting “and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))” after “4081”.

(c) Additional Amendments.—

(1) Section 40(c) is amended by striking “subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)” and inserting “section 4041(b)(2), section 6426, or section 6427(e)”.

(2) Paragraph (4) of section 40(d) is amended to read as follows:

“(4) Volume of alcohol.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).”.

(3) Section 40(e)(1) is amended—

(A) by striking “2007” in subparagraph (A) and inserting “2010”, and

(B) by striking “2008” in subparagraph (B) and inserting “2011”.

(4) Section 40(h) is amended—

(A) by striking “2007” in paragraph (1) and inserting “2010”, and

(B) by striking “, 2006, or 2007” in the table contained in paragraph (2) and inserting “through 2010”.

(5) Section 4041(b)(2)(B) is amended by striking “a substance other than petroleum or natural gas” and inserting “coal (including peat)”.

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

“(2) Gasoline.—The term ‘gasoline’—

“(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

“(B) includes, to the extent prescribed in regulations—

“(i) any gasoline blend stock, and

“(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term ‘gasoline blend stock’ means any petroleum product component of gasoline.”.

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

“(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

“(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

“(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

“(A) is used by any person as a fuel in a trade or business, or

“(B) is sold by any person at retail to another person and placed in the fuel tank of such person’s vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

“(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

“(4) Termination.—This subsection shall not apply with respect to—

“(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

“(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.”.

(10) Section 6427(i)(3) is amended—

(A) by striking “subsection (f)” both places it appears in subparagraph (A) and inserting “subsection (e)(1)”,

(B) by striking “gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” in subparagraph (A) and inserting “a mixture described in section 6426”,

(C) by adding at the end of subparagraph (A) the following new flush sentence:

“In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).”,

(D) by striking “subsection (f)(1)” in subparagraph (B) and inserting “subsection (e)(1)”,

(E) by striking “20 days of the date of the filing of such claim” in subparagraph (B) and inserting “45 days of the date of the filing of such claim (20 days in the case of an electronic claim)”, and

(F) by striking “ALCOHOL MIXTURE” in the heading and inserting “ALCOHOL FUEL AND BIODIESEL MIXTURE”.

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: “For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.”.

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

(A) by adding “or” at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

“Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.”.

(14) Tariff schedule.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking “10/1/2007” each place it appears and inserting “1/1/2011”.

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) Registration requirement.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal of general fund retention of certain alcohol fuels taxes.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

**SEC. 5103. BIODIESEL INCOME TAX CREDIT.**

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

**“SEC. 40A. BIODIESEL USED AS FUEL.**

“(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

“(1) the biodiesel mixture credit, plus

“(2) the biodiesel credit.

“(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

“(1) Biodiesel mixture credit.—

“(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

“(B) Qualified biodiesel mixture.—The term ‘qualified biodiesel mixture’ means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

### "SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

## Subtitle C—Fuel Fraud Prevention

### SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

## PART I—AVIATION JET FUEL

### SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

**"Subpart A—Motor and Aviation Fuels".**

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

**"Subpart B—Special Provisions Applicable to Fuels Tax".**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

### SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.—

"(A) IN GENERAL.—The Secretary shall pay from the Airport and Airway Trust Fund into the Highway Trust Fund—

"(i) $395,000,000 in fiscal year 2005,

"(ii) $425,000,000 in fiscal year 2006,

"(iii) $429,000,000 in fiscal year 2007,

"(iv) $432,000,000 in fiscal year 2008, and

"(v) $435,000,000 in fiscal year 2009.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking “appropriated or credited” and inserting “paid, appropriated, or credited”, and

(B) by striking “or section 9602(b)” and inserting “, section 9502(d)(7), or section 9602(b)”.

(2) Subsection (e)(1) of section 9503 is amended by striking “or section 9602(b)” and inserting “, section 9502(d)(7), or section 9602(b)”.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

## PART II—DYED FUEL

### SEC. 5221. DYE INJECTION EQUIPMENT.

(a) In General.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting “by mechanical injection” after “indelibly dyed”.

(b) Dye Injector Security.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) Penalty for Tampering With or Failing To Maintain Security Requirements for Mechanical Dye Injection Systems.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

### “SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

“(a) Imposition of Penalty—

“(1) Tampering.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

“(2) Failure to maintain security requirements.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

“(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

“(1) for each violation described in paragraph (1), the greater of—

“(A) $25,000, or

“(B) $10 for each gallon of fuel involved, and

“(2) for each—

“(A) failure to maintain security standards described in paragraph (2), $1,000, and

“(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

“(c) Joint and Several Liability.—

“(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

“(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.”.

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.”.

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

### SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

“(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

“(1) fraud or mistake in the chemical analysis, or

“(2) mathematical calculation of the amount of the penalty.”.

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

### SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking “or” in paragraph (2), by inserting “or” at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

“(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,”.

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking “alters, or attempts to alter,” and inserting “alters, chemically or otherwise, or attempts to so alter,”.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

“(3) any use described in section 4041(a)(1)(C)(iii)(II).”.

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

“(4) Refunds for use of diesel fuel in certain intercity buses.—

“(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

“(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.”.

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting “subsections (b)(4) and” after “filed under”.

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

## PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

### SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking “and” at the end of clause (i) and by inserting after clause (ii) the following new clause:

“(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and”.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

### “SEC. 6717. REFUSAL OF ENTRY.

“(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

“(b) Joint and Several Liability.—

“(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

“(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

“(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.”.

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking “entry.—The penalty” and inserting: “entry.—

“(A) Forfeiture.—The penalty”, and

(B) by adding at the end the following new subparagraph:

“(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.”.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

“Sec. 6717. Refusal of entry.”.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

## PART IV—REGISTRATION AND REPORTING REQUIREMENTS

### SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

**"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.**

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

### SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

**"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.**

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

### SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

### SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

**"SEC. 6720. FAILURE TO REGISTER.**

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.**

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

### SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

**"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.**

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

## PART V—IMPORTS

### SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

### "SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

## PART VI—MISCELLANEOUS PROVISIONS

### SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 5103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (l)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

### SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

### SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

### "SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

### SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

### SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

## PART VII—TOTAL ACCOUNTABILITY

### SEC. 5271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) Dyed Diesel.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) Effective Date.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

### SEC. 5272. EXCISE TAX REPORTING.

(a) In General.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

### "SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) In General.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) Information Included With Return.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) Conforming Amendment.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

### SEC. 5273. INFORMATION REPORTING.

(a) In General.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) Effective Date.—The amendment made by this section shall apply on October 1, 2004.

## Subtitle D—Definition of Highway Vehicle

### SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) Exemption From Tax on Heavy Trucks and Trailers Sold at Retail.—

(1) In general.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) Mobile machinery.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) Effective date.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Exemption From Tax on Use of Certain Vehicles.—

(1) In general.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Exemption for Mobile Machinery.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) Effective date.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) Exemption From Fuel Taxes.—

(1) In general.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) Uses in mobile machinery.—

"(i) In general.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) Requirements for mobile machinery.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) Design-based test.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) Use-based test.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) Special rule for use by certain tax-exempt organizations.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) Annual refund of tax paid.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) Nonapplication of paragraph.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) In General.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) Off-highway vehicles.—

"(A) Off-highway transportation vehicles.—

"(i) In general.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) Determination of vehicle's design.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) Determination of substantial limitation or impairment.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) Nontransportation trailers and semitrailers.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) Fuel taxes.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

## Subtitle E—Excise Tax Reform and Simplification

## PART I—HIGHWAY EXCISE TAXES

### SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax).".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

## PART II—AQUATIC EXCISE TAXES

### SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4), as amended by section 5102 of this Act, is amended—

(i) by adding "or" at the end of subparagraph (B),

(ii) by striking the comma at the end of subparagraph (C) and inserting a period, and

(iii) by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading and inserting "**SPORT FISH RESTORATION**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

### SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

### SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

### SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) Imposition of tax.—

"(A) In general.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) Limitation on tax imposed on fishing rods and poles.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) Conforming Amendments.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

### SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) In General.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) Conforming Amendment.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

## PART III—AERIAL EXCISE TAXES

### SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) No Waiver by Farm Owner, Tenant, or Operator Necessary.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption from Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

### SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

'(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) Effective Date.—The amendments made by this section shall take effect on April 1, 2004.

### SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Exemption for Seaplanes.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) Effective Date.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

### SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) In General.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) Effective Date.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

## PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

### SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) Repeal of Occupational Taxes.—

(1) In general.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) Nonbeverage domestic drawback.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) Industrial use of distilled spirits.—Section 5276 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

**"PART II—MISCELLANEOUS PROVISIONS**

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "and rate of tax" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

**"Subpart C—Recordkeeping by Dealers**

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

**"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",**

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Wholesale Dealers.—For purposes of this part—

"(1) Wholesale dealer in liquors.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) Wholesale dealer in beer.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

**"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",**

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

**"Subpart D—Other Provisions**

"Sec. 5131. Packaging distilled spirits for industrial uses.

"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

**"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

**"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".**

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.

"Sec. 5733. Provisions relating to liability for occupational taxes.

"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

### SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

## PART V—SPORT EXCISE TAXES

### SEC. 5441. CUSTOM GUNSMITHS.

(a) Small Manufacturers Exempt From Firearms Excise Tax.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Small Manufacturers, Etc.—

"(1) In general.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) Controlled groups.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) No inference.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

### SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) Bows.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) Bows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) Archery equipment.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) Arrows.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Arrows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) Exception.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) Arrow.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) Conforming Amendments.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "Arrows.—" in the heading and inserting "Arrow components.—".

(d) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

### SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) In General.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) Effective Date.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

## PART VI—OTHER PROVISIONS

### SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) In General.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

### "SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) In General.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) Eligible Wholesaler.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) Average Tax-Financing Cost.—

"(1) In general.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) Deemed financing rate.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) Deemed Federal excise tax per case.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) Other Definitions and Special Rules.—For purposes of this section—

"(1) Case.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) Number of cases in lot.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of section 5011 credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

### "SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) General Rule.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) Definitions.—For purposes of this section—

"(1) Qualified commercial power takeoff vehicle.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) Highway vehicle described.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

**"SEC. 45H. AUXILIARY POWER UNIT CREDIT.**

"(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the auxiliary power unit credit under section 45H(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

"Sec. 45H. Auxiliary power unit credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

## Subtitle F—Miscellaneous Provisions

### SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation - Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

### SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

### SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

### SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

### SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

### SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

### SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

### SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

## Subtitle G—Revenue Offsets

## PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

### SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

## PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

### SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

### SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

### "SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

### SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

### "SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to assertion and compromise of penalty.—

"(A) In general.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—

**"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".**

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

**"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".**

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

### SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

**"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.**

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

**"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).**

**"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".**

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

### SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 5616. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

### SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

**"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

**"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.**

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

**"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".**

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

### SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

**"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.**

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

### SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

### SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

**"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".**

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

### SEC. 5621. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

### SEC. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

### SEC. 5623. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

**"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

### SEC. 5624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

### SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

### SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

### SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

### SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

## PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

### SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

### SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) In General.—The Federal tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer has established processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) Effective Date.—This section shall apply to Federal tax returns filed after the date of the enactment of this Act.

### SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

### SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) Disallowance of Deduction.—

(1) In general.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) Punitive damages.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) Conforming amendments.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) Treble damages.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "or Punitive Damages" after "Laws".

(b) Inclusion in Income of Punitive Damages Paid by Insurer or Otherwise.—

(1) In general.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

### "SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) Reporting requirements.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) Section To Apply to Punitive Damages Compensation.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) Conforming amendment.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) Effective Date.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

### SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) In General.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) In General.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) Increase in Monetary Limitation for Underpayment or Overpayment of Tax Due To Fraud.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) Increase in Penalties.—

(1) Attempt to evade or defeat tax.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) Willful failure to file return, supply information, or pay tax.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) Fraud and false statements.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking “3 years” and inserting “5 years”.

(c) Effective Date.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

### SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) General Rule.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term “applicable penalty” means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term “Voluntary Offshore Compliance Initiative” means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

## PART IV—ENRON-RELATED TAX SHELTER PROVISIONS

### SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

“(e) Limitations on Built-In Losses.—

“(1) Limitation on importation of built-in losses.—

“(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

“(B) Property described.—For purposes of subparagraph (A), property is described in this subparagraph if—

“(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

“(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

“(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.”.

“(2) Limitation on transfer of built-in losses in section 351 transactions.—

“(A) In general.—If—

“(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

“(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

“(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

“(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.”.

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

“(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

“(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

“(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(c) Effective Date.—The amendments made by this section shall apply to transactions after February 13, 2003.

### SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

“(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

“(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

“(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).”.

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

### SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking “REMIC, or FASIT” and inserting “or REMIC”.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking “a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,” and inserting “or a REMIC to which part IV of subchapter M applies,”.

(3) Paragraph (1) of section 582(c) is amended by striking “, and any regular interest in a FASIT,”.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: “An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.”.

(B) The last sentence of section 860G(a)(3) is amended by inserting “, and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property” before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding “and” at the end of subparagraph (B), by striking “, and” at the end

of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing FASITs.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

### SEC. 5644. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued By Dealers In Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

### SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

### SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

## PART V—PROVISIONS TO DISCOURAGE EXPATRIATION

### SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) In General.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

### "SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) Inverted Corporations Treated as Domestic Corporations.—

"(1) In general.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) Inverted domestic corporation.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) Preservation of Domestic Tax Base in Certain Inversion Transactions to Which Subsection (a) Does Not Apply.—

"(1) In general.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002’ for ‘after March 20, 2002’ and subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’, or

“(B) subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’,

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

“(2) ACQUIRED ENTITY.—For purposes of this section—

“(A) IN GENERAL.—The term ‘acquired entity’ means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

“(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

“(3) APPLICABLE PERIOD.—For purposes of this section—

“(A) IN GENERAL.—The term ‘applicable period’ means the period—

“(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

“(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

“(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

“(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

“(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

“(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

“(A) the amount of the inversion gain for the taxable year, and

“(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

“(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

“(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

“(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

“(i) the partner’s distributive share of inversion gain of the partnership for such taxable year, plus

“(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

“(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

“(4) INVERSION GAIN.—For purposes of this section, the term ‘inversion gain’ means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

“(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

“(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

“(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

“(6) STATUTE OF LIMITATIONS.—

“(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term ‘pre-inversion year’ means any taxable year if—

“(i) any portion of the applicable period is included in such taxable year, and

“(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

“(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (B) APPLIES.—

“(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

“(A) section 6662(a) shall be applied with respect to such underpayment by substituting ‘30 percent’ for ‘20 percent’, and

“(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

“(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

“(A) without regard to paragraph (2)(A)(ii) thereof, and

“(B) by substituting ‘25 percent’ for ‘50 percent’ each place it appears in paragraph (2)(B) thereof.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

“(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

“(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

“(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

“(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

“(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

“(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

“(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

“(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

“(ii) to treat stock as not stock.

“(2) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(3) FOREIGN INCORPORATED ENTITY.—The term ‘foreign incorporated entity’ means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

“(4) FOREIGN RELATED PERSON.—The term ‘foreign related person’ means, with respect to any acquired entity, a foreign person which—

“(A) bears a relationship to such entity described in section 267(b) or 707(b), or

“(B) is under the same common control (within the meaning of section 482) as such entity.

“(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

“(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

“(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) Regulations.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) Information Reporting.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) Conforming Amendment.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) Transition Rule for Certain Regulated Investment Companies and Unit Investment Trusts.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

### SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

### "SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) Determination of tax with respect to property.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) Termination of postponement.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) Interest.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 2, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 2, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 2, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

### SEC. 5653. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

### "CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

### "SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) VALUE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) INVERTED CORPORATION; INVERSION DATE.—

"(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) SPECIFIED STOCK COMPENSATION.—

"(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) EXCEPTIONS.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

### SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

**PART V—PROVISION TO REPLENISH THE GENERAL FUND**

**SEC. 5661. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.**

The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, February 9, 2004, at 10 a.m. for a hearing regarding the Department of Homeland Security's budget submission for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST

Mr. McCONNELL. Mr. President, I ask unanimous consent that the appointments that are at the desk appear separately in the RECORD as if made by the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the unanimous consent request be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONGRATULATING THE ST. JOHN'S UNIVERSITY FOOTBALL TEAM

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 297 submitted earlier today by Senators DAYTON and COLEMAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 297) congratulating the Saint John's University, Collegeville, Minnesota, football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD as if read, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 297) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas Saint John's University defeated Mount Union College of Alliance, Ohio, by a score of 24-6 in Stagg Bowl XXXI on Saturday, December 20, 2003;

Whereas Saint John's University finished the season 14-0, with the football program holding the all-time record for victories in Division III at 508-213-24 in 93 seasons;

Whereas the 2003 Championship is the first National Championship won by the Saint John's University football team since 1976 and the fourth in the history of the school;

Whereas the 2003 Championship capped a season in which Coach John Gagliardi of Saint John's University became the winningest football coach in the history of the National Collegiate Athletic Association;

Whereas Blake Elliott, the senior wide receiver of Saint John's University, was the recipient of the 2003 Gagliardi Trophy as the most outstanding Division III football player in the United States in 2003;

Whereas the Saint John's University Johnnies, by winning the championship game, cracked Mount Union's National Collegiate Athletic Association-record winning streak of 55 games in a row;

Whereas loyal fans of Saint John's University, enough to fill 3 chartered planes, were among the crowd of 5,073 who attended the 2003 Amos Alonzo Stagg Bowl in the freezing cold of Salem, Virginia, with many more watching the nationally televised game; and

Whereas all of the players of the Saint John's University team showed tremendous dedication throughout the season to realize the goal of winning the National Championship: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Saint John's University football team for winning the 2003 National Collegiate Athletic Association Division III Football Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff of the team and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Saint John's University for appropriate display.

## ORDERS FOR TUESDAY, FEBRUARY 10, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1072, the highway bill. I further ask unanimous consent that the Senate recess from 12:30 until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of S. 1072, the highway bill. The chairman and ranking member have been in the Chamber all day to receive amendments. They will be back here in the morning. We encourage all Members who have amendments to contact the managers as soon as possible. Rollcall votes are expected during tomorrow's session, and Senators will be notified when the first vote is scheduled.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:38 p.m. adjourned until Tuesday, February 10, 2004, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 9, 2004:

### AMTRAK

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE LINWOOD HOLTON, TERM EXPIRED.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

*To be vice admiral*

REAR ADM. HARVEY E. JOHNSON, 0186

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. CHARLES C. BALDWIN, 2219

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. CHARLES B. GREEN, 6223

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL JAMES B. ARMOR JR., 7031
BRIGADIER GENERAL CURTIS M. BEDKE, 9014
BRIGADIER GENERAL JOHN T. BRENNAN, 1908
BRIGADIER GENERAL ROGER W. BURG, 0024
BRIGADIER GENERAL JOHN J. CATTON JR., 1877
BRIGADIER GENERAL MICHAEL A. COLLINGS, 3659
BRIGADIER GENERAL DANIEL J. DARNELL, 0600
BRIGADIER GENERAL FRANK R. FAYKES, 4797
BRIGADIER GENERAL VERN M. FINDLEY II, 2123
BRIGADIER GENERAL JOHN H. FOLKERTS, 4060
BRIGADIER GENERAL STEPHEN M. GOLDFEIN, 0317
BRIGADIER GENERAL GILMARY M. HOSTAGE III, 6091
BRIGADIER GENERAL THOMAS P. KANE, 9763
BRIGADIER GENERAL PERRY L. LAMY, 4559
BRIGADIER GENERAL ROOSEVELT MERCER JR., 3054
BRIGADIER GENERAL GARY L. NORTH, 9194
BRIGADIER GENERAL ANTHONY F. PRZYBYSLAWSKI, 7898
BRIGADIER GENERAL LOREN M. RENO, 7129
BRIGADIER GENERAL EDWARD A. RICE JR., 4597
BRIGADIER GENERAL MARC E. ROGERS, 4472
BRIGADIER GENERAL ARTHUR J. ROONEY JR., 6482
BRIGADIER GENERAL STEPHEN T. SARGEANT, 1024
BRIGADIER GENERAL DARRYL A. SCOTT, 3767
BRIGADIER GENERAL WINFIELD W. SCOTT III, 5508
BRIGADIER GENERAL NORMAN R. SEIP, 6765
BRIGADIER GENERAL LOYD S. UTTERBACK, 9704
BRIGADIER GENERAL DONALD C. WURSTER, 1815

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. EDWARD T. REIDY III, 7345

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. JAMES A. BARNETT JR., 4076
CAPT. WENDI B. CARPENTER, 4980
CAPT. JEFFREY A. LEMMONS, 2314
CAPT. ROBIN M. WATTERS, 8044

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. SHARON H. REDPATH, 7170

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. CAROL M. POTTENGER, 3454

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. ALBERT GARCIA III, 3459

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. NATHAN E. JONES, 9123

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. NORTON C. JOERG, 2309

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. GREGORY A. TIMBERLAKE, 6473

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Monday, February 9, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### FEBRUARY 10

9:30 a.m.
Armed Services
To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.
SR-325

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine proposals for improving the regulatory regime of government sponsored enterprises.
SD-538

Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of Energy.
SD-366

Finance
To hold hearings to examine the nomination of Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of the Treasury.
SD-215

Appropriations
Homeland Security Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Homeland Security.
SD-106

Aging
To hold hearings to examine tax relief strategies for eldercare.
SD-628

2:30 p.m.
Joint Economic Committee
To hold hearings to examine the economic report of the President.
SD-628

3 p.m.
Veterans' Affairs
To hold hearings to examine the Adminstration's proposed fiscal year 2005 Department of Veterans Affairs' budget.
SR-418

### FEBRUARY 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine protecting children from violent and indecent programming.
SR-253

Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR-485

10 a.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine cable industry competition.
SD-226

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD-366

Foreign Relations
Business meeting to consider United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the "Convention"), and the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the "Agreement"), and signed by the United States, subject to ratification, on July 29, 1994 (Treaty Doc. 103–39).
SD-419

1 p.m.
Banking, Housing, and Urban Affairs
International Trade and Finance Subcommittee
To hold hearings to examine economic and financial reconstruction in Iraq.
SD-538

2 p.m.
Judiciary
To hold hearings to examine judicial nominations.
SD-226

### FEBRUARY 12

9:30 a.m.
Foreign Relations
To hold hearings to examine policy and programs relating to the State Department.
SR-325

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine Department of Defense contractors who are abusing the federal tax system by either failing to file tax returns or not paying their taxes.
SD-342

Small Business and Entrepreneurship
To hold hearings to examine the President's fiscal year 2005 budget request for the Small Business Administration.
SR-428A

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the first monetary policy report to Congress for 2004.
SD-538

Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD-608

Energy and Natural Resources
To hold hearings to examine the President's proposed fiscal year 2005 budget for the Department of the Interior.
SD-366

Judiciary
Business meeting to consider pending calendar business.
SD-226

2 p.m.
Finance
To hold hearings to examine revenue proposals in the President's fiscal year 2005 budget.
SD-215

2:30 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine evaluating a temporary guest worker proposal.
SD-226

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1466, to facilitate the transfer of land in the State of Alaska, S. 1421, to authorize the subdivision and dedication of restricted land owned by Alaska Natives, S. 1649, to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and S. 1910, to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land.
SD-366

Intelligence
Closed business meeting to consider pending intelligence matters.
SH-219

### FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH-216

### FEBRUARY 25

9:30 a.m.
Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR-485

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MARCH 2

9:30 a.m.

Armed Services

To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.

SH–216

10 a.m.

Energy and Natural Resources

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Forest Service.

SD–366

MARCH 4

9:30 a.m.

Armed Services

To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH–219).

SH–216

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

MARCH 10

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

MARCH 18

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.

345 CHOB

MARCH 25

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans' Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

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